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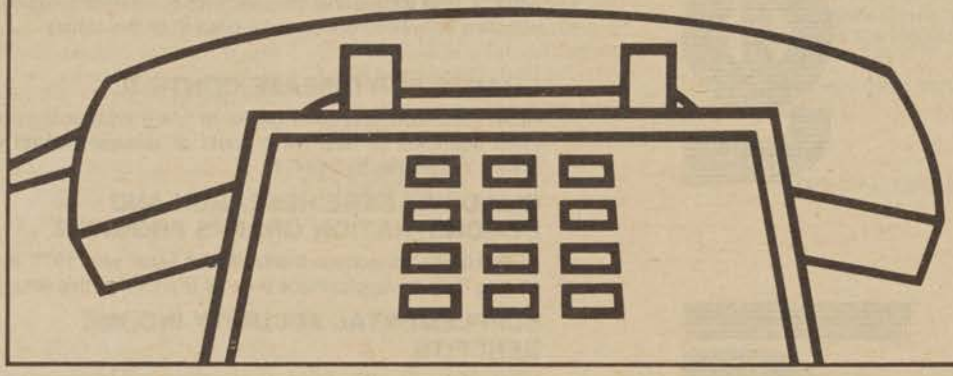
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[3195-01]

Title 3—The President

Memorandum of June 12, 1978

Security Assistance Functions

[Presidential Determination No. 78-15]

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, June 12, 1978.

By virtue of the authority vested in me by section 515(f) of the Foreign Assistance Act of 1961, as amended, I hereby determine that the performance of security assistance functions by defense attachés in each of the countries on the attached list is the most economic and efficient means of performing such functions.

You are requested on my behalf to report this determination to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Senate Committee on Armed Services, as required by law.

This determination shall be published in the FEDERAL REGISTER.

Jimmy Carter

LIST OF COUNTRIES IN WHICH DEFENSE ATTACHÉS PERFORM SECURITY ASSISTANCE MANAGEMENT FUNCTIONS

Afghanistan
Australia
Austria
Burma
Cameroon [1]
Egypt
Finland
Gabon [2]
Ghana
Haiti
Israel
Jordan [3]
Lebanon
Malaysia
Mexico
Nepal
New Zealand
Nigeria
Senegal
Singapore
Sri Lanka
Sudan
Sweden
Switzerland
United Kingdom
Yemen Arab Republic
Yugoslavia

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[1] The Defense Attaché accredited to Cameroon maintains his office in Chad to which he is also accredited.

[2] The Defense Attaché accredited to Gabon maintains his office in Zaire to which he is also accredited.

[3] Two members of the security assistance management office established pursuant to Sec. 515(b)(1) of the Foreign Assistance Act of 1961 are assigned additional duties as defense attachés.

[FR Doc. 78-17621 Filed 6-21-78; 3:04 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education and Welfare, and Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of a position at the Department of Health, Education and Welfare to more appropriately reflect the duties of the position and (2) reestablishes a position at the Department of Energy because it is confidential in nature. This position had formerly existed at the Federal Power Commission before its functions were absorbed into the Department of Energy on September 30, 1977.

EFFECTIVE DATES: Department of Health, Education and Welfare—June 12, 1978; Department of Energy—June 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3316(a)(6) and 213.3331(c)(4) are amended as set out below:

§ 213.3316 Department of Health, Education and Welfare.

(a) Office of the Secretary. * * *

(6) Four Confidential Assistants and one Executive Assistant to the Under Secretary.

* * * * *

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(4) Eight Technical Assistants to Members of the Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-17433 Filed 6-22-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: To allow for recognition of local recruiting or program needs which may dictate longer employment, Schedule A exception for temporary staff positions in Youth Conservation Corps Centers is amended to permit employment in excess of 11 weeks a year with prior approval of the Commission. Exception under Schedule A is still necessary because it is still impracticable to examine for the positions.

EFFECTIVE DATE: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3112(a)(11) is amended as set out below:

§ 213.3112 Department of the Interior.

(a) *General* * * *

(11) Temporary staff positions in Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of the Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218).

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-17435 Filed 6-22-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Not to exceed 10 positions on the staff of the Office of Refugee and Migration Affairs, Department of State, are excepted under Schedule A because it is impracticable to examine for them.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3104(g) is added as set out below:

§ 213.3104 Department of State.

* * * * *

(g) *Office of Refugee and Migration Affairs.*

(1) Not to exceed 10 positions at grades GS-5 through 11 on the staff of the office.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-17431 Filed 6-22-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This authority excepts from the competitive service all positions at grades GS-15 and below on the staff of the White House Small Business Conference Commission with the provision that no one may serve under this authority after December 31, 1979, or 60 days after the conclusion of the White House Conference on Small Business, whichever is sooner. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: June 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3199(f) is added as set out below:

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(f) *White House Small Business Conference Commission.*

(1) All positions on the staff of the White House Small Business Conference Commission. No one may serve under this authority after December 31, 1979, or 60 days after the conclusion of the White House Conference on Small Business, whichever is sooner.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-17432 Filed 6-22-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Treasury, Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment exempts under Schedule C certain positions at the Department of Treasury and the Department of Commerce because they are confidential in nature.

EFFECTIVE DATE: June 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3305(a)(79) is amended and 213.3314(a)(6) is added as set out below:

§ 213.3305 Department of Treasury.

(a) *Office of the Secretary.* * * *

(79) One Special Assistant and one Deputy (Regulatory Policy and Trade Affairs) to the Assistant Secretary (Enforcement and Operations).

* * * * *

§ 213.3314 Department of Commerce.

(a) Office of the Secretary. * * *

(6) One Private Secretary to the Deputy General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218).

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-17434 Filed 6-22-78; 8:45 am]

[1505-01]

Title 7—Agriculture

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER F—SUPPORT ACTIVITIES

PART 656—PROCEDURES FOR THE PROTECTION OF ARCHEOLOGICAL AND HISTORICAL PROPERTIES ENCOUNTERED IN SCS-ASSISTED PROGRAMS

Addition of More Detailed Actions

Correction

In FR Doc. 78-16897 appearing at page 26277, in the issue of Monday, June 19, 1978, in the second column the heading of § 656.7 should read as follows:

§ 656.7 Determination of the course of action when cultural properties are discovered during construction.

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 151; Lemon Reg. 150, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period June 25-July 1, 1978, and increases the quantity of such lemons that may be so shipped during the period June 18-24, 1978. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective June 25, 1978, and the amendment is effective for the period June 18-24, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on June 20, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues strong.

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

Section 910.451 is added as follows:

§ 910.451 Lemon Regulation 151.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 25, 1978, through July 1, 1978, is established at 285,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

§ 910.450 [Amended]

2. Paragraph (a) of § 910.450 Lemon Regulation 150 (43 FR 25991) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period June 18, 1978, through June 24, 1978, is established at 350,000 cartons."

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

Dated: June 22, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-17727 Filed 6-22-78; 12:11 pm]

[3410-02]

PART 967—CELERY GROWN IN FLORIDA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $97,500 and establishes a $0.015 per crate of celery rate of assessment for the 1978-79 fiscal year, to be collected from handlers to support activities of the committee which locally administers the Federal marketing order covering Florida celery.

DATES: Effective August 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 967, as amended (7 CFR Part 967), regulating the handling of celery grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable celery handled from the beginning of such year. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

The regulation is as follows:

§ 967.214 Expenses, rate of assessment and carryover of unexpended funds.

(a) The reasonable expenses that are likely to be incurred during the fiscal year August 1, 1978, through July 31, 1979, by the Florida Celery Committee, for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $97,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one and one-half cents ($0.015) per crate of celery handled by him as the first handler during the fiscal year.

(c) Unexpended funds in excess of expenses incurred during fiscal year ending July 31, 1978, may be carried over as a reserve to the extent authorized in § 967.62.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

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

Dated June 20, 1978, to become effective August 1, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-17424 Filed 6-22-78; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Warehouse Stored Peanut Price Support Regs.]

PART 1446—PEANUTS

Subpart—General Regulations Governing 1978 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the terms and conditions under which producers, acting through their associations, may receive price support through warehouse storage loans on their peanuts. This rule also sets forth the provisions whereby handlers may market additional peanuts. This rule is necessary to inform producers and handlers of the new program requirements as provided in the Food and Agriculture Act of 1977.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dalton J. Ustynik, ASCS, 202-447-6611.

SUPPLEMENTARY INFORMATION: A notice that the Department was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on April 4, 1978 (43 FR 14035). The comment period expired on May 4, 1978. There were 416 responses—4 from members of the Congress; 2 from State Departments of Agriculture; 7 from farm organizations; 7 from peanut producer organizations; 4 from sheller organizations and shellers; 1 from a peanut warehouseman; and 391 from individuals. Following is a summary of the major provisions on which comments were received: Two hundred and sixty-nine commentators requested that they be permitted to sell additional peanuts directly for export or take such peanuts home for use as seed or feed. Legislation does not permit adoption of these recommendations. Thirteen recommended a farm-stored loan program on additional peanuts. These comments will be considered in conjunction with the farm-stored loan regulations.

Sec. 1446.3 (hh) *Peanut Segregations.* One commentator approved and 71 disapproved classifying as Segregation 2 those peanuts having more than 0.5 percent freeze damage. This provision was retained since in most situations, handlers will not purchase peanuts having more than 0.5 percent freeze damage for domestic edible use. However, these regulations do not preclude handlers from purchasing these peanuts for domestic edible and related use under circumstances where they are in demand.

Sec. 1446.5 *Contracts for additional peanuts for crushing or export.* Two hundred and sixty-six commentators requested that the June 15 deadline for contracting additional peanuts for export be extended 30 to 60 days. Such proposals were not adopted since the June 15 deadline is set by statute. Forty-nine approved and 328 disapproved the proposal to restrict contracting to the difference between the farm base production poundage and the sum of the farm poundage quota and the quality of additional peanuts covered by prior contracts for additional peanuts. This provision was liberalized to provide that producers will be allowed to deliver additional peanuts in excess of the amount shown on the contract once their quota is filled. One commentator objected to the requirement that the contract price be stated on the contract. This provision was retained so that price information could be available to producers.

Sec. 1446.8 *Compliance by handlers.* Three commentators disapproved permitting a handler to account for contract additional peanuts on a shelled basis. This provision was retained in order to give more flexibility to shellers when handling peanuts.

Sec. 1446.9 *Supervison and handling of additional contract peanuts.* Four

commentators requested clarification of a provision permitting replacement of additional peanuts and the provision was clarified; 3 requested clarification or change in edible export standards and "Virginia No. 2" was added as a quality that would meet the eligible export standard; 3 disapproved of export of contract peanuts as products but this provision was not changed; and 3 suggested changes in time limitations for disposing of contract peanuts and providing proof of export. The time limit for disposing of contract peanuts was extended by one month, the consignee was omitted and country of destination specified under evidence of export by water.

Sec. 1446.11 *Pooling and distribution of net gains.* Eight commentators recommended partial or provisional distribution of net gains before the close of the marketing year. This was not adopted since the proposal authorizes partial distribution.

Sec. 1446.15 *Disposition and liquidated damages on Segregation 2 and Segregation 3 peanuts.* Sixty-four commentators expressed approval and 1 opposed this Section. Such provision was adopted for effective administration of the program.

Sec. 1446.16 *Producer transfers of additional stocks to quota pools.* Sixty-four commentators expressed approval of this section substantially as proposed. Forty-eight objected to one or more limitations on such transfers, including the provision that producers making such transfers will forfeit eligibility to share in the profits from any pool. This section was liberalized to provide that producers may transfer additional loan stocks to quota stocks at the end of the marketing season not to exceed the smaller of the difference between the production of segregation 1 peanuts on the farm and the farm poundage quota or the undermarketing shown on the producers marketing card. The provision prohibiting producers from sharing in pool proceeds was changed to provide that proceeds from other pools would be reduced by CCC losses on peanuts so transferred.

Among other comments received were requests for clarification and recommendations pertaining to availability of loan storage facilities, grower access to summaries of contracts on additional peanuts, basis for settlement in distribution of pool profits, identity preserved storage of contract peanuts, and procedures for determining compliance with program provisions. It was determined that those procedures as published would remain basically unchanged for effective administration of the program.

After considering all recommendations, it has been determined that producers will be allowed to deliver additional peanuts in excess of the amount shown on the contract once their quota is filled and producers may transfer additional loan stocks to quota stocks at the end of the marketing season not to exceed the smaller of the difference between the production of segregation 1 peanuts on the farm and the farm poundage quota or the undermarketing shown on the producers marketing card. Other changes have been made as necessary.

FINAL RULE

Sections 1446.1 through 1446.7 containing the general regulations governing peanut warehouse storage loans are deleted with respect to the 1978 and subsequent crops. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

Effective for the 1978 and subsequent crops of peanuts, §§ 1446.1 through 1446.16 are added and the title of the subpart is amended to read as follows:

Subpart—General Regulations Governing 1978 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

GENERAL

Sec.
1446.1 General statement.
1446.2 Administration.
1446.3 Definitions.

HANDLER OPERATIONS

1446.4 Handler Responsibilities.
1446.5 Contracts for additional peanuts for crushing or export.
1446.6 Commingling quota and additional peanuts.
1446.7 Use of additional peanuts as domestic edible peanuts.
1446.8 Compliance by handlers.
1446.9 Supervision and Handling of Additional Contract Peanuts.

WAREHOUSE STORAGE LOANS

1446.10 Availability of warehouse storage loans.
1446.11 Pooling and Distribution of proceeds.
1446.12 Producers indebtedness.
1446.13 Eligible producer.
1446.14 Eligible peanuts.
1446.15 Disposition and liquidated damages on Segregation 2 and Segregation 3 peanuts.
1446.16 Producers transfer of additional loan stocks to quota pools.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421); sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359).

Subpart—General Regulations Governing 1978 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

GENERAL

§ 1446.1 General Statement.

(a) *Scope.* This subpart sets forth conditions under which producers and handlers may trade in 1978 and subsequent crop(s) peanuts. This subpart also sets forth the terms and conditions under which eligible producers, acting collectively through specified marketing associations (referred to severally in this subpart as "the association"), may obtain price support on their 1978 and subsequent crop farmers stock peanuts. Eligible farmers stock peanuts produced by eligible producers which are quota peanuts shall be eligible at the quota support rate. Farmers stock peanuts which are not quota peanuts shall be eligible for price support at the additional support rate. Additional peanuts may only be marketed through contracts with handlers or by delivering such peanuts to the association for loans. Annual supplements to this subpart will specify support prices, the associations through which producers may obtain price support, and other terms and conditions not contained in this subpart applicable to the warehouse storage loan program for peanuts of a particular crop.

(b) *Price Support Advances.* Producers may obtain price support loans at the rates specified and through the association specified (for the Southeastern, Southwestern, and Virginia-Carolina areas, respectively) in the applicable annual supplement. Each association will make appropriate loan advances on peanuts delivered to it by producers at warehouses operating under peanut receiving and warehouse contracts with the association. CCC will make a loan (referred to in this subpart as a "warehouse storage loan") to the association. Such loan will be secured by peanuts received by the association.

(c) *Farm storage loans and purchases from producers.* Regulations containing the terms and conditions under which CCC will make farm storage loans directly to producers and purchases directly from producers on any crop farmers stock peanuts will be published separately in the FEDERAL REGISTER.

§ 1446.2 Administration.

(a) *Responsibility.* Under the general direction and supervision of the Executive Vice President, CCC, the Producer Association Division, Agricultural Stabilization and Conservation Service (referred to in this subpart as "ASCS") will administer this subpart.

(b) *Limitation of authority.* State and county committees or their employees and the associations have no authority to modify or waive any of the provisions of this subpart or any amendments or supplements thereto.

(c) *Supervisory authority.* No delegation of authority in this subpart shall preclude the Executive Vice President, CCC, or the Executive Vice President's designee from determining any questions arising under the regulations or from reversing or modifying any determination made pursuant to such delegation.

§ 1446.3 Definitions.

As used in this subpart, and in instructions and documents in connection herewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the content or subject matter otherwise requires.

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Additional support rate.* The support rate published in annual crop supplements to this part applicable to additional peanuts.

(c) *ASCS.* The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(d) *Association.* An area marketing association which is operated primarily for the purpose of conducting loan activities and which is selected and approved for such activities by the Secretary.

(e) *CCC.* The Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture.

(f) *Compliance regulations.* The Regulations Governing Acreage and Compliance Determinations for Farm Marketing Quotas, Acreage, Allotments, and Related ASCS Programs, as amended, issued by the Administrator, ASCS, and effective for the applicable crop, part 718 of this title.

(g) *Contract additional peanuts.* Additional peanuts for crushing or exporting, or both, on which a contract has been entered into between a handler and producer in accordance with § 1446.5.

(h) *County committee.* Persons elected within a county as the county committee under the regulations governing the selection and function of Agricultural Stabilization and Conservation county and community committees in part 7 of subtitle A of this title, except that for Puerto Rico and the Virgin Islands, the Carribbean area Agricultural Stabilization and Conservation committee shall insofar as applicable, perform the functions of the county committee.

(i) *County office.* The office of the county ASC committee where records for the farm are kept.

(j) *Domestic edible use.* Use for milling to produce domestic food products or seed and use on the farm.

(k) *Effective farm allotment.* The effective farm peanut acreage allotment for the applicable crop of peanuts, as defined in the peanut marketing quota regulations, Part 729 of this title.

(l) *Effective farm poundage quota.* The effective farm poundage quota for the applicable crop of peanuts as defined in the marketing quota regulations, Part 729 of this title.

(m) *Extra large kernels.* Shelled Virginia type peanuts which are "whole" and free from "minor defects" and "damage" as such terms are defined in the U.S. Standards for Shelled Virginia type peanuts effective on the date of inspection and which will not pass through a screen having 21.5/64 by 1 inch openings.

(n) *Farm.* A farm, as defined in the Regulations Governing Reconstitution of Farm, Allotments, and Bases, Part 719 of this title.

(o) *Farmers stock peanuts.* Picked or threshed peanuts produced in the United States which have not been shelled, crushed, cleaned, or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers.

(p) *Final acreage.* The acreage on the farm from which peanuts are picked or threshed as determined and adjusted under Part 718 of this title.

(q) *Form MQ-94.* Inspection Certificate and Sales Memorandum for farmers stock peanuts.

(r) *Handler.* Any person or firm who acquires peanuts through a business of buying, shelling, or drying peanuts.

(s) *Inspector.* A Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(t) *Lot.* That quantity of farmers stock peanuts for which one Form MQ-94 or other inspection certificate is issued. In the case of farmers stock peanuts delivered to the association for a loan advance, a lot shall consist of not more than the content of one vehicle, or two vehicles containing approximately 24,000 pounds.

(u) *Marketing cards.* Forms MQ-76 issued each year according to Part 729 of this title by ASCS county offices to growers for use in marketing peanuts of the applicable crop. Each Form MQ-76 shall indicate the farm operator's eligibility for quota price support and the pounds that may be marketed as quota peanuts and contract additional peanuts.

(v) *Marketing quota penalties.* The penalties prescribed in the marketing quota regulations, Part 729 of this title, which shall be computed and collected in accordance with those regulations.

(w) *Marketing quota regulations.* The Allotment and Marketing Quota Regulations for Peanuts of the 1978 and Subsequent Crops, as amended, issued by the Administrator, ASCS, Part 729 of this title.

(x) *Marketing year.* The period beginning on August 1 of the year in which the peanuts of the applicable crop are planted and ending on July 31 of the following year.

(y) *Net weight.* That weight of farmers stock peanuts obtained by deducting from the gross scale weight of the peanuts (1) foreign material, and (2) moisture in excess of seven percent in the Southwestern and Southeastern areas, and eight percent in the Virginia-Carolina area.

(z) *Edible export standard.* (1) Cleaned inshell peanuts milled from farmers stock peanuts must be within the requirements for U.S. Jumbo or U.S. Fancy grades, or Runner Fancy or Spanish Fancy grades, as defined by the Peanut Marketing Agreement.

(2) Shelled peanuts, of any type, must grade U.S. Splits or U.S. No. 1 or better or "With Splits" grades or Virginia No. 2's as defined in Marketing Agreement for Peanuts No. 146.

Peanuts shown by the applicable Federal-State Inspection Certificate to deviate from the requirements of this subparagraph (aa) may be exported if:

(i) The purchaser established that such deviations are acceptable to the export buyer, and

(ii) The exportation of such peanuts is approved by the association.

(3) All peanuts shall meet the standards with respect to aflatoxin established by the Marketing Agreement Regulating the Quality of Domestically Produced Peanuts. Compliance with such standards shall be determined on the basis of analysis of samples of such peanuts performed at the handler's expense by a laboratory authorized to issue USDA certificates.

(aa) *Eligible country.* Any destination outside the United States, other than any country or area for which a validated export license is required under regulations issued by the Bureau of International Commerce, unless such license for shipment or transshipment thereto has been obtained from the Bureau, except that neither Canada nor Mexico shall be considered an eligible country for the export of peanut products other than treated seed peanuts.

(bb) *Export and exportation.* A shipment of peanuts or peanut products from the United States directed to a destination outside the United States to become part of the mass of goods of the country of destination.

(cc) *Fragmented peanuts.* Peanuts not more than 20 percent of which are whole kernels which will not pass through the following openings, by type: Spanish $^{15}/_{64}$ x $^{3}/_{4}$ inch slot;

Runner 1⁹⁄₆₄ x ¾ inch slot; and Virginia 1⁵⁄₆₄ x 1 inch slot.

(dd) *Loan value.* The amount of the loan which may be obtained under these regulations on a lot of eligible farmers stock peanuts computed for quota or additional peanuts, as applicable, on the basis of the weight, quality, and the support values for such type appearing in the applicable crop supplement.

(ee) *Peanut meal.* Any meal, cake pellets, or other forms of residue remaining after extraction or expulsion of oil from peanut kernels, but not including pressed peanuts.

(ff) *Peanut receiving and warehouse contract.* Form CCC-1028 Identity Preserved, Form CCC-1028-A, Commingled Storage, or any other form approved by CCC for this purpose.

(gg) *Peanut segregations*—(1) *Segregation 1.* Farmers stock peanuts which (i) have at least 99 percent peanuts of one type, (ii) have not more than two percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, nor more than 0.5 percent freeze damage, and (iii) are free from visible Aspergillus flavus mold;

(2) *Segregation 2.* Farmers stock peanuts which (i) have less than 99 percent peanuts of one type, or (ii) have more than two percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay, or more than 0.5 percent freeze damage, and (iii) are free from visible Aspergillus flavus mold;

(3) *Segregation 3.* Farmers stock peanuts which have visible Aspergillus flavus mold.

(hh) *Pools.* Accounting pools established by the association and on which complete and accurate records are maintained by area, by type, and by segregation for quota peanuts and additional peanuts not under contract.

(ii) *Quota peanuts.* Peanuts which are eligible for domestic edible use and are marketed or considered marketed from a farm as quota peanuts and which are not in excess of the farm poundage quota.

(jj) *Quota support rate.* The support rate published in annual crop supplements applicable to quota peanuts.

(kk) *Sound mature kernels.* Kernels which are free from "damage" and "minor defects" as defined in the U.S. Standards for the applicable type of peanuts effective on the date of the inspection, and which will not pass through screens with the following openings:

Runner Type: 1⁹⁄₆₄ x ¾ inch slot
Spanish Type: 1⁹⁄₆₄ x ¾ inch slot
Virginia Type: 1⁹⁄₆₄ x 1 inch slot

(ll) *Type.* The generally known types of peanuts (i.e., Runner, Spanish, Valencia, and Virginia), as defined in the marketing quota regulations.

(mm) *United States.* The 50 States of the United States, Puerto Rico, the territories and possessions of the United States, and the District of Columbia.

(nn) *United States government agency.* Any corporation wholly owned by the Federal Government, and any department, bureau, administration, or other agency of the Federal Government.

(oo) *Valencia type peanuts produced in the Southwest suitable for cleaning and roasting.* Valencia type peanuts produced in the Southwest containing not more than 25 percent having shells damaged by (1) discoloration, (2) cracks or broken ends, or (3) both.

Handler Operations

§ 1446.4 Handler responsibilities.

(a) *Examination of producer's marketing card.* All handlers shall examine producer's marketing cards and record each purchase or delivery of peanuts as required in part 729 of this title. Any peanuts delivered under the additional peanut contract (Form CCC-1005) in excess of the provisions of such contract shall be considered as a marketing of quota peanuts. No peanuts shall be handled from any producer who does not present a marketing card and farm identification card at time of delivery.

(b) *Purchase records.* Each handler shall maintain records of each purchase of peanuts. Such records shall identify the seller of the peanuts, the State and county code, and the farm number of the farm on which the peanuts were produced or the registration number of the seller if the seller is a handler and must indicate the quantity, type, date of purchase, and applicable MQ-94 serial number. The handler shall imprint forms MQ-94 and FVQ-95 (Peanut Note Sheet) with the farm identification card, the peanut buyers card, and the buying point card.

(1) *Purchases of quota peanuts from producers on which MQ-94 is not prepared.* The handler shall immediately transmit a record of such purchase to CCC. Such record shall show name and address of producer, State and county code, farm number; handler's name, address and registration number, buying point, any marketing quota penalty collected, quantity, and date of purchase.

(2) *Purchases of quota peanuts between handlers on In-weight In-grade basis.* The purchaser shall immediately transmit a record of such purchase to CCC. Such record shall show name, address and registration number of original handler; buying point, State and county code, name, address, and registration number of purchaser, quantity and date of purchase.

(c) *Sales and disposal records.* Each handler shall maintain records of all sales and other disposals of peanuts. Such records shall show date of sale, quantity, type, to whom sold, whether sold as edible peanuts or for crushing, and any other information required by this subpart.

(d) *Method of keeping records.* Handler records shall be maintained within their operation in such a manner that will enable representatives of the Secretary to readily reconcile the quantities, grades, and qualities of all peanuts acquired by a handler with the quantities, grades, and qualities of all such peanuts disposed of by a handler. Records concerning the acquisition and disposal of contract additional peanuts must also be kept in such a manner that representatives of the Secretary can readily determine compliance with the regulations and contract provisions.

(e) *Retention of records.* All records shall be maintained for a period of three years following the end of the marketing year in which the peanuts were produced.

§ 1446.5 Contracts for additional peanuts for crushing or export.

(a) *Contracts between handlers and producers.* Handlers who have a U.S. address may contract with producers on Form CCC-1005 to buy additional peanuts from the producers for crushing or export, or both. The type and quality of each lot of contract peanuts delivered under contract shall be determined by an inspector when such peanuts are received. All such contracts shall be completed and submitted to the county office for approval prior to June 15 of the year in which the crop is produced. Such contracts cannot be sold or traded. The county office shall summarize contracts and send such summary to the association through the State office. Contracts shall include at least the following provisions:

(1) Name and address of operator, State and county code, and farm serial number of the farm.

(2) Name, address of handler, and registration number.

(3) Amount of segregation 1 peanuts in pounds by type, not to exceed the difference between farm base production poundage and the sum of the farm poundage quota and the quantity of additional peanuts covered by prior contracts for additional peanuts.

(4) Contract price shown as a percentage of quota peanut support rate.

(5) Requirement for disclosure by producer of any liens on peanuts on date of delivery.

(6) A provision that the producer shall not be liable for failure to deliver against such contract above the actual production of such type and quality on the farm: *Provided,* Such physical loss of production resulted solely from an external source such as drought, fire,

lightning, inherent explosion, windstorm, tornado, flood, or other acts of God.

(7) Signature of farm operator and producer if different than operator.

(8) Signature of handler or authorized agent.

(9) The following agreement by the handler:

"I agree that I will either export or crush the peanuts delivered under this contract by August 31 following the calendar year in which the crop is grown or contract with another handler to export or crush such peanuts by such date, as provided in Part 1446, Subpart—General Regulations Governing 1978 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations."

(b) *Deliveries under optional provisions of the contract.* Contracts may also include provisions under which segregation 1 peanuts in excess of the quantity specified in paragraph (a) of this section may be delivered under the contract: *Provided,* The county committee determines that the farm poundage quota has not been transferred from the farm by lease after June 14 of the crop year in which the crop was grown, the quantity of segregation 1 peanuts specified in paragraph (a) of this section have been delivered, and the producer has marketed or is considered to have marketed the effective farm poundage quota. Contracts may also provide for delivery of segregations 2 and 3 peanuts without regard to any quantity limits specified in this section.

(c) *Contracts between handlers.* Handlers may contract with other handlers to market additional contract peanuts. Such contracts must contain the agreement specified in paragraph (a)(9) of this section and an agreement that such agreement will be included in all subsequent contracts covering resale of such peanuts.

§ 1446.6 Commingling of quota and additional peanuts.

Quota and additional farmers stock peanuts of like type and segregation may be commingled and exchanged on a dollar value basis to facilitate handling and marketing. The dollar value basis shall be determined on the basis of the quota support rate. The handler shall receive, store, and deliver all such peanuts in accordance with good commercial practices and instructions provided by CCC. For each lot of quota and/or additional peanuts stored commingled, the records of the handler shall show at all times the date and place received, name and address of the producer, the type, segregation, pounds, and dollar-value-in. The handler shall keep such other accounts and records and furnish such information and reports relating to the dollar value out and disposition of such peanuts as may be prescribed by the association or CCC.

§ 1446.7 Use of additional peanuts as domestic edible peanuts.

During harvest season, a handler shall have the right to purchase additional peanuts for domestic edible use at buying points owned or controlled by such handler at 100 percent of the quota loan value of such peanuts plus handling charges. Such purchase may be made only from the association and only on the date such peanuts were offered by producers to the association for loan. The handler shall advance to the producer, as an agent for the association, price support at the additional level and forward to the association a check payable to CCC for the peanuts at the quota support rate plus handling charges. The check and applicable MQ-94 will identify the peanuts as additional peanuts that may be used as domestic edible peanuts and must be postmarked not later than the work day following the day the peanuts were inspected. The association shall credit such receipts to the additional pool for such peanuts. Handlers may also purchase additional peanuts from the loan for domestic edible use after delivery by producers to the association, under terms and conditions announced by CCC. The minimum price for such purchases shall be not less than carrying charges plus (a) 105 percent of the quota loan value if purchased not later than December 31 of the marketing year, or (b) 107 percent of the quota loan value if purchased after December 31 of the marketing year.

§ 1446.8 Compliance by handlers.

All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or export to an eligible country. All handler's records shall be subject to a review by CCC or other representatives of the Secretary, to determine compliance with the provisions of this subpart. Failure to dispose of such peanuts by August 31 following the calendar year in which the crop was grown or such later date as may be authorized by the association shall constitute noncompliance with the provisions of this subpart. Refusal to make such handler's records available to authorized representatives of the Secretary or failure of such records submitted to establish such disposition shall constitute prima-facie evidence of noncompliance with this subpart. Reviews shall be made by the association in accordance with guidelines established by CCC and the association shall not take any administrative or any other actions concerning indicated program violations until directed to do so by the Director, Producer Associations Division, ASCS.

(a) *Quota peanuts.* A handler will be subject to a penalty for noncompliance if it is determined by CCC that he marketed from any crop, for domestic edible use, a larger quantity, or higher grades or quality of peanuts than could reasonably be produced from the quantity of peanuts having the grade, kernel content and quality of quota farmers stock peanuts purchased by the handler for domestic edible use during the applicable marketing year and of those purchased under § 1446.7, whether or not additional peanuts were acquired by the handler. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate on that quantity of farmers stock peanuts determined by CCC to be necessary to produce the excess quantity or grade or quality of peanuts sold.

(b) *Method of determining compliance—(1) Commingled Storage.* Handlers may commingle quota loan, quota commercial, additional loan and contract additional peanuts. In such instance, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and settled on a dollar value basis less adjustments for shrinkage except when such peanuts are purchased from the association for domestic edible and related use on an in-grade, in-weight basis. Contract additional peanuts may be inspected on a farmers stock basis and accounted for on a dollar value basis less adjustments for shrinkage except that the handler may account for such peanuts on a shelled basis if the handler so elects and notifies CCC of his intention and CCC gives prior approval of the handlers intention to settle on a shelled peanut basis, and if all quota commercial and contract additional peanuts stored commingled in a given building are shelled in the same plant. In each case where the handler accounts for peanuts on a shelled basis, the handler must account for all quota commercial and contract additional peanuts by keeping records which will enable CCC to determine the number of pounds and the average total kernel and sound mature kernel content of all quota commercial peanuts and all contract additional peanuts received and of dispositions of all kernels by specified screen size. CCC will supervise the disposition of all such quota and contract additional peanuts. Supervision of quota commercial will consist of a review of records representing such peanuts. Supervision of contract addtional peanuts shall be as set forth in § 1446.9. The average total kernel and sound mature kernel content as shown on all MQ-94's representing purchases of quota commercial and contract additional peanuts will be determined separately and compared to total kernel content by specified screen size of plant outturns for both quota commercial and additional contract peanuts. The outturns for quota commercial peanuts may be no

greater than the outturns for contract additional peanuts. In any situation where the outturn for quota commercial peanuts is greater than the outturns for additional peanuts, the deficiency as determined by CCC shall be converted into pounds and penalty calculated as specified in paragraph (a) of this section.

(2) *Identity preserved storage.* Contract additional peanuts stored identity preserved shall be inspected as farmers stock peanuts and settled on a dollar value basis. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices.

§ 1446.9 Supervision and handling of additional contract peanuts.

The association shall supervise domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, weighing, and shipping.

(a) *Access to facilities.* The handler, by entering into contracts to receive contract additional peanuts, shall be deemed to have agreed that authorized representative(s) of CCC and the association:

(1) May enter and remain upon any of the premises when such peanuts are being received, shelled, cleaned, bagged, sealed, weighed, graded, stored, crushed, packaged, shipped, or otherwise handled.

(2) May inspect such peanuts and the oil, meal, and other products thereof, and

(3) May inspect the premises, facilities, operations, books, and records to the extent necessary to determine that such peanuts have been handled in accordance with these regulations.

(b) *Notifying the association.* Before moving or processing any peanuts, the handler (or cleaner, sheller, or processor under contract with the handler) shall notify the association of the time such operation will begin and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days advance notice to the association so that supervision can be arranged.

(c) *Processing.* The peanuts shall be shelled or otherwise milled, crushed, or shelled and crushed as a continuous operation separate from other peanuts. Shelled peanuts shall be identified with positive lot identity tags before being stored and moved for crushing or export. Except as authorized by the association, positive lot identity shall be maintained when peanuts are transported or stored in the following manner:

(1) *Transportation.* The peanuts shall be transported from the storage location in a covered vehicle, such as a truck or railroad car. The vehicle shall be sealed unless the association determines that identity of the peanuts can be maintained without sealing.

(2) *Storage.* The peanuts shall be stored in separate building(s) or bin(s) which can be sealed or which the association determines will satisfactorily maintain lot identity.

(d) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

(e) *Domestic sale or transfer—(1) Farmers stock.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of farmers stock contract additional peanuts to the association and obtain written approval prior to any physical movement of the peanuts. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees, in writing, to handle and crush or export the peanuts in accordance with the terms and conditions of these regulations. The identical peanuts contracted must be shelled and crushed domestically or exported in accordance with this section except that with the prior notification of the association, other farmers stock peanuts may be used to replace the additional peanuts provided such peanuts are of the same crop, type, and quality and from the same area.

(2) *Milled peanuts.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of milled contract additional peanuts to the association and obtain approval prior to any physical movement of the peanuts. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees, in writing, to handle and crush or export the peanuts in accordance with the terms and conditions of these regulations. The identical peanuts contracted shall be crushed domestically or exported in accordance with this section except that with prior notification of the association, such peanuts may be used to replace in domestic use other peanuts which have been exported: *Provided,* Such peanuts are of the same crop, type, quality, area, and ride the same screen size. The replacement peanuts must be positive lot identified and otherwise handled as additional peanuts.

(f) *Disposal of additional contract peanuts.* Contract additional peanuts may be disposed of by domestic crushing or by exporting to an eligible county as follows:

(1) All kernels may be crushed domestically, or

(2) All kernels may be exported for crushing, if fragmented, or

(3) All kernels that are graded to meet the edible export standards may be exported and the remaining kernels:

(i) Crushed domestically, or

(ii) Exported for crushing if peanuts are fragmented, or

(4) All of the peanuts may be exported as farmers stock peanuts, or

(5) Peanuts may be exported as peanut products if such peanuts meet edible export standards, or

(6) Peanuts may be exported as milled or inshell peanuts.

(g) *Disposal of meal contaminated by aflatoxin.* All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion thereon of the following statement: "this shipment consists of lots of meal which contain aflatoxin ranging from —— to —— PPB and averaging —— PPB."

(h) *Final dates for domestic crushing and exporting.* Additional contract peanuts shall be scheduled for supervision by the association during the normal marketing period but not later than July 31 following the calendar year in which the crop is grown unless prior approval of a later date is authorized by the association.

(i) *Export provisions—(1) General.* Exports to Southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba are regulated by U.S. Department of Commerce regulations and require a validated export license. Additional information concerning the regulations may be obtained from the Bureau of Commerce or from the field office of the Department of Commerce.

(2) *Export to a U.S. Government agency.* Except for the export of raw peanuts to the military exchange services for processing outside the United States, export of peanuts in any form by or to a United States government agency shall not be considered an export to an eligible country. However, sales to a foreign government which are financed with funds made available by a United States agency such as the Agency of International Development are not considered sales to a United States government agency: *Provided,* The peanuts were not purchased by the foreign buyer for transfer to a United States agency.

(3) *Exportation of contract additional peanuts.* All contract additional peanuts which are not crushed domestically and which are eligible for export shall be exported to an eligible country as peanuts or peanut products.

(4) *Reentry—Transshipment and Liquidated Damages.—(i) Reentry-Transshipment.* Peanuts and peanut products exported shall not be reentered by anyone into the United States in any form or product and shall not be caused by the handler to be deverted or transshipped to other

than an eligible country in any form or product, and if they are reentered, the handler shall be subject to liquidated damages as specified in subparagraph (4)(ii) of this paragraph.

(ii) *Liquidated Damages.* The handler, by entering into contracts to receive contract additional peanuts, shall be deemed to have agreed that CCC will incur serious and substantial damages to its program to support the price of quota peanuts if additional contract peanuts are exported and later are reentered into the United States or diverted or transshipped to other than a eligible country in any form or product; that the amount of such damages will be difficult, if not impossible, to ascertain exactly; and that the handler shall, with respect to any peanuts or peanut products reentered into the United States or diverted or transshipped to other than an eligible country, pay to CCC, as liquidated damages and not as a penalty, ten cents ($.10) per net pound for such peanuts or peanut products. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such reentry, diversion, or transshipment.

(5) *Evidence of Export.* The handler shall furnish the association with the following documentary evidence of exportation of peanuts or products not later than 30 days after August 31, the final date for exportation, or such later date as may be approved by the association:

(i) *Export by water.* A nonnegotiable copy of an onboard ocean bill of lading, signed, or initialed on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of the vessel, the name and address of the exporter, and the country of destination. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(ii) *Export by rail or truck.* A copy of the bill of lading (showing the weight of the peanuts, peanut meal, or peanut products exported) supplemented by a copy of the Shipper's Export Declaration. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading according to this section.

(iii) *Certified statement.* A statement signed by the handler specifying the name and address of the consignee and the applicable Bureau license number if exportation has been made to one or more of the countries or areas for which a validated license is required under regulations issued by the Bureau of International Commerce, U.S. Department of Commerce.

(6) Failure to dispose of contract additional peanuts acquired by a handler for domestic crushing or export by August 31 following the calendar year in which the crop was grown or such later date as may be authorized by the association shall constitute noncompliance with the provisions of this subpart. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate on that quantity of the additional peanuts not crushed or exported.

WAREHOUSE STORAGE LOANS

§ 1446.10 Availability of warehouse storage loans.

(a) *Loans to associations.* CCC will make warehouse storage loans to the associations specified in the annual loan supplement which contract with CCC to arrange for the storing and handling of farmers stock peanuts, make price support advances to producers on such peanuts, and use such peanuts as collateral for loans to be obtained from CCC. Loans on quota peanuts shall be made on the basis of the quota support rate, and loans on additional peanuts shall be made on the basis of the additional support rate. The association shall establish an adequate system of records to identify each lot of peanuts delivered from producers as quota or additional peanuts and shall establish adequate records to identify whether such peanuts were pledged to CCC at the quota loan rate or additional loan rate. Such loans will mature on demand.

(b) *Areas.* Price support advances will be available in the following areas:

(1) The Southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers.

(2) The Southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas.

(3) The Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Where available.* Price support advances will be available to eligible producers at warehouses which have entered into peanut receiving and warehouse contracts with the association. Such contracts will require the warehouses to inform producers that price support advances are available and to make advances to producers on eligible peanuts tendered for price support as provided in paragraph (g) of this section. The contracts will require warehouses to examine the producer's marketing cards to determine price support eligibility and will require the warehouse to make entries on the marketing card as required by Part 729 of this title and record each delivery as to quota or additional peanuts and date of delivery. If quota peanuts are delivered, the balance of the quota must be shown on the marketing card after each delivery. All documents furnished by the producer must identify each lot as quota or additional peanuts. The names and locations of such warehouses may be obtained from the office of the appropriate association or from a State or county ASCS office. The associations shall pledge to CCC all peanuts upon which they have made price support advances as security for loans obtained pursuant to agreements with CCC.

(d) *Time.* Price support advances to eligible producers on peanuts of any crop will be available from the beginning of harvest through the following January 31 or such later date as may be established by the Executive Vice President, CCC. If the final date of availability falls on a nonworkday for the association, the applicable final date shall be the next workday.

(e) *Inspection.* The type and quality of each lot of farmers stock peanuts delivered to an association for a price support advance shall be determined by an inspector when such peanuts are received at a warehouse under contract with an association.

(f) *Producer agreement.* To obtain a price support advance, the producer shall, in writing, authorize the association to pledge peanuts delivered to the association to CCC as collateral for a warehouse storage loan and relinquish any right to redeem or obtain possession of such peanuts.

(g) *Advance to producer.* For each lot of peanuts received, the associations will make a price support advance to the producer in an amount equal to the support value of such peanuts, except that, in addition to marketing quota penalties and the deductions specified in § 1446.12, the association will deduct from such advances and pay over to the proper State authorities, any assessments or excise taxes imposed by State law, and the Southwestern Peanut Growers Association will, upon the prior agreement of the producer, deduct from such advance an amount approved by CCC, not to exceed 50 cents per net weight ton of peanuts upon which such advance was made, to be used in payment for its peanut activities outside the price support program.

(h) *Fraud by Producer.* The making of any fraudulent representation by a producer in the loan documents or in obtaining a loan or advance shall render him subject to criminal prosecution under Federal law. The producer shall be personally liable to CCC, aside from any additional liability under criminal or civil frauds statutes, for the amount of such advance and for all costs which CCC would not have incurred except for the produc-

er's fraudulent representation, together with interest upon such amounts at the rate for fraudulent representation as shown in a separate notice in the FEDERAL REGISTER: *Provided,* That the producer shall be given credit for the proceeds received by CCC upon sale of the peanuts upon which such advance was made.

§ 1446.11 Pooling and distribution of net gains.

The association shall establish separate pools by area, type, and segregation or quality of peanuts and maintain separate, complete and accurate records for quota peanuts under loan and for additional peanuts not under contract. Net gains on peanuts in each pool shall be distributed to each grower in proportion to the value of peanuts placed in the pool by the grower except any distribution of net gains on additional pools of any type to a producer shall be reduced to the extent of any loss incurred by CCC on quota peanuts of a different type placed under loan by the same producer, and the proceeds available to any producer from any pool shall be reduced by the amount of any losses to CCC on peanuts transferred from an additional loan pool to a quota loan pool under the provisions of this subpart.

(a) *Quota pool.* Net gains from peanuts in the quota pool consist of:

(1) The net gains over and above the loan indebtedness on quota peanuts and other costs or losses incurred by CCC on such peanuts placed in the pool by a producer, plus

(2) An amount from the net gains on additional peanuts sold into domestic food and related uses equal to the losses incurred on disposing of an equal quantity of quota peanuts of the same type and segregation in the same production area, considering sales of quota peanuts for export first and then as necessary, sales for crushing.

(b) *Additional pool.* Net gains for peanuts in the additional pool consists of:

(1) The net gains over and above the loan indebtedness on additional peanuts and other costs or losses incurred by CCC on such peanuts placed in the pool by a grower, less

(2) An amount of the net gains on the additional pool allocated to the quota pool to offset any loss on that pool attributed to additional peanuts being used in domestic edible use.

§ 1446.12 Producer indebtedness.

(a) *Facility and drying equipment loans.* If any installment or installments on any loan made by CCC on farm storage facilities or drying equipment are payable under the provisions of the note evidencing such loan out of any amount due the producer under this subpart, the amount due the producer, after deduction of amounts due prior lienholders, shall be applied to such installment(s) provided the amount due is recorded on the producer's marketing card.

(b) *Producers listed on county debt record.* If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county debt record and recorded on the producer's marketing card, amounts due the producer under this subpart, after deduction of amounts due prior lienholders and on farm storage facilities or drying equipment, shall be applied to such indebtedness as provided in the Secretary's Setoff Regulations, Part 13 of this title.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right he would otherwise have to contest the justness of the indebtedness involved in the setoff action either by administrative appeal or by legal action.

§ 1446.13 Eligible producer.

(a) *Requirements.* An eligible producer is an individual, partnership, association, corporation, estate, trust or other legal entity, and whenever applicable, a State, political subdivision of a State or any agency thereof, producing peanuts as a landowner, landlord, tenant, or sharecropper on a farm. No producer on a farm for which the farm operator fails timely to file a report of crop or land use acreages as required by Part 718 of this title shall be eligible for price support at the quota rate unless the late filed report was accepted by the county committee.

(b) *Estates and trust.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate or of a ward of an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian or trustees shall be considered to be the production of the person he represents. Loan documents executed by any such person shall be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable price support documents are signed by the guardian; or (3) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had he been an adult.

§ 1446.14 Eligible peanuts.

Eligible peanuts shall be farmers stock peanuts of the applicable crop which were produced in the United States by an eligible producer.

(a) Peanuts eligible for quota support are peanuts which (1) are segregation 1 peanuts; and (2) contain not more than 10 percent moisture, and which if they have been mechanically dried, contain at least 6 percent moisture; and (3) contain not more than 10 percent foreign material; (4) are free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained; and (5) the beneficial interest is in the producer who delivers them to the association and has always been in such producer or in such producer and a former producer whom such producer succeeded before the peanuts were harvested. To meet the requirements of succession to a former producer, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether such interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC; (6) are, if delivered to the association in bags in the Southwestern area, in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, are free from holes and are finished at the top with either the selvage edge of the material, binding, or a hem. Such bags shall be of uniform size with approximately 2 bushel capacity; (7) must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; (8) must have been produced on a farm on which the effective farm allotment has not been knowingly exceeded; and (9) must have been inspected as farmer stock peanuts and have an official grade determined by an inspector.

(b) Peanuts eligible for additional support are peanuts which (1) contain

not more than 10 percent moisture; and (2) contain not more than 10 percent foreign material; (3) are free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained; and (4) the beneficial interest is in the producer who delivers them to the association and has always been in such producer or in such producer and a former producer whom such producer succeeded before the peanuts were harvested. To meet the requirements of succession to a former producer, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether such interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC; (5) are, if delivered to the association in bags in the Southwestern area, in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, are free from holes and are finished at the top with either the selvage edge of the material, binding, or a hem. Such bags shall be of uniform size with approximately 2 bushel capacity; (6) must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; (7) are segregation 1, 2, or 3; and (8) if produced on acreage in excess of the effective farm allotment, the penalty has been collected in accordance with Part 729 of this title.

§ 1446.15 Disposition and liquidated damages on segregation 2 and segregation 3 peanuts.

(a) Any producer who has a lot of farmers stock peanuts classified by the inspector as segregation 2 or segregation 3 peanuts may (1) deliver the peanuts to the association for loan at the additional loan rate, (2) deliver such lot as contract additional peanuts under the provisions of § 1446.5, (3) retain the lot for use as seed or, (4) reclean the lot, or have such lot recleaned, for the purpose of removing loose shelled kernels, damaged kernels, and foreign material. If the producer elects to reclean the lot, or to have it recleaned, such producer will be given a copy of the Inspection Certificate and Sales Memorandum, Form MQ-94. The producer shall return such copy, along with the lot it represents, and any other information necessary to account for the entire lot, to an inspector for a second inspection by the close of business on the next workday following the initial inspection. If the peanuts are again classed segregation 2 or segregation 3 peanuts, upon the second inspection, the producer shall, at the point of second inspection, offer the lot to the association for loan at the additional loan rate, or deliver such lot as contract additional peanuts under provisions of § 1446.5 or retain the lot for use as seed. If the producer elects to retain a lot for seed, he shall designate such peanuts as quota peanuts, have the net weight of such peanuts determined and deducted from the farm marketing card, and advise the inspector that he is retaining the peanuts for seed. Such peanuts shall be ineligible for farm stored loans and purchases. The producer shall be given a copy of the MQ-94 as his record showing the quantity and quality factors of the peanuts and must store such peanuts separate from other peanuts on the farm. Such peanuts shall be inspected periodically and otherwise supervised by CCC. The producer shall notify CCC when such peanuts are used as seed peanuts and otherwise account for the disposition of all seed peanuts. The producer shall be ineligible for quota price support on all peanuts at the close of business on the next workday following the initial inspection if the applicable segregation 2 or segregation 3 peanuts are not retained for use on the farm or disposed of as provided in this subsection.

(b) *Liquidated damages.* The producer, by participating in the loan program, shall be deemed to have agreed that CCC will incur serious and substantial damages to its porgram to support the price of peanuts if segregation 2 or segregation 3 peanuts are disposed of other than in accordance with the provisions of paragraph (a) of this section; that the amount of such damage will be difficult, if not impossible, to ascertain exactly; and that the producer shall, with respect to any lot of peanuts ineligible for quota support which are placed under quota loan or any lot of peanuts which is placed under quota loan by a producer after he has disposed of any lot of segregation 2 or segregation 3 peanuts in any manner other than in the manner prescribed in paragraph (a) of this section, pay to CCC, as liquidated damages and not as a penalty, seven cents ($.07) per net pound of such peanuts. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such action by the producer. The provisions of § 1446.11 relating to the producer's liability (Aside from liability under criminal and civil frauds statutes) shall not be applicable to such peanuts.

§ 1446.16 Producer transfers of additional loan stocks to quota pools.

Producers may transfer additional loan stocks to quota loan after the producer has completed marketing and returned his marketing card to the county office not to exceed the smaller of the difference between the production of segregation 1 peanuts on the farm and the farm poundage quota, or the undermarketing of quota peanuts shown on the farm marketing card: *Provided,* That the proceeds available to such producer from peanuts in any other pool shall be reduced by the amount of any losses to CCC on the peanuts so transferred. The support values for any segregation 2 peanuts so transferred shall be the support value for quota peanuts minus the damage discount published in the quota support schedule and the support value for segregation 3 peanuts shall be the support value for quota peanuts minus the applicable discount published in the quota support schedule. Producers eligible to transfer additional loan peanuts to the quota loan in accordance with this section may apply for such trasfers with the county office. The county office shall determine the quantity of undermarketing of quota peanuts and the quantity of additional peanuts which are eligible for transfer. The producer may indicate to the county office the net weight and applicable Inspection Certificate and Sale Memorandum (Form MQ-94) numbers must be transferred. Such pounds shall be considered as quota peanuts marketed, the applicable MQ-94's recomputed at the quota loan level, and the producer advanced the difference between the additional and quota support.

Signed at Washington, D.C., on June 20, 1978.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-17478 Filed 6-22-78; 8:45 am]

[4410-10]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 100—STATEMENT OF ORGANIZATION

Designation of Harlingen, Texas, Suboffice as a District Office; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Correction—Final Rule.

SUMMARY: In FR Doc. 78-14584 appearing at pages 22331-2 in the issue of Thursday, May 25, 1978, one of the airports under the jurisdiction of District No. 40 was inadvertently omitted. The Miller International Airport at McAllen, Texas should have been deleted from the jurisdiction of District No. 14, San Antonio, Texas and placed under the jurisdiction of District No. 40, Harlingen, Texas. This correction is being published to make that change.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536. Telephone: 202-376-8373.

As corrected, District No. 40 reads as follows:

DISTRICT NO. 40—HARLINGEN, TEX.

Brownsville, Tex., Rio Grande Valley International Airport at Brownsville, Tex.
McAllen, Tex., Miller International Airport

* * * * *

Dated: June 19, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-17388 Filed 6-22-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Maryland, Room 805, (301) 436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Newton County in Missouri.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they again come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Harding County in South Dakota.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Woodruff County in Arkansas; and Mills County in Iowa.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Bandera County in Texas.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Jefferson, Johnson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, Yuma.

Florida. Baker, Bay, Citrus, Dixie, Escambia, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattachoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo

Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Sac, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Anderson, Barber Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Coffey, Comanche, Decatur, Doniphan, Douglas, Edwards, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Johnson, Kearny, Kingman, Kiowa, Labette, Lane, Logan, Marion, Marshall, Meade, Mitchell, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Sherman, Smith, Stanton, Stevens, Thomas, Trego, Wallace, Washington, Wichita, Wyandotte.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missiouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Banner, Box Butte, Cheyenne, Dakota, Deuel, Dodge, Douglas, Perkins, Thurston.

New Mexico. Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Bandera, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Pecos, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter Talladege, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Woodruff, Yell.

Colorado. Mesa.

Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bonneville, Cassia, Elmore, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Massac.

Iowa. Adams, Appanoose, Guthrie, Mills, Ringgold, Wayne.

Kansas. Allen, Atchison, Barton, Butler, Cloud, Cowley, Crawford, Dickinson, Elk, Ellis, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Sumner, Wabaunsee, Wilson, Woodson.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Missis-

sippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dawes, Dawson, Dixon, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPharson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putman, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bell Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Refugio, Roberston, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 **Noncertified Areas.**

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Okeechobee.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of June 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposed requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. P. JONES,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-17241 Filed 6-22-78; 8:45 am]

[3410-34]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

Authorization for the Deputy Administrator to Permit the Export of Animals Other Than in Accordance With Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations to authorize the Deputy Administrator upon request in specific cases to permit the export of animals not otherwise provided for in the regulations. Unique problems involving the export of livestock occasionally arise that cannot be reasonably anticipated and are not provided for in the regulations. The intended effect of this action is to authorize the Deputy Administrator, upon request in such cases, to permit the export of animals under such conditions as he may prescribe to prevent the spread of diseases and to insure the humane treatment of livestock while in transit.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, Hyattsville, Md. 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: On June 7, 1977, there was published in the FEDERAL REGISTER (42 FR 28990-28998) a revision of the animal export regulations. These regulations are quite specific on the disease status and accommodations for the humane treatment of animals while in transit. Experience has shown that problems relating to the export of livestock occasionally arise that are unique and cannot be anticipated. This is especially true of space accommodations for the humane treatment of animals exported on ocean vessels. The present regulations do not provide for the Deputy Administrator to authorize the export of animals not otherwise provided for in the regulations regardless of the circumstances involved, including research or emergencies. This authority is needed in order that the Deputy Administrator, in specific cases, may permit the exportation of animals not otherwise provided for in the regulations under such conditions as he may prescribe in each case to prevent the spread of diseases and to insure the humane treatment of the animals while in transit.

Accordingly, Part 91, Code of Federal Regulations is amended by adding a new § 91.34 to read:

§ 91.34 Other movements and conditions.

The Deputy Administrator, Veterinary Services, may, upon request in specific cases, permit the exportation of livestock not otherwise provided for in this part under such conditions as he may prescribe in each specific case to prevent the spread of livestock diseases and to insure the humane treatment of the animals while in transit.

(Sec. 10, 26 Stat. 417, sec. 4, 23 Stat. 32, as amended; sec. 5, 23 Stat. 32, as amended; sec. 3, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 3, 76 Stat. 130; sec. 11, 76 Stat. 132; sec. 12, 34 Stat. 1263, as amended; sec. 13, 34 Stat. 1263, as amended; sec. 14, 34 Stat. 1263, as amended; sec. 18, 34 Stat. 1263, as amended; sec. 1, 26 Stat. 833, as amended; sec. 2, 26 Stat. 833, as amended; (21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618, 46 U.S.C. 466a, 466b); 37 FR 28464, 28477; 38 FR 19141.)

There is an ocean vessel due in port in this country during the first week of July of this year outfitted in a new manner to carry exported livestock which is not currently permitted by the regulations. This new manner appears, from information currently available to the Department, to be appropriate for inclusion in the regulations as an acceptable method for exporting livestock from the United States, with a few modifications. Also, it is anticipated that a new class of animals will be used in the near future which will make more relevant information on this new method of carrying livestock available to the Department.

This amendment to the regulations must be made effective immediately to take advantage of this opportunity to observe intransit livestock shipments from the United States to determine whether and under what conditions, this new method should be allowed to be used to routinely export livestock from the United States. It is unknown at this time when such opportunities to study this new method of transport will again be available to the Department.

This amendment is of an emergency nature and relieves restrictions presently imposed. Furthermore, public participation in this rulemaking proceeding would not appear to make any further relevant information available to the Department.

Accordingly, under the administrative procedure provision in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of June 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 78-17092 Filed 6-22-78; 8:45 am]

[3410-34]

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

Attendants of Exported Livestock

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the requirements for ocean vessels transporting exported livestock to carry at least three persons experienced in the handling of the kinds of livestock being exported. The Department has determined that the present requirements are too restrictive when less than 800 or more animals are exported on an ocean vessel. The intended effect of this document is to relieve such restrictions.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, Hyattsville, Md. 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: The export regulations in Title 9, Code of Federal Regulations, § 91.14, were promulgated on June 7, 1977 (42 FR 28990) to become effective on October 5, 1977. They require that at least three persons experienced in the handling of the livestock being exported be carried on an ocean vessel transporting exported livestock as well as a sufficient number of attendants to insure proper care of the animals. Previously, Title 9, Code of Federal Regulations, § 91.17, required only one person experienced in the handling of the particular species being exported to be carried on an ocean vessel transporting exported livestock, as well as a sufficient number of attendants to insure proper care of the animals. These present requirements were placed into effect upon the belief full charter loads of 800 or more animals would be exported on each ocean vessel. However, less than full loads of animals are being exported which do not need or require three persons experienced in their handling to be carried on the ocean vessel. This is particularly true when small numbers of livestock are exported in specially constructed containers carried on the deck of an ocean vessel. Therefore, the present requirement that three persons experienced in handling the exported livestock be carried on such an ocean vessel is an unjustified economic burden to exporters of small numbers of livestock by ocean vessel.

Therefore, the Department is amending § 91.14 of the regulations to require that an ocean vessel transporting exported livestock carry at least three persons experienced in handling the kinds of livestock being exported, if it is transporting 800 or more head of livestock; that an ocean vessel transporting less than 800 head of livestock carry at least one person experienced in handling the kinds of livestock being exported; and that all ocean vessels transporting exported livestock carry a sufficient number of attendants, satisfactory to the inspector or the Veterinary Services' veterinarian at the port of embarkation to insure proper care of the animals.

The Department does not have sufficient information at this time upon which to propose more specific reasonable regulations concerning the exact number of persons experienced in handling various types of livestock and attendants necessary to insure their proper care under the various methods of transporting livestock aboard ocean vessels currently in use. The Department is studying this matter and hopes to have sufficient information to propose more specific reasonable regulations in this area in the near future.

§ 91.14 [Amended]

Accordingly, Part 91, Code of Federal Regulations is amended by deleting the period at the end of § 91.14 and inserting the following in lieu thereof:

; Provided, however, That only one person experienced in the handling of the kind/kinds of livestock to be carried and a sufficient number of attendants, satisfactory to the Veterinary Services' veterinarian at the port of embarkation, to insure proper care of the animals must be carried on board the ocean vessel if less than 800 head of livestock are carried.

(Sec. 10, 26 Stat. 417; sec. 4, 23 Stat. 32, as amended; sec. 5, 23 Stat. 32, as amended; sec. 3, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 3, 76 Stat. 130; sec. 11, 76 Stat. 132; sec. 12, 34 Stat. 1263, as amended; sec. 13, 34 Stat. 1263, as amended; sec. 14, 34 Stat. 1263, as amended; sec. 18, 34 Stat. 1263, as amended; sec. 1, 26 Stat. 833, as amended; sec. 2, 26 Stat. 833, as amended; (21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b); 37 FR 28464, 28477; 38 FR 19141).

This amendment relieves certain unnecessary restrictions presently imposed and should be made effective

promptly to be of maximum benefit to affected persons. Further, it does not appear that public participation with respect to this amendment would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure regarding this amendment are impracticable, unnecessary and contrary to the public interest and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of June 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. P. JONES,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-17350 Filed 6-22-78; 8:45 am]

[3410-34]

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Importation of Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to provide for the return to the United States of horses of United States origin which are exported to countries affected with CEM for purposes other than breeding. The need for this action is to provide procedures, whereby horses which are temporarily exported from the United States to CEM-affected countries for show, exhibitions, or racing purposes may re-enter the United States without compliance with certain certifications and tests required for other animals. The effect of this action is to remove unnecessary barriers to the return to the United States of horses of United States origin which have been temporarily exported from the United States to countries affected with CEM for purposes other than breeding.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Maryland 20782, (301) 436-8170.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR Part 92 provide for the unrestricted importation of horses into the United States from countries affected with CEM when certain specified conditions to prevent the introduction of diseases into the United States are complied with. The regulations do not provide for the temporary exportation of horses which originate in the United States to a country affected with CEM for purposes other than breeding, such as competition or exhibition, including racing, rodeo, circus or stage exhibitions and their subsequent return to the United States. All such animals are now required to comply with the same requirements for importation as animals originating in and imported from a country affected with CEM.

This document provides that horses originating in the United States and returning to the United States following their exhibition or other nonbreeding activity in a CEM-affected country be permitted to return to the United States without compliance with certain health certification and tests required for other horses imported from such countries.

To qualify for entry into the United States under these provisions, the horses must return to the United States within 60 days of the date they left the United States and must not have been bred to any animal during the 60-day period. A time period of 60 days has been established because the monitoring of such horses for longer periods would be difficult to effectively carry out. Further, the 60-day period has been established previously to apply to all other animals being exported to the United States during which time the animals must have been found to be free of communicable disease and exposure thereto. The non-breeding requirement is imposed because CEM is primarily a breeding disease. Therefore, if a horse has not engaged in breeding there is a greatly reduced likelihood that the horse has been exposed to CEM.

If the aforementioned conditions are met, the horses may return to the United States if the horses are accompanied at the time of entry and inspection in the United States by a copy of the United States health certificate previously issued for the exportation of the animals in accordance with the regulations in 9 CFR Part 91. Further, the horses must be accompanied by an import permit issued in accordance with § 92.4 of the regulations at the time of exportation from the United States. Additionally, they must be accompanied by a certificate signed or endorsed by a salaried veterinarian of each CEM-affected country which the horses have entered since their departure from the United States. Such certificate shall state that the horses were held separate and apart from other horses, except for the times they were participating in events or being exercised by their trainers; that the premises on which they are held are not used for breeding purposes; that the horses were not bred nor had other sexual contact or genital examination while in such country; and that all transport while in such country was carried out in cleaned and disinfected vehicles in which no other horses were transported since such cleaning and disinfection. Also, the horses will be examined by a Veterinary Services inspector at the port of entry. To be admitted into the United States, it must be determined by the inspector that the horses are those covered by the health certificate, import permit and appropriate foreign certificate and that they are free of communicable disease and exposure thereto. Finally, the horses must be quarantined and tested at the port of entry in accordance with § 92.11(d) of 9 CFR, prior to release into the United States.

The United States health certificate is presently required for horses exported to foreign countries pursuant to 9 CFR 91.4. That requirement is restated here. This certificate contains the date of exportation and identification of the horse it pertains to. Therefore, in order to insure that the horse covered by the certificate has not been out of the country for more than 60 days, the horse must be accompanied by the United States health certificate which was issued for its export from the United States. An import permit is being required as a condition of entry because the permit will better enable the Department to monitor the temporary exportation from and return to the United States of such horses. A certification by a salaried veterinarian of the foreign country is required because such certification shall aid in ensuring that the horses have not come in contact with CEM. The inspection by a Veterinary Services inspector is required in order to establish that the horses are eligible to enter the country under the applicable provisions of the regulations. Also, the inspection by the inspector is the first opportunity for the Department to determine the health status of the horses and to exclude those horses affected by or exposed to a communicable disease. The present quarantine and testing requirements in § 92.11 of the regulations (9 CFR 92.11) are maintained in order to insure that such horses are not affected with any additional communicable diseases of animals.

Accordingly, Part 92, Code of Federal Regulations is amended in the following respects:

In § 92.2, paragraph (i) is amended to add a new subparagraph (2)(v) to read:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i) * * *

(2) * * *

(v) Horses which have been temporarily exported from the United States to any country listed in paragraph (i)(1) of this section for a period not to exceed 60 days and have not been bred to any animal during the 60-day period are eligible for return to the United States without meeting the requirements of paragraph (i)(2)(iv) of this section if:

(A) They are accompanied at the time of entry and inspection at the port of entry by: (*1*) A copy of the United States health certificate issued for the exportation of the horse from the United States and endorsed in accordance with the export regulations in Part 91 of this chapter; (*2*) An import permit issued in accordance with § 92.4 of the regulations in this Part at the time of exportation; (*3*) A certificate signed or endorsed by a salaried veterinarian of each CEM-affected country which the animals have entered since their departure from the United States stating that during the time they were in each such country:

(*i*) The horses have been held separate and apart from all other horses except for the time they were actually participating in an event or were being exercised by their trainers;

(*ii*) The premises on which such horses were held were not used for any equine or horse breeding purpose;

(*iii*) That the horses were not bred nor had any other sexual contact or genital examination while in such country; and

(*iv*) That all transport while in such country was carried out in cleaned and disinfected vehicles in which no other horses were transported since such cleaning and disinfection.

(B) They are examined by a Veterinary Services inspector at the United States port of entry and are determined by him to be the identical animals covered by the health certificate, the import permit and the certificate signed by the appropriate salaried veterinarian of the foreign country, and are determined by the inspector to be free of communicable disease and exposure thereto; and

(C) They are quarantined and tested at the port of entry as provided in § 92.11(d) of this part prior to release.

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, and 134f); 37 FR 28464, 28477; 38 FR 19141.)

These amendments relieve certain restrictions presently imposed and should be made effective promptly to be of maximum benefit to affected persons. Further, the outdoor exhibition season for horses will begin shortly and therefore, in order to facilitate the return of horses to the United States without undue restrictions, these regulations should be placed into effect immediately. Also, it does not appear that notice and public participation with respect to these amendments would make additional relevant information available to the Department which would alter the decision in this matter.

Accordingly, the Department finds that notice of proposed rulemaking and other public participation regarding these amendments are impracticable, unnecessary and contrary to the public interest and accordingly under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 19th day of June 1978.

NOTE: The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. P. JONES,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-17242 Filed 6-22-78; 8:45 am]

[3410-34]

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Change in Disease Status of Brazil Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document designates Brazil as a country in which African swine fever, a contagious and infectious disease of swine, exists. Notice has been received that an outbreak of African swine fever has occurred in Brazil. The intended effect of this amendment is to restrict the entry into the United States of pork and pork products from Brazil, in order to protect domestic swine.

EFFECTIVE DATE: June 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. James D. Roswurm, USDA, APHIS, VS, Room 819, Federal Building, Hyattsville, Md. 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: African swine fever is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus of African swine fever is highly virulent and may be present in pork and pork products originating in countries where the disease exists. The only known practical method of destroying the disease virus in pork and pork products is by heat treatment.

The Department has been informed that Brazil has announced the existence of African swine fever in that country. Therefore, this document amends § 94.8 of the regulations (9 CFR 94.8), which designates those countries where African swine fever exists, to include Brazil. This designation restricts the entry into the United States of pork and pork products from Brazil to pork and pork products which have been commercially sterilized by heat in hermetically sealed containers, or which are allowed controlled entry into the United States for further processing by heat.

Accordingly, Title 9, Part 94, Code of Federal Regulations is hereby amended in the following respect:

In § 94.8, at the end of the introductory paragraph, the name of Brazil is added after the reference to "All countries of Africa." and before "Cuba."

(Sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); 37 FR 28464, 28477; 38 FR 19141)

This amendment is of an emergency nature and must be made effective immediately to protect domestic swine against the introduction of African swine fever from Brazil. It excludes except with respect to in transit shipments of pork and pork products that are aboard a carrier moving to the United States at the time of issuance hereof. Such in transit shipments, upon arrival in the United States, shall either be allowed entry or be disposed of only under such specific requirements and in such a manner as the Administrator may determine, in each specific case, to be necessary and adequate to safeguard against the introduction or dissemination of African swine fever into the United States. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of June 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring the preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-17487 Filed 6-22-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 71—PACKAGING OF RADIOACTIVE MATERIAL FOR TRANSPORT AND TRANSPORTATION OF RADIOACTIVE MATERIAL UNDER CERTAIN CONDITIONS

Extension of the Implementation Period for QA Program Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Effective rule.

SUMMARY: The U.S. Nuclear Regulatory Commission extends until January 1, 1979, the date for filing a description of a quality assurance program for transport packages. The original deadline of July 1, 1978 appeared in amendments published in the FEDERAL REGISTER on August 1, 1977. This extension is in response to requests from interested persons to delay implementation of the quality assurance criteria.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Doda, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, phone 301-443-6910.

SUPPLEMENTARY INFORMATION: On August 4, 1977, the Nuclear Regulatory Commission published effective amendments to its regulations in 10 CFR Part 71. These amendments included a requirement to file a description of a quality assurance (QA) program satisfying the criteria of Appendix E by July 1, 1978 (42 FR 39364). Although written comments or suggestions to these amendments were invited at that time, none were received.

The Commission has since received letters from interested persons questioning the applicability of these QA requirements to Agreement State licensees. Also, the Commission has received requests to delay implementation of the Appendix E criteria.

The Commission is in the process of addressing the question of the applicability of these QA requirements to Agreement State licensees. Because of this effort, and having considered other factors involved, the NRC has determined that a delay of 6 months in implementing the Appendix E criteria appears justified. A short-term delay will have no significant adverse effect on public health and safety because of existing specific QA provisions in Part 71 and the requirement for a QA program, which the staff imposes for approval of packagings for shipping irradiated fuel, high level waste, and plutonium. Accordingly, the Commission is amending its regulations by extending the date for filing a description of a QA program in § 71.51 to January 1, 1979.

Because this amendment relates solely to procedural matters, the Commission has found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary. Since the amendment relieves licensees from restrictions under regulations currently in effect, it may become effective upon publication in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 71 is published as a document subject to codification.

In § 71.51, paragraphs (a), (b) and (c) are amended by deleting "July 1, 1978" and substituting therefor "January 1, 1979".

(Secs. 53, 62, 81, 161; Pub. L. 83-703, 88-489; 68 Stat. 930, 932, 935, 948, 78 Stat. 602 (42 U.S.C. 2073, 2092, 2111, 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Bethesda, Md. this 21st day of June 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director
for Operations.

[FR Doc. 78-17682 Filed 6-22-78; 10:04 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

SUBCHAPTER A—GENERAL RULES

[Docket No. RM78-15]

PART 1b—RULES RELATING TO INVESTIGATIONS

Establishment, Final Rule

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This amendment to the regulations of the Federal Energy Regulatory Commission (Commission) sets forth the Commission's policy and procedures relating to investigations of persons and matters subject to its jurisdiction. The regulations adopted today are intended to state clearly the Commission's policy and procedures for investigations conducted under the statutes it administers.

EFFECTIVE DATE: June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomson vonStein, 825 North Capitol Street, Washington, D.C. 20426, 202-275-1832.

BACKGROUND: Notice is hereby given that the Federal Energy Regulatory Commission (the Commission) is amending Subchapter A of Title 18, Code of Federal Regulations, by establishing a new Part 1b, Rules Relating to Investigations, effective immediately.

The Commission has broad authority to investigate matters subject to its jurisdiction. Sections 5(b), 6(a), and 14 of the Natural Gas Act, Sections 206(b), 208(a) and 307, of the Federal Power Act, and Section 12 of the Interstate Commerce Act all authorize the Commission to investigate matters and persons subject to its jurisdiction. For example, Sections 14(a) of the Natural Gas Act and 307(a) of the Federal Power Act broadly authorize the Commission to—

> • • • investigate any acts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provisions of this Act or any rule, regulation, or order thereunder, or to aid in the enforcement of the provisions of this Act or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation.

In addition, Section 12(i) of the Interstate Commerce Act, gives this

Commission the authority to "inquire into and report on the management of the business of all (oil pipelines) subject to the provisions of this chapter." This authority was transferred to this Commission by the establishment of the Department of Energy.

The Commission has not previously promulgated a set of regulations specifically designed to cover investigations. Rather, it has generally conducted investigations pursuant to its statutory authority on an ad hoc basis and where appropriate to applicable provisions of its rules of practice and procedure. The regulations adopted today are intended to state clearly the Commission's policy and procedures for investigations conducted under the statutes it administers.

These regulations, which are summarized below, are similar to rules relating to investigations used by other Federal agencies with regulatory mandates similar to those of the Commission. Regulations used by those agencies have been in use for a number of years, and are promulgated under statutory authority similar to that provided by the statutes administered by the Commission.

Summary of Part 1b

Section 1b.1 of Part 1b defines certain terms used in Part 1b.

Section 1b.2 states that the rules apply only to investigations and not adjudicative proceedings.

Section 1b.3 states the Commission may investigate any matters subject to its jurisdiction, which investigative authority is set out in Sections 206, 208, and 307 of the Federal Power Act, Sections 5, 6, and 14 of the Natural Gas Act and Section 12 of the Interstate Commerce Act.

Section 1b.4 provides that the Commission may, in its discretion, conduct either preliminary or formal investigations, which may be private or public. This formalizes established Commission policy, and provides for private investigations, which are appropriate in certain situations, such as when evidence of possible violations or knowing and willful violations, if made public before the investigation is complete or other action is taken, may prejudice the rights of witnesses or potential defendants, or may delay the investigation.

Section 1b.5 states that the Commission has the discretion to order a formal investigation, in which case it issues an Order of Investigation which will outline the basis for the investigation, the matters to be investigated, names the officer(s) who will have the authority to conduct the investigation, and their authority. The particular authority of officers conducting an investigation is derived from Section 307 of the Federal Power Act, Section 14 of the Natural Gas Act and Section 12 of the Interstate Commerce Act.

Formal investigations are appropriate when preliminary investigations indicate that compulsory process may be necessary to obtain information.

Section 1b.6 states that the Commission or its staff may, in its discretion, conduct preliminary investigations without formal order of the Commission. If a preliminary investigation indicates a need for a formal investigation or if compulsory process is required, the Commission may then initiate a formal investigation.

Section 1b.7 states that when it appears there has been a violation or may be a violation of the statutes administered by the Commission, or of the Commission's rules or orders, the Commission may take various actions including instituting administrative proceedings, seeking an injunction, or referring the matter to another governmental authority.

Section 1b.8 makes clear that anyone may request an investigation and that there are no formalities for such requests. This is designed to encourage as wide as possible a flow of information to the Commission from the public about matters it is concerned with. It is similar to § 1.6 of the rules of practice and procedure which concerns complaints. The requirements for requesting an investigation, however, are less formal than those for filing a complaint.

Section 1b.9 states that, unless otherwise made public by the Commission, or unless made public under the Freedom of Information Act, all information or documents obtained by the Commission in the course of an investigation shall not generally be available to the public.

Section 1b.10 describes the particular officers who may conduct a formal investigation.

Section 1b.11 distinguishes between the rights of intervenors or parties in adjudicative administrative proceedings and investigations where there are no respondents or parties as such. Administrative investigations have long been held not to require the full panoply of judicial procedures such as the right to participate and cross-examine. "Hannah v. Larch" 363 U.S. 420 (1960).

Section 1b.12 provides that only an official reporter may transcribe testimony given in an investigation and provides that witnesses may obtain copies of their testimony unless the director of the Office responsible for the investigation for good cause determines that they may not. In any case, witnesses may inspect their testimony. This supersedes § 1.21(b) of the rules of practice and procedure for purposes of Part 1b.

Section 1b.13 describes the particular actions which officers conducting formal investigations may take and parallels Section 14(b) of the Natural Gas Act and Section 307(b) of the Federal Power Act.

Section 1b.14(a) describes how subpoenas may be served. Section 1b.14 (b) and (c) establishes procedures to encourage compliance with subpoenas by requiring a subpoenaed party to explain why any subpoenaed documents were not produced in compliance with the subpoena and requires documents withheld under claim of attorney-client privilege to be listed so that the validity of the claim can be verified.

Section 1b.15 states that the Commission may enforce its subpoenas if necessary and that criminal penalties may also be used to enforce subpoenas.

Section 1b.16(a) states that on request witnesses must be shown the Commission's Order of Investigation and, if appropriate, may be furnished a copy of such order. Section 1b.16(b) states that persons giving evidence in an investigation may be represented by counsel but establishes procedures for disclosing possible conflicts of interest of attorneys who represent more than one person involved in an investigation. Section 1b.16(c) regulates the conduct of witnesses and counsel at hearings. It provides that witnesses may, at their discretion, make any statement they wish at the end of an investigative hearing.

Section 1b.17 makes the Commission's rule of practice relating to the representation and conduct of attorneys applicable to investigations.

Section 1b.18 states that persons involved in an investigation may submit any statement they wish during an investigation.

Section 1b.19 sets up a procedure whereby defendants in potential injunctive proceedings may, where appropriate in the interest of the proper administration of the law, be given the right to have their position presented to the Commission whenever the office responsible for the investigation recommends an enforcement action against such persons.

Finally, § 1b.20 deals with requests for confidential treatment of information furnished to the Commission in an investigation.

Effective Date

The Commission makes these regulations effective without prior notice and public procedure. Because they are interpretative rules, statements of policy and rules of agency procedure and practice, notice and public procedure thereon are not required under applicable administrative requirements, and the Commission considers it unnecessary to defer implementation awaiting public comment.

Although the Commission is making these regulations effective immediately, we welcome interested parties to submit comments or suggestions with

respect to the regulations. The Commission will evaluate any information received and will consider appropriate revisions to the regulations. An original and 14 copies should be filed by July 24, 1978, with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426. All comments should reference Docket No. RM78-15.

For the foregoing reasons, Subchapter A of Title 18, Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

KENNETH F. PLUMB,
Secretary.

1. Subchapter A of Title 18, Code of Federal Regulations, is amended by adding a new Part 1b, to read as follows:

Sec.
1b.1 Definitions.
1b.2 Scope.
1b.3 Scope of investigations.
1b.4 Types of investigations.
1b.5 Formal investigations.
1b.6 Preliminary investigations.
1b.7 Procedure after investigation.
1b.8 Requests for Commission investigations.
1b.9 Confidentiality of investigations.
1b.10 By whom conducted.
1b.11 Limitation on participation.
1b.12 Transcripts.
1b.13 Powers of persons conducting formal investigations.
1b.14 Subpoenas.
1b.15 Non-compliance with compulsory processes.
1b.16 Rights of witnesses.
1b.17 Appearance and practice before the Commission.
1b.18 Right to submit statements.
1b.19 Submissions.
1b.20 Request for confidential treatment.

AUTHORITY: Natural Gas Act, 15 U.S.C. 717 *et seq.*, Federal Power Act, 16 U.S.C. 792 *et seq.*, Interstate Commerce Act, 49 U.S.C. § 1 *et seq.*, Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.

§ 1b.1 Definitions.

For purposes of this part—

(a) "Formal investigation" means an investigation instituted by a Commission Order of Investigation.

(b) "Preliminary Investigation" means an inquiry conducted by the Commission or its staff, other than a formal investigation.

(c) Investigating officer means the individual(s) designated by the Commission in an Order of Investigation as Officer(s) of the Commission.

§ 1b.2 Scope.

This part applies to investigations conducted by the Commission but does not apply to adjudicative proceedings.

§ 1b.3 Scope of investigations.

The Commission may conduct investigations relating to any matter subject to its jurisdiction.

§ 1b.4 Types of investigations.

Investigations may be formal or preliminary, and public or private.

§ 1b.5 Formal investigations.

The Commission may, in its discretion, initiate a formal investigation by issuing an Order of Investigation. Orders of Investigation will outline the basis for the investigation, the matters to be investigated, the officer(s) designated to conduct the investigation and their authority. The director of the office responsible for the investigation may add or delete Investigating Officers in the Order of Investigation.

§ 1b.6 Preliminary investigations.

The Commission or its staff may, in its discretion, initiate a preliminary investigation. In such investigations, no process is issued or testimony compelled. Where it appears from the preliminary investigation that a formal investigation is appropriate, the staff will so recommend to the Commission.

§ 1b.7 Procedure after investigation.

Where it appears that there has been or may be a violation of any of the provisions of the acts administered by the Commission or the rules, opinions or orders thereunder, the Commission may institute administrative proceedings, initiate injunctive proceedings in the courts, refer matters, where appropriate, to the other governmental authorities, or take other appropriate action.

§ 1b.8 Requests for Commission investigations.

(a) Any individual, partnership, corporation, association, organization, or other Federal or State governmental entity, may request the Commission to institute an investigation.

(b) Requests for investigations should set forth the alleged violation of law with supporting documentation and information as completely as possible. No particular forms or formal procedures are requested.

(c) It is the Commission's policy not to disclose the name of the person or entity requesting an investigation except as required by law, or where such disclosure will aid the investigation.

§ 1b.9 Confidentiality of investigations.

All information and documents obtained during the course of an investigation, whether or not obained pursuant to subpoena, and all investigative proceedings shall be treated as nonpublic by the Commission and its staff exept to the extent that (a) the Commission directs or authorizes the public disclosure of the investigation; (b) the information or documents are made a matter of public record during the course of an adjudicatory proceeding; or (c) disclosure is required by the Freedom of Information Act, 5 U.S.C. 552. Procedures by which persons submitting information to the Commission during the course of an investigation may specifically seek confidential treatment of information for purposes of Freedom of Information Act disclosure are set forth in 18 CFR Part 3b and § 1b.20. A request for confidential treatment of information for purposes of Freedom of Information Act disclosure shall not, however, prevent disclosure for law enforcement purposes or when disclosure is otherwise found appropriate in the public interest and permitted by law.

§ 1b.10 By whom conducted.

Formal Commission investigations are conducted by the Commission or by an individual(s) designated and authorized in the Order of Investigation. Investigating Officers are "officers" within the meaning of the statutes administered by the Commission and are authorized to perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Investigating Officers shall have such duties as the Commission may specify in an Order of Investigation.

§ 1b.11 Limitation on participation.

There are no parties, as that term is used in adjudicative proceedings, in an investigation under this Part and no person may intervene or participate as a matter of right in any investigation under this part. Section 2.72 of the rules is specifically not applicable to private investigations conducted by the Commission or its staff.

§ 1b.12 Transcripts.

Transcripts, if any, of investigative testimony shall be recorded solely by the official reporter, or by any other person or means designated by the investigating officer. A witness who has given testimony in an investigation shall be entitled, upon written request, to procure a transcript of the witness' own testimony on payment of the appropriate fees, except that in a nonpublic formal investigation, the office responsible for the investigation may for good cause deny such request. In any event, any witness or his counsel, upon proper identification, shall have the right to inspect the official transcript of the witness' own testimony. This provision supersedes § 1.21(b) of the rules of practice.

§ 1b.13 Powers of persons conducting formal investigations.

Any member of the Commission or the Investigating Officer, in connection with any formal investigation ordered by the Commission, may administer oaths and affirmations, subpoena

witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements or other records relevant or material to the investigation.

§ 1b.14 Subpoenas.

(a) Service of a subpoena upon a person named therein shall be made be the investigating officer (1) by personal delivery, (2) by certified mail, (3) by leaving a copy thereof at the principle office or place of business of the person to be served, (4) or by delivery to any person designated as agent for service or the person's attorney.

(b) At the time for producing documents subpoenaed in an investigation, the subpoenaed party shall submit a statement stating that, if true, such person has made a diligent search for the subpoenaed documents and is producing all the documents called for by the subpoena. If any subpoenaed document(s) are not produced for any reason, the subpoenaed party shall state the reason therefor.

(c) If any subpoenaed documents in an investigation are withheld because of a claim of the attorney-client privilege, the subpoenaed party shall submit a list of such documents which shall, for each document, identify the attorney involved, the client involved, the date of the document, the person(s) shown on the document to have prepared and/or sent the document, and the person(s) shown on the document to have received copies of the document.

§ 1b.15 Non-compliance with compulsory processes.

In cases of failure to comply with Commission compulsory processes, appropriate action may be initiated by the Commission or the Attorney General, including but not limited to actions for enforcement or the imposition of penalties.

§ 1b.16 Rights of witnesses.

(a) Any person who is compelled or requested to furnish documentary evidence or testimony in a formal investigation shall, upon request, be shown the Commission's Order of Investigation. Copies of Orders of Investigation shall not be furnished, for their retention, to such persons requesting the same except with the express approval of the director of the office responsible for the investigation. Such approval shall not be given unless the director of the office responsible for the investigation, in the director's discretion is satisfied that there exist reasons consistent with the protection of privacy of persons involved in the investigation and with the unimpeded conduct of the investigation.

(b) Any person compelled to appear, or who appears in person at a formal investigation by request or permission of the Investigating Officer may be accompanied, represented and advised by counsel, as provided by § 1.4 of the rules of practice and these rules, except that all witnesses shall be sequestered and, unless permitted in the discretion of the Investigating Officer, no witness or the counsel accompanying any such witness shall be permitted to be present during the examination of any other witness called in such proceeding. When counsel does represent more than one person in an investigation, for example, where the counsel is counsel to the witness and his employer, said counsel shall inform the Investigating Officer and each client of said counsel's possible conflict of interest in representing that client and, if said counsel appears with a witness giving testimony on the record in an investigation, counsel shall state on the record all persons said counsel represents in the investigation.

(c) Any witness may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise the witness, in confidence, upon his initiative or the witness' with respect to any question, and if the witness refuses to answer a question, then the witness or counsel may briefly state on the record the legal grounds for such refusal.

(2) Where it is claimed that the witness has a privilege to refuse to answer a question on the grounds of self-incrimination, the witness must assert the privilege personally.

(3) Following completion of the examination of a witness, such witness may make a statement on the record and his counsel may on the record question the witness to enable the witness to clarify any of the witness' answers or to offer other evidence.

(4) The Investigating Officer shall take all necessary action to regulate the course of the proceeding to avoid delay and prevent or restrain obstructionist or contumacious conduct or contemptuous language. Such officer may report to the Commission any instances where an attorney or representative has refused to comply with his directions, or has engaged in obstructionist or contumacious conduct or has used contemptuous language in the course of the proceeding. The Commission may thereupon take such further action as the circumstances may warrant, including suspension or disbarment of counsel from further appearance or practice before it, in accordance with § 1.4 of the Commission's rules of practice, and § 1100.11 of the rules of practice of the Interstate Commerce Commission, or exclusion from further participation in the particular investigation.

(d) Unless otherwise ordered by the Commission, in any public formal investigation, if the record shall contain implications of wrongdoing by any person, such person shall have the right to appear on the record; and in addition to the rights afforded other witnesses hereby, he shall have a reasonable opportunity of cross-examination and production of rebuttal testimony or documentary evidence. "Reasonable" shall mean permitting persons as full an opportunity to assert their position as may be granted consistent with administrative efficiency and with avoidance of undue delay. The determinations of reasonableness in each instance shall be made in the discretion of the investigating officer.

§ 1b.17 Appearance and practice before the Commission.

The provisions of § 1.4 of the Commission's rules of practice are specifically applicable to all investigations.

§ 1b.18 Right to submit statements.

Any person may, at any time during the course of an investigation, submit documents, statements of facts or memoranda of law for the purpose of explaining said person's position or furnishing evidence which said person considers relevant regarding the matters under investigation.

§ 1b.19 Submissions.

When the Investigating Officer determines it is appropriate in the interest of the proper administration of the law, he may inform any person that a recommendation may be made to the Commission that said person be a defendant in a civil action to be brought by the Commission. In such case, said person may submit a statement of fact, argument, and/or memorandum of law, with such supporting documentation as said person chooses showing why said person should not be a defendant in any civil action brought by the Commission. The investigating officer shall inform said potential defendant of the date by which such statement may be submitted to said officer, and if such statement is submitted by such date, it shall be presented to the Commission together with any recommendation for enforcement action by the office responsible for the investigation.

§ 1b.20 Request for confidential treatment.

Any person compelled to produce documents in an investigation may claim that some or all of the information contained in a particular document(s) is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure. In such case, the person making such claim shall, at the time said person produces the document to the officer

conducting the investigation shall also produce a second copy of the document from which has been deleted the information for which the person wishes to claim confidential treatment. The person shall indicate on the original document that a request for confidential treatment is being made for some or all of the information in the document and shall file a statement specifying the specific statutory justification for non-disclosure of the information for which confidential treatment is claimed. General claims of confidentiality are not sufficient. Sufficient information must be furnished for the officer conducting the investigation, or other appropriate official, to make an informed decision on the request for confidential treatment. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, the person shall include a statement specifying why the information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the Officer conducting the investigation may assume that there is no objection to public disclosure of the document in its entirety. The Commission retains the right to make the determination with regard to any claim of confidentiality. Notice of the decision by the investigating Officer or other appropriate official to deny a claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality no less than 5 days before its public disclosure.

[FR Doc. 78-17376 Filed 6-22-78; 8:45 am]

[6740-02]

PART 3—ORGANIZATION, OPERATION, INFORMATION, AND REQUESTS

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Order Discontinuing Requirements to File FPC Form 69 for Respondents Who Submit Data on EIA Form 50

JUNE 14, 1978.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order.

SUMMARY: This order discontinues the requirement for interstate natural gas pipeline companies to file FPC Form 69. EIA has developed Form EIA-50 to collect the data previously reported on Form 69.

EFFECTIVE DATE: The order will become effective with the promulgation of Form EIA-50 by EIA.

FOR FURTHER INFORMATION:

FPC Form 69, contact: Randolph Mathura, Room 7312, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4489.

EIA-50, contact: June A. Wolfrey, Energy Information Administration, Washington, D.C. 20461, 202-254-8461.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act, Pub. L. 95-91, approved August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 *et seq.* (DOE Act), and Executive Order No. 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC), which, as an independent regulatory commission within the Department of Energy, was activated on October 1, 1977.[1] The "savings provisions" of section 705(a) of the DOE Act provide that all rules and regulations issued by any Federal agency in the performance of functions which are transferred under the DOE Act to the Department of Energy or the FERC after the date of enactment of the DOE Act, and which are in effect at the time the DOE Act takes effect, shall continue in effect until modified, terminated, superseded, set aside or revoked by the Secretary of Energy or the FERC, or by operation of law.

The Secretary of Energy by Delegation Order No. 0204-1, effective October 1, 1977 (42 FR 55637, October 18, 1977), delegated and assigned to the FERC the authority to carry out functions under section 10 of the Natural Gas Act relating to annual and periodic or special reports "as FERC determines appropriate to perform its vested or delegated functions". The Delegation Order directs the FERC to consult with the Administrator of the Energy Information Administration (EIA) of the Department of Energy with respect to the exercise of functions under section 10 of the Natural Gas Act "as EIA considers appropriate". Section 0.4(h) of Part O of Chapter I, Title 18 of the Code of Federal Regulations, which was promulgated by the FERC's Order No. 1, Docket No. RM78-1, issued October 6, 1977 (42 FR 55450, October 17, 1977), provides that all persons or jurisdictional entities required to file periodic or other reports with any agency or commission whose functions were transferred under the DOE Act to the FERC shall file such reports relating to the transferred functions with the FERC and provides further that the FERC affirms, adopts and continues in effect all previously approved forms for making periodic or other reports.

On June 25, 1973, the Commission issued Order No. 531 setting forth a new Form No. 69 which was the result of a coordinated effort undertaken with the Federal Energy Administration (FEA), other governmental agencies and the National Association of Regulatory Utility Commissioners. The Commission issued Order No. 531-A on July 9, 1975, and Order No. 531-C on May 19, 1976, each revising and clarifying Form No. 69 in order to make it fully conform with the FEA's concurrent Form No. G-101-A-2.

The EIA has been utilizing Form Nos. G-101-A-2 and 69, as amended, to accumulate the information needed to determine the type and quantities of alternate fuels that will be required in order to offset the loss of natural gas due to the curtailment of deliveries by interstate pipelines and the general dwindling supply of that resource.

The FERC uses the information to perform its duties under the Natural Gas Act in determining that pipeline company curtailment plans are in the public interest.

The EIA now proposes to issue a new Form, EIA-50, which will provide the data that have been called for on Form G-101-A-2 and FPC Form No. 69 with these minor changes:

(a) Some of the instructions have been rearranged.

(b) Two new definitions have been added:

Alternate Fuels: Any fuel purchased by an end-use customer to offset natural gas curtailments by his supplier. Included as alternate fuels are gaseous fuels purchased under FERC Order 533 and self-help procedures such as exist in the State of Ohio.

Supplemental Gaseous Fuels: Gaseous fuels, either purchased or produced by the supplier, distributed through mains to end-use customers in order to supplement natural gas.

(These additions represent the formalization of definitions that have been in general use by respondents.)

(c) The identification of the person to contact has been moved to the first page of the form.

(d) Verification procedures for Part II C have been added.

These minor revisions do not change the reporting burden.

[1] The term "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

The Commission finds: (1) Because Form EIA-50 includes only minor revisions in the form of Form 69, rather than new substantive requirements, this matter is procedural, and accordingly notice and public procedure under 5 U.S.C. 553 are not required.

(2) Because the consolidation of the two forms will minimize reporting requirements, good cause exists that Form EIA-50 should replace FPC Report Form No. 69 as soon as it is officially issued by EIA, and that interstate natural gas pipeline companies should file Form EIA-50 directly with the EIA.

(3) On Form EIA-50 EIA will collect data formerly supplied on FPC Form 69 and will be able to provide the same statistical summaries as well as the same detailed statistics.

(4) Data on curtailments and alternate fuels as needed by the FERC will be available from the EIA.

(5) Statistics on Form EIA-50 will be available to the public to the same extent as they have been on FPC Form No. 69.

(6) Form EIA-50 does not increase the reporting burden of any respondent who has been filing FPC Form No. 69.

(7) This action does not set a precedent for future handling of FPC forms.

(8) This change in reporting requirements is appropriate for the Administration of the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly section 16 and section 10 thereof (52 Stat. 826, 830; 15 U.S.C. 717; and 717o), *orders:*

(A) FPC Form No. 69 as promulgated by section 260.15 and section 3.170 of Title 18 of the Code of Federal Regulations is accordingly no longer required from interstate natural gas pipeline companies that file Form EIA-50 with the EIA.

(B) This change in reporting requirement shall be effective for any respondent with his filing of Form EIA-50 as noted in Paragraph (A) above.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-17426 Filed 6-22-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart Q—Referral for Rehabilitation Services, Other Benefits, Other Services, and Assistance

Referral of Blind or Disabled Individuals for Appropriate Rehabilitation Services

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: This rule reflects recent legislation which requires the Secretary of Health, Education, and Welfare to (1) refer blind or disabled individuals age 16 or over and under age 65 who are receiving Supplemental Security Income benefits to the appropriate State Agency administering the State plan for vocational rehabilitation, and (2) to refer blind and disabled children under age 16 who are receiving Supplemental Security Income benefits, to the agency administering the State plan for crippled children's services under title V of the Social Security Act or to another agency (which administers programs providing services to disabled children and which the Governor of the State has determined is capable of administering the State plan in a more efficient and effective manner) for appropriate services. Also, the law as amended no longer requires that blind and disabled persons under age 16 accept vocational rehabilitation services in order to be eligible for benefits. The proposed amendments to the regulations reflect these changes in the law.

DATES: The amendments shall be effective June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Philip Berge, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7452.

SUPPLEMENTARY INFORMATION: On October 12, 1977, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (42 FR 54953 and 54954). The notice made known the proposed amendments to Subpart Q, Regulations No. 16 (20 CFR Part 416) regarding the referral of blind and disabled individuals for appropriate rehabilitation services.

Regulations relating to rehabilitation services for children under age 16 who are disabled or blind and the criteria for approval of State plans and any other regulations necessary for the proper administration of the program were published by the Public Health Service, Department of Health, Education, and Welfare on December 16, 1977, in the FEDERAL REGISTER (42 FR 63568-63572).

Prior to enactment of Pub. L. 94-566 on October 20, 1977, title XVI of the Social Security Act (Supplemental Security Income For The Aged, Blind, and Disabled (SSI)) provided for referral of all individuals (including children) receiving SSI benefits because of blindness or disability, to the State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act of 1973 (29 U.S.C. Chapter 16). There was no provision in the law for rehabilitation services suitable for children under age 16.

In response to the Notice of Proposed Rule Making (NPRM), comments were received from four organizations. The comments and suggestions received with regard to this NPRM, the responses and changes in the proposed amendments are summarized below.

1. One comment questioned the requirement of universal referral of disabled individuals since many disabled people are not proper recipients for rehabilitation. It was recommended that the referral of recipients to vocational rehabilitation agencies be made an advisable action rather than a required action. The suggested change was not adopted. The law requires that all disabled individuals be referred for rehabilitation. Therefore, the suggested change is beyond the scope of these regulations.

However, it is our understanding that although the names of all disability recipients are referred to the appropriate rehabilitation agency, not all recipients are actually contacted regarding possible services. For example, an individual disabled to the extent that he does not have the capabilities for rehabilitation would not be contacted.

2. A second comment suggesting that the proposed regulations make it difficult for the referral of recipients under age 16 to another agency upon attainment of age 16. The instructions and procedures relating to the referral of recipients by individual State agencies are not appropriately included in this regulation. However, this comment does surface a potential problem and has been referred to the proper component for consideration.

3. A third comment suggested that additional language be added to

§ 416.1703(b) to clarify the intent of Congress with respect to children age 7 to 16, i.e., that there is no change from the present law regarding open-ended Federal funding of vocational rehabilitation services provided by the State vocational rehabilitation agency for disabled children as well as adults. The commenter would accomplish the suggested revision by inserting "including the State vocational rehabilitation agency with respect to services for children ages 7 to 16" after "another agency." This comment was not adopted.

Under the law, there can be a choice of only two agencies: The crippled children's agency or another agency designated by the Governor of the State which has been determined to be capable of administering the State plan in a more efficient and effective manner. The Governor would not be precluded under the law nor under the proposed regulations from designating a State vocational rehabilitation agency if it served all children. Since the suggestion referred to an agency for children ages 7 to 16 only, it could not be adopted as it would be too limiting.

4. A suggestion was made that in § 416.1703(a) a distinction be made regarding agencies that serve the blind and those that serve the disabled. This suggestion was not adopted. The agency designated by the Governor to administer the State plan for services would make the appropriate referral depending upon the needs of the individual to be served.

5. We adopted a suggestion recommending that § 416.1703(a) be revised to reflect the latest CFR reference; and

6. We did not adopt a suggestion that § 416.1703(b) be revised by inserting "or blind" between "disabled" and "children" since it would not be consistent with the law which refers only to "disabled" children. As mentioned previously, the agency designated by the Governor would make the appropriate referral depending on the needs of the individual to be served. This would include referral to an agency serving the blind.

(Secs. 1102, 1615, Social Security Act, as amended; 49 Stat. 647, as amended, 86 Stat. 1474, as amended (42 U.S.C. 1302, 1382d).)

(Catalog of Federal Domestic Assistance Program No. 13.807—Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: April 24, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: June 16, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 416, of Chapter III of Title 20 of the Code of Federal Regulations is amended to read as follows:

1. Section 416.1703 is revised to read as follows:

§ 416.1703 Referral of blind and disabled individuals for appropriate services.

(a) *Individuals age 16 or over.* A disabled or blind individual age 16 or over and under age 65 who is receiving benefits under this part is referred to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973 (see also 45 CFR 1361.120ff) for a review of that individual's need for and utilization of available vocational rehabilitation services.

(b) *Individuals under age 16.* A disabled or blind individual who has not attained age 16 is referred for appropriate services to (1) the State agency administering the State plan for crippled children's services under title V of the Social Security Act, or (2) another agency providing services to disabled children which the Governor of the State has determined is capable of administering the State plan in a more efficient and effective manner.

(c) Such referrals are made:

(1) At the time it is determined that an individual is eligible for benefits based on disability or blindness; and

(2) At such other times as may be scheduled according to individual circumstances.

2. Section 416.1705 is revised to read as follows:

§ 416.1705 Ineligibility for benefits because of refusal to accept vocational rehabilitation services.

A disabled or blind individual age 16 or over and under age 65, who is receiving benefits under this part, and who has been referred to an appropriate State agency administering a State plan for vocational rehabilitation shall not be eligible for benefits for any month in which he or she refuses, without good cause (see § 416.1707), to accept vocational rehabilitation services available to him or her under a State plan approved under the Rehabilitation Act of 1973 (see § 416.1328(a) regarding suspension of benefits).

[FR Doc. 78-17421 Filed 6-22-78; 8:45 am]

[1505-01]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0094]

PART 442—CEPHA ANTIBIOTIC DRUGS

Cefadroxil Capsules

Correction

In FR Doc. 78-13186, appearing at page 20976 in the issue for Tuesday, May 16, 1978; on page 20978, first column, the formula beginning in the tenth line should be printed as set forth below:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample X milligrams standard X potency of standard in micrograms per milligram X 10}}{\text{Absorbance of standard X milligrams sample X } (100-m)}$$

where:

m = Percent moisture in the samples.

On page 20978, first column, in § 442.106(a)(1), fourteenth line, insert ".0" after "7".

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subchapter B—National Flood Insurance Program

[Docket No. FI-3439]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for Douglas County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for se-

lected locations in Douglas County, Oreg.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for Douglas County, Oreg.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Douglas County, are available for review at Douglas County Courthouse, Douglas Avenue, Roseburg, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for Douglas County, Oreg.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain managment in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Umpqua River	Scottsburg Bridge (Highway 38).	40
	Beckley Bridge	120
	Smith Bridge	144
	Kellogg Bridge	208
	Bullock Bridge	238
	Tyce Access Bridge	297
	County Bridge	355
Con Creek	Glendale Bridge	1,399
	Quines Creek Road	1,547
	Bureau of Land Management Bridge.	1,894
Deer Creek	Pearce Road Bridge	474
South Umpqua River.	Highway I-5 Bridge	471
	Happy Valley Road	484
	Dillard Bridge	526
	Mary Moore Bridge	558
	Southern Pacific Railroad.	613
	Pruner Bridge	637
North Umpqua River.	Browns Bridge	408
	Highway I-5 Bridge	447
	Floyd Frear Bridge	672
	Lone Rock Bridge	710
Smith River	County Bridge	12
	Log Dump	21
Scholfield Creek	Highway 101	11
	County Bridge	20

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17157 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. FI-3876]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Union, Union County, Oregon

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Union, Union County, Oregon.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Union, Oregon.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Union, are available for review at City Hall, Union, Oregon.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Union, Oregon.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Creek	State Highway 203 Bridge.[1]	,2774
	1st Street Bridge [2]	2,777
	1st Street Bridge [1]	2,778
	College Lane Bridge [1]	,2784
	State Highway 237 [1]	,2796
	Bryan Avenue Bridge [2]	,2798
	Bryan Avenue Bridge [1]	,2799
Catherine Creek	10th Street Bridge [1]	,2763
	5th Street [1]	,2773
	Main Street Bridge [1]	,2788
	Bellwood Avenue Bridge.[1]	,2793

[1] Upstream side.
[2] Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17158 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. FI-4078]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Dubois, Clearfield County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Dubois, Clearfield County, Pennsylvania.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Dubois, Clearfield County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Dubois, Clearfield County, Pennsylvania, are available for review at the Dubois City Hall, 16 West Scribner Street, Dubois, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for the City of Dubois, Clearfield County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sandy Lick Creek..	Upstream corporate limits.	1,403
	Confluence of McCracken Run.	1,401
	Confluence of Reisinger Run.	1,401
	Liberty Blvd	1,400
	Confluence of Pentz Run.	1,400
	Confluence of Beaver Run.	1,399
	Dubois Street	1,399
	B & O RR	1,399
Clear Run	Old State Route 219	1,405
	West Dubois Ave	1,405
	Conrail	1,403
Pentz Run	Confluence of Pentz Run tributary.	1,410
	Railroad spur	1,406
	B & O RR	1,405
	Valley Ave	1,405
	Weber Ave	1,405
	Washington Ave	1,405
	Spruce Ave	1,404
	Long Ave	1,403
	Scribner Ave	1,402
	Abandoned RR	1,401
	Confluence with Sandy Lick Creek.	1,400
Pentz Run tributary.	Upstream corporate Limits.	1,412
	Confluence with Pentz Run.	1,410
Beaver Run	Confluence with Juniata Run.	1,399
	Parkway Dr	1,399
	Confluence with Sandy Lick Creek.	1,399
Juniata Run	First Street	1,418
	Foot Bridge 200' downstream of First Street.	1,410
	Foot Bridge 880' upstream of Dubois Ave.	1,409
	Dubois Ave	1,409
	Abandoned RR	1,409
	Conrail	1,407
	Confluence of Beaver Run.	1,399
Reisinger Run	Hillcrest Ave	1,408
	Fourth St	1,407
	Chestnut Ave	1,407
	B & O RR	1,406
	Maple Ave	1,404
	Confluence with Sandy Lick Creek.	1,401

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17159 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. FI-2646]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Nether Providence, Delaware County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Township of Nether Providence, Delaware County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Township of Nether Providence, Delaware County, Pennsylvania.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Township of Nether Providence, Delaware County, Pennsylvania, are available for review at the Office of the Township of Nether Providence, 214 Sykes Lane, Wallingford, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Township of Nether Providence, Delaware County, Pennsylvania.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for

a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Crum Creek	Chester Rd	43
	Yale Ave	53
	Conrail Bridge	67
	Wallingford Rd	73
	Baltimore Pike	83
	Septa Trolley	85
	Paper Mill Rd	88
	Beatty Rd	101
	Upstream corporate limits.	117
Ridley Creek	East 25th St	22
	Irwins Mill Dam	23
	Providence Rd	25
	Chestnut Parkway	29
	Chester Park Dam	33
	Chester Park Dr	39
	Brookhaven Rd	49
	Sacksville Rd	61
Vernon Run	Conrail Bridge	185
	Walker Lane	185

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17160 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. FI-4080]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Brownsville, Cameron County, Texas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Brownsville, Cameron County, Texas.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Brownsville, Cameron County, Texas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Brownsville, Cameron County, Texas, are available for review at the Bulletin Board at City Hall, Market Square, Brownsville, Texas.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Brownsville, Cameron County, Texas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Storm runoff (ponding).	North of Baytes Circle, south of Avenue Del Valle.	26
	At northeast corporate limits along drainage ditch from Barnard St to the southeastern corporate limits.	21
	Old Alice Rd	29
	Price Rd	29
	Los Ebonas Blvd	29
	Shidler Rd	28
	Lindale Rd	27
	Rockwell Rd	27
	North Rd	27
	Columbus Rd	27
	Robin Hood Dr	26
	Kings Highway	26
	Fairwind St	26
	Oak St	26
	Bon Aire St	26
	Texas St	26
	Area between Missouri, Pacific, and International Railroad.	25
	25th St	25
	30th St	25
	Jennifer St	25
	Stanoline St	25
	Tulipan St	24
	Linda St	24
	East Ave	24
	Along Central Ave at the northern corporate limits (at Coffee Port Rd and Central Ave).	18
	Brownsville International Airport.	17
	North of Military Highway between East Dr and Garden St.	33
	Intersection of El Paso Rd and North Dr.	33
	Along Boca Chica Blvd between Palomar St and Brownsville St.	35
	Between Monroe St and Adams St.	35
	Between West 15th St and West 17th St.	35
	Along Barnard Rd between Los Ebanos Blvd and Camwood St.	35
	Between Missouri, Pacific Railroad and East 14th St.	33

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17161 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. FI-3626]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Hondo, Medina County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hondo, Medina County, Tex.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in

effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base flood elevations, for the City of Hondo, Medina County, Tex.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hondo, Medina County, Tex., are available for review at City Hall, Hondo, Tex.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hondo, Medina County, Tex.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Live Oak Creek.	Upstream of the southern corporate limit.	896
West Branch Little Live Oak Creek.	At the southern corporate limits.	885
Little Live Oak Creek.	Upstream of Southern Pacific Railroad.	896
	Upstream of Farm Road 1250.	878
	Upstream of the southern corporate limit.	874
Elm Slough	Downstream of the northern corporate limits.	884
	Upstream of Southern Pacific Railroad.	875
Elm Slough	Upstream of 27th St. (extended east of Avenue E).	864
	Upstream of southern corporate limits.	860
West Branch Elm Slough.	Downstream of Avenue M (Farm Road 462).	885
	Upstream of 15th St	877

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17162 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. FI-4083]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Staunton, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Staunton, Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Staunton, Va.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Staunton, Va., are available for the review at City Hall, 113 East Beverly Street, Staunton, Va.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Staunton, Va.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lewis Creek	Commerce Road Bridge	1,327
	Coalter Street Bridge	1,371
	Augusta St	1,384
	Lewis St	1,386
	Chessie System Bridge	1,388
	Bridge Street Bridge	1,400
	Cross Section Q	1,407
Greenville Avenue Tributary.	Confluence with Lewis Creek.	1,370
	East Hampton Street Bridge.	1,374
	Greenville Avenue Bridge.	1,384
	Cross Section H	1,413
Peyton Creek	Confluence with Lewis Creek.	1,385
	West Beverly St	1,394
	West Frederick St	1,417
	Pump Street Bridge	1,428
	Cross Section J	1,432
Buttermilk Spring Run.	Confluence with Lewis Creek.	1,395
	Bridge Street Bridge	1,403
	Haile Street Bridge	1,414

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17163 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. FI-3909]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of Bellevue, King County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the city of Bellevue, King County, Wash.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Bellevue, King County, Wash.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Bellevue, King County, Wash., are available for review at the Bellevue City Hall, 111 116th Street, South East, Bellevue, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the city of Bellevue, King County, Wash.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mercer Creek	Interstate 405	19
Meydenbauer Creek.	101st Ave., SE	17
	102d Ave., SE	29
North fork Meydenbauer.	Confluence with Meydenbauer Creek.	22
Coal Creek	Glacier Key	23
	Burlington Northern RR.	42
	Interstate 405	49
	Coal Creek Parkway	166
Coal Creek tributary.	Confluence with Coal Creek.	53
Vasa Creek	West Lake Sammamish Parkway.	46
	163rd Ave., SE	131
Richards Creek	Richards Rd	26
	26th St., SE	52
	Interstate 90	115
	Allen St	311
Richards Creek east tributary.	26th., SE	50
Richards Creek west tributary.	30th St., SE	61
Kelsey Creek	8th St., NE	114
	140th St., NE	179
	148th St., NE	242
West tributary Kelsey Creek.	1st St., NE	52
	3rd St., NE	79
	Redmond Bellevue Rd	114
East branch of west tributary Kelsey Creek.	132nd Ave., NE	52
North branch Mercer Creek.	20th St., NE	190
	40th St., NE	289
Yarrow Creek	34th St., NE	255
Sammamish Lake	176th Ave., SE. (extended).	34
	35th St., SE. (extended).	34
	26th St., SE. (extended).	34
	2d St., NE. (extended)	34
	36th St., NE. (extended)	34
Sturtevant Lake	(Flood zones along Sturtevant Lake are limited due to a very narrow bank extending upward from lake shore to elevation of 138 ft).	138

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ.
Federal Insurance Administrator.

[FR Doc. 78-17164 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. FI-3670]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for the City of Wauwatosa, Milwaukee County, Wisconsin

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Wauwatosa, Milwaukee County, Wisconsin.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Wauwatosa, Wisconsin.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Wauwatosa, are available for review at City Hall, 7725 West North Avenue, Wauwatosa, Wisconsin.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Wauwatosa, Wisconsin.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Menominee River..	Capitol Dr (upstream)....	700
	(Downstream).....	699
	Private Bridge.....	698
	Pedestrian Bridge.....	698
	Mayfair Rd.....	693
	Limestone Ford.....	690
	Burleigh St.....	686
	North Ave.....	680
	Paved Ford (264' downstream of confluence of Underwood Creek).	679
	Swan Blvd.....	674
	Harwood Ave.....	655
	Chicago, Milwaukee, St. Paul and Pacific RR.	653
	70th St.....	645
	68th St (upstream).....	644
	(Downstream).....	642
Honey Creek.....	West Blue Mound Rd.....	683
	Honey Creek Parkway (634' downstream of West Blue Mound Rd).	682
	Wisconsin Ave (upstream).	682
	(Downstream).....	679
	Honey Creek Parkway (581' upstream of Portland Ave) (upstream).	673
	(Downstream).....	670
	Portland Ave (upstream).	670
	(Downstream).....	665
	Honey Creek Parkway (900' upstream of confluence of Menominee River).	654
Underwood Creek.	North 115th St (upstream).	719
	(Downstream).....	712
	Watertown Plank Rd.....	710
	Chicago & Northwestern RR (upstream).	710
	(Downstream).....	702
	North Mayfair Rd.....	700
	Chicago, Milwaukee, St. Paul & Pacific RR (upstream).	700
	(Downstream).....	691
	U.S. Highway 45.....	691
South Branch Underwood Creek.	West Blue Mound Rd.....	720

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17165 Filed 6-22-78; 8:45 am]

[4210-01]

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-78-550]

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Burglary and Robbery Losses Insurance Policies; Citizens of Commonwealth of Puerto Rico

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: This rule will extend to the Citizens of the Commonwealth of Puerto Rico eligibility to purchase Federal crime insurance policies against burglary and robbery losses under the Federal Crime Insurance Program. The rule also provides for a technical revision of the regulatory provision which designates Safety Management Institute, Federal Crime Insurance as the servicing company for the program.

This rule is intended to carry out the conclusions and recommendations of the Insurance Commissioner and the Governor of the Commonwealth of Puerto Rico on the basis of evidence obtained through a continuing review of the market availability situation in the United States.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James M. Rose, Jr., Assistant Administrator for Urban Property Insurance—Riot and Crime, 451 Seventh Street SW., Washington, D.C. 20410, telephone number—755-6555.

SUPPLEMENTARY INFORMATION: This action is being taken under the authority of 12 U.S.C. 1749bbb-10a on the basis of evidence obtained through a continuing review of the market availability situation in each of the several States and particularly upon the conclusions and recommendations of the Insurance Commissioner and the Governor of the Commonwealth of Puerto Rico who requested that their citizens be made eligible for Federal crime insurance.

The Federal Crime Insurance Program commenced operation in August 1971 and approximately 45,000 policies are currently in force in the District of Columbia and 22 States eligible for Federal crime insurance. The Program enables residents and businesses to obtain affordable policies of burglary and robbery insurance which will not be cancelled or nonrenewed because of losses. Applicants are required to meet minimum protective device requirements designed to reduce their vulnerability to crime losses. Since 1971, the Program has grown from the District of Columbia and 9 States to a current total of the District of Columbia and 22 States. The Insurance Commissioner and the Governor of Puerto Rico, after considering the insurance needs of their Commonwealth, have requested that their citizens be made eligible to purchase Federal crime insurance. With the addition of this Commonwealth, the Federal Crime Insurance Program will be available to residents and businesses in the District of Columbia, the Commonwealth of Puerto Rico and 22 States. Accordingly, on the basis of the Administrator's continuing review of the crime insurance availability situation, and on the basis of findings and recommendations by the Commissioners of Insurance and Governors, it has been determined that a critical market unavailability situation exists in the District of Columbia, the Commonwealth of Puerto Rico, and States set forth in revised § 1931.1 and that as of the effective date of this regulation, June 23, 1978, these jurisdictions will be made eligible for the sale of crime insurance, or continued to be eligible for such sale. Because the increased availability of federal crime insurance is beneficial to the public, and has no adverse affect upon any person, it is unnecessary to provide for notice and public procedure, and good cause exists for making these amendments effective on June 23, 1978.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Regulations published at 38 FR 19182, 19186. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Department of Housing and Urban Development, Room 10141, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

1. Section 1930.6 is revised to read as follows:

§ 1930.6 Name and address of servicing company.

The following company has been designated to act as servicing company for the Federal Crime Insurance Program: Safety Management Institute, Federal Crime Insurance, P.O. Box 41033, Washington, D.C. 20014. SMI's toll-free number is 800-638-8780. In Washington, D.C. Metropolitan Area call 652-2637. In Maryland, outside Washington, D.C. Metropolitan Area,

and in Puerto Rico call collect 301-652-2637.

2. Paragraph (b) of § 1931.1 is revised to read as follows:

§ 1931.1 Jurisdictions eligible for sale of crime insurance.

* * * * *

(b) On the basis of the information available, the Administrator has determined that the District of Columbia, the Commonwealth of Puerto Rico and the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal Crime Insurance Program therein as of June 23, 1978. Accordingly, the program is in operation in the following jurisdictions:

Alabama, Arkansa, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico, Rhode Island, Tennessee, and Virginia.

* * * * *

(Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535(d)); sec. 1103, 82 Stat. 466, (12 U.S.C. 1749bbb-17))

Issued at Washington, D.C., June 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17440 Filed 6-22-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

PART 256—OFF-RESERVATION TREATY FISHING

Subpart B—Fraser River Convention Sockeye and Pink Salmon Fishery

AGENCY: Department of the Interior.

ACTION: Emergency Regulations.

SUMMARY: These regulations implement a treaty Indian fishery for sockeye and pink salmon in off-reservation nonexclusive treaty fishing areas located in waters coming under the United States Convention with Canada for the protection, preservation, and extension of the sockeye and pink salmon fishery of the Fraser River System. These rules implement domestic law of the United States in a manner consistent with the United States obligations to Canada under the Convention. Non-Indian fisheries in these waters are governed by the regulations of the International Pacific Salmon Fisheries Commission. These rules are promulgated by the Department of the Interior to apply only to Indians exercising fishing rights secured to them by treaties of the United States.

EFFECTIVE DATE: 0001 a.m. on June 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Susan Hvalsoe, Special Assistant to the Assistant Secretary for Indian Affairs, Department of the Interior, Washington, D.C. 20240, 202-343-3163.

SUPPLEMENTARY INFORMATION: The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. 1457, 25 U.S.C. §§ 2 and 9, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection and implementation of off-reservation fishing rights secured by the Treaty of Point Elliot, 12 Stat. 927 (1859); Treaty with the Makah, 12 Stat. 939 (1859); and Treaty of Point No Point, 12 Stat. 933 (1859) as affirmed in "U.S. v. Washington," 384 F. Supp. 312 (W.D. Wash. 1974), *aff'd* 520 F. 2d 676 (C.A. 9, 1975), *cert. den.* 423 U.S. 1086 (1976). Such treaty Indian fisheries include a sockeye and pink salmon fishery at off-reservation nonexclusive treaty fishing locations located in waters coming under the United States Convention with Canada respecting the sockeye and pink salmon fisheries of the Fraser River System.

On May 3, 1978, the International Pacific Salmon Fisheries Commission forwarded to the Governments of Canada and the United States, for the approval required by the Convention, the regulations applicable in Convention waters during the 1978 fishing season. The United States, acting through the Department of State, has approved the regulations except as to treaty Indians fishing in accordance with regulations promulgated by this Department providing for the exercise of fishing rights secured by the United States treaties. The International Pacific Salmon Fisheries Commission assumes control on June 25, 1978 and the fishing season in Convention waters begins on July 16, 1978. These regulations are necessary to implement the off-reservation nonexclusive fishing rights of certain Northwest Washington Indian tribes and to meet the United States obligations to Canada under the Fraser River Convention. For these reasons the Secretary of the Interior hereby and for good cause finds that the formal advance notice, public comment procedures, and delayed effectiveness procedures of 5 U.S.C. 553 are impracticable and contrary to the public interest. These regulations are therefore effective June 25, 1978.

The United States action, and these regulations, are comparable to the regulatory system which the United States implemented in 1977 to meet its obligations to Canada and to U.S. treaty Indians. This year, as in 1977, the affected treaty tribes will regulate their fisheries concurrently and in a manner consistent with the regulations of this Department.

An environmental assessment has been completed and it has been concluded that the implementation of a treaty Indian fishery by these regulations is not a major federal action which would significantly affect the environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an environmental impact statement is not required.

NOTE.—The Department of the Interior has also determined that these regulations do not contain a major federal proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Comments from treaty Indian tribes and other persons are invited at the address indicated above and will be considered in respect to amendments to this subpart.

Dated: June 20, 1978.

LEO KRULITZ,
Acting Secretary.

Chapter I of Title 25 CFR is amended by inserting the following new Subpart B to Part 256.

Subpart B—Fraser River Convention Sockeye and Pink Salmon Fishery

Sec.

256.11 Purpose of this subpart: Compliance.
256.12 Definition of terms.
256.13 Other laws and regulations.
256.14 Identification.
256.15 Fishing assistance.
256.16 Reporting requirements.
256.17 Fishing seasons.
256.18 Emergency orders.
256.19 Treaty tribe fishing regulations.
256.20 Unlawful possession.
256.21 Forcible assault on enforcement officer.

AUTHORITY: 25 U.S.C. 2, 9; 5 U.S.C. 301; 43 U.S.C. 1451 *et. seq.*; 25 CFR Part 256.

Subpart B—Fraser River Convention Sockeye and Pink Salmon Fishery

§ 256.11 Purpose of this subpart: Compliance.

(a) This subpart governs fishing for sockeye and pink salmon by any treaty Indian who is fishing at his tribe's treaty fishing places in U.S. Convention waters during the time the Com-

mission exercises control over the Fraser River Convention sockeye and pink salmon fishery.

(b) Any treaty Indian shall comply with this subpart when fishing for sockeye and pink salmon at his tribe's treaty fishing places in U.S. Convention waters during the time the Commission exercises control over the Fraser River Convention sockeye and pink salmon fishery. Fishing by any person which is not in accordance with these regulations is governed by 50 CFR Part 371 and violations thereof are subject to the penalties of the Act.

§ 256.12 Definition of terms.

(a) Act means: the Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f.

(b) Authorized assistant means: Any person described in § 256.15 and thereby authorized to assist the treaty Indian.

(c) Commission means: The International Pacific Salmon Fisheries Commission provided for by Article II of the Convention.

(d) Convention means: The convention between the United States and Canada for the protection, preservation, and extension of the sockeye and pink salmon fisheries of the Fraser River system, signed at Washington on the 26th day of May 1930, as amended by the protocol to include pink salmon, signed at Ottawa on the 28th day of December 1956.

(e) Convention waters mean: Those waters described in Article I of the Convention.

(f) Enforcement Officer means:

(1) Any enforcement agent of the National Marine Fisheries Service;

(2) Any commissioned, warrant, or petty officer of the Coast Guard;

(3) Any Coast Guard personnel accompanying and acting under the direction of any persons described in subparagraph (2) of this paragraph (f);

(4) Any tribal enforcement officer authorized to enforce treaty tribal regulations described under § 256.19.

(5) Any other person authorized by the Regional Director, Northwest Region, National Marine Fisheries Service, to enforce the provisions of the Convention, the Commission's regulations, the Act, or 50 CFR Part 371.

(6) Any other person authorized by the Secretary of the Interior to enforce the provisions of 25 CFR Part 256 Subpart A or B.

(g) Fish, fishing means: The fishing for, catching, or taking, or the attempted fishing for, catching, or taking, of any sockeye or pink salmon in Convention waters.

(h) Fishing gear means: Any net, trap, hook, or other device, appurtenance or equipment, of whatever kind or description, used or capable of being used for the capturing of sockeye salmon.

(i) Lawful gear means: Any gill net, purse seine, reef net, troll line, beach seine, or stake net, as defined under tribal law or in Washington Administrative Code Chapter 220–16 and 220–47–301 through 304.

(j) Person includes: Individuals, partnerships, associations, and corporations.

(k) Pink salmon means: That species of salmon known by the scientific name *Oncorhynchus gorbuscha.*

(l) Sockeye salmon means: That species of slamon known by the scientific name *Oncorhynchus nerka.*

(m) State areas means: Fishing areas defined as Puget Sound Salmon Management and Catch Reporting Areas in Washington Administrative Code Chapter 220–22.

(n) Stretch measure means: The distance between the inside of one knot to the outside of the opposite (vertical) knot in one mesh. Measurement shall be taken when the mesh is stretched vertically while wet, by using a tension of ten (10) pounds on any three (3) consecutive meshes, then measuring the middle mesh of the three while under tension.

(o) Treaty Indian means: Any member of a treaty Indian tribe which has treaty fishing places in U.S. Convention waters.

(p) Treaty Indian identification means: Identification issued by the Bureau of Indian Affairs or a treaty Indian tribe identifying the holder as a member of the issuing tribe. The identification card shall include the name and address of the tribal member, the member's enrollment number (if any), date of birth, and the member's photograph.

(q) Treaty Indian tribe means: Any tribe which has been found by the United States District Court for the Western District of Washington to be entitled to exercise treaty-secured fishing rights in U.S. Convention waters. Currently these tribes are the Makah Tribe, Lower Elwha Band Clallam Tribe, Port Gamble Band Clallam Tribe, Suquamish Tribe, Lummi Tribe, Nooksack Tribe, the Swinomish Indian Tribal Community, and Tulalip Tribe.

(r) Treaty fishing places (of an Indian tribe) means: Any location which shall have been previously determined by the United States District Court for the Western District of Washington in "U.S. v. Washington" to be a place at which that treaty tribe may take fish under rights secured by a treaty of the United States with such tribe or its predecessor in interest.

(s) Washington Administrative Code means: Only those chapters and sections of the Washington Administrative Code that were in effect as of June 25, 1978.

(t) Vessel means: Every type or description of water craft or other contrivance used, or capable of being used, as a means of transportation in water.

§ 256.13 Other laws and regulations.

Nothing in this subpart shall be construed to relieve a treaty Indian or his authorized assistant from any applicable requirement lawfully imposed by a tribe, the United States, or the State of Washington. Nor shall anything herein authorize any treaty Indian or his authorized assistant to act contrary to any restriction or requirement of applicable tribal laws.

§ 256.14 Identification.

(a) Any treaty Indian fishing under the authority of this subpart shall have in his possession at all such times treaty Indian identification required by 25 CFR 256.3 and by applicable tribal law.

(b) Any person assisting a treaty Indian under the authority of § 256.15 shall have in his possession at all such times an identification card issued by the Bureau of Indian Affairs or by a treaty Indian tribe, identifying the holder as qualified to assist a treaty Indian. The identification shall include the name of the issuing tribe, the name, address, tribal affiliation, date of birth, and photograph of the assistant, and the name and enrollment number (if any) of the treaty Indian the assistant is qualified to assist.

(c) Identification described in paragraphs (a) or (b) of this section shall be shown on demand to an enforcement officer by the treaty Indian or authorized assistant.

(d) Any treaty Indian fishing under this subpart shall comply with the treaty Indian vessel and gear identification requirements of Decision No. 1 and subsequent Orders of the U.S. District Court for the Western District of Washington in *U.S.* v. *Washington,* as implemented in Washington Administrative Code 220–47–121.

§ 256.15 Fishing assistance.

Notwithstanding 25 CFR 256.5, any treaty Indian fishing under this subpart may be assisted, if authorized by the treaty Indian's tribe, by the treaty Indian's spouse, forebears, children, grandchildren and siblings authorized by the United States District Court for the Western District of Washington in *U.S.* v. *Washington.* Persons so authorized shall be considered treaty Indians for the purposes of this subpart.

§ 256.16 Reporting requirements.

(a) Any person receiving or purchasing fish caught by any treaty Indian fishing under this subpart shall comply with Decision No. 1 and subsequent Orders of the U.S. District Court for the Western District of Washington in *U.S.* v. *Washington* as

implemented in Washington Administrative Code Chapter 220-69.

(b) Any treaty Indian who sells fish caught under the authority of this subpart directly to a consumer, restaurant, boathouse, or any other retail outlet shall comply with Washington Administrative Code Chapter 220-69.

(c) No person receiving or purchasing sockeye and pink salmon caught in U.S. Convention waters during the time the Commission exercises control over fishing for sockeye and pink salmon shall fail to permit enforcement officers to inspect records or reports required by WAC 220-69 or to inspect fish landing, holding or storage areas under the control of this person.

§ 256.17 Fishing seasons.

(a) No treaty Indian shall fish for sockeye or pink salmon with nets in U.S. Convention waters from June 25, 1978 to July 15, 1978, both dates inclusive.

(b) No treaty Indian shall fish for sockeye or pink salmon in U.S. Convention waters from July 16, 1978 to July 22, 1978, both days inclusive, except with lawful gear from 7:00 a.m. on Sunday to 9:30 p.m. on Tuesday.

(c) No treaty Indian shall fish for sockeye or pink salmon in U.S. Convention waters in that part of State Area 5 which extends easterly of a line drawn from Slip Point on the Olympic Peninsula to Sheringham Point on Vancouver Island, and State Areas 6C, 6, 6A, 7, and 7A, except with lawful gear from:

(1) From July 23, 1978 to July 29, 1978, both dates inclusive, from 7:00 p.m. on Sunday afternoon to 9:30 a.m. on Thursday morning.

(2) July 29, 1978 to August 5, 1978, both dates inclusive, from 7:00 p.m. on Saturday afternoon to 9:30 a.m. on Wednesday morning.

(3) August 6, 1978 to August 12, 1978, both dates inclusive from 7:00 p.m. on Sunday afternoon to 9:30 a.m. on Thursday morning.

(4) August 12, 1978 to August 19, 1978, both dates inclusive from 6:00 p.m. on Saturday afternoon to 9:00 a.m. on Wednesday morning.

(5) August 20, 1978 to August 26, 1978, both dates inclusive, from 6:00 p.m. on Sunday afternoon to 9:00 a.m. on Thursday morning.

(6) August 26, 1978 to September 2, 1978, both dates inclusive, from 6:00 p.m. on Saturday afternoon to 9:00 a.m. on Wednesday morning.

(7) September 3, 1978, to September 9, 1978, both dates inclusive, from 6:00 p.m. on Sunday afternoon to 9:00 a.m. on Thursday morning.

(d) No treaty Indian shall fish for sockeye or pink salmon in U.S. Convention waters in State Area 4B and that part of State Area 5 which extends westerly of a line drawn from Slip Point on the Olympic Peninsula to Sheringham Point on Vancouver Island, except with lawful gear from:

(1) July 23, 1978 to July 29, 1978, both dates inclusive, from 7:00 p.m. on Sunday afternoon to 9:30 a.m. on Friday morning.

(2) July 29, 1978 to August 5, 1978, both dates inclusive, from 7:00 p.m. on Saturday afternoon to 9:30 a.m. on Thursday morning.

(3) August 6, 1978 to August 12, 1978, both dates inclusive, from 7:00 p.m. on Sunday afternoon to 9:30 a.m. on Friday morning.

(4) August 12, 1978 to August 19, 1978, both dates inclusive, from 6:00 p.m. on Saturday afternoon to 9:00 a.m. on Thursday morning.

(5) August 20, 1978 to August 26, 1978, both dates inclusive, from 6:00 p.m. on Sunday afternoon to 9:00 a.m. on Friday morning.

(6) August 26, 1978 to September 2, 1978, both dates inclusive, from 6:00 p.m. on Saturday afternoon to 9:00 a.m. on Thursday morning.

(7) September 3, 1978 to September 9, 1978, both dates inclusive, from 6:00 p.m. on Sunday afternoon to 9:00 a.m. on Friday morning.

(e) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye or pink salmon in U.S. Convention waters lying westerly and northerly of a straight line drawn from Iwerson's Dock on Point Roberts to Georgina Light at Active Pass, from August 27, 1978 to September 2, 1978, and from September 24, 1978 to September 30, 1978, all dates inclusive.

(f) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye or pink salmon in U.S. Convention waters lying westerly of a line drawn true south from the southeast tip of the Point Roberts Peninsula, locally known as Lily Point, to the intersection with the International Boundary, from September 3, 1978 to September 23, 1978.

(g) The foregoing regulations shall not apply to the following United States Convention waters:

(1) State Area 7B including Hale Passage and Bellingham Bay and all Convention waters of State Area 7B lying easterly and inside of a line projected from Carter Point on Lummi Island to the most northerly tip of Vendovi Island, then to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island, then to March Point on Fidalgo Island, and

(2) State Area 6B and 7C, and

(3) Preserves previously established by the Director of Fisheries of the State of Washington for the protection of other species of food fish.

(h) All times referred to shall be Pacific Daylight Saving Time.

§ 256.18 Emergency orders.

(a) These regulations are subject to frequent change by emergency order, particularly with respect to permissible fishing times. When the necessity for an emergency order is known 24 hours or more before the time it is to become effective, notice of the basis of the emergency and anticipated change will be transmitted immediately to the Northwest Indian Fisheries Commission for the treaty tribes, in order that the treaty tribes may amend tribal fishing regulations in response to the emergency.

(b) Notice of a change in these regulations and tribal regulations referred to in § 256.19 will be provided through the Northwest Indian Fisheries Commission and is available by calling the Northwest Indian Fisheries Hot-Line (800-). Emergency orders will be published in the FEDERAL REGISTER as quickly as possible.

(c) Emergency orders are effective at the time notice is provided to the Northwest Indian Fisheries Commission or as otherwise stated in the order, whichever time is later.

§ 256.19 Treaty tribe fishing regulations.

To the extent that they are consistent with this subpart, treaty tribe fishing regulations governing treaty Indian sockeye and pink salmon fishing in U.S. Convention waters during the time the Commission exercises control, which are approved under 25 CFR 256.2(b), and emergency orders under such treaty tribe fishing regulations, are incorporated herein and effective for all purposes as part of this subpart.

§ 256.20 Unlawful possession.

No treaty Indian shall possess sockeye or pink salmon on board a fishing vessel which is engaged in a fishery for other species in U.S. Convention waters during the times these waters are closed by the regulations in this subpart.

§ 256.21 Forcible assault on enforcement officer.

No person fishing under this subpart shall assault, resist, oppose, impede, intimidate, or interfere with an enforcement officer engaged in enforcing this subpart.

[FR Doc. 78-17489 Filed 6-22-78; 8:45 am]

[6820-25]

Title 34—Government Management
CHAPTER II—GENERAL SERVICES ADMINISTRATION

PART 281—ADP MANAGEMENT INFORMATION SYSTEM (ADP/MIS)

PART 282—MANAGEMENT, ACQUISITION, AND UTILIZATION OF AUTOMATIC DATA PROCESSING (ADP)

Transfer of Regulations

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This final rule transfers to Title 41 Federal Management Circular 74-2, "ADP Management Information System (ADP/MIS)" and Federal Management Circular 74-5, "Management, Acquisition, and Utilization of Automatic Data Processing (ADP)," which now appear in 34 CFR as Parts 281 and 282, respectively. This action will combine related ADP and telecommunications policies and regulations in one place and make it easier for users to locate information. This completes the transfer of General Services Administration regulations from Title 34 to Title 41.

EFFECTIVE DATE: June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

John F. Stewart, Office of Management Policy and Planning, Automated Data and Telecommunications Service, General Services Administration, Washington, D.C. 20405, telephone 202-566-0834.

SUPPLEMENTARY INFORMATION: Regulations formerly appearing in 34 CFR Part 281 are transferred to 41 CFR Chapter 101 and redesignated as 41 CFR 101-36.5. Regulations formerly appearing in 34 CFR Part 282 are transferred to 41 CFR 101-35.2.

1. Part 281 is redesignated as 41 CFR 101-36.5, and the sections are renumbered 101-36.501 through 101-36.508. Former § 281.9 is deleted.

2. Part 282 is redesignated as 41 CFR 101-35.2, and the sections are renumbered 101-35.201 through 101-35.210. Former Appendix B is deleted.

3. No substantive changes are being made in the text.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Date: June 16, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-17407 Filed 6-22-78; 8:45 am]

[3410-11]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 200—ORGANIZATION, FUNCTIONS, AND PROCEDURES

Subpart A—Organization

Organizational Changes and Corrections

AGENCY: Forest Service, USDA.

ACTION: Final rule (Organization statement).

SUMMARY: The organizational description of the Forest Service is updated to reflect a current listing of land management units and research facilities; to clarify that the 154 National Forests are managed and listed as 121 Forest Service Administrative Units; and to revise the Forest Service address. This organizational description is required to be published in the FEDERAL REGISTER by The Administrative Procedures Act.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas R. Jones, Administrative Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-3093.

Part 200 of Title 36 of the Code of Federal Regulations, as amended on August 10, 1977 (42 FR 40438), is further amended as follows:

1. In § 200.1, paragraph (a), change the Forest Service address to read: Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

2. Also in § 200.1, revise paragraph (c)(2) to read as follows:

§ 200.1 Central Organization.

* * * * *

(c) *Deputy Chiefs.* * * *

(2) *National Forest System.* * * *

154 Proclaimed or designated National Forests
19 National Grasslands
29 Purchase Units
17 Land Utilization Projects
25 Research and Experimental Areas
43 Other Areas

The first four classifications listed above are administered as 121 Forest Service Administrative Units, each headed by a Forest Supervisor. National Recreation Areas, National Forest Wildernesses, and Primitive Areas are included in the above land classifications.

* * * * *

3. In § 200.2, revise paragraphs (a)(1), (b), and (d) to read as follows:

§ 200.2 Field Organization.

* * * * *

(a) *Regions of the National Forest System.* * * *

(1) *National Forests.* Each Forest has a headquarters office and is supervised by a Forest Supervisor who is responsible to the Regional Forester. Two or more proclaimed or designated National Forests, or all of the Forests in a State, may be combined into one Forest Service Administrative Unit headed by one Forest Supervisor. Each Forest is divided into Ranger Districts.

* * * * *

(b) *Experiment Stations for Forest and Range Research.* To facilitate forestry research in the field, the United States is divided into eight geographic regions referred to as Experiment Stations. Each Station has a headquarters office and a Station Director who is responsible to the Chief for all research activities assigned to his Station. The Forest Products Laboratory is an additional research organization headed by a Director. Each Experiment Station has research project locations and laboratories dispersed within the geographic boundaries of Experiment Stations.

(1) *Laboratories.* Research activities are conducted in 85 locations, including 51 modern research laboratories.

(2) *Field Facilities.* Within Experiment Stations there are 94 experimental forests and ranges and 131 research natural areas.

* * * * *

(d) *Field Addresses.* The addresses of Regional Foresters, Station Directors, and Area Directors are given below. Under each Regional Office address is a list of National Forest Administrative Units by States with locations of Forest Supervisor headquarters. Headquarters locations for Ranger Districts, National Grasslands, and National Recreation Areas are not listed but may be obtained from Forest Supervisors or Regional Foresters.

* * * * *

4. Also in § 200.2, paragraph (b), make the following changes and corrections in the listing of field addresses:

Change the heading titles for the National Forest listing to read as follows:

State in which Forest is located	National Forest Administrative Unit	Headquarters Location of Forest Supervisor

Under Region 6, after the State of Washington, correct the name of Mount Baker-Snoqualmie National Forest by deleting the dash between Mount Baker.

Under the listing of Forest and Range Experiment Stations, delete the Institute of Tropical Forestry.

At the end of § 200.2, delete the effective date note for the Northeastern Station and Area.

(81 Stat. 54 (5 U.S.C. 552).)

JOHN R. MCGUIRE,
Chief, Forest Service.

JUNE 16, 1978.

[FR Doc. 78-17422 Filed 6-22-78; 8:45 am]

[6820-25]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

PART 101-33—PUBLIC UTILITIES

PART 101-35—ADP AND TELECOMMUNICATIONS MANAGEMENT POLICY

PART 101-36—ADP MANAGEMENT

PART 101-37—TELECOMMUNICATIONS MANAGEMENT

Retitling of Subchapter and Transfer of Parts From One Subchapter to Another

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration is combining its ADP and telecommunications management regulations and policies within Chapter 101 of Title 41. The relationship of ADP and telecommunications is so interdependent that it is important to group all Government-wide management regulations in these two disciplines into one combined text.

EFFECTIVE DATE: June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

John F. Stewart, Office of Management Policy and Planning, Automated Data and Telecommunications Service, General Services Administration, Washington, D.C. 20405, telephone 202-566-0834.

SUPPLEMENTARY INFORMATION: This restructuring of ADP and telecommunications regulations is the first step that ADTS plans in its general review program to ensure that all regulations are pertinent and useful and meet the Government-wide needs of this rapidly changing technology area. There are no substantive policy changes in this action. In addition to the redesignation actions described below, several nomenclature corrections are made to reflect prior organizational changes. In a related action, Title 34 CFR Parts 281 and 282 are being transferred to Title 41 CFR in this issue of the FEDERAL REGISTER.

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amendment E-223]

1. Part 101-32 is redesignated as Part 101-36, with the exception of Subpart 101-32.17, which is redesignated as Subpart 101-35.17.

2. Part 101-32 is reserved.

3. Part 101-33 is added, redesignated from former Part 101-36.

4. In new § 101-33.003, the address is corrected to read "General Services Administration, Federal Supply Service, Office of Transportation and Public Utilities, Public Utilities Management Division (FZU), Washington, D.C. 20406".

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

[FPMR Amendment F-31]

5. The heading for Subchapter F is revised to read as set forth above.

6. Former Part 101-35 is redesignated as Part 101-37, and the heading is revised to read "TELECOMMUNICATIONS MANAGEMENT".

7. New Part 101-35 is designated "ADP AND TELECOMMUNICATIONS MANAGEMENT POLICY".

8. New subpart 101-35.2 is added, redesignated from 34 CFR Part 282.*

9. New Subpart 101-35.17 is added, redesignated from former Subpart 101-32.17.

10. New Part 101-36 is added, redesignated from Part 101-32, and the heading is revised to read "ADP MANAGEMENT".

11. New Subpart 101-36.5 is added, redesignated from 34 CFR Part 281.*

12. Part 101-37 is added, redesignated from former Part 101-35, and the heading is revised to read "TELECOMMUNICATIONS MANAGEMENT".

13. This document also makes nomenclature changes to reflect prior organizational changes as follows:

a. In § 101-35.206(b) (formerly § 282.6) the date is corrected to read "June 13, 1977".

b. In § 101-35.209 (formerly § 282.9), appendix B is deleted.

c. In § 101-35.210 (formerly § 282.10), change "(AMD)" to "(CM)". The telephone number is corrected to read "202-566-0834".

d. In § 101-36.203-3(b), change "(CPS)" to "(CPC)", and change "Federal Management Circular (FMC) 74-2" to "FPMR 101-36.5".

e. In § 101-36.404(a), change "41 CFR Part 101-32 . . .)" to "and 41 CFR Part 101-35)".

f. In § 101-36.504 (formerly § 281.4), the parenthetical notation "(as defined in Part 200 of this chapter)" is changed to read "(as defined in Part 101-35, appendix A)".

g. In § 101-36.507 (formerly § 281.7), "Office of Federal Management Policy" is changed to read "Automated Data and Telecommunications Service".

h. In § 101-37.203(c), change "(CPSR)" to "(CDSR)".

i. Change "(CPS)" to "(CDS)" in the following sections: 101-36.400.2, 101-36.404(b), and 101-36.407(a).

j. Change "(CPS)" to "(CP)" in the following sections: 101-36.1105 and 101-36.1202.

k. Change "(CPS)" to "(CPC)" in the following sections: 101-36.1613 and 101-36.4701-2.

14. The following table reflects the new and old numbers of these regulations:

New	*Old*
Part 101-32 [Reserved] See Part 101-36.	.....
Part 101-33	101-36.
Subpart 101-35.0 Scope of part [Reserved].	.....
Subpart 101-35.1 General [Reserved].	.....
Subpart 101-35.2	34 CFR 282.*
Subpart 101-35.17	101-32.17.
Subpart 101-36.1 through .4	101-32.1 through .4.
Subpart 101-36.5	34 CFR 281.*
Subpart 101-36.6 through .16	101-32.6 through .16.
Subpart 101-36.47 and .48	101-32.47 and .48.
Part 101-37	101-35.

* See separate change to 34 CFR in this FEDERAL REGISTER issue.

15. No substantive changes are being made in the text.

(Executive Order 11717 (38 FR 12315, May 11, 1973); sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)); Executive Order 11893 (41 FR 1040, Jan. 6, 1976))

Dated: June 16, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-17408 Filed 6-22-78; 8:45 am]

[6820-25]

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

[FPMR Amdt. F-30]

PART 101-35—TELECOMMUNICATIONS

Agency Survey of Telephone Station Equipment

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation requires agencies that obtain telephone services directly from GSA to make an annual validation of their telephone equipment. This additional requirement is being placed on agencies to satisfy the recommendations of an internal GSA audit of its agency billing practices. Agencies will be required to reconcile a GSA-provided computer printout. Editorial changes were made in other sections of the existing regulation to improve readability.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

John E. Connor, Office of Management Policy and Planning, Automated Data and Telecommunications Service, General Services Administration, Washington, D.C. 20405, telephone 202-566-0834.

The table of contents for Part 101-35 is amended to change the caption of § 101-35.307-1 as follows:

Sec.
101-35.307-1 Agency survey and inventory.

Subpart 101-35.3—Utilization and Ordering of Telecommunications Services

Subpart 101-35.3 is revised to read as follows:

§ 101-35.301 General.

This subpart provides policy and describes procedures concerning the utilization, ordering, and acquisition of telecommunications services and facilities. Major changes and new system installations of telecommunications also are subject to Subpart 101-35.2.

§ 101-35.302 General requirements.

(a) *Advance notice.* Telecommunications plans, service requests, and orders should be submitted as far as possible in advance of the date the service is desired to allow leadtime for planning and scheduling of work.

(b) *Floor plans.* GSA will notify the requesting agency when floor plans are required in connection with GSA-operated or joint-use switchboards. In other cases, vendor or supplier representatives, or the agency telecommunications authorities, will make appropriate arrangements.

(c) *Restrictions.* Installations or changes other than those called for in the order shall not be made without amending the existing order or preparing a new order.

§ 101-35.303 Telephone service.

(a) *Form for ordering service.* Standard Form 145, Order for Telephone Service, and Standard Form 145A, Continuation Sheet—Order for Telephone Service, are prescribed for use by Federal agencies in ordering telephone service from Government joint-use and GSA-operated or GSA-managed switchboards. Federal Government agencies with service provided from GSA-operated or GSA-managed switchboards shall forward all requests for telephone service to the serving switchboard.

* * * * *

§ 101-35.307 Control of telephone station equipment.

§ 101-35.307-1 Agency survey and inventory.

(a) Each agency shall maintain a program to conduct annually a telephone equipment effectiveness survey and inventory. To ensure continuity of this program, each agency shall establish internal regulations that:

(1) Require compliance with §§ 101-35.307 and 101-35.308;

(2) Control and ensure that only telephone station equipment and features necessary to carry out assigned missions are provided at all levels of the agency activity;

(3) Provide for annual surveys of installed telephone equipment; and

(4) Ensure correction of any deficiencies.

(b) Each agency shall conduct an annual survey and inventory of all telephone equipment to ensure that the use and the billing for installed equipment and features are correct. Additional surveys shall be made within 90 days after the establishment, reorganization, or major move within the agency. Agencies shall certify not later than September 30 of each year that the required annual surveys and inventories have been conducted. Results of telephone surveys and equipment inventories at locations not served by GSA-operated switchboards shall be retained in the agency's file.

(c) Each agency that obtains telephone service from a GSA-operated switchboard will receive a computerized listing of telephone services as posted in GSA's records as of March 31 of each year. Agencies shall be responsible for validating this listing at the same time that their annual telephone survey is conducted. To obtain the best results, the annual survey should be conducted first and the results be used to validate the GSA record. The validated listing shall be submitted to the GSA regional office no later than June 30 of each year. Any agency office requiring assistance should contact the GSA regional office serving the area.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: June 16, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-17406 Filed 6-22-78; 8:45 am]

proposed rules

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

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 945, 980]

IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of potatoes grown in certain counties in Idaho and Malheur County, Oregon, to be inspected and meet minimum grade, size, cleanliness, maturity and pack requirements during the period July 17, 1978, through July 31, 1979. The regulation would promote orderly marketing of such potatoes and keep less desirable sizes and qualities from being shipped to consumers.

DATE: Comments due July 8, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR Part 945), regulate the handling of potatoes grown in designated counties in Idaho and Malheur County, Oregon. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Idaho-Eastern Oregon Potatoes Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Twin Falls, Idaho, on June 6, 1978.

The proposed regulation is similar to those issued during past seasons. The grade, size, cleanliness, maturity, pack and inspection requirements recommended herein are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. The specific proposed requirements would benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing, and would tend to effectuate the declared policy of the act.

This season potatoes of the Norgold variety would be required to have a minimum diameter of 2⅛ inches. The committee believes that this ⅛ inch increase in the minimum size from last season would help to improve the quality of the Norgold pack, particularly the smaller sizes remaining after the 50-pound cartons are packed.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be in appropriate or unreasonable.

A specified quantity of potatoes would be exempt from maturity requirements in order to (1) permit growers to make test diggings without loss of the potatoes so harvested or (2) allow a lot to be shipped which after regrading, meets the grade and size requirements but then fails to meet the maturity requirements, possibly due to further "skinning" as a result of running the potatoes over the grader again.

Shipments would be permitted to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity and pack requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would also be exempt. Certified seed and seed pieces cut from stock eligible for certification would also be so exempted, because requirements for this outlet differ greatly from those for fresh market.

Potatoes used for experimentation have special requirements and do not normally enter commercial channels of trade. Potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. In commercial prepeeling, operators can use potatoes with surface defects which would be undesirable for the tablestock market, and smaller sizes are acceptable. Therefore, different requirements are proposed for export and prepeeling shipments.

The proposal is as follows:

§ 945.336 [Removed]

1. *Termination of regulation.* Handling regulation § 945.336, effective July 15, 1977, through July 31, 1978 (42 FR 35144 and 40886) shall be terminated upon the effective date of this section.

2. Section 945.337 is added to read as set forth below.

§ 945.337 Handling regulation.

During the period July 17, 1978, through July 31, 1979, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c) and (d) of this section, or unless such potatoes are handled in accordance with paragraphs (e), (f), or (g) of this section.

(a) *Minimum quality requirements*—(1) *Grade—All varieties*—U.S. No. 2 or better grade.

(2) *Size*—(i) *Round red varieties*—1⅞ inches minimum diameter.

(ii) *Norgold variety*—2⅛ inches minimum diameter.

(iii) *All other varieties*—2 inches minimum diameter, or 4 ounces minimum weight.

(iv) *All varieties*—except Norgold, size B if U.S. No. 1 or better grade.

(3) *Cleanliness—All varieties*—"Fairly clean."

(b) *Minimum maturity requirements*—(1) *White Rose and red skin varieties.* Beginning the effective date hereof through December 31, 1978, "moderately skinned"; thereafter no maturity requirements.

(2) *Norgold variety.* Beginning the effective date hereof through August 15, 1978, "moderately skinned"; thereafter, "slightly skinned."

(3) *All other varieties.* "Slightly skinned."

(4) *Exceptions.* (i) Subject to compliance with subdivision (iii) of this subparagraph, any lot of potatoes not exceeding a total of 50 hundredweight of each variety may be handled for any producer without regard to the foregoing maturity requirements.

(ii) If an officially inspected lot of potatoes meets the foregoing maturity

requirements, but fails to meet the grade and size requirements, the lot may be regraded. If, after regrading, such lot then meets the grade and size requirements but fails to meet the maturity requirements, as indicated by the applicable Federal-State inspection certificate, such lot if not exceeding 100 hundredweight shall be exempt from the foregoing maturity requirements if the handler complies with subdivision (iii) of this subparagraph.

(iii) Prior to each shipment of potatoes exempt from the foregoing maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Pack.* (1) When 50-pound containers (except master containers) of long varieties of potatoes are marked with a count, size or similar designation they must meet the count, average count and weight ranges for the count designation listed below.

Large than 50 count	Range		
	Count: 10 pct over or under	Average count:* 5 pct over or under	Weight: 15 oz or larger
50	45-55	48-53	12-19
60	54-66	57-63	10-16
70	63-77	67-74	9-15
80	72-88	76-84	8-13
90	81-99	86-95	7-12
100	90-110	95-105	6-10
110	99-121	105-116	5-9
120	108-132	114-126	4-8
130	117-143	124-137	4-8
140	126-154	133-147	4-8
Smaller than 140	(1)	(2)	4-8

*Applicable to lots.
[1] 10 pct over or under.
[2] 5 pct over or under.

The following tolerances by weight, are provided for potatoes in any lot which fail to meet the weight range for the designed count:

(i) Not to exceed 5 percent for undersize; and

(ii) Not to exceed 10 percent for oversize.

(2) Potatoes packed in 50-pound cartons shall be U.S. No. 1 or better grade.

(d) *Inspection.* (1) No handler shall handle potatoes unless such potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and are covered by a valid inspection certificate except when relieved of such requirement pursuant to paragraphs (e), (f), or (g) of this section.

(2) Each lot moving by truck shall be accompanied by a copy of a valid inspection certificate.

(e) *Special purpose shipments.* (1) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(i) Charity;

(ii) Certified seed;

(iii) Seed pieces cut from stock eligible for certification as certified seed;

(iv) Experimentation; and

(v) Canning, freezing and "other processing" as hereinafter defined: Except shipments of potatoes for the purpose specified in this subdivision (v) shall be exempt from inspection requirements specified in § 945.65 and paragraph (d) of this section and from assessment requirements specified in § 945.42.

(2) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall be applicable to shipments of potatoes for each of the following purposes:

(i) *Export.* Except potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and

(ii) *Prepeeling.* Except potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than Idaho Utility or Oregon Utility grade.

(f) *Safeguards.* (1) Each handler making shipments of potatoes for charity, seed pieces cut from stock eligible for certification, experimentation, export, or for prepeeling pursuant to paragraph (e) of this section shall:

(i) First, apply to the committee for and obtain a Certificate of Privilege to make shipments for each purpose;

(ii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iii) At the time of applying to the committee for a Certificate of Privilege, or promptly thereafter furnish the committee with a receiver's or buyer's certification that the potatoes so handled are to be used only for the purpose stated in the application and that such receiver will complete and return to the committee such periodic receiver's reports that the committee may require.

(iv) Mail to the office of the committee a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable receiver.

(2) Each handler making shipments of potatoes for canning, freezing, or "other processing" pursuant to paragraph (e) of this section shall:

(i) First apply to the committee for and obtain a Certificate of Privilege to make shipments for processing;

(ii) Make shipments only to those firms whose names appear on the committee's current list of manufacturers of potato products;

(iii) Upon request by the committee, furnish reports of each shipment pursuant to the applicable Certificate of Privilege;

(iv) Mail to the committee's office a copy of the bill of lading for each Certificate of Privilege shipment promptly after the date of shipment;

(v) Bill each shipment directly to the applicable processor.

(3) Each receiver of patatoes for processing pursuant to paragraph (e) of this section shall:

(i) Complete and return an application form for listing as a manufacturer of potato products;

(ii) Certify to the committee and to the Secretary that potatoes received from the production area for processing will be used for such purposes and will not be placed in fresh market channels;

(iii) Report on shipments received as the committee may require and the Secretary approve.

(g) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds five hundredweight of potatoes.

(h) *Definitions.* The terms, "U.S. No. 1," "U.S. No. 2," "Size B," "fairly clean," "moderately skinned," and "slightly skinned," shall have the same meaning as when used in the United States Standards for Potatoes (7 CFR 2851.1540-2851.1566), including the tolerances set forth therein. The term "prepeeling" means the

commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 2852.2422 of the United States Standards for Peeled Potatoes (7 CFR 2852.2421-2852.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change, The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." The terms "Idaho Utility" grade and "Oregon Utility" grade shall have the same meaning as when used in the respective standards for potatoes for the respective States. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(i) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the long varieties imported during the effective period of this section shall meet the grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: June 20, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-17423 Filed 6-22-78; 8:45 am]

[3410-02]

[7 CFR Part 1040]

MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

Proposed Suspension of Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions that affect the regulatory status of milk supply plants. The action was requested by a cooperative association that represents a substantial proportion of the producers supplying the market. It would reduce the proportion of milk receipts at a supply plant that must be shipped to pool distributing plants during a month to qualify the supply plant for pooling. The proposed suspension would be for the period of October 1978 through March 1979.

DATE: Comments are due July 13, 1978.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southern Michigan marketing area is being considered for the months of October 1978 through March 1979:

In the first sentence of § 1040.7(b)(1), the words "40 percent" and "for each of the months of April through September".

As suspended, that portion of the first sentence would read: "* * * not less than 30 percent of the total quantity * * *"

All persons who want to comment on the proposed suspension should send four copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before the 20th day after FEDERAL REGISTER publication.

The comments that are sent will be made available for public inspection at the Hearing Clerk's office during regular business hours (7 CFR 1.27(b)).

STATEMENT OF CONSIDERATION

The suspension was requested by Michigan Milk Producers Association. The cooperative claims that uneconomic shipments of milk are required to maintain pool status for supply plants for which the cooperative has qualification responsibility through unit pooling. This results because substantial quantities of milk that normally would be received direct from the farm at pool distributing plants are having to be shipped at considerable expense to nonpool plants for manufacturing. This is necessary to make room at pool distributing plants for qualifying shipments from supply plants.

The proposed suspension would reduce for six months the proportion of milk receipts at a supply plant that must be shipped to pool distributing plants to qualify the supply plant as a pool plant. Presently, a supply plant must ship not less than 40 percent of the total quantity of Grade A milk received at the plant from producers or cooperative associations, or diverted from it to nonpool plants, to qualify as a pool supply plant during the months of October through March. The proposed suspension would reduce the proportion to 30 percent, the level which now applies during the months of April through September.

The change in the method normally used by the cooperative to pool supply plants has resulted from increased milk supplies and lower Class I sales over the past two years. In the six months of October 1977 through March 1978, total milk deliveries to the Southern Michigan market were 2.05 billion pounds compared with 1.93 billion pounds for the same six-month period of October 1975 through March 1976. This represents an increase of 6.2 percent. Class I sales during October 1977 through March 1978 decreased 2.4 percent from the October 1975 through March 1976 period.

A further complication in supply plant pooling is expected to develop prior to the next period of October 1978 through March 1979 when the higher shipping requirement applies. A major customer of the cooperative association is expected to distribute from its plant under another order a portion of the Class I sales now distributed from its Order 40 pool distributing plant. The cooperative expects to continue to sell milk to the customer from an Order 40 supply plant, but such sales could not be credited in pooling the supply plant.

It is the cooperative's position that the requested suspension will assure the continued pooling of supply plants that have regularly supplied the fluid milk needs of the market. The association anticipates that the need for such suspension is temporary because the marketing conditions that require it are expected to adjust to a more normal pattern.

Signed at Washington, D.C., on June 19, 1978.

WILLIAM T. MANLEY,
Deputy Administrator, Marketing Program operations.

[FR Doc. 78-17425 Filed 6-22-78; 8:45 am]

[3410-07]

Farmers Home Administration

[7 CFR Part 1822]

[FmHA Instruction 444.1]

SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES, AND AUTHORIZATIONS

Special Requirements

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Section 502 Rural Housing loan regulations to add the authority to make Rual Housing (RH) loans to FmHA employees. The intended effect of this amendment is to allow RH loans to be made to eligible FmHA employees. The action is proposed because of an administrative decision to allow FmHA employees who are other wise eligible for this type loan to be able to participate in this program.

DATE: Comments must be received on or before August 22, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Byron L. Fischer, 202-447-4295.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) proposes to add § 1822.7(s) to Subpart A of Part 1822, Subchapter B of Chapter XVIII, Title 7 in the Code of Federal Regulations. This addition grants authority to make rural housing loans to eligible FmHA employees who are otherwise eligible but have not been able to participate in FmHA's housing program.

Accordingly, § 1822.7(s) as proposed reads as follows:

§ 1822.7 Special requirements.

* * * * *

(s) *RH Loans to FmHA Employees.* Employees and their spouses (including County Committeemen and their spouses) and loan-closing agents and their spouses may receive a Section 502 RH loan subject to the provisions of this Subpart A and the following conditions:

(1) The loan application is to be submitted through the County Office, to the District Director. The County Office will be responsible for posting the receipt of the application. The application will be processed in the order received in relation to the other Section 502 RH loan applications received in the County Office. The applicant will attach written evidence from primary lending institutions serving the area indicating the applicant's inability to obtain the needed credit.

(2) The District Director will conduct the credit investigation, appraise the property or have it appraised by a qualified FmHA appraiser from outside the county office in which the loan is to be made, and submit the completed loan application and related papers to the State Director for consideration of approval. The District Director's written recommendation for approval or disapproval is to be included in the loan docket.

(3) The State Director must, before approving the loan, determine that the applicant is not given any advantage because of the FmHA relationship and the making of a loan will not result in a conflict of interest. The dwelling may not exceed the needs of the applicant or be excessive in size, design, or cost as compared to other FmHA financed dwellings in the area.

(4) If the loan is approved, the borrower's case file will be kept in the State Office and the loan will be serviced by the District Director or other member of the State Office staff. If the loan is not approved, the State Director will notify the applicant in writing of the action taken, the reasons for the denial, and the applicant's right to appeal the adverse decision to the Administrator.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.270)

Dated: June 20, 1978.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 78-17469 Filed 6-22-78; 8:45 am]

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

[20 CFR Part 718]

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED

Standards for Determining Coal Miner's Total Disability or Death Due to Pneumonconiosis

NOTE.—This document originally apeared in the FEDERAL REGISTER for Wednesday, June 21, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See CFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Employment Standards Administration, Labor.

ACTION: Notice of continuation of public hearing on proposed rulemaking.

SUMMARY: This document announces that an additional public hearing will be held on the proposed rules relating to standards for determining coal miner's total disability or death due to pneumoconiosis.

DATES: Persons wishing to appear at the hearing should contact the person designted below on or before June 30, 1978. Hearing will be continued on July 10, 1978. Written comments should be sent on or before July 25, 1978.

ADDRESSES: Hearing location: Millard High School Auditorium U.S. Route 460 (13 miles south of Pikeville, Ky.) Written comments should be sent to: Robert B. Dorsey, Chief, Branch of Claims Determination, Division of Coal Mine Workers' Compensation, Employment Standards Administration, U.S. Department of Labor, Room C-3526, NDOL Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202-523-6727.

FOR FURTHER INFORMATION CONTAT:

Robert B. Dorsey (202) 523-6727.

SUPPLEMENTRY INFORMATION: The public hearings on this proposed rulemaking announced in volume 43 of the FEDERAL REGISTER on April 25, 1978 at page 17722 will be continued on July 10, 1978, beginning at 10 a.m. in the auditorium of the Millard High School, located on U.S. Route 460, 13 miles south of Pikeville, Kentucky.

Persons wishing to appear and present their views on the proposed revision of Part 718 at this hearing should contact the person designated below by letter, telegram or telephone on or before June 30, 1978. Persons desiring to testify should submit a listing, and, if practicable, copies of resources and references upon which they will rely in support of their testimony at least one week prior to the hearing. Individuals wishing to testify will be limited to 15 minutes each. Groups will be allotted a maximum of 30 minutes each. Written comments may also be submitted by interested persons on or before July 25, 1978. Such written comments will be available for inspection between the hours of 8:15 a.m. and 4:45 p.m. at the office indicated below: Robert B. Dorsey, Chief, Branch of Claims Determination, Division of Coal Mine Workers' Compensation, Employment Standards Administration, U.S. Department of Labor, Room C-3526, NDOL Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202-523-6727.

Dated: June 17, 1978.

DONALD E. ELISBURG,
Assistant Secretary for Employment Standards, U.S. Department of Labor.

[FR Doc. 78-17246 Filed 6-20-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4222]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood elevation Determinations for the City of Lawndale, Los Angeles County, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lawndale, Los Angeles County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Administrator, City Hall, 14717 Burin Avenue, Lawndale, California. Send comments to: Mr. Alfred W. Thompson, Jr., City Administrator, City of Lawndale, City Hall, 14717 Burin Avenue, Lawndale, California 90260.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or toll free line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Lawndale, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain managment measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more strignent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calcluate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Surface runoff.....	Intersection of 159th St. and Hawthorne Blvd.	55

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17166 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4088]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for La Plata County, Colorado

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in La Plata County, Colorado. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 43 FR 18701 on May 2, 1978, and in *The Durango Herald* published April 13, 1978, and April 14, 1978, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Office of the Land Use Administration, La Plata County Courthouse, 1060 Second Avenue, Durango, Colorado. Send comments to: Mr. Patrick Conley, Chairman, La Plata County Board of Commissioners, La Plata County Courthouse, P.O. Box 1711, Durango, Colorado 81301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or toll-free line (800) 424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in La Plata County, Colorado, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP)

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Animas River near Durango.	Along Denver & Rio Grande Western RR. (river side of railroad) approximate 0.2 mi north along U.S. route 550 from hospital in Durango.	6,553
	Durango corporate limits at station 66.28*.	6,547
	Durango coporate limits at station 62.40**.	6,462
	La Posta Rd. (new bridge)*.	6,454
	100 ft downstream of Old La Posta Road Bridge.	6,449
Junction Creek.....	Private drive bridge No. 5**.	6,824
	15 ft downstream of private drive bridge No. 5.	6,823

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Private drive bridge No. 4**.	6,772
	25 ft upstream of private drive bridge No. 3.	6,763
	Private drive bridge No. 2*.	6,758
	Private drive bridge No. 2**.	6,755
	Private drive bridge No. 1*.	6,749
Dry Gulch Creek ..	On creek side of dirt road 0.8 mi north along dirt road from Y intersection in Durango (dirt road is parallel to Dry Gulch Creek).	6,830
	Corporate limits at station 3750**.	6,688
Lightner Creek.....	Bridge No. 11**	7,160
	Bridge No. 10*	6,908
	Bridge No. 9*	6,856
	Bridge No. 8**	6,711
	Bridge No. 4*	6,579
	Bridge No. 3*	6,539
	Bridge No. 1**	6,485
Vallecito Creek.....	Upper county road bridge*.	7,835
	Upper county road bridge**.	7,833
	Lower county road bridge*.	7,690
	Lower county road bridge**.	7,689
	50 ft downstream of lower county road bridge.	7,688
Los Pinos River at Bayfield.	Highway 160 bridge*.....	6,888
	Downstream of Bayfield corporate limits (approximately 1,300 ft downstream of Highway 160 (alternate) bridge).	6,854
Los Pinos River at Ignacio.	Bridge No. 2*	6,480
	Bridge No. 2**	6,477
	Bridge No. 1*	6,441
Grimes Creek.....	First private drive ..... downstream of upper county road.	7,775
	Lower county road bridge*.	7,693
	Lower county road bridge**.	7,691

*Upstream side.
**Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17167 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-423]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Coconut Creek, Broward County, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Coconut Creek, Broward County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSED: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 1071 NW. 45th Avenue, Coconut Creek, Florida 33066. Send comments to: Mayor Donald Savarese or Mr. Jim Cowley, Building Official, City Hall, 1071 NW. 45th Avenue, Coconut Creek, Florida 33066.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Coconut Creek, Broward County, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cypress Creek.....	Just South of NW. 12th St. (State Rd. No. 814).	10
Cypress Creek.....	Intersection of Sample Rd. and Lyons Rd.	14

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17168 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR PART 1917]

[Docket No. FI-4236]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of North Lauderdale, Broward County, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of North Lauderdale, Broward County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 6601 Boulevard of Champions, North Lauderdale, Florida 33068. Send comments to: Mayor Lenny Kimmel or Mr. Gary Bloom, City Engineer, City Hall, 6601 Boulevard of Champions, North Lauderdale Florida, 33068.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of North Lauderdale, Broward County, Florida, in accordance with section 110 of the Flood disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at anytime enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Perimeter Canal.	Intersection of SW. 81st Ave. and SW. 5th St.	11
West Perimeter Canal.	Intersection of SW. 82nd Terrace and SW. 18th Pl.	11
Cypress Creek Canal.	Intersection of Southgate Blvd. and SW. 79th Terrace.	11
Dogwood Canal	Intersection of Kimberly Blvd. and SW. 67th Ave.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17169 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4235]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Sunrise, Broward County, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in The City of Sunrise, Broward County, Florida. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 1277 Sunset Strip, Sunrise Florida 33313. Send comments to: Mayor John Lomelo, Jr., or Mr. Phillip Weiss, City Engineers, City Hall, 1277 Sunset Strip, Sunrise, Florida 33313.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Sunrise, Broward County, Florida, in accordance with section 110 of the Flood disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measure required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The communmity may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North of Middle River Canal.	Intersection of Oakland Park Blvd. and Nob Hill Rd.	9
	Intersection of Oakland Park Blvd. and University Dr.	9
	Intersection of NW. 9th Ave. and Spring Tree Lake Dr.	9
South of Middle River Canal.	Intersection of NW. 63rd Ave. and NW. 24th St.	8
	Intersection of Sunset Strip Blvd. and NW. 72nd Ave.	8
	Intersection of Pine Island Rd. and NW. 25th Ct.	8
West of Holloway Lateral Canal.	Intersection of Flamingo Rd. and NW. 29th Manor.	9
	Intersection of NW. 145th Ave. and NW. 3rd St.	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR DOC. 78-17170 Filed 6-22-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No.FI-4234]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for the City of West Palm Beach, Palm Beach County, Florida

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of West Palm Beach, Palm Beach County, Florida. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 60426 on November 25, 1977, and in The Palm Beach Post-Times published on October 20, 1977, and October 21, 1977, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 320 Second Street, West Palm Beach, Florida. Send comments to: Mr. Richard G. Simmons, City Manager, City of West Palm Beach, P.O. Box 3366, West Palm Beach, Florida 33402.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or toll free line (800) 424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of West Palm Beach, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their cotents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Worth	Intersection of Flagler Dr. and 33rd St.	7
	Intersection of Flagler Dr. and 9th St.	7
	Intersection of Flagler Dr. and Memorial Bridge.	7
	Intersection of Flagler Dr. and Arlington Place.	7
West Palm Beach Canal.	Florida East Coast RR	11
C-17 Canal	Intersection with northern corporate limits.	14
(Flooding caused by rainfall ponding).	Intersection of Summit Blvd. and Park Circle.	12
	Intersection of Market St. and Dock St.	13
	Intersection of Witt St. and Upland Rd.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17171 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4233]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Bristol, Elkhart County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Bristol, Elkhart County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, East Vistule Street, Bristol, Indiana. Send comments to: Mr. Vern Scamehorn, Town Board President of Bristol, Bristol Town Hall, East Vistule Street, Bristol, Indiana 45607.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C., 202-755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Bristol, Elkhart County, Indiana in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Joseph River	Downstream corporate limits.	755
	Division St	756
	Upstream corporate limits.	758
Little Elkhart River.	Confluence with St. Joseph River.	757
	State Route 15	757
	Upstream corporate limits.	757

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17172 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4232]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Brownsburg, Hendricks County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Brownsburg, Hendricks County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Brownsburg Town Hall, East Main Street, Brownsburg, Indiana. Send comments to: Mr. Richard Isenhour, President of the Brownsburg, Town Board, East Main Street, Brownsburg, Indiana 46112.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Brownsburg, Hendricks County, Indiana in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93—234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
White Lick Creek..	Confluence with west fork.	847
	County Road 500 North).	852
	U.S. 136	859
	ConRail	864
	Stonebrook Dr	866

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR DOC. 78-17173 Filed 6-22-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4231]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Plainfield, Hendricks County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Plainfield, Hendricks County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 206 West Main Street, Plainfield, Indiana. Send comments to: Mr. Byron Ball, City Manager of Plainfield, 206 West Main Street, Plainfield, Indiana 46168.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Plainfield, Hendricks County, Indiana in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
White Lick Creek..	Corporate limits	710
	700 East Rd	719
	U.S. 40	724
	ConRail	728
Clark's Creek	Corporate limits	724
	Stanley Rd	728

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Stafford Rd	738
	U.S. S.R. 267	753
	U.S. 40	756
West branch Clark's Creek.	Confluence with Clark's Creek.	754

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17174 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4230]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lecompton, Douglas County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Lecompton, Douglas County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Lecompton, Kansas. Send comments to: The Honorable C. C. Mathews, Mayor, City of Lecompton, Lecompton, Kansas 66050.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Lecompton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kansas River	2,100 lft downstream of County Highway No. 215.	847
	4,500 ft upstream of County Highway No. 1215.	849

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17175 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4229]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Des Peres, St. Louis County, Missouri

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Des Peres, St. Louis County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt of show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Department of Public Works, City Hall, Des Peres, Missouri. Send comments to: Mr. Ray Patton, Director of Public Works and Planning, City Hall, Des Peres, Missouri 63131.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-4481 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Des Peres, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance or existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Twomile Creek	West corporate limit	553
	Fawnvalley Dr	556
	Confuence with Claychester Creek.	562
	Claychester Dr	565
	950 ft upstream of Claychester Dr.	568
Northwest Branch Twomile Creek.	Confluence with Twomile Creek.	555
	50 ft downstream of Firethorn Dr.	555
	450 ft upstream of Firethorn Dr.	557
	500 ft downstream of Gray Dr.	561
	50 ft downstream of Gray Dr.	562
	50 ft upstream of Gray Dr.	564
	250 ft upstream of Gray Dr.	565
	North corporate limits	569
Des Peres Creek	Confluence with Sugar Creek.	448
	Des Peres Rd	452
	200 ft upstream of Des Peres Rd.	453
	50 ft downstream of entrance to Normandy Hospital.	456
	50 ft upstream of entrance of Normandy Osteopathic Hospital.	460
Sugar Creek	1,000 ft upstream of west corporate limits.	445
	200 ft downstream of Doughtery Ferry Rd.	447
	Dougherty Ferry Rd	449
	400 ft upstream of Doughtery Ferry Rd.	451
	200 ft downstream of Highland Dr.	454
	Highland Dr	456
	200 ft upstream of Interstate 270.	463
	East corporate limits	464

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17176 Filed 6-22-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4228]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Grandview, Jackson County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Grandview, Jackson County, Missouri. These base (100-year) flood elevation are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Community Development Office, City Hall, Grandview, Missouri. Send comments to: The Honorable Bert Brooks, Mayor, City of Grandview, 1200 Main Street, City Hall, Grandview, Missouri 64030.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Grandview, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Blue River	Kelly Rd	897
	1,900 ft upstream of Kelly Rd.	904
	1,600 ft downstream of Byars Rd.	920
	139th St	924
	825 ft upstream of Merrywood Lane.	932
	Confluence of Oil Creek	937
	1,160 ft downstream of Outer Belt Rd.	939
	Just downstream of Outer Belt Rd.	942
	100 ft upstream of Outer Belt Rd.	943
	50 ft downstream of Barat Ave.	948
	Upstream corporate limit.	950
Oil Creek	750 ft upstream of mouth.	937
	1,320 ft downstream of Outer Belt Rd.	943
	50 ft downstream of Outer Belt Rd.	948
	Just downstream of South Outer Rd.	951
	50 ft upstream of South Outer Rd.	953
	1,600 ft upstream of South Outer Rd.	953
	4,350 ft downstream of corporate limits.	962
	Southern corporate limits.	975

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17177 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4227]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Jennings, St. Louis County, Missouri

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Jennings, St. Louis County, Missouri. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 2120 Hord Avenue, Jennings, Missouri. Send comments to; The Honorable William D. Tharp, Mayor, City of Jennings, City Hall, 2120 Hord Avenue, Jennings, Missouri 63136.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Adminstrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or toll-free line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Adminstrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Jennings, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Maline Creek	Eastern corporate limit ..	457
	Western Corporate limit	457

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Adminstrator, 43 FR 7719).

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Adminstrator.

[FR Doc. 78-17178 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI 4226]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Pembroke, Merrimack County, New Hampshire

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Town of Pembroke, Merrimack County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for particpation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Pembroke, New Hampshire. Send comments to: Mr. Mac Dunsmore, Chairman, Board of Selectmen, Town Office, Pembroke, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (00-year) flood elevations for Town of Pembroke, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River...	Confluence of Suncook River.	198
	Confluence of Soucook River.	203
Suncook River.....	Just downstream of sewer trustle.	202
	Just downstream of China Mill Dam.	214
	Just upstream of China Mill Dam.	237
	700 ft upstream of China Mill Dam.	239
	Just upstream of Main St.	262
	800 ft upstream of Main St.	263
	Just downstream of Webster Dam.	273
	Just upstream of Webster Dam.	284
	Just upstream of Pembroke St.	286
	2,600 ft upstream of Pembroke St.	289
	400 ft downstream of State Route 28.	295
	275 ft downstream of State Route 28.	299
	Just upstream of State Route 28.	302
	Southeast corporate limit.	305
Soucook River.....	1850 ft upstream of confluence with Merrimack River.	204
	6,100 ft upstream of confluence with Merrimack River.	206
	Just upstream of Pembroke St.	230
	6,100 ft upstream of Pembroke St.	239
	9,250 ft upstream of Pembroke St..	241
	2,900 ft downstream of Sheep Davis Rd.	249
	Just upstream of Sheep Davis Rd.	260
	Just upstream of Pembroke Rd.	271
	3,800 ft downstream of Horse Corner Rd.	287
	Just downstream of Horse Corner Rd.	304
	Just upstream of Pittsfield Rd.	305
	North corporate limit.....	317

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-17179 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4225]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Brielle, Monmouth County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Brielle, Monmouth County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, Brielle, New Jersey. Send comments to: Honorable Robert J. Collinson, Mayor of Brielle, 601 Union Avenue, Brielle, New Jersey 08730.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Brielle, Monmouth County, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Manasquan River..	Entire shoreline.....	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17180 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4224]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Waldwick, Bergen County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Waldwick, Bergen County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: the period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Borough Hall, 15 East Prospect Street, Waldwick, New Jersey. Send comments to: Honorable John E. Cassetta, Mayor, Borough of Waldwick, Borough Hall, 15 East Prospect Street, Waldwick, New Jersey 07463.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Waldwick, New Jersey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saddle River	Corporate limits (downstream crossing).	103
	Confluence with tributary No. 1.	108
	Corporate limits (upstream crossing).	111

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hohokus Brook	Dam No. 2 (125 ft downstream).	191
	Dam No. 2 (upstream side).	205
	Wyckoff Ave.....	214
	Prospect St	222
	Dam No. 3 (100 ft downstream).	227
	Dam No. 3 (upstream side).	233

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719)

Issued: June 2, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17181 Filed 6-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4223]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Hastings-on-Hudson, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Hastings-on-Hudson, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the Village Engineer, Hastings-on-Hudson, New York. Send comments to: Mr. James J. Mulcare, Village Manager of Hastings-on-Hudson, Village Offices, Maple Avenue, Hastings-on-Hudson, New York 10706.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-5581 or Toll Free Line (800) 424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Hastings-on-Hudson, Westchester County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet above mean sea level
Sawmill River.....	Farragut Parkway.....	117
	Farragut Ave.....	118
	Ravensdale Rd.....	119
	Conrail access bridge (abandoned).	120
	Upstream corporate limit.	122

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

Issued: June 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-17182 Filed 6-22-78; 8:45 a.m.]

[4210-01]

Federal Disaster Assistance Administration

[24 CFR 2205]

[Docket No. R-78-551]

TEMPORARY HOUSING FOR DISASTER VICTIMS

AGENCY: Federal Disaster Assistance Administration (FDAA), HUD.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Disaster Relief Act of 1974 authorizes the provision of temporary housing to disaster victims. The Federal Government has assumed, in most recent disasters, responsibility for nearly every aspect of disaster temporary housing. FDAA is now considering modifying its regulations which deal with disaster temporary housing to require or permit greater participation by state and local governments. By this document, FDAA (1) gives advance notice of its interest in revising its regulations and (2) solicits advice and information from interested parties prior to its issuance of more specific proposed rulemaking.

DATE: Comments must be received on or before August 22, 1978.

ADDRESS: Comments should be mailed or delivered to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Richard E. Sanderson, Director, Office of Individual Assistance, Federal Disaster Assistance Administration, Room B-133, 451 7th Street SW., Washington, D.C. 20410, 202-634-7860.

SUPPLEMENTARY INFORMATION: Section 404 of the Disaster Relief Act of 1974 (Pub. L. 93-288, § 404; 42 U.S.C. 5174) authorizes the provision of disaster temporary housing. The authorities under section 404 have been delegated from the President to the Secretary of HUD and then to the Administrator of FDAA. The Administrator redelegated most of these authorities in turn to the HUD Assistant Secretary for Housing—Federal Housing Commissioner, subject to published regulations and the Administrator's notice to proceed (41 FR 29719, July 19, 1976). The notice to proceed mechanism leaves the Administrator with adequate flexibility to tailor a particular temporary housing response to the special requirements of each disaster. The Assistant Secretary for Housing—

Federal Housing Commissioner redelegated the section 404 authorities to the HUD Regional Administrators (41 FR 37659, September 7, 1976). The Administrator of FDAA published revised regulations implementing section 404 on March 2, 1978 (43 FR 8764); these regulations are codified at 24 CFR 2205.45.

Section 404(a) authorizes the Government to provide existing housing units, mobile homes or readily fabricated dwellings to disaster victims, with no rent for one year. The Government may purchase or lease such housing resources or it may use Federally-owned units. Section 404(b) authorizes temporary financial aid in the form of mortgage and rental assistance. Section 404(c) permits the Federal Government, in lieu of providing other forms of temporary housing resources, to pay for minimal repairs which can return owner-occupied homes to habitable condition. The Government may sell temporary housing units directly to families and individuals who have occupied temporary housing under Section 404(d)(1). Section 404(d)(2) authorizes the Government to sell or donate mobile homes and other temporary housing units to states, local governments or voluntary organizations for the purpose of providing temporary housing for disaster victims.

In most recent disasters involving a requirement for temporary housing, the Federal Government has assumed responsibility for nearly all aspects of providing temporary housing. However, from its inception, Congress intended the comprehensive Federal disaster assistance program to be supplementary to state and local relief efforts. FDAA is considering the return of more responsibility to states and local governments which can demonstrate capability or willingness to respond effectively. The Federalization of the disaster temporary housing program is of particular concern to FDAA in the provision of mobile homes (404(a)) and the minimal repair program (404(c)). FDAA is now interested in determining whether states and local governments are prepared to assume a greater leading role in connection with the temporary housing program. For example, states and local governments may desire to obtain, by purchase or lease, and develop complete with utilities, sites for mobile homes. Also, states and their constituent local governments may desire to anticipate the housing requirements of disaster victims and maintain an inventory of available housing resources for use in disaster-prone areas.

FDAA encourages comments and information from interested parties about how temporary housing assistance can be improved by greater state and local participation. FDA also solicits its suggestions as to which aspects of the temporary housing program would be best served by a larger role by state and local governments. The agency is especially interested in comments from state and local governments, housing officials, civic organizations and other groups and individuals with knowledge of the disaster temporary housing program.

If it is suggested that states and local governments should assume an expanded role in the administration of the temporary housing program, FDAA solicits advice and information about the following issues in particular. Commenters may wish to address these issues in light of two different situations, where FDAA reimburses the state or local government for its activities and where the state or local government assumes both financial and operational responsibilities.

1. Are states and local governments better able to perform all or any functions of the temporary housing program? If so, which ones and how?

2. What role can states and local governments play in identifying existing housing resources which could be leased or purchased for use as disaster temporary housing?

3. How can state and local governments assist in the identification of potential temporary housing applicants?

4. How can state and local governments assist in determining the proper level of rent for disaster victims who occupy temporary housing units longer than one year?

5. Section 404(a) states that, unless FDAA waives the requirement, "any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided by either the state or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States." What can the Federal Government do to facilitate the selection, purchase or lease, and development of sites, short of assuming responsibility for those functions? Under what circumstances would it be in the public interest for the Federal Government to perform these functions for the states or local governments?

6. How can states and local governments participate in programs to provide mortgage and rental assistance under Section 404(b)? Should the states or local governments assist in the identification of those applicants who " * * * as a result of financial hardship caused by a major disaster, have received written notice[s] of dispossession or eviction * * * ", which is primarily a matter of state law?

7. How can states and local governments assist in the minimal repair programs? In what connection, if any, can states or local governments assume total operational responsibility for the minimal repair program in some disasters? What special or unique capabilities do states or local governments have to identify and supervise contractors to perform needed repairs?

8. Under what circumstances can the states or local governments assume total operational responsibility for the disaster temporary housing program with FDAA's participation limited to selling or donating or otherwise making available temporary housing units directly to the states, local governments or volunteer agencies under Section 404(d)(2)?

9. The current regulations provide that Federal responsibility for disaster temporary housing should terminate within 18 months of the disaster. Can this period be shortened? Will State or local government assumptions of disaster temporary housing responsibilities make it more feasible to shorten the 18-month period? How can FDAA facilitate state or local assumption of temporary housing responsibilities?

10. Will groups with special difficulties and needs following a disaster (such as the elderly, handicapped, very low income, minorities and large families) be better served or detrimentally affected if States or local governments assume operation responsibility for the temporary housing program?

11. Do States and local governments have the necessary experience and expertise needed for dealing with different type of disasters?

Comments should be submitted in writing to the Rules Docket Clerk. Communications should identify the regulatoty docket number.

Finding of Inapplicability of Section 102(2)(C) of the National Environmental Policy act has been made in accordance with HUD handbook 1390.1. It is available for public inspection at the Office of the Rules Docket Clerk, Room 5218 of the Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 during normal business hours.

This advance notice of proposed rulemaking is issued under authority contained in section 7(d) of the Department of HUD Act (42 U.S.C. 3543(d)) and seciton 601 of the Disaster Relief Act of 1974 (42 U.S.C. 5201).

Issued in Washington, D.C., on June 19, 1978.

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-17468 Filed 6-22-78; 8:45 am]

[4510-29]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs Office

[29 CFR Part 2550]

RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

Proposed Regulation Relating to the Investment of Plan Assets Under the "Prudence" Rule; Extension of Comment Period

AGENCY: Department of Labor.

ACTION: Notice of extension of comment period.

SUMMARY: The Department of Labor (the Department) is extending the comment period on the proposed regulation relating to the investment duties of plan assets under the "prudence" rule of the Employee Retirement Income Security Act of 1974 (the Act) set forth in the notice of rulemaking published in the FEDERAL REGISTER at 43 FR 17480 (April 25, 1978). This action is being taken in view of the suggestion by certain members of the public that additional time to prepare comments is necessary, and in view of the importance of the proposed regulation.

DATE: The comment period is extended through July 26, 1978.

ADDRESS: Submit comments (preferably six copies) to: Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Section 2550.404a-1.

FOR FURTHER INFORMATION CONTACT:

Paul Antsen, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Washington, D.C. 20216, 202-523-8515. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On April 25, 1978 the Department issued a notice of proposed rulemaking concerning the investment of plan assets under the Act's "prudence" rule and, in that notice, invited all interested persons to submit written views or arguments concerning the proposed regulation. The proposed regulation would be issued under section 404(a)(1)(B) of the Act.

The Department has received indications that, because of the perceived complexity of the issues involved in the proposed regulation, some members of the public need additional time to prepare comments, and the Department believes that it is appropriate to grant such additional time. Accordingly, this notice extends the comment period during which comments on the proposed regulation will be received until July 26, 1978.

NOTICE OF EXTENSION OF COMMENT PERIOD

Notice is hereby given that the period of time for the submission of public comments on the proposed regulation relating to the investment of plan assets under the Act's "prudence" rule proposed in the notice at 43 FR 17480 (April 25, 1978) is hereby extended through July 26, 1978.

All interested persons are invited to submit written views or arguments concerning the regulation proposed in the notice at 43 FR 17480 (April 25, 1978) on or before July 26, 1978.

These views or arguments (preferably six copies) should be submitted to the Pension and Welfare Benefit Programs, Office of Regulatory Standards and Exceptions, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20016, Attention: Section 2550.404a-1.

Signed at Washington, D.C., this 22 day of June 1978.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, United States Department of Labor.

[FR Doc. 78-17699 Filed 6-22-78; 10:57 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 916-6]

WEST VIRGINIA STATE IMPLEMENTATION PLAN

Proposed Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of West Virginia has submitted amendments to its air pollution regulations and has requested that they be reviewed and processed as a revision of the West Virginia State Implementation Plan (SIP). The amendments provide for the relaxation of sulfur dioxide emission limitations at certain power plants and the deletion of the provisions related to secondary standards for all fuel burning units in the State, including power generating facilities. In the existing regulation the secondary standard provisions become effective June 30, 1978.

DATE: Comments must be submitted on or before July 24, 1978.

ADDRESSES: Copies of the proposed SIP revision and accompanying support documentation are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Programs Branch (3AH10), Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, attention: Mr. Howard R. Heim.

West Virginia Air Pollution Control Commission, 1558 Washington Street East, Charleston, W. Va. 25311, attention: Mr. Carl Beard.

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

Comments must be sent to Howard R. Heim at EPA, Region III address above.

FOR FURTHER INFORMATION CONTACT:

Mr. Howard R. Heim (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106; phone 215-597-8175.

SUPPLEMENTARY INFORMATION: On January 25, 1978 the Governor of West Virginia submitted to EPA, Region III a revision to Regulation X (1973) for the control of sulfur dioxide. In his letter, Governor Rockefeller advised that the revision to Regulation X had been adopted by the West Virginia Air Pollution Control Commission on December 19, 1977, and approved by the West Virginia Legislative Rule-Making Committee on January 9, 1978 to be effective on February 11, 1978. Further, the Governor asked that EPA consider the revision to Regulation X as a change of the existing State Implementation Plan (SIP).

The proposed revision primarily concerns Section 3 of Regulation X, wherein emission limits for electric power generating plants are set forth. These emission limits are intended to protect both the national primary and secondary standards for sulfur dioxide. The new emission limits proposed by West Virginia constitute a relaxation of existing limits. West Virginia's request represents the third proposed modification to Regulation X since it was first approved by EPA in 1972.

The first change occurred in 1973 when the State deleted its own secondary standard for sulfur dioxide which was more stringent than the federal secondary standard.

The second change was adopted by West Virginia on November 4, 1976, and submitted to EPA as a proposed revision of the West Virginia State Implementation Plan on November 10, 1976. These 1976 revisions constituted a relaxation of emission limits for certain major power generating stations including the Mitchell and Kammer Plants of Ohio Power Co., the Willow Island Station of the Monongahela Power Co. and the John Amos Plant

of the Appalachian Power Co. In addition, the State proposed a deletion of Sections 3.01(b) and 3.03(b) which pertain to emission limitations intended to protect the national secondary standard for sulfur dioxide. These changes reflected the "moratorium" on all sulfur oxide controls deemed to be more stringent than needed to protect air quality standards as declared by the Governor of West Virginia in April, 1976. The executive order resulted out of the Governor's concern for West Virginia's coal economy and the parity between West Virginia and Ohio in the enforcement of regulations to control sulfur dioxide. However, the State had not submitted a certification of public hearing and had not adequately demonstrated that air quality standards would be attained and maintained as a result of the changes as required by Federal law. Consequently, the State on advice of EPA Region III, announced its withdrawal of the proposed revision submitted in 1976 and its replacement by the most recent submittal of January 25, 1978.

This most recent proposal primarily concerns the emission limitations of sulfur dioxide as they apply to the Kammer, Mitchell, Fort Martin and Harrison Power Plants. The emission limits being proposed constitute a relaxation of existing emission limits related to the primary standard. Furthermore, unlike the 1976 revisions, these new changes for the above four power plants, with the exception of deletions of Sections 3.01(b) and 3.03(b), are based on the results of an extensive modeling study performed by the EPA in cooperation with the West Virginia Pollution Control Commission. The deletion of Section 3.01(b) and 3.03(b) is based on an additional study performed by the State. As discussed earlier, these sections are intended to protect the national secondary standard for sulfur dioxide and are to become effective June 30, 1978 according to the federally-approved Regulation X. Finally, the proposed revision includes certain requirements for emission data reporting and operating conditions.

The impact of the proposed emission relaxations and/or deletions are of particular interest to the Regional Adminstrator because of the possible effect such changes may have on future industrial and urban growth in West Virginia. In addition, final regulations published in the FEDERAL REGISTER on June 19, 1978, relating to the Prevention of Significant Air Quality Deterioration (PSD) require an evaluation of the impact of the West Virginia proposal on the PSD increments. However, EPA believes that SIP revisions which were submitted for approval prior to final promulgation of the PSD regulations require special consideration. To review these proposed revisions as to the degree of anticipated increment consumption now, without advance notice, would cause considerable delay and economic disruption. Therefore, EPA feels that this proposed revision of the West Virginia SIP need not be assessed at this time to determine the precise amount of consumed increment before the revision is approved.

The PSD regulations require a periodic assessment to verify that the applicable increments are not being exceeded. This periodic assessment requirement will provide sufficient assurance that the applicable increments will be protected. Such assessment will require corrective revisions to the SIP if an increment is found to be violated as a result of the proposed relaxation of Regulation X.

With regard to the portion of the Amendments for Regulation X relating to the Rivesville facility of the Monongahela Power Co., the Regional Administrator is proposing that this portion be disapproved. The basis for this disapproval is EPA's modeling study for West Virginia which demonstrated the need for a more stringent emission limitation than that proposed by West Virginia to protect the National Primary Ambient Air Quality Standard for Sulfur Dioxide.

A major concern of the Regional Administrator is whether or not full emission credit can be given for the 1,000 foot high stack at Monongahela Power Co.'s Harrison facility, one of the power plants included in EPA's modeling study. The modeling performed assumed full credit for stack height, and the proposed emission limit reflects that assumption. However, since the completion of the study, Congress incorporated Section 123 as part of the 1977 Clean Air Act Amendments. Section 123 does not allow credit for stack heights above that which constitutes "good engineering practice" unless the stack height was "in existence" before the date of enactment of the Clean Air Act amendments of 1970. At this time, the EPA is assessing Section 123 and pursuant to that Section is reviewing policy that may negate the full credit given the Harrison tall stack in the modeling study.

Because of the existing situation, the Regional Administrator believes it would be inappropriate to approve the proposed revision since it is based on full stack height credit. Instead, the Regional Administrator believes that the more acceptable approach would be to establish an interim emission limitation based on an estimated "good engineering practice" stack height. With this in mind, the Agency invites the State to submit and the public to now comment on an interim emission limitation of 5.12 lbs. of SO_2/10^6 BTU which approximates a 3.2 percent sulfur-in-fuel requirement. This might apply for a short period such as one year or until final promulgation of the Section 123 regulation, whichever is the shorter period of time.

The 5.12 lbs of SO_2/10^6 BTU standard is based on modeling performed by EPA which incorporated a stack height value for Harrison of 640 feet which is the estimated "good engineering practice" limit; this value is consistent with current agency guidance with respect to tall stacks. If an interim revision consistent with the above criteria is submitted to the Agency, it will be evaluated against comments submitted pursuant to this announcement and no further comments will be deemed necessary. Ultimately, final approval of the portion of the amendments to Regulation X for Harrison will be based on a determination as to whether the Harrison tall stack meets the definition of "in existence" promulgated in the final regulations for Section 123.

The Regional Administrator is proposing that the portion of the regulation relating to the Fort Martin and Mitchell power plants be approved on the basis of the modeling performed by EPA. However, with regard to the Kammer power plant, the Regional Administrator proposes to delay rulemaking until the results of a wind-tunnel study applicable to Kammer are available. The Ohio Power Co. has petitioned the Regional Administrator for a public hearing to allow modeling credit for a 900 foot stack currently under construction at the Kammer facilty. At 900 feet, the stack would substantially exceed two and one half times the height of the power plant. (See Clean Air Act Section 123(c).) A wind-tunnel study is now in progress for this facility. After this study is completed it will be possible to determine whether the 900 foot stack would satisfy "good engineering practice" for stack height. This study is expected to be completed in September 1978. Until the study is completed the Regional Administrator thinks it would be inappropriate to take action on the Kammer portion of the revision as submitted or to conduct a public hearing as requested.

With regard to the delection of Section 3.01(b) and 3.03(b) relating to protection of the secondary standard for sulfur dioxide, the Regional Administrator is proposing that this portion of the amendments be approved. The basis for this proposed approval is that these sections were intended to protect the National Secondary Ambient Air Quality Standards for sulfur dioxide; the Administrator, in 40 CFR 50.5, deleted the National secondary annual and 24-hour sulfur dioxide standards and had also approved a deletion of the same standards in 41 FR 51018 for

the West Virginia State Implementation Plan. The State has submitted information showing the relationship between the 24-hour National primary standard and the 3-hour National Secondary Standard. On the basis of that information, the Regional Administrator has concluded that the 24-hour primary standard is limiting when compared to the remaining 3-hour secondary standard.

This notice is to announce the Regional Administrator's receipt of the amendments, and to provide for a 30-day comment period on the regulations and actions proposed by the Regional Administrator. Only comments received on or before July 24, 1978 will be considered. All comments should be addressed to: Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

The Administrator's decision to approve or disapprove the proposed revisions will be based on whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

AUTHORITY: 42 U.S.C. 7410 and 7601.

Dated: June 15, 1978.

JACK J. SCHRAMM,
Regional Administrator.

[FR Doc. 78-17673 Filed 6-22-78; 8:45 am]

[4110-86]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

[42 CFR Part 51b]

GRANTS FOR DISEASE CONTROL

Proposed Rulemaking

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Under the proposed regulations, grants will be awarded to State and local government agencies to assist them in meeting the costs of disease control programs. These programs include childhood immunization, urban rat control, and venereal disease control programs authorized by Sections 317 and 318 of the Public Health Service Act. Certain nonprofit entities are eligible for project grants for urban rat control. The proposed revisions will amend 42 CFR Part 51b to incorporate changes made by several public laws enacted since issuance of the existing regulations.

DATES: Written comments must be received within 30 days after publication of this Notice.

ADDRESS: Written comments should be sent to the Center for Disease Control, Attention: Director, Bureau of State Services, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Comments received will be available for public inspection during regular business hours in Building 1, Room 2047, at the same address.

FOR FURTHER INFORMATION CONTACT:

Mrs. Sara S. Owens, Regulations Officer, Center for Disease Control, Atlanta, Georgia 30333, telephone 404-633-3311, Ext. 6723, FTS: 236-7723.

SUPPLEMENTARY INFORMATION: This proposed rulemaking is to implement changes made by several public laws enacted since this part was previously issued. Pub. L. 92-449, approved September 30, 1972, transferred venereal disease control from Section 317 to a separate authority under Section 318 of the PHS Act. Pub. L. 94-63, approved July 29, 1975, added authority for urban rat control grants to Section 317 (control of diseases borne by rodents) and repealed Section 314(e) under which these grants were previously authorized. Pub. L. 94-317, approved June 23, 1976, under Title II, Disease Control, revised and extended the authority for disease prevention and control project grants under Section 317 and for venereal disease control project grants under Section 318. Authority for formula grant programs for diagnostic and treatment services which had never been funded was eliminated from Section 318.

Section 317 authorizes project grant programs for the prevention and control of a variety of diseases and conditions. In addition, grants and contracts are authorized for training for the administration of disease prevention and control programs and for demonstrations and evaluations of such programs. However, authorizations for appropriations for this wide range of programs and activities are separated. Separate appropriations are authorized for (1) grant programs directed toward the control of vaccine preventable diseases of childhood (317(g)(1)(A)); (2) grant programs directed toward diseases born by rodents (317(g)(1)(B)); and (3) grant programs directed toward all other diseases and conditions addressed by the legislation, and grants and contracts for training, demonstrations, and evaluations (317(g)(1)(C)). However, appropriations are being made only for grants under (1) and (2) above for childhood immunization programs and urban rat control programs. The proposed regulations address only these two grant programs authorized by Section 317.

Section 318 of the PHS Act presently includes two separate venereal disease prevention and control authorities: (1) Grants for research, demonstrations, education, and training (318(b)); and (2) grants for venereal disease control programs, including surveillance activities, casefinding and case followup activities, interstate epidemiologic referral and followup activities, veneral disease education activities, and special studies or demonstrations (318(c)). The authority listed in (1) above has not been funded; therefore, Subpart D of the revised regulations cover only the authority listed in (2) above.

Subpart A of this proposed rulemaking contains general provisions which apply to the three grant programs under this part which are described above. Subpart B applies to grants for childhood immunization programs. Subpart C applies to grants for urban rat control programs. Subpart D applies to grants awarded for the venereal disease control programs.

It is, therefore, proposed to revise 42 CFR Part 51b as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: April 25, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: June 16, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

PART 51b—GRANTS FOR DISEASE CONTROL

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AUTHORITY: Secs. 317, 318, Public Health Service Act (42 U.S.C. 247b, 247c).

Subpart A—General Provisions

§ 51b.101 Applicability.

The regulations of this part apply to grants authorized under Section 317 of the Public Health Service Act (42 U.S.C. 247b) for childhood immunization and urban rat control programs, and grants authorized under Section 318(c) (42 U.S.C. 247c(c)) for venereal disease prevention and control.

§ 51b.102 Definitions.

As used in these regulations:

"Act" means the Public Health Service Act, as amended.

"Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department to whom the authority involved has been delegated.

"State" means one of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

§ 51b.103 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved program, the grantee shall account for the total of all amounts paid out by presenting or otherwise making available evidence, satisfactory to the Secretary, of expenditures for direct and indirect costs meeting the requirements of this part. However, when the amount awarded for indirect cost was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for grant related income—Interest.* Pursuant to Section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in Section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

(c) *Grant Closeout*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved program, a full accounting, as provided herein, as of date of the termination of grant support. The Secretary may require other special and periodic accounting. (2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (b)(1) of this section;

(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 51b.104 Grant payments.

(a) The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award. These payments may be made either in advance or by way of reimbursement for expenses incurred or to be incurred in the performance of the program. The payments shall be made as the Secretary determines necessary to promote prompt initiation and advance of the approved program.

(b) The Secretary may reduce the payment under a grant by the amount of the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished a grant recipient, when it is furnished at the request of the recipient. The Secretary also may reduce the payment under a grant by the amount of the pay, allowances, travel expenses, and any other costs in connection with the detail of any officer or employee of the Government to the recipient, when the detail is at the request of the recipient. The amount the grant is reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the official, and shall, for the purpose of these regulations, be deemed to have been paid to the recipient.

§ 51b.105 Nondiscrimination.

(a) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.). Particular attention is called to Section 601 of that Act. That section provides that no person in the United States shall, on the ground of race, color or national origin, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing Title VI, which applies to grants awarded under these regulations, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80).

(b) In addition, attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, and Department regulations (45 CFR Part 84) implementing that section of the Act. The Act and the regulations provide that no otherwise qualified handicapped person in the United States shall, solely by reason of the handicap, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

§ 51b.106 Publications and copyright.

Unless otherwise provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials resulting from a grant under these regulations. This authorization is subject to a royalty-free, nonexclusive, and irrevocable right in the Government to reproduce, translate, publish, use, disseminate, and dispose of the materials and to authorize others to do so.

§ 51b.107 Records and reports.

The grantee shall maintain such progress and fiscal records and file with the Secretary such progress, fiscal, and other reports relating to the conduct and results of grant activities as the Secretary may find necessary to carry out the purposes of this part.

§ 51b.108 Additional conditions.

The Secretary may impose additional conditions when in his judgment they are necessary to advance the approved program, the interest of the public health, or the conservation of grant funds.

§ 51b.109 Voluntary participation.

Nothing in these regulations shall be construed to require any State or any political subdivision of a State to have a disease control program which would require any person who objects to

treatment to be treated under the program.

§ 51b.110 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, which establish uniform administrative requirements and cost principles, apply to a grantee under this part as follows:

(a) To a State or local government as those terms are defined in Subpart A of Part 74.

(b) To other than a State or local government agency, relevant provisions of Subparts A, B, C, D, F, G, K, L, M, O, and Q.

§ 51b.111 Review of applications under Title XV of the Public Health Service Act.

The application shall contain evidence satisfactory to the Secretary that it has been reviewed, commented upon, or approved by the appropriate planning agency designated by regulations, implementing the Nation Health Planning and Resources Development Act (42 U.S.C. 300k-1, Pub. L. 93-641).

Subpart B—Grants for Childhood Immunization Programs

§ 51b.201 Applicability.

The regulations in this subpart apply to the award of grants under Section 317 of the Act for programs to immunize children against vaccine preventable diseases.

§ 51b.202 Definitions.

As used in this subpart:

"Childhood immunization program" means a disease control program to immunize children against vaccine preventable diseases including poliomyelitis, measles, mumps, rubella, diphtheria, pertussis, and tetanus.

§ 51b.203 Eligibility.

An applicant must be a State agency, or an agency of a political subdivision of a State, which has legal responsibility for disease control under the laws of a State.

§ 51b.204 Application.

(a) An applicant for a grant under these regulations shall submit an application to the appropriate Public Health Service Regional Health Administrator.[1] The application shall contain a full description of the program objectives, plans, and activities as described in § 51b.205.

(b) The application shall be signed by an individual authorized by the applicant to assume the obligations imposed by these regulations and any additional conditions of the grant.

§ 51b.205 Description of program.

The application shall include a description of the following:

(a) The nature and extent of the disease problem in the area.

(b) The need for grant support.

(c) The specific objectives and priorities of the program.

(d) Current immunization programs and the additional or intensified activities to be carried out to meet the objectives. The following program elements must be included and described:

(1) Surveillance of the specific vaccine preventable diseases.

(2) Systematic identification of unimmunized or inadequately immunized population groups.

(3) Systematic identification and delivery of services to inadequately immunized population groups as they are identified, assuring that no one will be denied services because of inability to pay and that the services are provided in a manner which preserves human dignity and maximizes acceptance.

(4) Techniques and procedures for controlling outbreaks of disease.

(5) Professional and public awareness activities, with emphasis on underimmunized populations.

(6) Use of public and nonprofit private entities and volunteers.

(7) Continuation of activities to maintain high immunization levels.

(8) Coordination of activities with other Federally assisted programs.

(e) The manner in which the applicant intends to conduct and evaluate the project including the working relationship of the applicant to private health care providers, public health care agencies, and voluntary organizations in the area to be served.

(f) Studies, if any, to identify and develop new methods of controlling diseases listed in § 51b.202.

(g) A budget and justification for the grant funds requested.

(h) Other information which supports the request for funds.

§ 51b.206 Grant evaluation and award.

(a) Within the limits of funds available, the Secretary may award a grant to assist in meeting part of the cost of a childhood immunization program. Grants will be awarded to those applicants whose projects he determines will best promote the purposes of Section 317 of the Act. Before awarding a grant to a local public entity of a State, the Secretary will consult with the State health authority.

(b) Priorities for funding will be based on the following factors:

(1) The relative extent of the problems which relate to one or more of the vaccine preventable diseases in the area served by the applicant.

(2) The extent to which the proposed program is designed to eliminate or reduce the problems.

(3) The extent to which the proposed program will increase the immunization rates in population groups identified as having the lowest immunity levels.

(4) The extent to which the proposed program will cooperate with and use public and nonprofit private entities and volunteers.

(5) The extent to which a strong commitment to the objectives of the program is reflected in the commitment of grantee resources to the program.

(c) A grant award shall be in writing. It shall set forth the amount of funds granted and the period for which support is recommended.

(d) The approval of a grant application or the award of funds shall not obligate the United States to make additional, supplemental, continuation, or other award to any approved program. The grantee must apply separately for continuing support.

§ 51b.207 Use of grant funds.

Grant funds awarded under this subpart may be used to purchase supplies, materials, and equipment for childhood immunization programs. Grant funds also may be used to pay for salaries or wages and related expenses for personnel directly involved in the planning, organization, promotion, epidemiology, surveillance, and other program activities.

Subpart C—Grants for Urban Rat Control

§ 51b.301 Applicability.

The regulations in this subpart apply to the award of grants under Section 317 of the Act for the support of urban rat control programs.

§ 51b.302 Definitions.

As used in this subpart:

"Urban rat control program" means an activity designed and conducted to reduce rat populations and conditions conducive to rat infestations within a target area.

"Target area" means a specifically defined area containing a minimum of 200 blocks where the applicant is conducting a comprehensive rat control program.

"Subtarget area" means an area of 100 to 200 contiguous blocks where a comprehensive rat control program is conducted.

"Preattack phase" means that phase of the program when information is provided to city officials and to the general public through mass media, and inaugural demonstrations and planning is under way to initiate the attack phase.

"Attack phase" means that phase of the program when intensive compre-

[1] Application forms, manuals, program guidelines, and instructions for preparing grant applications may be obtained from the Regional Health Administrator of the Department of Health, Education, and Welfare for the region in which a control program is to be conducted.

hensive rat control activities are conducted within the target area to reduce rat infestations and causative conditions to a maintenance level.

"Maintenance-level (block)" means a block where two percent or less of the premises have active rat signs and either:

(a) Fifteen percent or less of the premises have exposed garbage on the exterior; or

(b) Thirty percent or less of the premises have unapproved refuse storage on the exterior.

"Maintenance phase" is that phase of the program when maintenance-level on a block has been achieved. This phase requires reduced resources and activities to preserve this level.

"Environmentally improved blocks" means contiguous groups of blocks (on an entire subtarget area) where maintenance has been achieved and sustained for a minimum of 12 months. Maintaining the status of these blocks is the responsibility of the local program, and they may no longer be included in the Federally supported target areas.

"Baseline survey" means a random sample of premises to determine the premises prevalence rates of active rat signs and causative conditions in a proposed target area. The baseline survey is conducted to satisfy a preapplication survey requirement or for approval of a new target or subtarget area.

"Comprehensive inspection" means an inspection of all premises in a target or subtarget area to determine the prevalence rates of rat signs and causative conditions.

"Verification survey" is a sample survey conducted periodically in a target area to determine if the area is appropriately classified in maintenance phase.

§ 51b.303 Eligibility.

An applicant must be a State agency, or a public agency or political subdivision within a State, except that private nonprofit agencies, institutions, or organizations which received a grant under Section 314(e) of the Public Health Service Act for fiscal year 1975 continue to be eligible. To be eligible for a grant under this subpart, six percent of the premises in the target area must have active rat signs documented by a baseline survey.

§ 51b.304 Application.

(a) An applicant for a grant under these regulations shall submit an application to the appropriate Public Health Service Regional Health Administrator.[1] The application shall contain a full description of program objectives, plans, and activities as described in § 51b.305.

(b) The application shall be signed by an individual authorized by the applicant to assume the obligations imposed by these regulations and any additional conditions of the grant.

§ 51b.305 Description of program.

The application shall include the following:

(a) A master plan that addresses the total rate problem within the community and places emphasis on the following:

(1) Identifying and placing priority on target areas which have the highest rat infestation rates with emphasis on impoverished areas of the community; and

(2) Identifying and receiving commitment for increased local financial support as Federal funds are reduced or terminated.

(b) A project plan that describes in detail the immediate and long-range objectives of the project. These objectives shall be stated in specific, measurable terms and relate to the specific activities that will be conducted in the proposed target area. This plan shall include:

(1) Survey results and other information used to identify rat infestations and factors contributing to them, such as substandard buildings, improper solid waste management, inadequately maintained sewage systems, and the lack of concern by the public toward the rat problem.

(2) Provisions for the implementation of an attack phase to reduce rat infestations and causative conditions to the maintenance level within the blocks of a target area.

(3) A description of the time frame and type of activities in the preattack and attack phase required to achieve the maintenance level within the blocks of a target area. No area should be in the preattack phase beyond the end of the second project year.

(4) A description of the activities and resources necessary to preserve the maintenance level within the blocks of a target area.

(5) A plan for the expeditious progression of blocks through the attack and maintenance phases to locally sustained environmentally improved status.

(6) At the option of the applicant, the establishment of a local advisory board(s). Each board should consist of not more than 10 individuals.

(c) An evaluation plan which must include, as a minimum:

(1) Measurement of progress in terms of the number of premises where rat infestations and causative conditions are reduced.

(2) Comprehensive inspections, at least twice yearly, during the attack and maintenance phases of the program, and verification surveys where the number of maintenance level blocks are sufficient to satisfy the survey methodology.

(3) Periodic assessment of the effectiveness of rat killing measures.

(4) Periodic assessment of program priorities.

(5) Measurement of progress in terms of:

(i) The percentage of maintenance level blocks achieving environmentally improved status.

(ii) The percentage of the target area which has reached a maintenance level.

(iii) The degree to which knowledge, attitude, and behavior changes among target area residents result in improved premises sanitation.

(d) A description of the steps taken by the applicant to provide for the following major program elements:

(1) Development and enforcement of adequate ordinances and codes relating to housing, rat control, solid waste, and general environmental sanitation.

(2) Citizen participation.

(3) Community information, education, and motivation.

(4) Interagency coordination.

(5) Employment opportunities for target area residents.

(6) Improvement of residential and accessory structures through routine maintenance and rat proofing.

(7) Improved refuse storage and premises sanitation.

(8) Intensification of municipal services to provide adequate collection and disposal of garbage and other refuse.

(9) Rat killing activities.

(10) Self evaluation.

§ 51b.306 Grant evaluation and award.

(a) Within the limits of funds available, the Secretary may award a grant to assist in meeting part of the cost of rat control programs. Grants will be awarded to those applicants whose programs he determines will best promote the purpose of Section 317 of the Act. Before awarding a grant to a public entity within a State, the Secretary will consult with the State health authority. Priorities for funding will be based on the following factors:

(1) The magnitude of the rat problem and other causative conditions.

(2) The degree to which the proposed program satisfactorily provides for the elements set forth in § 51b.305.

(3) The population density of the target community to be served.

(4) Premises and dwelling unit density per block to be served.

(5) The project's potential for continued support of rat control services as Federal resources are reduced or terminated.

(b) A grant award shall be in writing. It shall set forth the amount of funds granted and the period for which support is recommended.

(c) The approval of a grant application or the award of funds shall not obligate the United States to make additional, supplemental, continuation, or other award to any approved proj-

ect. The grantee must apply separately for continuing support.

§ 51b.307 Use of grant funds.

(a) Grant funds awarded under this subpart shall be used in the performance of the programs approved under Section 317 of the Act.

(b) Grant funds may also be used for the following:

(1) Developmental activities.

(2) Administrative staff.

(3) Training to meet management needs of the program.

(4) Reimbursement to members of advisory boards for actual expenses incurred while performing their duties as board members to the extent that meetings of the board are held no more often than quarterly.

(c) Prior approval by the Secretary for revision of the budget and program plan is required whenever there is to be a significant change in the scope or nature of program activities.

Subpart D—Grants for Venereal Disease Control Programs

§ 51b.401 Applicability.

The regulations in this subpart apply to the award of project grants under Section 318(c) of the Act for venereal disease control programs.

§ 51b.402 Definitions.

As used in this subpart:

"Venereal disease" means Gonorrhea, syphilis, or any other disease which can be sexually transmitted and which the Secretary determines is or may be amenable to control with assistance provided under this authority and which is of national significance.

"Venereal disease control program" means a program designed primarily to carry out activities or to provide services to systematically detect and prevent venereal diseases as compared to those activities or services which are designed primarily for the purpose of diagnosing or treating venereal disease patients or suspects.

§ 51b.403 Eligibility.

An applicant must be a State agency or an agency of a political subdivision of a State which has legal responsibility for disease control under the laws of a State.

§ 51b.404 Application.

(a) An applicant for a grant under these regulations shall submit an application to the appropriate Public Health Service Regional Health Administrator.[1] The application shall contain a full description of program objectives, plans, and activities as described in § 51b.405.

(b) The application shall be signed by an individual authorized by the applicant to assume the obligations imposed by these regulations and any additional conditions of the grant.

§ 51b.405 Confidentiality.

All information obtained by program personnel related to the examination, care, and treatment of a participant in this program shall be held confidential. It shall not be divulged without the individual's consent except as may be required by the law of a State or political subdivision of a State or as may be necessary to provide services to the individual. Information may be disclosed in Summary, statistical, or other form which does not identify particular individuals.

§ 51b.406 Description of program.

(a) The application shall include a description of the following:

(1) The nature and extent of the venereal disease problem in the area.

(2) The need for grant support.

(3) The immediate and long-range objectives of the project in specific and measurable terms.

(4) The activities to be carried out to meet the objectives. The following program elements must be included and described:

(i) Venereal disease surveillance.

(ii) Casefinding and case followup.

(iii) Interstate epidemiologic referral and followup.

(iv) Professional and public venereal disease education.

(5) At the option of the applicant, special studies or demonstrations to evaluate or test venereal disease prevention and control strategies and activities.

(6) The manner in which the applicant intends to conduct and evaluate the project, including a system for analysis of morbidity data so that control activities can be efficiently evaluated and targeted.

(7) The present venereal disease control program and the environment in which the proposed program will function, including:

(i) The working relationship of the applicant to private health providers, public health care agencies, and voluntary organizations in the area to be served.

(ii) Actions which will be taken to develop, promote, and enforce appropriate laws and regulations facilitating venereal disease control.

(iii) A description of the diagnostic and treatment services that will be provided.

(8) A budget and justification for the grant funds requested.

(9) Assurances that no one will be denied services because of inability to pay, and that the services are provided in a manner which preserves human dignity and maximizes acceptance.

(10) Other information which supports the request for funds.

(b) When efforts are made to collect payment for services supported in whole or in part from a third party, a rate schedule for third party charges must be submitted with the application and approved as part of the program plan. Under no circumstances may a billing arrangement be made which jeopardizes the confidentiality of patient records.

§ 51b.407 Grant evaluation and award.

(a) Within the limits of funds available, the Secretary may award a grant to assist in meeting the cost of a venereal disease control program. Grants will be awarded to those applicants whose programs he determines will best promote the purposes of Section 318 of the Act. Before awarding a grant to a political subdivision of a State, the Secretary will consult with the State health authority. Priorities for funding will be based on the following factors:

(1) The relative extent of the venereal disease problem in the area served by the applicant.

(2) The design of the venereal disease prevention and control program.

(3) The general quality of the program's plan of operation and objectives in accordance with the requirements in this regulation and the extent to which the project renders services to groups having the highest incidence of venereal disease.

(4) The capacity of the applicant to make effective use of Federal funds.

(5) The commitment of the applicant to the control of venereal disease as reflected in the commitment of applicant resources to the program.

(b) A grant award shall be in writing. It shall set forth the amount of funds granted and the period for which support is recommended.

(c) The approval of a grant application or the award of funds shall not obligate the United States to make additional, supplemental, continuation, or other award to any approved project. The grantee must apply separately for continuing support.

§ 51b.408 Use of grant funds.

Grant funds awarded under this subpart may be used only for programs approved under Section 318(c) of the Act. Unless specifically approved for that purpose, grant funds shall not be used for performing diagnostic tests (other than gonorrhea screening tests), maintaining central registries, providing diagnostic and treatment facilities and services, or automatic data processing. To obtain special approval, the grantee shall justify the exception to the satisfaction of the Secretary

[1] Application forms, manuals, program guidelines, and instructions for preparing grant applications may be obtained from the Regional Health Administrator of the Department of Health, Education, and Welfare for the region in which a control program is to be conducted.

that funds for this purpose are necessary for the proper conduct of the program and are otherwise unavailable. Exceptions will be limited to (a) special studies or demonstrations, (b) the support of developmental or start-up activity, or (c) to the support of an essential service which will result in a saving to a detection or prevention activity supported by the grant. Unless otherwise approved, exceptions based on paragraphs (2) and (3) of this section are only allowed during one funding period. The grantee must assure support of the initiative in subsequent funding periods.

[FR Doc. 78-17427 Filed 6-22-78; 8:45 am]

[4110-86]

Center for Disease Control

[42 CFR Part 71]

FOREIGN QUARANTINE: IMPORTATION OF CERTAIN THINGS

Lather Brushes

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed revision will eliminate the requirement for routine testing for the presence of *Bacillus anthracis* in samples from all commercial shipments of lather brushes into the United States. The revision will authorize selective sampling as necessary to prevent the introduction of cutaneous anthrax into the United States. From experience and cumulative data, the routine sampling requirement in the current regulation appears to be unnecessary and should be eliminated.

DATES: Written comments must be received on or before July 24, 1978. Proposed effective date: 60 days after publication of the final rule in the FEDERAL REGISTER.

ADDRESS: Inquiries may be addressed, and data, views, and arguments may be submitted in writing, in duplicate, to the Director, Center for Disease Control, Attention: Director, Quarantine Division, Bureau of Epidemiology, Atlanta, Georgia 30333. All relevant material received within the comment period will be considered. Comments received will be available for public inspection at the Center for Disease Control, 1600 Clifton Road, N.E., in Room 4067, Atlanta, Georgia, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, Atlanta, Georgia 30333. Telephone number: 404-633-3311, extension 3674.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Cutaneous anthrax is the disease against which existing regulations are designed to provide protection. The last case of cutaneous anthrax in the United States associated with lather brushes occurred in 1930. Since then, lather brush manufacturers have routinely sterilized the animal hair or bristle components of their products.

Current regulations provide that samples of imported lather brushes made from animal hair or bristles are to be bacteriologically examined for the presence of *Bacillus anthracis*. During the past 47 years of bacteriologic testing, every sample has been negative for *Bacillus anthracis*. From experience and cumulative data, the routine sampling requirement appears to be unnecessary and should be eliminated. The proposed revision will provide for selective sampling at the discretion of the Director, Center for Disease Control.

The proposed revision will require certification by the manufacturer. The certification will state that the procedures and methods utilized in the manufacturing of the brushes prevent the contamination or recontamination with viable vegetative forms and spores of *Bacillus anthracis*.

It is, therefore, proposed to revise Section 71.151 entitled "Lather Brushes" in Part 71 of Title 42, Code of Federal Regulations, as set forth below.

NOTE: The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: April 18, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: June 12, 1978.

JOSEPH A. CALIFANO, Jr.
Secretary.

Subpart J—Importation of Certain Things

§ 71.151 Lather brushes.

(a) *Conditions for entry.* Shipments of lather brushes made from animal hair or bristles intended for sale, resale, or other distribution shall not be permitted entry into any port or place under the control of the United States unless such shipments conform with the requirements of this section.

(b) *Identifying mark.* The handles of such brushes shall be permanently marked with the name of the country where the brushes were manufactured and the name of the manufacturer or an identifying symbol, word, device, or other mark which is distinctly associated with the manufacturer.

(c) *Certification.* Each shipment of lather brushes shall be accompanied by a certification, to be submitted to the District Director of Customs, that the brushes have been treated and stored during and subsequent to manufacture in accordance with procedures and methods which prevent contamination or recontamination with viable vegetative forms and spores of *Bacillus anthracis*. The certification shall be in English; it shall identify the manufacturer and bear or describe in detail any identifying symbol, word, device, or other mark placed on the handle of the brush in accordance with paragraph (b) of this section; and it shall be signed by the manufacturer or an authorized representative.

(d) *Special requirements.* The Director, Center for Disease Control may, as he considers necessary to prevent the introduction, transmission, or spread of communicable disease, deny entry of any shipment of lather brushes pending the laboratory examination of samples of the shipment to determine the presence or absence of viable vegetative forms and spores of *Bacillus anthracis*. If such examination indicates that the shipment is free from viable vegetative forms and spores of *Bacillus anthracis*, the Quarantine Officer in Charge shall furnish the District Director of Customs a certificate to that effect. If such examination indicates that the shipment is not free from viable vegetative forms and spores of *Bacillus anthracis*, the Quarantine Officer in Charge shall notify the District Director of Customs that the shipment shall not be permitted entry.

(e) *Disposal of shipments denied entry.* If it is determined that shipments of lather brushes do not meet the requirements of this section, the Quarantine Officer in Charge shall notify the District Director of Customs that such shipments must be denied entry. Such brushes may be returned to the country of origin, within a reasonable period of time, as determined by the Quarantine Officer in Charge, at the expense of the manufacturer or shipper, or be destroyed.

[FR Doc. 78-17135 Filed 6-22-78; 8:45 am]

[4110-35]

Health Care Financing Administration

[42 CFR Parts 405 and 450]

MEDICARE AND MEDICAID PROGRAMS

Membership on Boards of Directors of Carriers, Intermediaries, and Fiscal Agents

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Intent to Issue Regulation.

SUMMARY: This notice requests comments on a proposal to issue a regulation which would require that a majority of the board of directors of any carrier or intermediary participating in the Medicare Program or any fiscal agent participating in the Medicaid Program be public representatives. The regulation would be designed to eliminate the potential conflict of interest which exists when physicians, hospital administrators, and other persons with a financial interest in the delivery of health care services control the board of directors of an organization that administers the payment of Medicare or Medicaid funds to health care providers and also makes determinations as to the need for and appropriateness of medical services.

DATES: Closing date for receipt of comments on or before August 22, 1978.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education and Welfare, P.O. Box 2372, Washington, D.C. 20013.

Please refer to file code MAB-77-NI. Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from today, the public may review the comments on Monday through Friday of each week from 8:30 to 5:00 p.m. at: Health Care Financing Administration, Room 5231, 330 C Street, S.W., Washington, D.C. 20201 (202) 245-0950.

FOR FURTHER INFORMATION CONTACT:

Marty Kappert (301) 594-9415.

SUPPLEMENTARY INFORMATION: Under Part B of the Medicare program (title XVIII of the Social Security Act), which primarily covers physicians' services, the Secretary is authorized to enter into contracts for administration of the program with private organizations engaged in the health insurance business. These organizations perform a variety of functions as agents of the Secretary such as determining the amounts of payment and making the actual payments for physicians' services. Part B carriers are responsible for determining the reasonable charge allowed for covered services and for ensuring that payments are made only for covered services and for those which are medically necessary.

The Secretary has entered into contracts with 45 commercial organizations and one State (Oklahoma) to operate as Part B carriers. Thirty-two of those organizations are Blue Shield group medical insurance plans which average 46 percent physician membership on their boards of directors. The range of physician membership on these boards is approximately 15-80 percent. Of the 32 Blue Shield plans currently serving as carriers, 17 have boards where physicians constitute 50 percent or more of the members. A number of Blue Shield plans which operate in conjunction with hospital insurance plans (Blue Cross) have significant representation of hospital administrators on their boards as well. In 20 of the 32 Blue Shield plans, individuals with a financial interest in the delivery of health care services make up 50 percent or more of the membership on those boards.

The specific concern of the Department is that the influence of physicians on a carrier's board of directors may compromise that carrier's ability to fulfill its duties in the best interests of the Medicare program. Therefore, the Secretary intends to propose a regulation to limit this influence and potential conflict of interest by requiring that at least a majority—and possibly three-quarters—of a carrier's board of directors be consumers or other persons who have no direct or indirect financial interest in the delivery of health care services. Similar restrictions are also being considered for important committees of carrier boards. In addition, the Secretary is considering requiring disclosure by board members and officers of any financial interest in the health care industry, including Medicare or Medicaid payments received by the individual or any organization with which the individual is associated. The purpose of the regulation would be to remove the potential for any institutional conflict of interest by assuring that the medical profession is not in a position to extract benefits for itself through control of carrier boards of directors.

A similar situation exists under Part A of the Medicare program (hospital insurance) where 67 of the 76 intermediaries which administer the program under contract with the Secretary are Blue Cross plans. At least 12 intermediaries also have boards of directors where 50 percent or more of the members have a direct or indirect financial interest in the delivery of health care services. Intermediaries, operating under the guidance of the Medicare Bureau, determine the amount of reimbursement paid to providers (hospitals, skilled nursing facilities and home health agencies) by auditing and approving provider cost reports and engaging in utilization review activities. Since the same potential conflict of interest under Part B is also present under Part A, the Secretary intends to apply the requirement that the majority of a board of directors be consumers or other public representatives to intermediaries as well as carriers.

There are also 22 States in which either Blue Cross or Blue Shield plays a role in the administration of the Medicaid program. This role varies by State from processing only Medicare crossover claims for the aged and disabled to processing all claims for all services covered under the State's Medicaid plan.

Of the 22 States using either Blue Cross or Blue Shield or both, there are 9 instances where persons with a financial interest in the health care industry comprise a majority of the board members.

The Secretary intends to require States to mandate public majorities on the boards of fiscal agents who service their Medicaid program.

We are particularly interested in comments and suggestions regarding:

(1) What specific limitations on membership by physicians, hospital administrators, and other persons with a financial interest in the delivery of health care services should be prescribed for carrier, intermediary or fiscal agent boards of directors; is it sufficient that such individuals not constitute a majority of the board, or is some more stringent limitation appropriate or necessary;

(2) The definition of "persons with a financial interest in the delivery of health care services";

(3) To what extent and how limitations on the composition of boards of directors should extend to nomination and selection committees for board membership and to other board committees;

(4) Whether the regulation should prescribe the manner in which public board representatives are selected and whether a majority should be required to be plan subscribers or consumer representatives;

(5) The length of time which carriers and intermediaries should be given to come into compliance with the regulation;

(6) The means for resolving conflicts with existing State laws which impose requirements for the composition of boards of directors in Blue Cross and Blue Shield plans;

(7) The application of any regulation on the insurance companies other than Blue Cross and Blue Shield which serve as intermediaries, carriers, or fiscal agents;

(8) The nature of the required disclosures of financial interests of board members and officers;

(9) The impact of these limitations on the private business of the carriers, intermediaries, and fiscal agents involved.

AUTHORITY: Section 1816(b), (42 U.S.C. 1395h(b)); Section 1842(f)(1), (42 U.S.C. 1395u(f)(1)); Section 1871, (42 U.S.C. 1395hh); Section 1902(a)(4), (42 U.S.C. 1396a(a)(4); Section 1102, (42 U.S.C. 1302).

Dated: June 20, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: June 20, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-17540 Filed 6-22-78; 8:45 am]

notices

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

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A622]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Hidalgo County, Texas, as a result of drought September 1, 1977, through May 17, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than December 11, 1978, for physical losses and June 13, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of June 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration

[FR Doc. 78-17471 Filed 6-22-78; 8:45 am]

[3410-07]

[Notice of Designation Number A623]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought April 1, 1977, through May 9, 1978, in Edwards County; drought May 19, 1977, through May 19, 1978, in Jim Hogg County; and drought January 1, 1978, through May 15, 1978, in Frio, Lipscomb, Pecos, Reeves, and Ward Counties.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than December 11, 1978, for physical losses and June 14, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 16th day of June 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-17472 Filed 6-22-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service

GRAIN STANDARDS

Nebraska Grain Inspection Point

Statement of considerations. Notice is hereby given that the stock of the Fremont Grain Exchange, Inc. (Exchange), Fremont, Nebraska, an official agency designated pursuant to the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (Act), has been sold to Mr. Eldon L. Davis, the Chief Inspector thereof. The Exchange, which had been operating under the trade name of the Fremont Grain Inspection Department, has changed its corporate name to Fremont Grain Inspection Department, Inc.

The Fremont Grain Inspection Department, Inc., has applied for transfer of the designation in accordance with § 26.96 of the regulations (7 CFR 26.96), under the Act, to operate as the official agency at Fremont, Nebraska. This application does not preclude other interested persons from making similar application.

As a point of clarification, it should be noted that the Act has been amended by Pub. L. 94-582, effective November 20, 1976, and by Pub. L. 95-113, effective October 1, 1977, to extensively modify the official inspection system. The amended Act provides that the Administrator of the Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points.

In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed November 20, 1978.

In order to continue orderly inspection services at Fremont, Nebraska, the Fremont Grain Inspection Department, Inc. was given an interim designation as the official agency at Fremont, Nebraska, effective December 19, 1977, in accordance with § 26.101(a) of the regulations (7 CFR 26.101(a)) under the Act. Accordingly, the interim designation will remain in effect until a determination is made with respect to the requested transfer of designation.

Other interested persons are hereby given opportunity to make application for designation to operate as an official agency at Fremont, Nebraska, pursuant to the requirements in section 7(f)(1)(A) of the Act, as amended (7 U.S.C. 79(f)(1)(A)) and § 26.96 of the regulations (7 CFR 26.96). Interested persons wishing to apply for designation to operate as an official agency at Fremont should contact the Compliance Division, Delegation and Designation Branch for the appropriate forms and submit their applications to the United States Department of Agriculture, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, not later than July 24, 1978.

NOTE.—Section 7(f) of the Act generally provides that not more than one official agency shall be operative at any one time for any geographic area.

Other interested persons are hereby given opportunity to submit their

views and comments regarding the Fremont Grain Inspection Department, Inc. Interested persons who wish to submit their views and comments on this matter should address said views and comments, in writing, to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All views and comments submitted should be in duplicate and mailed to the Hearing Clerk not later than July 24, 1978. All views and comments submitted to the Hearing Clerk pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours. Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before an official designation under the amended Act is either granted or denied in this case.

(Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Effective date. This notice shall become effective June 23, 1978.

Done in Washington, D.C., on June 20, 1978.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 78-17470 Filed 6-22-78; 8:45 am]

[3410-30]

Food and Nutrition Service

CASH IN LIEU OF COMMODITIES

Value of Donated Commodities for School Year 1978

Section 6(b) of the National School Lunch Act, as amended (7 U.S.C. 1755(b)) and regulations governing cash in lieu of commodities (7 CFR Part 240) require the Secretary of Agriculture to make an estimate not later than May 15, 1978, of the value of agricultural commodities and other foods that will be delivered to States under the food donation regulations (7 CFR Part 250) during the school year ending June 30, 1978, for use in lunch programs by schools participating in the National School Lunch Program. If the estimated value is less than the total level of assistance authorized under Section 6(c) of the Act, as amended, for the school year ending June 30, 1978, the Secretary is required to pay to each State administering agency, not later than June 15, 1978, an amount of funds that is equal to the difference the value of such deliveries as then programed for each State and the total level of assistance authorized for such State under Section 6(c).

For school year 1978, the adjusted minimum national average value per lunch of donated foods or payment of cash in lieu thereof has been established under Section 6(a) at 12.75 cents per lunch (43 FR 1110) and, in accordance with these requirements, the Secretary has determined that a total national shortfall of $74,026,743 will occur in the value of foods to be delivered by June 30, 1978. Notice is hereby given, therefore, that the Secretary will make cash payments at the appropriate required levels to each State for the school year ending June 30, 1978, in a total amount of $74,026,743 to compensate for such shortfall. These cash payments will be made upon the terms and conditions contained in the Cash In Lieu of Commodities regulations (7 CFR Part 240), and particular attention is called to the following provisions of these regulations:

(1) The provisions of this notice do not apply to the States of Kansas and Vermont. Kansas receives all cash payments in lieu of donated foods under Section 16(a) of the National School Lunch Act, as amended, and Vermont's commodity entitlement for school year 1978 has been totally provided in donated food deliveries.

(2) The amount of funds to be paid to each of the other States shall be equal to the difference between the total value of donated foods programed for delivery to such State before June 30, 1978, for use in the National School Lunch Program and the total value obtained by multiplying 12.75 cents times the total number of lunches served under the National School Lunch Program in all the schools in such State during school year 1978. *Provided, however,* That in any State in which the Food and Nutrition Service Regional Office, hereinafter referred to as FNSRO, directly administers the school lunch program in any of the schools of the State, the Secretary shall withhold from the funds so determined an amount that bears the same ratio to the total of such payment as the number of lunches served in schools in which the Program is directly administered by FNSRO during school year 1978, bears to the total of such lunches served under the Program in all the schools in such State during this school year.

(3) The funds to be made available in accordance with this notice shall be distributed to the State educational agencies (and in Montana, also to the State Department of Health and Environmental Sciences) by means of a Department of the Treasury check. The total funds to be paid to each State administering agency are shown in the table below.

(4) State agencies and FNSROs shall promptly and equitably disburse the funds received under this Notice to all school food authorities participating in the National School Lunch Program, except those which chose not to receive donated agricultural commodities or other foods during this school year for any reason.

(5) On or before disbursing funds to participating school food authorities State agencies and FNSROs shall notify them of the reason for this special disbursement; the amount, if possible, of funds they will receive; and that such funds shall be used only for the purchase of United States agricultural commodities and other foods for their food service program. Such foods shall be limited to those that meet the requirements for lunches set forth in § 210.10 of the National School Lunch Program regulations and for breakfast set forth in § 220.8 of the School Breakfast Program regulations; and purchase shall be made in compliance with the procurement standards set forth in §§ 210.19(a) and 220.16 of the regulations.

Apportionment of funds for cash payments to State agencies and regional offices in lieu of food commodities programed for distribution to schools during school year 1978:

State	Total	State agency	Regional office
Alabama	$1,871,290	$1,839,478	$31,812
Alaska	118,029	118,029	.....
Arizona	1,006,591	1,006,591	.....
Arkansas	555,476	546,033	9,443
California	8,860,924	8,860,924	.....
Colorado	1,115,014	1,089,369	25,645
Connecticut	1,296,030	1,296,030	.....
Delaware	139,011	139,011	.....
District of Columbia	346,378	346,378	.....
Florida	3,644,027	3,644,027	.....
Georgia	4,022,921	4,018,898	4,023
Guam	57,752	57,752	.....
Hawaii	735,120	690,278	44,842
Idaho	211,704	211,704	.....
Illinois	3,495,333	3,495,333	.....
Indiana	103,631	103,631	.....
Iowa	755,170	755,170	.....
Kansas	(1)	(1)	(1)
Kentucky	615,512	615,512	.....
Louisiana	1,626,888	1,626,888	.....
Maine	263,416	248,401	15,015
Maryland	1,311,711	1,311,711	.....
Massachusetts	3,206,848	3,206,848	.....
Michigan	32,105,293	3,105,293	.....
Minnesota	1,254,545	1,254,545	.....
Mississippi	1,438,559	1,438,559	.....
Missouri	1,148,337	1,147,189	1,148
Montana	242,720	[2]234,225	.....
Do	.....	[3]485	8,010
Nebraska	568,584	525,940	42,644
Nevada	314,575	314,575	.....
New Hampshire	463,078	463,078	.....
New Jersey	2,933,561	2,933,561	.....
New Mexico	230,745	230,745	.....
New York	848,045	848,045	.....
North Carolina	2,278,952	2,278,952	.....
North Dakota	86,843	80,677	6,166
Ohio	881,412	819,713	61,699
Oklahoma	784,123	784,123	.....
Oregon	528,881	528,881	.....
Pennsylvania	5,693,390	5,693,390	.....
Puerto Rico	1,270,560	1,270,560	.....
Rhode Island	178,886	178,886	.....
Samoa, American	48,474	48,474	.....
South Carolina	1,292,613	1,274,516	18,097
South Dakota	283,763	283,763	.....
Tennessee	1,780,717	1,755,787	24,930
Texas	4,269,399	4,175,472	93,927
Trust Territory	189,814	189,814	.....
Utah	741,865	741,865	.....
Vermont	(4)	(4)	(4)
Virginia	2,491,846	2,454,468	37,378

State	Total	State agency	Regional office
Virgin Islands	59,408	59,408	
Washington	1,076,383	1,047,321	29,062
West Virginia	439,667	439,667	
Wisconsin	1,667,816	1,667,816	
Wyoming	75,113	75,113	
Total	74,026,743	73,572,902	453,841

[1]Received all cash under sec. 16(a) of the National School Lunch Act.
[2]Montana Office of Public Instruction.
[3]Montana Department of Health and Environmental Sciences.
[4]Value of donated food deliveries met total entitlement.

Effective Date. This notice shall become effective June 15, 1978.

Dated: June 15, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-17093 Filed 6-22-78; 8:45 am]

[3410-15]

Rural Electrification Administration

ASSOCIATED ELECTRIC COOPERATIVE, INC., SPRINGFIELD, MISSOURI

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $1,408,315,000 to Associated Electric Cooperative, Inc., Springfield, Missouri. These loan funds will provide Associated with financing required for construction of the 630 MW coal-fired Thomas Hill Power Plant Unit No. 3 and associated coal mine facilities, a 21.739 percent undivided ownership interest in Public Service Company of Oklahoma's Black Fox Station Units 1 and 2, and approximately 240 miles of 345 kV transmission line.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Gerald F. Diddle, Manager, Associated Electric Cooperative, Inc., P.O. Box 754, Springfield, Missouri 65801.

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

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

Dated at Washington, D.C., this 15th day of June, 1978.

DAVID A. HAMIL,
Administrator, Rural Electricification Administration.

[FR Doc. 78-17148 Filed 6-22-78; 8:45 am]

[3410-15]

WESTERN FARMERS ELECTRIC COOPERATIVE

Draft Envirornmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with possible financing assistance for Western Farmers Electric Cooperative, Post Office Box 429, Anadarko, Oklahoma 73005.

The anticipated financing assistance would provide Western Farmers with the financing required for the construction of a 400 MW coal-fired steam-electric generating station to be located near the town of Hugo, in Choctaw County, Oklahoma. Also related to the project is twenty-nine circuit miles of new transmission lines in southeastern Oklahoma to interconnect the new plant with the existing transmission system.

Additional information may be obtained from Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guideline. The Draft Environmental Impact Statement may be examined during business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4314 or at the headquarters of Western Farmers Electric Cooperative whose address is given above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Richter at the address given above. Comments must be received on or before August 22, 1978 to be considered in connection with the proposed financing assistance.

Any financing assistance by REA pursuant to this proposed project will be subject to, and release of funds thereunder will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with environmental statement procedure required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 14th day of June, 1978.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc. 78-17147 Filed 6-22-78; 8:45 am]

[3410-22]

Science and Education Administration

JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES

Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972, Public Law 92-463, notice is hereby given of a meeting of the Joint Council on Food and Agricultural Sciences at 9:00 a.m. on July 13 and 14, 1978, in Room 330, GHI Building, 500 12th Street, S.W., Washington, D.C. 20250.

The purpose of the meeting is to receive reports from several ad hoc and standing subcommittees and initiate further measures to foster coordination of the agricultural research, extension, and teaching activities of the Federal, State, and private sectors of the country.

The meeting is open to the public and oral or written comments may be presented. Copy of the agenda and further information concerning the meeting may be obtained from Dr. James Nielson, Acting Director of Science and Education, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3801.

Done at Washington, D.C., this 19th day of June 1978.

JAMES NIELSON,
Acting Director, Science and Education.

[FR Doc. 78-17416 Filed 6-22-78; 8:45 am]

[3410-16]

Soil Conservation Service

NEWMAN LAKE WATERSHED, SPOKANE COUNTY, WASHINGTON

Intent To Not Prepare a Supplement to the Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that a supplement to the final environmental impact statement is not being prepared for the Newman Lake Watershed Project, Spokane County, Washington.

The environmental assessment of this federally-assisted action indicates that the amended project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Galen S. Bridge, State Conservationist, has determined that the preparation and review of a supplement to the final environmental impact statement prepared September 1974, is not needed for this project.

The project originally concerned a plan for watershed protection, flood prevention, and fish and wildlife habitat improvement and management. However, because of prevailing social and political considerations and excessive local costs to the sponsoring organizations, the measures that were planned to beneficially effect fish and wildlife resources have been deleted. Remaining works of improvement include a conservation land treatment program, a snow course, a gated-outlet structure, approximately 3.8 miles of channel work, a water-level control structure and stream gage, a floodwater barrier along the lake and improvement of a natural sink area.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by contacting Mr. Galen S. Bridge, State Conservationist, Soil Conservation Service, 360 U.S. Courthouse, Spokane, Washington 99201; 509-456-3711. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until after July 24, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566 (16 U.S.C. 1001-1008).)

Dated: June 14, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-17442 Filed 6-22-78; 8:45 am]

[6335-01]

SOUTH DAKOTA

Hearing

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on July 27, 1978, at the Rushmore Plaza Civic Center, Room 103, 444 Mount Rushmore Road North, Rapid City, South Dakota. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians.

Dated at Washington, D.C., June 20, 1978.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc. 78-17402 Filed 6-22-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

UNIVERSITY OF ROCHESTER, ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket number: 78-00156. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: Photochron II Image Converter Streak Camera tube with S-20 photocathode and U-V window for operations at 250mm wavelengths. Manufacturer: Instrument Technology Ltd., United Kingdom. Intended use of article: The article is intended to be used in building a fast streak camera needed for the study of the feasibility of heating targets with a pulse high power to produce thermonuclear reactions. Application received by Commissioner of Customs: May 26, 1978.

Docket number: 78-00178. Applicant: National Radio Astronomy Observatory Associated Universities Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, Arizona 85705. Article: Klystron, Model VRB2113A30. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: May 30, 1978.

Docket number: 78-00181. Applicant: University of Texas Health Science Center at Houston, Medical School; Dept. of Pathology and Lab. Medicine, P.O. Box 20708, Houston, TX 77025. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for both thin and thick sectioning of a variety of tissues. Among the specimens studied will be kidney and muscles which present soft tissue, and bone which, although it may be decalcified represents hard tissue. Human pathological studies will be conducted to provide a back-up to the light microscopic findings on

patients and to aid in providing the basis for future diagnostic EM work. Application received by Commissioner of Customs: May 30, 1978.

Docket number: 78-00243. Applicant: National Cancer Institute—National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of animal and human specimens in the following investigations: (1) ultrastructural studies on viruses normal and pathologic human and animal tissues, (2) cyto and histochemical studies on virus and subcellular organelle localization in cells and tissues, (3) membrane interactions at host-virus interfaces, and (4) subcellular changes in cells induced by infection with viruses. The objective of these studies is to further basic knowledge on virus, cell and tissue ultrastructure and to reveal, at the ultrastructural level, the localization and distribution of cancer viruses in cells and tissues under normal, experimental and pathological conditions. Application received by Commissioner of Customs: May 23, 1978.

Docket number: 78-00244. Applicant: Shriners Burns Institute, 610 Texas Avenue, Galveston, Texas 77550. Article: Electron Microscope, Model JEM-100CX SEG High Resolution and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of a variety of biological materials including human skin and scars, vascular tissues, endocrine tissues, cell membranes, etc. The ultrastructural and biological aspects of hypertrophic scars will be characterized and compared in studies designed to elucidate the differences between these scars and normal skin. The permeability of capillaries and venules of the scar tissues to electron dense markers will be examined in a variety of scars of various ages and origins in studies designed to investigate the etiology of hypertrophic scars and keloid formations in man. Application received by Commissioner of Customs: May 26, 1978.

Docket number: 78-00245. Applicant: University of California, San Diego, Mail Code M-013A, Dept. of Medicine, La Jolla, CA 92093. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section animal tissues which will be investigated in an attempt to understand how pulmonary capillary morphology affects ventilation, blood flow and gas exchange. Application received by Commissioner of Customs: May 26, 1978.

Docket number: 78-00247. Applicant: Duke University Eye Center, Durham, NC 27710. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter, AB, Sweden. Intended use of article: The article is intended to be used to produce ultra-thin sections for electron microscopic examination; primarily eye tissues. Studies underway include: determination of the development of scar tissue in the injured eye, examination of the tissues of the eye for possible drug-induced changes and examination of tissue removed from the eye during surgery (biopsy) to determine the exact nature of the underlying disease and possibly find explanations for the development of the eye disease. Medical students and postdoctoral research fellows will be trained in the use of the article as part of their training in research. Application received by Commissioner of Customs: May 26, 1978.

Docket number: 78-00248. Applicant: Brookhaven National Laboratory, Medical Department, 30 Bell Avenue, Upton, New York 11973. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of biological materials, both human and experimental animal in a program on Inhalation Toxicology. Investigations will include ultrastructural studies on normal and pathological tissues by histochemical, morphometric, autoradiographic and x-ray elemental analysis techniques. Tissues will originate from experiment animals exposed to controlled environments in specially-designed inhalation chambers, as well as human pathological cases. Application received by Commissioner of Customs: May 26, 1978.

Docket number: 78-00249. Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: 2(Two) Each 80 mm dia. by 12.7 mm thick disc Faraday Rotator Material Hoya Designation FR-5. Manufacturer: Hoya Corporation, Japan. Intended use of article: The article is intended to be used in the construction of a high peak power twenty-four beam line laser system which will form the basis of a national user's facility at the University, to which scientists throughout the country may come to perform scientific experiments on the feasibility of generating energy via laser-induced thermonuclear fusion. The discs will enable the laser system to generate the quality and quantity of laser light required by the facility to investigate the potential of laser induced thermonuclear fusion for helping to solve the country's energy problems. Application received by Commissioner of Customs: May 30, 1978.

Docket number: 78-00251. Applicant: Virginia Institute of Marine Science, Route 17, Gloucester Point, Virginia 23062. Article: Turbidity Monitor Marine Sensor. Manufacturer: Spectrum Electric Ltd., Canada. Intended use of article: The article is intended to be used for measuring the suspended sediment of thick fluid mud on the floor of estuaries and rivers which is discharged from dredge pipes. An experiment will be conducted to determine the extent, thickness and rate of movement of the fluid mud which is detrimental to ecology. Application received by Commissioner of Customs: May 30, 1978.

Docket number: 78-00252. Applicant: Vanderbilt University (Chemistry Department), Nashville, TN 37235. Article: JNM/FX-90Q High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a wide range of different experiments in the areas of organic chemistry, inorganic chemistry, analytical chemistry, biochemistry, pharmacology and related biomedical sciences. Categories of the principal research projects which will use the article are:

(i) *Characterization of newly synthesized organic compounds* including (1) alkaloids, (2) polyketides, (3) terpenes, (4) prospective drugs, (5) nonbenzenoid polycyclic aromatic compounds, (6) novel chelating agents, (7) novel amino acids and (8) intermediates in their syntheses.

(ii) *Characterization of novel organic compounds obtained from natural sources* including terpenes, alkaloids, polyketides and compounds of uncertain classification.

(iii) *Metabolic studies of natural products in the organism from which they originate.* Biosynthesis of terpenes, polyketides, alkaloids and aromatic amino acids; studies of the further transformations of these natural products by the organisms.

(iv) *Metabolism of natural products in organisms other than those from which they originate.* Metabolic activation of relatively harmless natural substances to form toxic compounds.

(v) *Metabolism of synthetic compounds.* In particular, the metabolic fate of drugs in mammalian systems. Example: metabolism of barbiturates and hydantoins.

(vi) *Characterization of the products of enzyme-mediated reactions.* One example would be the characterization of products of enzymic hydrolysis of N-acyl derivatives of complex amino acids as a method for determining absolute configurations.

(vii) Structural studies of novel organometallic compounds and inorganic complexes. (1) Transition metal car-

bene complexes, (2) chelates of metalloacetylacetonates, (3) coordination compounds of the antitumor agent cyclophosphamide.

(viii) Dynamic studies. (1) Mechanism of antibiotic action of the ristocetin-group antibiotics—a study of the association of aliphatic peptides with the antibiotics to determine the site of binding, (2) studies of the molecular basis of toxicity of compounds such as moniliformin which appear to owe their toxicity to reversible binding processes, (3) identification of active coordination sites for heavy metals in multidentate chelating agents containing several polarizable sites, (4) studies of isomer-conformer equilibria in chiral compounds such as clozapine which derive asymmetry from ring distortions. In addition, the article will be used for teaching purposes in several courses, the most important being Chemistry 221, Laboratory Techniques in Organic Chemistry and Chemistry 222, Advanced Organic Chemistry. Application received by Commissioner of Customs: May 30, 1978.

Docket number: 78-00246. Applicant: Duke University, Durham, North Carolina 27706. Article: Electron Microscope, Model EM 9S-2 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the study of the normal and pathological structures of the eye. The experiments to be conducted include the evaluation of specimens taken from human eyes during surgery (biopsies) to study the nature of eye diseases. Specifically, specimens will be taken from the inside of the eye during vitrectomy and from diseased corneas that are removed at the time of corneal transplantation. Other animal experiments are planned to study the potential benefits of drugs injected into the eye. In further animal experiments, fibroblasts will be injected into the vitreous cavity to simulate intraocular scar tissue formation as it occurs after eye injury. The objective of all studies is to better understand human eye disease and by simulating these diseases in animal eyes to find appropriate medications to treat them. In addition, the article will be used to teach medical students as well as post-doctoral fellows in electron microscopic techniques. Application received by Commissioner of Customs: May 26, 1978.

Docket number: 78-00250. Applicant: University of California, Purchasing Department, 1156 High Street, Santa Cruz, 95064. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacture: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrathin sectioning of tissues in the following varied research:

(1) Biochemical isolation of the organelles of the glyoxylate cycle in seedling tissues.

(2) Investigation of the effect of different fixation techniques on bacterial mesosome morphology.

(3) A study of the cellular basis for the hormone—dependent transport process.

(4) A study of the development of lower plants.

(5) A study of the structure, function and maintenance of visual photoreceptor membranes.

(6) A comparative ultrastructural study of the juvenile and adult cuticle, as well as will type and mutant strains.

(7) Ultrastructural studies of pit connections; algal host a parasites, the method of spore attachment to various substrates.

(8) A study of the developmental genetics of *Drosophila*.

The article will also be used for educational purposes in the courses: Biology 246L, Biology 299 and Chemistry 299. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: May 30, 1978.

Docket number: 78-00256. Applicant: University of Wisconsin-Madison Plasma Physics, 1150 University Ave., Madison, WI 53706. Article: 35 GHz, 15W Extended Interaction Oscillator, Type VKQ 2420E. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be used in a microwave scattering experiment in which density fluctuations in the plasma will be probed revealing their characteristic frequencies and wavelengths. The density fluctuations to be studied are common to octupoles, tokamaks, and many other devices. Application received by Commissioner of Customs: June 2, 1978.

Docket number: 78-00259. Applicant: Hahnemann Medical College, 230 N. Broad Street, Philadelphia, Pa. 19102. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to examine biological materials and inorganic particles. The research projects will include: (a) morphometry of cytoplasmic organelles in liver cell injury, (b) analysis of subcellular differentation in embryonic tissues and tumors, (c) ultrastructural cytochemistry of basement membrane formation, (d) analysis of the structure and function of Legionnaires' disease organism. In addition, the article will be used in the course entitled General and Systemic Pathology for both medical and graduate students. Application received by Commissioner of Customs: June 2, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-17377 Filed 6-22-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

CHARLES M. AND VIRGINIA JURASZ

Issuance of Permit

On April 21, 1978, Notice was published in the FEDERAL REGISTER (43 FR 17025), that an application had been filed with the National Marine Fisheries Service by Charles M. and Virginia P. Jurasz, Sea Search, Ltd., P.O. Box 93, Auke Bay, Alaska 99821, for a permit to take by harassment an unspecified number of cetaceans in Alaskan waters for the purpose of scientific research.

Notice is hereby given that on June 15, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Permit to Charles M. Jurasz and Virginia P. Jurasz, for the above taking subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that such permit: 1) was applied for in good faith; 2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and 3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service Regulations governing endangered species permits (39 FR 41367, November 27, 1974).

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: June 15, 1978.

WINFRED L. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-17410 Filed 6-22-78; 8:45 am]

[3510-22]

SEA ARTISTS ENTERPRISES, WALTER MOSER-JACKLE LTD.

Issuance of Permit to Take Marine Mammals

On April 21, 1978, notice was published in the FEDERAL REGISTER (43 FR

17025), that an application had been filed with the National Marine Fisheries Service by Sea Artists Enterprises, Walter Moser-Jackle Ltd., 8640 Rapperswil, Schweiz, for a Public Display Permit to take three (3) Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that on June 16, 1978, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Sea Artists Enterprises Ltd., subject to certain conditions set forth therein. The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries, Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33701.

Dated: June 16, 1978.

WINFRED H. MEIBOHM,
Associate Director National Marine Fisheries Service.

[FR Doc. 78-17411 Filed 6-22-78; 8:45 am]

[3510-17]

Office of the Secretary

[Dept. Organization Order 10-3, Amdt. 1]

ASSISTANT SECRETARY FOR INDUSTRY AND TRADE

Statement of Organization and Functions and Delegation of Authority

This order effective June 7, 1978 amends the material appearing at 42 FR 64721 of December 28, 1977.

Department Organization Order 10-3, dated December 4, 1977 is hereby amended as shown below. The purpose of this amendment is to amend certain authorities delegated to the Assistant Secretary for Industry and Trade.

In section 4. Delegation of authority: a, Subparagraph .01d. is revised to read as follows:

"d. Executive Order 11490 of October 28, 1969, as amended by Executive Order 11921 of June 11, 1976, as it relates to the development of national emergency preparedness plans and programs covering production and distribution of materials, production facilities, construction materials and regulation and control of exports and imports;"

b. Subparagraph .01u. is revised to read as follows:

"u. The Nuclear Non-Proliferation Act of 1978 (Pub. L. 95-242; 92 Stat. 120) and Executive Order 12058 of May 11, 1978, pertaining to nuclear exports and related matters."

c. Subparagraph .01aa. is revised to read as follows.

"aa. Executive Order 11961 of January 19, 1977, as amended by E.O. 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under Sections 4(a) (1), (2), (3), and (4), and 4(b) of the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, Office of the Chief Economist (Department Organization Order 35-1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary;"

d. Subparagraph .01ff. is revised to read as follows:

"ff. The Export Administration Amendments of 1977, Pub. L. 95-52, sections 119, and 120, 91 Stat. 243, relating to an investigation to determine whether United States unilateral controls or multilateral controls in which the United States participates should be removed, modified, or added with respect to particular articles, materials, and supplies, including technical data and other information, in order to protect the national security of the United States, a study of the domestic economic impact of exports from the United States of industrial technology; and a study of the transfer of technical data and other information to any country to which exports are restricted for national security purposes and the problem of the export, by publications or any other means of public dissemination, of technical data or other information from the United States, the export of which might prove deterimental to the national security or foreign policy of the United States, except the submission of reports to the Congress required by these sections shall be reserved to the Secretary; and"

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-17385 Filed 6-22-78; 8:45 am]

[3510-17]

[Dept. Organization Order 25-5A, Amdt. 4]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Statement of Organization and Functions and Delegation of Authority

This order effective June 7, 1978 further amends the materials appearing at 42 FR 35672 of July 11, 1977, 43 FR 6127 of February 13, 1978, 43 FR 6128 of February 13, 1978 and 43 FR 21497 of May 18, 1978.

Department Organization Order 25-5A of June 3, 1977 is hereby further amended as shown below. The purpose of this amendment is to delegate to the Administrator, NOAA the Secretary's authority to act under Public Law 95-194, which amends the Fishermen's Protective Act of 1967.

In section 3. Delegation of authority, A new subparagraph 3.01hh. is added to read as follows:

"hh. The functions prescribed by the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1977-1980)."

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-17386 Filed 6-22-78; 8:45 am]

[3510-13]

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Preliminary Finding of Need to Accredit Testing Laboratories That Test Freshly Mixed Field Concrete

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Notice of Preliminary Finding of Need.

SUMMARY: Pursuant to the Procedures for a National Voluntary Laboratory Accreditation Program (15 CFR Part 7) this notice announces the Secretary's preliminary finding of need to accredit testing laboratories that test freshly mixed field concrete. The notice sets out the basis for the preliminary finding of need, including how accrediting testing laboratories which test field concrete would benefit the public interest and why there is a national need to accredit testing laboratories beyond that served by existing laboratory evaluation programs. The notice also identifies applicable product standards and test methods for which testing laboratories would be required to demonstrate competence in order to be accredited. Finally, the notice describes the testing laboratory community from which requests for accreditation can be anticipated, the community of users that is believed will desire services of testing laboratories accredited to test freshly mixed concrete, and assesses the feasibility and practicality of accrediting testing laboratories that test such field concrete.

DATES: Written comments are due on or before August 7, 1978. A request for an informal hearing may be made before July 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy As-

sistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3221)

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER on February 25, 1976 (41 FR 8163-8168), the Assistant Secretary for Science and Technology, Department of Commerce, promulgated procedures (15 CFR Part 7) for the operation of a National Voluntary Laboratory Accreditation Program (NVLAP). As announced in that notice, the goal of the program is to provide, in cooperation with the private sector, a national voluntary system to examine, upon request, the professional and technical competence of private and public testing laboratories that serve regulatory and nonregulatory product evaluation and certification needs. The program will accredit those laboratories that meet the qualifications established under the procedures.

Section 7.4(b) of the procedures sets out the requirements to be met by those persons who seek to have the Secretary of Commerce find that there is a need to accredit testing laboratories which render services relating to a specific product. By letter of December 3, 1976, the National Ready Mixed Concrete Association (NRMCA), Silver Spring, Maryland, filed a request that the Secretary of Commerce find that there is a need to accredit testing laboratories which test field concrete. The requestor is a representative of a major segment of commerce which provides field concrete and which uses testing laboratories on a regular basis.

The original request of December 3, 1976 identified the product as ready-mixed concrete made from materials continuously batched or mixed in a continuous mixer manufactured and delivered to a purchaser in a freshly mixed and unhardened state. The request includes those testing laboratories which: (1) Conduct strength tests of the concrete; (2) determine slump of the concrete sample; (3) determine air content for each strength test; (4) determine air content and unit weight of lightweight concrete; and (5) determine the temperature of the concrete sample for each strength test.

Resources were not available until early in 1978 to process the request. On March 16, 1978 a letter requesting clarification of some points in the request was sent to the requestor. NRMCA responded in a letter of March 20, 1978 which contained the basic information in the original request plus a response to the clarifications requested. In considering the need for a NVLAP program for field concrete, this letter of March 20, 1978 is used as the formal request.

This request has been analyzed and evaluated, resulting in the preliminary finding of need for a National Voluntary Laboratory Accreditation Program serving freshly mixed field concrete as shown below.

PRELIMINARY FINDING OF NEED

The request of the National Ready Mixed Concrete Association that the Secretary find that there is a need to accredit testing laboratories which test freshly mixed structural hydraulic cement concrete has been carefully considered. The analysis of the request is contained in the report entitled "NVLAP Summary and Analysis Report, Field Concrete" hereinafter referred to as the Summary and Analysis Report. A copy of this report in addition to the letters of request are part of the formal record of this proceeding and are available for inspection and copying in the Department's Control Reference and Records Inspection Facility, Room 5316, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230.

Identification of the Product (Section 7.4(b)(1)). The request is in conformity with § 7.4(b)(1) of the procedures as it identifies the product for which testing services would be performed as "freshly mixed structural hydraulic cement concrete as used in construction, commonly known as field concrete." However, the term field concrete can include other concrete products as well. An analysis of the request discloses that in order to avoid confusion and to more clearly respond to the intent of the requestor, the product for which testing services would be provided should be identified as "freshly mixed field concrete."

Text of an Applicable Standard and Test Methods (Section 7.4(b) (2) and (3). The request complies with § 7.4(b)(2) of the procedures in that it identifies the applicable standards as Sections 14 and 16 of ASTM C 94-74a (American Society for Testing and Materials), Sections 9 and 10 of ASTM C 685-74, and Chapter 16.3.4-16.3.8 of ACI 301-72 (American Concrete Institute). The request complies with § 7.4(b)(3) of the procedures in that test methods are included which are applicable to the referenced product standards.

Basis of Need (Section 7.4(b)(4). The requester includes in his request information relative to the five items set out in § 7.5 of the procedures. Such information is provided on each item in the discussion below entitled *Basis for Preliminary Finding of Need for Accrediting Testing Laboratories that Serve Freshly Mixed Field Concrete.*

The Number of Testing Laboratories that is Believed Will Want to be Accredited to Serve Freshly Mixed Field Concrete (Section 7.4(b)(4)(i)). The requester of this laboratory accreditation (LAP) program makes use of CCRL data and mailing lists of over 1,600 establishments in estimating that 630 concrete testing laboratories are active in the business of testing concrete. The actual participation in the CCRL laboratory examination program (for fees of approximately $800 per inspection once every 30 months) is 359 establishments. This number has grown by 138 percent in 17 years. The requester suggests that the participation in the CCRL program is probably the best basis for estimating the potential initial participation in a LAP for freshly mixed field concerete.

The Number of Users of Testing Laboratories that is Believed Will Desire Services of Testing Laboratories Accredited to Serve Freshly Mixed Field Concrete (Section 7.4(b)(4)(ii)). The requester identifies 21 organizations which either require or encourage CCRL examinations as a basis for laboratory acceptability. Although the requester does not estimate the number of users of laboratories that would be impacted by these organizations' requirements, it is implied that the numbers seeking accredited laboratories would be significant, assuming that such accreditations are based upon CCRL-type examinations. Examples in the government sector include the Bureau of Public Roads; the General Services Administration; portions of the military services; Pennsylvania; Massachusetts; New York City; San Diego; and Dade County, Florida. Examples in the private sector include major contractors in nuclear power plant construction, the Consulting Engineers and Ready Mixed Concrete Association of Ohio, the New York University Construction Fund, the General Contractors Association and the Ready Mixed Concrete Association of Georgia.

In view of the above information, it is concluded that the submitted request meets the requirements of § 7.4 of the procedures.

Basis of Preliminary Finding of Need for Accrediting Testing Laboratories That Serve Freshly Mixed Field Concrete (Section 7.5). The basis for this preliminary finding of need, keyed to the information items listed in Section 7.5 of the NVLAP procedures, are as follows:

1. *Whether the establishment of general or specific criteria and other conditions for accrediting testing laboratories that serve freshly mixed field concrete would benefit the public interest (Section 7.5(a)).* Inaccurate testing can economically affect the public in three ways: (1) By requiring the use of more cement than necessary in concrete products to meet higher strength designs needed to assure safety and to compensate for testing uncertainty thus raising the cost of the concrete; (2) by causing retesting to be done,

thus adding to the cost of quality control; and (3) by causing poor concrete to be accepted which eventually has to be removed and replaced at a significant cost or by causing good concrete to be rejected at an obvious cost. Comprehensive data are not available to determine the full extent of these costs. However, estimates have been made as described in the Summary and Analysis Report which indicate that the annual cost of accepting poor concrete and rejecting good concrete would be at least $12.5 million, the annual cost of improper testing may be as much as $12.9 million and the annual cost of overdesign may be at least $20.0 million. The requestor speculates that the actual benefits might be four to five times greater than these modest estimates. A laboratory accreditation program (LAP) which would significantly reduce these costs appears to be in the public interest as the public indirectly shares the cost of concrete used in roads and other public works and in homes and industrial and commercial construction.

2. *Whether there is a national need to accredit testing laboratories for freshly mixed field concrete beyond that served by any existing laboratory accreditation programs in the public or private sector (Section 7.5(b)).* As noted by the requestor, there is currently in existence a voluntary program which examines concrete testing laboratories but does not accredit them or provide related data to the public. This program, the Cement and Concrete Reference Laboratory (CCRL) sponsored by the American Society for Testing and Materials, which provides a testing laboratory inspection service reporting findings and deficiencies to the laboratories being tested, has proven to be valuable in improving the quality of test data. Providing accreditation to qualified laboratories on the basis of examination should enhance such improvement, encourage more testing laboratories to seek evaluation and provide needed information to users.

The heads of twelve Federal agencies were contacted by letter and asked to provide their views relative to the potential need for NVLAP serving freshly mixed field concrete. Replies were received from eleven agencies. Six of the agencies (Department of Health, Education and Welfare, Department of Housing and Urban Development, Department of Interior, Veterans Administration, General Services Administration, Department of Navy) concurred that a need exists over and above the current CCRL program. Two agencies (Consumer Product Safety Commission, Federal Trade Commission) generally supported the need for testing laboratory accreditation but did not have interest in concrete. The Nuclear Regulatory Commission judged that an accreditation program based on the standards imposed would not be of significant value to the Commission because of its limited use of structural grade concrete. NRC believes that it would be necessary to upgrade the current CCRL inspection program and that a more comprehensive program than that proposed could have substantial value. Two agencies (Department of Transportation (Federal Highway Administration) and U.S. Army Corps of Engineers) did not support the need for such an accreditation program, indicating that the CCRL program is adequate for their needs.

The requestor, the National Ready Mixed Concrete Association which represents the suppliers of the majority of all field concrete, has demonstrated its view that a need exists for NVLAP serving freshly mixed field concrete by requesting the program on behalf of its members.

In addition to the economic benefits described previously, the requestor claims, without elaboration, that additional benefits of the requested program should accrue in the following ways.

(a) Improved testing procedures resulting in greater protection of the public and construction workers from structural failures.

(b) Improved testing and quality control resulting in improved field concrete quality and greater service life to the consuming public.

(c) Reduction in disputes over field concrete quality that disrupt the construction process and result in economic loss.

(d) Increased professional recognition for testing laboratories and their personnel.

(e) Better utilization of declining supplies of high-quality aggregates.

(f) More effective utilization of poor aggregates.

(g) Better utilization of waste materials as aggregates.

(h) More effective utilization of cements manufactured with waste materials. (Important factors in energy conservation and environmental protection.)

(i) Facilitates the use of new cements such as expansive cements.

(j) Supports the steadily increasing need for higher strength concretes.

3. *Whether for the specific product involved, there is in existence a standard that is deemed by the Secretary as being of importance to commerce, consumer well-being, or public health and safety (Section 7.5(c)).* Data from the Cement Chapter, *Minerals Yearbook*, of 1975 published by the Bureau of Mines, Department of the Interior, indicate that 43 million tons, or 63.3 percent of the cement shipped in 1975 went to ready mixed concrete producers. This will produce approximately 172 million cubic yards of ready mixed concrete worth $4.2 billion, with an estimated in-place value of $16.0 billion. Practically all of this would be categorized as freshly mixed concrete.

As stated above, the request identifies the applicable standards as Sections 14 and 16 of ASTM C 94-74a (American Society for Testing and Materials), Sections 9 and 10 of ASTM C 685-74, and Chapter 16.3.4-16.3.8 of ACI 301-72 (American Concrete Institute). Although the requestor does not intend "* * * to exclude any structural concrete furnished to meet the requirements of Section 4.35 of ACI 318-71 * * *," it seems apparent that Section 4.3. pertains to testing of hardend field concrete, not to freshly mixed field concrete. For this reason, it is deleted in the preliminary finding of need as an applicable standard.

Items 1 through 4 in Appendix 1 specifically identify the product standards which are deemed to be of sufficient importance to commerce and the public health and safety to be included in a program for freshly mixed field concrete. Only those sections and chapters of the standards, as indicated, are to be included, as these pertain to the testing of freshly mixed field concrete. It is recognized that other sections and chapters of the referenced standards which relate to specifications and test methods for other concrete may be of importance. Public comments concerning this matter are encouraged.

4. *Whether there is in existence a valid testing methodology as determined by the Secretary for ascertaining conformity to the standard of freshly mixed field concrete (Section 7.5(d)).* To the extent that their performance is required by the proposed product standards, the applicable test method standards would be those indicated by current designation and title as items 5 through 12 in Appendix 1. Current issues of these standard test methods will be applicable, unless otherwise specified in future editions of the referenced product standards. One test method standard not specified in the formal letter of request, ASTM C 567-71, Standard Test Method for Unit Weight of Structural Lightweight Concrete is referenced in the applicable product standards. Chapter 16.3.7 of ACI 301-72 requires performance of this test method for lightweight freshly mixed field concrete but since the test is only occasionally used and is not identified specifically in the requestor's listing of test methods to be included in this finding (page 2 of the requestor's letter of March 20, 1978), this appears to be one of the tests the requestor has intentionally excluded. It will be excluded on that basis in this preliminary finding of need. The testing methods identified in Items 5 through

12 of Appendix 1 are deemed valid testing methods for ascertaining conformity to the standards. Only those parts of each test method that are required in verifying conformity to the standards are considered in this preliminary finding. The specific sections and chapters of the standards to be included in the laboratory accreditation program and the test methods referenced in those standards are shown in Appendix 2. Public comments dealing with specific test methods to be used are encouraged. For instance, the General Services Administration has suggested that a new test method, ASTM C 873-77T, Tentative Test Method for Compressive Strength of Concrete Cylinders Cast in Place in Cylinder Molds might well be added to the applicable test methods.

5. *Whether it is feasible and practical to accredit testing laboratories that serve freshly mixed field concrete (Section 7.5(e)).* The operations of the Cement and Concrete Reference Laboratory (CCRL), which has been in existence since 1929 and which is funded by the user testing laboratories, demonstrate that it is feasible and practical to examine testing laoboratories using the standards and test methods cited.

The CCRL examination is based on detailed criteria, on site laboratory inspection, and a reference sampling program. A National Voluntary Laboratory Accreditation Program for freshly mixed field concrete would employ similar features changed to the extent necessary to respond to appropriate criteria proposed by the Secretary of Commerce and to accommodate public comment received after proposed criteria have been published. The laboratory examination program of CCRL has been so extensive that there is little question that an appropriate evaluation of testing laboratories that test freshly mixed field concrete is both feasible and practical.

Summary and Preliminary Conclusions. Nationwide, users of concrete testing laboratories recommend or require evaluation of the capabilities of such laboratories. An existing program, CCRL, partially fulfills this need by providing examination reports (but without conclusions of a laboratory's capability) to hundreds of laboratories that voluntarily request and pay fees for CCRL examination services. Working in coordination with the CCRL Program, which for many years has proven to be both practical and feasible in providing examinations of concrete testing laboratories, a NVLAP for the testing of freshly mixed field concrete can provide more significant service to meet national needs. By providing a national focus for the coordination and establishment of criteria and methodology for evaluation of examination data, and for the identification of qualified laboratories by means of publicly announced accreditations, a NVLAP will more adequately serve concrete testing laboratories and their users. A NVLAP will also provide increased stature and public recognition to laboratories beyond that provided by CCRL, thereby encouraging larger numbers of laboratories to participate and to upgrade and maintain their competencies.

Concrete is widely used in roads and in other public works, in homes and in commercial, industrial and public buildings. As the public directly or indirectly shares the cost of production of concrete, improvements in the efficiency and productivity of the concrete producing and construction industries can benefit the public interest. Improved testing of field concrete can reduce by millions of dollars economic losses now experienced by the concrete producing industry and its customers. Quality control testing that now costs ready mixed concrete producers $43 million annually can be improved since 30 percent (or $12.9 million) of complaints and difficulties that now arise are traceable to improper testing practices. Replacement costs of substandard concrete due to inadequate testing is estimated to be at least $12.5 million annually. Additional savings to be derived from improved testing relate to a reduction in requirements for overdesigning the strength of concrete, generally practiced to affect the variability of materials and testing now experienced in concrete production. Reduction of testing variability to one-half of current values can save $20 million annually in the quantity of cement used in overdesigning the strength of concrete. Attendant annual savings of $4 million in energy conservation may be realized as it has been estimated that 20 percent of cement production costs derive from fuel consumption.

It is concluded that a NVLAP for freshly mixed field concrete, based upon the test methods proposed (Items 5 through 12 in Appendix 1), would be practical and feasible.

Preliminary Finding of Need. The request to find that there is a need to accredit testing laboratories which test freshly mixed field concrete has been carefully examined and analyzed. Based on that examination and analysis, which are described above, it is hereby preliminary found that a need exists to accredit testing laboratories that test freshly mixed field concrete as required by the three standard specifications set out as the first three items in Appendix 1 of this notice. The test methods, including recommended practices, that are included under this preliminary finding of need are those listed in items 4 through 12 of Appendix 1 to this notice.

Request for Comments. Interested persons desiring to comment on the preliminary finding of need set out above are invited to submit such comments, in four copies, on or before August 7, 1978, to the Assistant Secretary for Science and Technology, Department of Commerce, Room 3864, Main Commerce Building, Washington, D.C. 20230.

Any person desiring to express his or her views in an informal hearing relative to the mentioned preliminary finding of need shall do so by communicating that desire in writing on or before July 10, 1978, to the Assistant Secretary for Science and Technology at the address shown in the preceding paragraph. Upon receipt of such request, informal public hearings will be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to the opportunity to make written submissions. If deemed appropriate, such hearings may be held at two locations, one of which shall be east of the Mississippi River and the other west thereof. Notice of such hearings will be published in the FEDERAL REGISTER at least twenty (20) days in advance thereof. A transcript will be made of any oral presentation.

Procedure Following Receipt of Comments. Upon receipt of the comments submitted in response to this notice, including the testimony of any hearings that may be held in conjunction therewith, a full and complete evaluation of such comments and testimony will be undertaken. Upon completion of that evaluation, a notice will be published in the Federal Register announcing a final finding of need to accredit testing laboratories which render measurement services for the testing of field concrete in accordance with frequently referenced test methods or withdrawing the preliminary finding of need announced in this notice. In either event, the notice will set out the basis for the final finding of need or for the withdrawal of the preliminary finding of need.

On the basis of formal contact with 12 Federal agencies, it does not appear at this time that this NVLAP in the area of freshly mixed field concrete will affect an existing or developing testing laboratory examination or accreditation program of a Federal regulatory agency.

The Department stated in the preamble accompanying the publication in the FEDERAL REGISTER of the final procedures for NVLAP (41 FR 8163, dated February 25, 1976) that each laboratory accreditation program under NVLAP procedures to accredit testing laboratories that serve a specific product would be carefully examined and evaluated before any final finding of need regarding such program is issued to ascertain whether such project would have a major inflationary impact under the criteria de-

scribed in Executive Orders 11821 and 11949.

On March 23, 1978, President Carter issued Executive Order 12044, "Improving Government Regulations," which, among other things, supplants the requirements of Executive Orders 11821 and 11949 regarding inflationary review and analysis procedures for government programs. While the proposed directive to implement EO 12044 and proposed Department Organization Order 218-7 for organizations within the Office of the Assistant Secretary for Science and Technology (43 FR 23193-23195) excludes procedures and their implementing specifications governing voluntary compliance programs and standards, it is, nevertheless, in the public interest and within the spirit of EO 12044, and consistent with our previous statement made in the FEDERAL REGISTER in connection with EO 11821 and 11949 (41 FR 8163, dated February 25, 1976), to examine carefully whether this NVLAP program would have major economic consequences. A statement regarding this examination will be included in the notice of final finding of need or the notice withdrawing this preliminary finding of need to accredit testing laboratories serving freshly mixed field concrete.

If, after the comments have been received and analyzed, the Secretary should publish a final finding of need, the NVLAP procedures call for the establishment of a National Laboratory Accreditation Criteria Committee for Freshly Mixed Concrete or use of an existing committee. Since there is no existing criteria committee under NVLAP with expertise in this product area, a new committee would have to be formed. In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), a charter setting forth the objectives and scope of the Committee's activity, a description of the duties for which the committee is responsible, and an estimated number of frequency of committee meetings would have to be prepared. If a final finding of need is made, the NVLAP procedures require the Secretary to publish simultaneously with the publication of such final finding of need a separate notice in the FEDERAL REGISTER announcing the Secretary's intention to form such Criteria Committee. Furthermore, the separate notice would outline the size and basis for selection of the members of the Committee. In addition to comments pertaining to the preliminary finding of need set out above, we are also inviting comments at this time on the objectives and scope of a Criteria Committee and on the size and basis for selection of the members of such Committee.

Documents in Public Record. The documents mentioned or otherwise referenced in this notice are part of the public record and are available for inspection and copying in the Department's Central Reference and Records Inspection Facility (CRRIF), Room 5316, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230. Such documents include the December 3, 1976 request filed by the NRMCA, the follow-up letter of March 20, 1978 by the NRMCA which is considered as the basis for this preliminary finding of need, and the Summary and Analysis Report and its appendices, which was referred to earlier in this notice.

All written and oral comments and testimony that are furnished in response to the invitation made by this notice will also be made part of the public record and will be available for inspection and copying in the CRRIF.

Issued: June 16, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

APPENDIX 1

Standard Specifications and Test Methods Applicable to the Preliminary Finding of Need for a NVLAP on Freshly Mixed Field Concrete.

Description and title

1. ASTM C 94-74a, Sections 14 and 16: Standard Specification for Ready-Mixed Concrete.
2. ASTM C 685-74, Sections 9 and 10: Standard Specification for Concrete Made by Volumetric Batching and Continuous Mixing.
3. ACI 301-72, Chapter 4.3 thru 4.3.4: ACI Standard Specifications for Structural Concrete for Buildings.
4. ACI 318-71, Chapter 16.3.4 thru 16.3.8:[1] ACI Standard Building Code Requirements for Reinforced Concrete.
5. ASTM C 31-69 (1975): Standard Method for Making and Curing Concrete Test Specimens in the Field.
6. ASTM C 39-72: Standard Test Method for Compressive Strength of Cylindrical Concrete Specimens.
7. ASTM C 138-75: Standard Test Method for Unit Weight, Yield, and Air Content (Gavimetric) of Concrete.
8. ASTM C 143-74: Standard Test Method for Slump of Portland Cement.

NOTE: ASTM: American Society for Testing and Materials. ACI: American Concrete Institute.

9. ASTM C 172-71: Standard Method of Sampling Fresh Concrete.
10. ASTM C 173-75: Standard Test Method for Air Content of Freshly Mixed Concrete by the Volumetric Method.
11. ASTM C 192-69: Standard Method of Making and Curing Concrete Test Specimens in the Laboratory (field concrete tests only).
12. ASTM C 231-75: Standard Test Method for Air Content of Freshly Mixed Concrete by the Pressure Method.

APPENDIX 2.—*Test methods required in each of the standard specifications and the standard code*

ASTM test methods referenced by standard	Standard specifications			
	ASTM C94-74a, secs. 14 and 16	ASTM C685-74, secs. 9 and 10	ACI 318-71, ch. 4.3-4.3.4	ACI 301-72, ch. 16.3.4-16.3.8
Compression test specimens C31	X	X	X	X
Compression test C39	X	X	X	X
Yield and air content C138	X	X		X
Slump C143	X	X		X
Sampling C172	X		X	X
Test specimens C192			X	X
Air content C231	X	X		X
Air content C173	X	X		X

[FR Doc. 78-17430 Filed 6-22-78; 8:45 am]

[1505-01]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

ANNOUNCING IMPORT RESTRAINT LEVELS UNDER NEW MULITIFIBER AGREEMENT WITH THE REPUBLIC OF CHINA

Correction

In FR Doc. 78-16908 appearing at page 26102 in the issue of Friday, June 16, 1978, in the third column the last entry under the heading of category should be corrected to read as follows:

648 ..... 2,882,549 dozen.

[1] Test method ASTM C 567-11 referenced in Chapter 16.3.7 is specifically excluded by the requester because it is only occasionally referenced.

[3510-25]

ANNOUNCING IMPORT RESTRAINT LEVELS UNDER NEW MULTIFIBER AGREEMENT WITH THE REPUBLIC OF CHINA

Correction

JUNE 20, 1978.

On June 16, 1978, there was published in the FEDERAL REGISTER (43 FR 26102) a letter dated June 15, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing levels of restraint for certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of China and exported to the United States during the twelve-month period which began on January 1, 1978. The level of restraint published in that letter for Category 641 should have been 584,997 dozen, instead of 548,997 dozen.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-17455 Filed 6-22-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

IMPROVING GOVERNMENT REGULATIONS

Response to Executive Order No. 12044

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Request for public comment.

SUMMARY: This is to obtain comments on the Committee's proposal to implement Executive Order No. 12044, Improving Government Regulations (43 FR 12661, March 24, 1978).

DATE: Comments are due August 22, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

Plans for the Implementation of Executive Order No. 12044

This report implements Executive Order No. 12044 which directs Federal agencies to adopt procedures to improve existing and future regulations. The objectives of the procedures are to insure that:

(a) The need for and purposes of the regulation are clearly established;

(b) Heads of agencies and policy officials exercise effective oversight;

(c) Opportunity exists for early participation and comment by other Federal agencies, State and local governments, businesses, organizations, and individual members of the public;

(d) Meaningful alternatives are considered and analyzed before the regulation is issued; and

(e) Compliance costs, paperwork, and other burdens on the public are minimized.

The Committee for Purchase from the Blind and Other Severely Handicapped (hereafter "the Committee") adopts the following procedures for processing proposed regulations:

(a) Continue the involvement of the Executive Director in the preparation and processing of new or revised regulations;

(b) Continue the practice of obtaining approval by the Committee members of new or revised regulations;

(c) Insure that regulations are written in nontechnical language and understandable by those individuals directly concerned as well as the public;

(d) Continue to send advance copies of proposed regulations to interested parties; namely, the Federal agencies directly concerned and central nonprofit agencies and to incorporate appropriate comments resulting from their review; and

(e) Allow the public at least 60 days to comment on its proposed regulations.

The Committee has no regulations which are significant under the criteria of section 2(e) of the Executive Order. There are no subject areas within the present jurisdiction of the Committee in which significant regulations under those criteria would be necessary.

The Committee has no regulations nor contemplates any regulations with major economic consequences within the meaning of section 3 of the Executive Order.

The Committee will apply the following criteria for selecting portions of its existing regulations to be reviewed: (a) the continued need for the particular part of the regulations; (b) the need to simplify and clarify the requirements; and (c) the type and number of complaints or suggestions received.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-17438 Filed 6-20-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1978 a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 26, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following service to Procurement List 1978, November 14, 1977 (42 FR 59015):

SIC 0782

Grounds Maintenance, Edwards Air Force Base, California. For the following buildings: 1200, 1220, 1400, 2650, 2660, 2800, 3940, and P-1.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-17436 Filed 6-22-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD CLOSE AIR SUPPORT SUBGROUP

Meeting

JUNE 7, 1978.

The USAF Scientific Advisory Board Close Air Support Subgroup of the Joint Army Science Board/Air Force Scientific Advisory Board Summer Study on Battlefield Systems will meet on July 10, 1978 in the Pentagon, Washington, D.C. from 9:00 a.m. to 5:00 p.m.

The Group will receive classified briefings and hold classified discussions on various foreign systems as well as projected U.S. command and control systems. The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-17443 Filed 6-22-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD AIR DEFENSE SUBGROUP

Meeting

JUNE 7, 1978.

The USAF Scientific Advisory Board Air Defense Subgroup of the Joint Army Science Board/Air Force Scientific Advisory Board Summer Study on Battlefield Systems will meet on July 12 and 13, 1978 from 8:30 a.m. to 5:00 p.m. each day at the Pentagon, Washington, D.C.

The Group will receive classified briefings and hold classified discussions on various foreign systems as well as projected U.S. command and control systems. The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-17444 Filed 6-22-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JUNE 14, 1978.

The USAF Scientific Advisory Board/Army Science Board Summer Study on Battlefield Systems will meet for two weeks during the period July 17 through 28, 1978 at the United States Air Force Academy, Colorado Springs, Colorado.

The Study Group will receive classified briefings and hold classified discussions on foreign systems as well as projected U.S. command and control systems. The second week of the meeting will be devoted to writing a report of the Study Group's findings.

The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-17445 Filed 6-22-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

PETROLEUM PRODUCTION AT MAXIMUM EFFICIENT RATE, NAVAL PETROLEUM RESERVE NO. 1 (ELK HILLS), KERN COUNTY, CALIFORNIA DOE/EIS-0012-D

Availability of Draft Environmental Impact Statement and Public Hearing

Notice is hereby given that the Department of Energy (DOE) has issued the draft Environmental Impact Statement, DOE/EIS-0012-D, Petroleum Production at Maximum Efficient Rate, Naval Reserve No. 1 (Elk Hills), Kern County, California, pursuant to DOE's implementation of the National Environmental Policy Act of 1969.

Under Public Law No. 94-258, the Naval Petroleum Reserves Production Act of 1976, the Naval Petroleum Reserves were opened up for production at maximum efficient rates (MER) consistent with sound engineering practices, for a period of six years. Additional open-up periods of three years each are also authorized if recommended by the President and approved by the Congress. A major objective of this Act was to increase domestic petroleum production. The draft environmental impact statement (DEIS) has been prepared by the Department of Energy to support consideration of these matters.

MER production is expected to peak at approximately 260,000 barrels per day (B/D) of crude oil in 1981. The law also provides that the Reserve shall be produced in a manner which will secure maximum hydrocarbon recoveries. Consistent with this mandate, the producing reservoirs are pressure maintained by the injection of residue natural gas and water. Production at this peak rate will be reached after a rapid buildup and then gradually decline. The proposed project involves: operation of collection, distribution, and injection systems for oil, gas, and water; operation of existing and new gas processing facilities to handle up to 354,000,000 cubic feet per day; loading of up to 1,500,000 gallons per day of gas liquids to trucks and railroad cars; operation of surface handling facilities for disposal of up to 30,000 B/D of produced wastewater; operation of electric power distribution systems, cathodic protection systems, and support facilities; construction and use of well drilling access roads and the rehabilitation of existing primary road systems.

All facilities are located at NPR-1, in western Kern County, California, with the following exceptions: (a) existing Chevron gas processing facility at McKittrick (two miles west of NPR-1) for handling 60,000,000 cubic feet per day; and (b) new gas liquids pipeline system, railroad spur, and railroad car loading facility to be located either east of Taft (six miles south of NPR-1) or east of Buttonwillow (four miles north of NPR-1).

Copies of the DEIS have been distributed for review and comment to appropriate Federal, California State and local agencies and other organizations and individuals who are known to have an interest in this matter. Comments and views concerning the DEIS are requested from other interested agencies, organizations and individuals.

Copies of the DEIS are available for public inspection at the following locations:

Avenal Branch Library, 236 Fresno, Avenal, CA.
San Luis Obispo County Library, Avila Beach Branch, 191 San Miguel, Avila Beach, CA.
Coalinga Unified School District Library, 305 North 4th Street, Coalinga, CA.
Colton Public Library, 380 North La Cadena Drive, Colton, CA.
Fresno County Public Library, 2420 Mariposa Street, Fresno, CA.
Kings County Library, 320 West Temple Street, P. O. Box 111, Los Angeles, CA.
San Francisco Public Library, Main Library, Civic Center, San Francisco, CA.
Oxnard Public Library, 214 South C Street, Oxnard, CA.
Palmdale Library, 902 East Avenue 09, Palmdale, CA.
Port Hueneme Library, 510 Park Avenue, Port Hueneme, CA.
Santa Barbara Public Library, 40 East Anapamu Street, P. O. Box 1019, Santa Barbara, CA.
San Bernardino County Library, 104 West 4th Street, San Bernardino, CA.
San Luis Obispo County Library, 888 Morro Street, San Luis Obispo, CA.
Taft Branch Library, 27 Emmons Park Drive, Taft, CA.
Sacramento Public Library, 8228 I Street, Sacramento, CA.
Library, Room 1223, Department of Energy, 20 Massachusetts Avenue, NW, Washington, DC.
Department of Energy, Room 2107, 12th Street and Pennsylvania Avenue NW, Washington, DC.
Ventura County Library Services Agency, 651 East Main Street, P. O. Box 771, Ventura, CA.
San Francisco Operations Office, 1333 Broadway, Oakland, CA.

Single copies of the DEIS will be furnished for review and comment upon request addressed to: Mr. Richard T. Russell, P.E., environmental Coordinator, Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Elk Hills, P. O. Box 40, San Bruno, CA 94066, (415) 877-7064, or Dr. Robert J. Stern,

Office of NEPA Affairs, Department of Energy, Room 7119, Federal Building, 12th and Pennsylvania Avenues, NW, Washington, DC 20461, (202) 566-9760.

Comments on the DEIS should be sent to: Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Elk Hills, P. O. Box 40, San Bruno, CA 94066, by September 1, 1978, in order to be considered in the preparation of the final environmental impact statement.

Notice is also given that DOE will conduct a public hearing in connection with the DEIS, for the receiving of oral and/or written statements and testimony concerning the DEIS. The hearing will be held on August 1, 1978, from 2:00 pm to 5:00 pm and from 7:00 pm to 10:00 pm, at the City Council Chambers, 1501 Thruxton Avenue, Bakersfield, California.

The hearing will be conducted by a three-person Presiding Board. Two members of the Board will constitute a quorum if one member is the Chairman. The hearing will be legislative rather than adjudicatory in nature. Formal discovery, subpoena of witnesses, cross-examination of participants, testimony under oath and similar formal procedures appropriate to a trial-type hearing will not be provided.

Persons, organizations, government agencies or public officials wishing to make oral presentations at the hearings should notify the Officer in Charge of Construction, Naval Facilities Engineering Command Contracts, Elk Hills, P. O. Box 40, San Bruno, California 94066, prior to July 31, 1978. Oral statements at the hearings will be limited to ten minutes, unless previous arrangements have been made for more time. Written copies of these comments are not required; however, if they can be made available at the time of the hearings it will be appreciated. To the extent that time remains after the presentations by those who have given advance notice, the Presiding Board will provide others present an opportunity to make a statement.

The Department will make available appropriate staff to explain the background and purpose of the Naval Petroleum Reserve operations and the contents of the DEIS, and respond to appropriate questions.

In addition to controlling the course of the hearing, the Presiding Board may examine participants in order to elicit fuller information, probe sensitive issues, and discover the basis and sources of views, so as to produce a satisfactory record upon which the Department may evaluate the concerns of the interested public.

A transcript of the hearing will be made. The record of the hearing shall consist of the transcript, and all documents received by the Presiding Board.

After the close of the hearing record, the Presiding Board shall render its Report. The Report shall be based upon the Presiding Board's review of the draft environmental impact statement and the hearing record and shall: (a) identify those unresolved issues raised at the hearing which the Presiding Board deems to be critical to future decisions concerning the operations, and (b) present the recommendations of the Presiding Board concerning the treatment of these issues in the final environmental impact statement in a manner which will promote informed decisionmaking. In discharging its function, however, the Presiding Board shall not undertake to resolve issues or render judgment concerning the course of the operations. The hearing record and the Board Report will be placed in the appropriate locations as soon as practical after the close of the hearing, where it will be available for inspection by members of the public. These documents will be considered in the preparation of the final environmental impact statement and in making determinations concerning the operation of the Naval Petroleum Reserve.

Dated at Washington, DC this 19th day of June 1978.

For the United States Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-17387 Filed 6-22-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. CI60-134, et al.]

AMERICAN PETROFINA CO. OF TEXAS, ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JUNE 15, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before June 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [3]	Pressure base
CI60-134, C, May 12, 1978.....	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	South Texas Natural Gas Gathering Co., Emil H. Meyerhoff unit, Shepherd field, Hidalgo County, Tex.	(1)	14.65
CI70-28, D, May 26, 1978.....	Caroline Hunt Schoellkopf, 2500 1st National Bank Bldg., Dallas, Tex. 75202.	Arkansas Louisiana Gas Co., Gilmer area, Upshur County, Tex.	Uneconomical for purchaser to take proportionate share of the gas.	
CI76-629, C, June 8, 1978.....	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., west Cameron block 66, offshore Louisiana.	(2)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI77-281, C, June 8, 1978	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Michigan Wisconsin Pipe Line Co., Hugoton-Anadarko area, Hansford County, Tex.	(2)	14.65
CI77-327, C, Feb. 9, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., upper Penn formation of sec. 10-21S-36E, Eddy County, N. Mex.	(4)	14.65
CI77-697, C, Dec. 27, 1977	Texaco Inc., P.O. Box 3109, Midland, Tex. 79702.	Panhandle Eastern Pipe Line Co., Hannas draw (Douglas) field, Hansford County, Tex.	(5)	14.65
CI78-833, A, May 30, 1978	Louisiana Land & Exploration Co., 225 Baronne St., P.O. Box 60350, New Orleans, La. 70160.	Columbia Gas Transmission Corp., certain acreage located in bayou, jean La Croix field, Terrebonne Parish, La.	(2)	15.025
CI78-834, B, May 30, 1978	Phillips Petroleum Co. to plant operator, Warren Petroleum Co., a division of Gulf Oil Corp., et al., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Warren Petroleum Co., a division of Gulf Oil Corp., et al., Golden Trend field, McClain County, Okla.	Contract will terminate on Aug. 28, 1978 and there has been no gas production from this lease since June 1967.	
CI78-835, B, May 30, 1978	Inexco Oil Co., Suite 1900, 1100 Milam Bldg., Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, southwest Mermentau field, Acadia Parish, La.	(6)	.....
CI78-836, A, May 31, 1978	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	South Texas Natural Gas Co., Yzaguierre field, Starr County, Tex.	(2)	14.65
CI78-837, B, June 2, 1978	Cities Service Co	Mobil Oil Corp., at or near wellheads on Cities' Brown "J", Burnside "A", Donaldson "A", Griffin "B", Hughey "C" and Rembert "A" leases, east Texas field, Gregg County, Tex.	(7)	.....
CI78-838, A, June 2, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Kansas-Nebraska Natural Gas Co., White Hawk operated Smith-Sutton gas unit located in sec. 27-22S-15W, Pawnee County, Kans.	(2)	14.65
CI78-839, A, June 2, 1978	Southland Royalty Co. (operator), 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102.	Natural Gas Pipeline Co. of America, Morrow Formation from the State "19" Com. No. 1 well located in sec. 19-T19S-R28E, Eddy County, N. Mex.	(2)	14.73
CI78-841, A, June 5, 1978	General Crude Oil Co., P.O. Box 2252, Houston, Tex. 77001.	Florida Gas Transmission Co., Erck No. 4 well, McGill Ranch field area, Kenedy County, Tex.	(2)	14.65
CI78-842, B, June 8, 1978	Bob M. Lloyd, 125 North Van Buren, Henderson, Tex. 75652.	Mid Louisiana Gas Co., Hatch Bend, Richland Parish, La.	A profitable operation is not possible with small volume and low unit prices.	
CI78-843, A, June 5, 1978	Elf Aquitaine, Inc., 950 Threadneedle, Suite 200, Houston, Tex. 77079.	El Paso Natural Gas Co., Notsowaw No. 2 well and Ojo-He-He No. 4 well, Waw field, San Juan County, N. Mex.	(2)	15.025
CI78-844, A, June 5, 1978	Union Oil Co. of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	United Gas Pipe Line Co., block 84, Vermilion area, offshore Louisiana.	(2)	15.025
CI78-845, A, June 5, 1978	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa Okla. 74114.	Michigan Wisconsin Pipe Line Co., west Cheyenne field, Roger Mills County, Okla.	(8)	14.65
CI78-846, A, June 5, 1978	Helmerich & Payne, Inc	Michigan Wisconsin Pipe Line Co., east Hinton field, Canadian County, Okla.	(8)	14.65
CI78-847, A, June 5, 1978	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Cities Service Gas Co., stock pond WI unit No. 1 well, sec. 11-T22N-R95W, Sweetwater County, Wyo.	(2)	15.025
CI78-848, A, June 5, 1978	Appalachian Exploration & Development, Inc., P.O. Box 1473, Charleston, W. Va. 25325.	Equitable Gas Co., certain acreage in Nicholas County, W. Va..	(9)	14.65
CI78-849, A, June 7, 1978	Amoco production co	Cities Service Gas Co. certain acreage in Sweetwater County, Wyo.	(2)	15.025
CI78-850, A, June 7, 1978	Texas Pacific Oil Co., Inc., 1700 1 Main Place, Dallas, Tex. 75250.	Michigan Wisconsin Pipe Line Co., High Island area, block A-309, offshore Texas.	(10)	14.65
CI78-851, A, June 7, 1978	Chevron U.S.A. Inc., 1111 Tulane Ave., New Orleans, La 70112.	Southern Natural Gas Co., blocks 120, 236, and 237 and portion of blocks 122 and 133, main pass area, offshore Louisiana.	(2)	15.025
CI78-852, A, June 7, 1978	Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Calif. 94120.	Natural Gas Pipeline Co. of America, block 288, South Marsh Island area, north addition, offshore Louisiana.	(2)	15.025
CI78-853, A, June 7, 1978	.....do	Natural Gas Pipeline Co. of America, west Cameron block 549, offshore Cameron Parish, La.	(2)	15.025
CI78-854, A, June 8, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Co., J. W. Campbell No. 2-56 well located in the SW/4 of sec. 56, block 1, H&GN survey, Hemphill County, Tex., limited to the upper Morrow formation.	(2)	14.65
CI78-855, A, June 8, 1978	Southland Royalty Co., 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co., Almond formation from the north sheep camp No. 1 well located in sec. 9-T22N-R97W, and from the south sheep camp No. 1 well located in sec. 25-T22N-R97W, both in Sweetwater County, Wyo.	(2)	14.73
CI78-856, A, June 1, 1978	Southland Royalty Co	Michigan Wisconsin Pipe Line Co., Mississippi formation from the Rother No. 1-34 well located in sec. 34-T21N-R15W, Major County, Okla.	(2)	14.73
CI78-857, B, June 9, 1978	Reynolds Mining Corp., Reynolds Bldg., Richmond, Va. 23218.	Arkansas Louisiana Gas Co., Gragg field, Sebastian County, Ark. (Tomlin No. 1 well).	Plugged and abandoned.	
CI78-858 (CI76-143), B, June 9, 1978.	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla. 73125.	Natural Gas Pipeline Co. of America, certain acreage in Brazoria County, Tex.	(11)	.....
CI78-859, A, June 9, 1978	Union Oil Co. of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	Texas Gas Transmission Corp., block 237, west Cameron area, offshore Louisiana.	(2)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-860, A, June 9, 1978.....	The Offshore Co., P.O. Box 2765, Houston, Tex. 77001.	Southern Natural Gas Co., block 34, east Cameron area, offshore Louisiana.	(2)	15.025
CI78-861, A, June 9, 1978.....	McCulloch Oil & Gas Corp., 10800 wilshire Blvd., Suite 1500, Los Angeles, Calif. 90024.	Northern Natural Gas Co., No. 1-1 McCartor well, sec. 1-T18N-R23W, Ellis County, Okla.	(2)	14.65
CI78-862, B, June 12, 1978.....	Wessely Energy Corp., 2001 Bryan Tower, Suite 953, Dallas, Tex. 75201.	Panhandle Eastern Pipe Line Co., No. 1-2 Farris unit, sec. 2-16N-19W, Dewey County, Okla.	(12)	.....
CI78-745, C June 13, 1978.....	Southland royalty Co., 1000 Fort Worth Club Tower, Fort worth, Tex. 76102.	El Paso Natural Gas Co., Clay No. 1-30 well located in the SW/4 of sec. 30-T14N-R25W, Reydon field, Roger Mills County, Okla.	(13)	14.65
CI78-748, A, June 5, 1978.....	Mesa Petroleum, Co., P.O. Box 2009, Amarillo, Tex. 79189.	El Paso Natural Gas Co., south Carlsbad Morrow field and an undesignated Morrow field, Eddy County, N. Mex.	(2)	14.73
CI76-334, C, July 5, 1977.....	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle eastern Pipe Line Co., H. A. Creek and Thunder Creek fields, Campbell and Weston Counties, Wyo.	(14)	14.65

[1] Applicant is filing under gas purchase contract dated Nov. 1, 1958, ratified and amended on Apr. 12, 1978.
[2] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[3] Applicant is filing under gas purchase agreement date Oct. 1, 1976, amended by amendment dated Nov. 7, 1977.
[4] Applicant is filing under letter agreement dated Jan. 6, 1977, amended by amendments dated Aug. 11, 1977 and Nov. 2, 1977.
[5] Applicant requests the Commission grant a certificate of public convenience and necessity authorizing the foregoing sale, including the right to apply the volumes sold thereunder to reduce its payback obligation in Texaco Inc., et al., docket Nos. CI77-329, et al. The estimated quantity of proven reserves covered by this application, as amended, is 1,500,000 Mcf.
[6] The Woodrow Smith lease was released due to depletion and the Desormeaux lease was relinquished as a result of a law suit instituted by the landowner.
[7] Cities' contract with Mobil has expired. Cities' will gather the casinghead gas for processing at its East Texas gasoline plant and will deliver the residue gas to United Gas Pipe Line Co.
[8] Applicant is filing under gas purchase contract dated Jan. 11, 1978.
[9] Applicant is filing under gas purchase contract dated May 11, 1978.
[10] Applicant is filing under gas purchase contract dated May 16, 1978.
[11] The Todd Oil unit 2, well No. 2, was plugged and abandoned June 7, 1977 and delivery and sale of all gas from such unit dedicated to interstate commerce under Kerr-McGee's FERC gas rate schedule No. 134 has consequently ceased.
[12] Economically unfeasible for purchaser to connect No. 1-2 Farris unit well to purchaser's pipeline system because of the small percentage of recoverable reserves owned by seller and distance between well and purchaser's facilities.
[13] Applicant is filing under gas purchase agreement dated Apr. 17, 1978, amended by supplemental gas purchase agreement dated May 31, 1978.
[14] Applicant is filing under gas purchase and sales agreement dated Jan. 5, 1976, amended by amendment dated June 13, 1977.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.

[FR Doc. 78-17334 Filed 6-22-78; 8:45 am]

[6740-02]

1976 OIL PIPELINE VALUATION REPORTS

Notice of Finality

JUNE 19, 1978.

Jurisdiction over oil pipelines, as it relates to the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission (ICC) to the Federal Energy Regulatory Commission (FERC), pursuant to Sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009, 42 FR 46267 (September 15, 1977).

The FERC, by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

The Board has issued the tentative 1976 annual valuation reports for the following common carriers by oil pipelines:

Acorn Pipeline Company, Docket No. PV-1364
Alleghany Pipeline Company, Docket No. PV-1414
Amdel Pipeline, Inc., Docket No. PV-1439
American Petrofine Pipe Line Company, Docket No. PV-1440
Amoco Pipeline Company, Docket No. PV-1302
Arapahoe Pipe Line Company, Docket No. PV-1378
ARCO Pipe Line Company, Docket No. PV-1329
Ashland Pipe Line Company, Docket No. PV-1291
Badger Pipe Line Company, Docket No. PV-1381
Belle Fourche Pipeline Company, Docket No. PV-1430
Black Lake Pipe Line Company, Docket No. PV-1425
Buckeye Pipe Line Company, Docket No. PV-1322
Butte Pipe Line Company, Docket No. PV-1362
Calnev Pipe Line Company, Docket No. PV-1404
Chevron Pipe Line Company, Docket No. PV-1416
Cheyenne Pipeline Company, Docket No. PV-1368
Chicap Pipe Line Company, Docket No. PV-1427
Cities Service Pipe Line Company, Docket No. PV-1312
Collins Pipeline Company, Docket No. PV-1433
Colonial Pipeline Company, Docket No. PV-1422
Continental Pipe Line Company, Docket No. PV-1316
Cook Inlet Pipe Line Company, Docket No. PV-1426
CRA, Inc., Docket No. PV-1341
Crown Central Pipe Line & Transportation Corporation, Docket No. PV-1352
Crown-Rancho Pipe Line Corporation, Docket No. PV-1365
Diamond Shamrock Corporation, Docket No. PV-1349
Dixie Pipeline Company, Docket No. PV-1411
Emerald Pipe Line Corporation, Docket No. PV-1385
The Eureka Pipe Line Company, Docket No. PV-1338
Exxon Pipeline Company, Docket No. PV-1394
Four Corners Pipe Line Company, Docket No. PV-1389
Gulf Central Pipeline Company, Docket No. PV-1436
Gulf Refining Company, Docket No. PV-1333
Hess Pipeline Company, Docket No. PV-1409
Hydrocarbon Transportation, Inc., Docket No. PV-1431
Jayhawk Pipeline Corporation, Docket No. PV-1406
Jet Lines, Inc., Docket No. PV-1413
Kaneb Pipe Line Company, Docket No. PV-1375
Kaw Pipe Line Company, Docket No. PV-1299
Kenai Pipe Line Company, Docket No. PV-1399
Kerr-McGee Pipeline Corporation, Docket No. PV-1429
Kiantone Pipeline Corporation, Docket No. PV-1435
Lake Charles Pipe Line Company, Docket No. PV-1419
Lakehead Pipe Line Company, Inc., Docket No. PV-1354
Laurel Pipe Line Company, Docket No. PV-1403
Mid-America Pipeline System Division, Docket No. PV-1395
Marathon Pipe Line Company, Docket No. PV-1392
Michigan-Ohio Pipeline Corporation, Docket No. PV-1357
Mid-Valley Pipeline Company, Docket No. PV-1353

Minnesota Pipe Line Company, Docket No. PV-1384
Mobil Pipeline Company, Docket No. PV-1311
Ohio River Pipeline Company, Docket No. PV-1292
Okan Pipeline Company, Docket No. PV-1380
Olympic Pipe Line Company, Docket No. PV-1417
Paloma Pipe Line Company, Docket No. PV-1420
Phillips Petroleum Company, Docket No. PV-1321
Phillips Pipe Line Company, Docket No. PV-1320
Pioneer Pipe Line Company, Docket No. PV-1372
Plantation Pipe Line Company, Docket No. PV-1343
Platte Pipe Line Company, Docket No. PV-1367
Portal Pipe Line Company, Docket No. PV-1410
Portland Pipe Line Corporation, Docket No. PV-1347
Powder River Corporation, Docket No. PV-1437
Pure Transportation Company, Docket No. PV-1327
Santa Fe Pipe Line Company, Docket No. PV-1428
Shamrock Pipe Line Company, Docket No. PV-1369
Shell Pipe Line Corporation, Docket No. PV-1326
Skelly Pipe Line Company, Docket No. PV-1402
Sohio Pipe Line Company, Docket No. PV-1335
Southcap Pipe Line Company, Docket No. PV-1424
Southern Pacific Pipe Lines, Inc., Docket No. PV-1393
Sun Oil Line Company of Michigan, Docket No. PV-1370
Sun Pipe Line Company, Docket No. PV-1315
Tecumseh Pipe Line Company, Docket No. PV-1386
Texaco-Cities Service Pipe Line Company, Docket No. PV-1300
Texas Eastern Transmission Corporation (Little Big Inch Division), Docket No. PV-1408
Texas-New Mexico Pipe Line Company, Docket No. PV-1293
The Texas Pipe Line Company, Docket No. PV-1330
Trans Mountain Oil Pipe Line Corporation, Docket No. PV-1379
Trans-Ohio Pipeline Company, Docket No. PV-1412
West Emerald Pipe Line Corporation, Docket No. PV-1388
West Shore Pipe Line Company, Docket No. PV-1396
West Texas Gulf Pipe Line Company, Docket No. PV-1362
White Shoal Pipeline Corporation, Docket No. PV-1421
Williams Pipe Line Company, Docket No. PV-1423
Wolverine Pipe Line Company, Docket No. PV-1377
Wyco Pipe Line Company, Docket No. PV-1355
Yellowstone Pipe Line Company, Docket No. PV-1373

Section 19a(h) of the Interstate Commerce Act provides that if no protest is filed within thirty days, the valuation shall become final as of the date thereof. Notice is hereby given that no protest to the valuation reports for any of these carriers have been received and that each valuation report is final as of the date it was issued by the Board.

KENNETH F. PLUMB,
Secretary, FERC.

[FR Doc. 78-17541 Filed 6-22-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 916-3]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Availability; Change in Publication Date

Pursuant to the President's Reorganization Plan No. 1 and subsequent Memorandum of Agreement entered into between the Council on Environmental Quality and the Environmental Protection Agency (EPA), EPA is the official recipient for environmental impact statements (EIS's) and is required to publish on a weekly basis the availability of each EIS received. This Notice has normally been published on Friday.

However, this week the Notice which is scheduled for Friday June 23, 1978 will not be published until Monday, June 26, 1978. The Notice will include all EIS's received during the week of May 22 thru 26, 1978 and the review period for these EIS's will not be altered as a result of this schedule. We apologize for any inconvenience this delay may cause.

Dated: June 16, 1978.

PETER F. SMITH,
Acting Director, Office of Federal Activities.

[FR Doc. 78-17488 Filed 6-22-78; 8:45 am]

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sunshine Act

Establishment of Standing Agenda Item for Open Portion of Commission Meetings—Report on Commission Operations

This notice informs the public that future Sunshine Act notices published by the Equal Employment Opportunity Commission in the FEDERAL REGISTER announcing the time, place of, and agenda for Commission meetings will include a standing item for the open portion of each such meeting. This standing item will be a Report on Commission Operations by the Commission's Executive Director.

Specific information concerning the items to be presented to the Commission by the Executive Director during his regular briefing of the Commission will be included under the standing agenda item announced herein whenever it is available.

Dated: June 20, 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc. 78-17457 Filed 6-22-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Docket No. 76-41]

BERTHING OF SEATRAIN VESSELS IN SAN JUAN, PUERTO RICO

Notice of Environmental Negative Declaration

Upon completion of a Threshold Assessment Survey ("TAS"), the Federal Maritime Commission's Office of Environmental Analysis ("OEA") has identified the energy and environmental consequences of the Commission's final resolution in this proceeding. The TAS indicates that the FMC's final resolution in this proceeding may result in benefits in energy conservation and air quality. The energy impact statement is required under Section 382(b) of the Energy Policy and Conservation Act of 1975, and an environmental assessment under the National Environmental Policy Act of 1969 ("NEPA").

Docket No. 76-41 was instituted to determine whether (1) Puerto Rico Ports Authority ("PRPA") is violating Section 16 First or Section 17 of the Shipping Act, 1916, by refusing to assign Seatrain Lines of Puerto Rico, Inc. ("Seatrain") vessels to berth at Isla Grande and (2) Puerto Rico Maritime Shipping Authority ("PRMSA") or PRPA or both are violating Section 16 First or Section 17 of the Shipping Act, 1916, by refusing Seatrain access to the container cranes at Isla Grande.

The OEA's conclusion is contained in the TAS which is available on request from the Public Information Office, Room 11413, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5764. Interested parties may, on or before July 24, 1978 comment on the TAS by filing statements (exceptions) with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that party has no comment to make.

It should be emphasized that the TAS is not an official decision of the Commission. It represents an evaluation of the energy and environmental issues in the proceeding and does not purport to resolve the economic issues in this proceeding. Therefore, comments on the environmental study

should be limited to discussion of the presence or absence of energy and environmental impacts as well as the alternatives available.

Copies of comments or exceptions to the TAS and copies of all future correspondence and pleadings filed in this proceeding shall be served on Chief, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-17400 Filed 6-22-78; 8:45 am]

[6730-01]

[Docket No. 77-4; Agreements Nos. 9902-3, 9902-4, 9902-5 and 9902-6]

MODIFICATION OF EURO-PACIFIC JOINT SERVICE AGREEMENT

Draft Energy and Environmental Impact Statement

Upon completion of a Draft Energy Impact Statement ("DEIS"), the Federal Maritime Commission's Office of Environmental Analysis ("OEA") has identified the energy and environmental consequences of the Commission's final resolution in this proceeding. The DEIS indicates that the FMC's final resolution in this proceeding may result in savings in fossil fuel consumption. The energy impact statement is required under Section 382(b) of the Energy Policy and Conservation Act of 1975, and environmental assessment is required by the National Environmental Policy Act of 1969.

Docket No. 77-4 is an investigation to determine the continued approvability of Agreement No. 9902-3 and whether Agreements Nos. 9902-4, 9902-5, 9902-6, and 9902-8 should be approved, disapproved or modified, pursuant to Section 15 of the Shipping Act, 1916.

The OEA's conclusion is contained in the DEIS which is available on request from the Public Information Office, Room 11413, Federal Maritime Commission, Washington, D.C. 20573, telephone 202-523-5764. Interested parties may, on or before August 7, 1978, comment on the DEIS by filing statements (exceptions) with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be presumed that party has no comment to make.

It should be emphasized that the DEIS is not an official decision of the Commission. It represents an evaluation of the energy and environmental issues in the proceeding and does not purport to resolve the economic issues in this proceeding. Therefore, comments on the energy and environmental study should be limited to discussion of the presence or absence of energy and environmental impacts as well as the alternatives available.

Copies of comments or exceptions to the DEIS and copies of all future correspondence and pleadings filed in this proceeding shall be served on Chief, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-17401 Filed 6-22-78; 8:45 am]

[6820-24]

GENERAL SERVICES ADMINISTRATION

[Federal Procurement Regs.; Temporary Reg. 45]

FAIR AND EQUITABLE COMPENSATION TO PROFESSIONAL EMPLOYEES UNDER FEDERAL CONTRACTS FOR SERVICES

1. *Purpose.* This FPR temporary regulation implements Office of Federal Procurement Policy (OFPP) Letter No. 78-2.

2. *Effective date.* The policy set forth in OFPP Letter No. 78-2 is effective April 1, 1978. This implementation of the policy shall be applicable to requests for proposals that are subject to the policy which are issued on or after June 16, 1978.

3. *Expiration date.* This regulation expires on April 1, 1979.

4. *Background.* On March 29, 1978, the Administrator, Office of Federal Procurement Policy, issued Policy Letter No. 78-2, subject: Preventing "Wage Busting" for Professionals: Procedures for Evaluating Contractor Proposals for Service Contracts. The policy deals with unwarranted reduction in salaries and fringe benefits of professionals that can occur during competition for Government service contracts. Blue collar and some white collar workers are presently protected through wage determinations set and maintained by the Department of Labor pursuant to the Service Contract Act of 1965 (Pub. L. 89-286), as amended.

5. *Policy.* The OFPP letter indicates that it is the declared policy of the Federal Government that service employees, including professional employees, employed by contractors providing services to the U.S. Government, be fairly and properly compensated. Federal procurement procedures shall be developed to ensure equitable compensation for such employees. This policy clearly recognizes the fact that there is a predictable and essential link between personnel compensation and work performance. Therefore, evaluation of proposals for service contract work shall take into account the offeror's proposed professional personnel compensation plan to ensure that the offeror has a proper understanding of the resources required to perform high quality work on an uninterrupted basis.

6. *Agency action.* Attachment A to this temporary regulation contains solicitation provisions which implement Policy Letter No. 78-2. To ensure a consistent and uniform practice throughout the Government, these solicitation provisions shall be included as evaluation requirements in solicitations for negotiated procurements in excess of $250,000, the principal purpose of which is to furnish services in the United States and which involve a meaningful number of professional employees who will be employed by the contractor in performance of a service contract. In addition, it should be noted that Policy Letter No. 78-2 requires that agencies submit a report not later than September 29, 1978, to the Office of Federal Procurement Policy as to actions taken to implement the policy.

7. *Comments.* The Office of Federal Procurement Policy has provided interested parties an opportunity to comment on Policy Letter 78-2 (43 FR 18805, May 2, 1978) prior to implementation of permanent regulations.

Dated: June 16, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

SOLICITATION PROVISIONS: FAIR AND EQUITABLE COMPENSATION TO PROFESSIONAL EMPLOYEES

NOTICE TO OFFERORS

Note the solicitation provisions relating to fair and equitable compensation to professional employees set forth elsewhere in this solicitation. Failure to comply with these provisions may constitute sufficient cause to justify nonselection of a proposal. The total compensation plan required to be submitted by the offeror will be viewed as being within the purview of Pub. L. 87-653 (FPR § 1-3.807-3).

Instructions to Offerors

(a) Total compensation (salary and fringe benefits) of professional employees under service contracts may, in some cases, be lowered by recompetition of these contracts. Lowering of compensation can be detrimental in obtaining the necessary quality of professional services needed for adequate performance of service contracts. It is, therefore, in the best interest of the Government that professional employees, as defined in 29 CFR Part 541, be properly and fairly compensated in these contracts. As a part of their proposals, offerors will submit a "Total Compensation Plan" (salaries and fringe benefits) for these professional employees for evaluation purposes.

(b) The Government will evaluate the Total Compensation Plan to ensure that this compensation reflects a sound management approach and an understanding of the requirements to be performed. It will include an assessment of the offeror's ability to provide uninterrupted work of high quality. The total compensation proposed will be

evaluated in terms of enhancing recruitment and retention of personnel and its realism and consistency with a total plan for compensation (both salaries and fringe benefits).

(c) Criteria for evaluation, therefore, will include as assessment of the Total Compensation Plan submitted by each offeror.

Evaluation Criteria

(a) *Total Compensation Plan (Professional Employees).* In establishing compensation levels for professional employees, the total compensation (both salaries and fringe benefits) proposed shall reflect a clear understanding of the requirements of the work to be accomplished and the suitability of the proposed compensation structure to obtain and retain qualified personnel to meet mission objectives. The salary rates or ranges must recognize the distinct differences in professional skills and the complexity of varied disciplines as well as job difficulty. Proposals offering total compensation levels less than currently being paid by the predecessor contractor for the same work will be evaluated, in addition to the above, on the basis of maintaining program continuity, uninterrupted work of high quality, and availability of required competent professional employees. Offerors are cautioned that instances of lowered compensation for essentially the same professional work may be considered a lack of sound management judgment in addition to indicating a lack of understanding of the requirement.

(b) *Cost (Professional Compensation).* Proposals which are unrealistically low or do not reflect a reasonable relationship of compensation to the professional job categories so as to impair the contractor's ability to recruit and retain competent professional employees, may be viewed as reflecting a failure to comprehend the complexity of the contract requirements. The Government is concerned with the quality and stability of the work force to be employed on this contract. The compensation data required will be used in evaluation of the offeror's understanding of the contract requirements.

(c) *Other (Labor Relations).* An assessment of the potential for adverse effect upon performance and maintenance of the required number of professional employees with requisite skills resulting from an unrealistically low compensation structure will also be made.

[FR Doc. 78-17409 Filed 6-22-78; 8:45 am]

[6820-25]

[Intervention Notice 68]
[Docket No. 20840; CC 78-80]

FEDERAL COMMUNICATIONS COMMISSION

Proposed Intervention in Communications Rulemaking Proceeding Concerning Recording of Conversations

The Administrator of General Services seeks to intervene in a proceeding before the Federal Communications Commission involving rules governing recording of telephone conversations. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of communications services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets NW., Washington, D.C. 20405, telephone (202) 566-0726, on or before July 24, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: June 14, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-17446 Filed 6-22-78; 8:45 am]

[6820-23]

[Wildlife Order 135]

HURON ISLAND LIGHT STATION MARQUETTE COUNTY, MICHIGAN U-MICH-694

Transfer of Property

Pursuant to Section 2 of Public Law 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By letter from the General Services Administration, Chicago, Illinois Regional Office, dated April 4, 1978, approximately 31 acres of land improved with 2 buildings, identified as Huron Island Light Station, Marquette County, Michigan, were transferred to the Department of the Interior for use by the Fish and Wildlife Service.

2. The above described property was conveyed for use as a migratory bird refuge in accordance with the provisions of Section 1 of said Public Law 537 (16 U.S.C. 667b), as amended by Public Law 92-432.

Dated: June 15, 1978.

JAMES B. SHEA, Jr.,
Commissioner,
Public Buildings Service.

[FR Doc. 78-17447 Filed 6-22-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of August 1978:

Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, August 15; 9:00 a.m. Conference Rooms "G" and "H", Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open meeting. Contact—James Vaughan, Room 16C-10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3888.

Purpose. The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

Agenda. The meeting will consist of reports on working group activities, interagency agreements and reports on other current alcoholism program activities.

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306.

Dated: June 15, 1978.

CAROLYN T. EVANS,
Committee Management Officer,
Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-17057 Filed 6-22-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78F-0149]

EMSER INDUSTRIES INC.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Emser Industries Inc., has filed a petition (FAP 8B3376) proposing that the food additive regulations be amended to provide for the safe use of Nylon 12 film laminated to aluminum foil for food contact.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-344), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3376) has been filed by Emser Industries Inc., 1229 Kensington Rd., Teaneck, NJ 07666, proposing that the food additive regulations be amended to provide for the safe use of Nylon 12 laminate produced by laminating the condensate of omega-laurolactam to aluminum foil and intended for food contact under conditions of use A through H described in Table 2 of § 176.170(c) (21 CFR 176.170(c)), with all foods except those containing greater than 8 percent alcohol.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 14, 1978.

HOWARD R. ROBERTS,
Acting Director of Bureau of Foods.

[FR Doc. 78-17190 Filed 6-22-78; 8:45 am]

[4110-39]

National Institute of Education

INFORMATION AND DATA ACQUISITION ACTIVITY

Collection; Opportunity for Comments

Pursuant to section 406g(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Institute of Education is proposing an information and data acquisition activity which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

This data acquisition activity as described below is also subject to review by the HEW Education Data Acquisition Council.

Written comments on the proposed activities are invited. Comments should refer to the form number and must be received on or before July 24, 1978, and should be addressed to the Administrator, National Center for Education Statistics, Attn: Management Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from the Project Officer, Susan Abramowitz, Finance and Productivity Group, National Institute of Education, 202-254-5500.

Dated: June 19, 1978.

RICHARD S. WERKSMAN,
Forms Clearance Officer, National Institute of Education.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. *Title of proposed activity.* Survey of High School Students and Counselors: Determinants of California High School Proficiency Examination Utilization.

2. *Agency/bureau/office.* National Institute of Education.

3. *Agency form number.* NIE 195.

4. *Legislative authority for this activity.* "The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs (a) improvement in student achievement in the basic educational skills, including reading and mathematics; (b) overcoming problems of finance, productivity, and management in educational institutions; (c) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for students of limited English-speaking ability, women, and students who are socially, economically, or educationally disadvantaged; (d) *preparation of youths and adults for entering and progressing in careers;* (e) improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.

(Sec. 405(b)(2) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

"In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes."

(Sec. 405(e)(1) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

5. *Voluntary/obligatory nature of response.* Voluntary.

6. *How information to be collected will be used.* The proposed study is an examination of the utilization of one alternative available to California high school students who wish to leave high school early: The California High School Proficiency Examination (CHSPE). To date, utilization rates of this option have been unexpectedly low.

A sample of 3,000 public high school juniors and seniors and their counselors in the greater San Francisco Bay Area will be surveyed in order to determine how and why decisions are made about this early exit option.

Research: The CHSPE option provides an excellent opportunity to investigate how students make decisions relating to their future. Examples of research questions to be addressed include: To what extent do students fail to learn about CHSPE in their schools? Is the availability of information biased in some way? Are students free to make their own decisions about post-high school options, or are parents opinions responsible for students failing to take CHSPE? How does participation in school activities and work experience during high school affect student perceptions of high school, work, college, and CHSPE? How do students compare high school versus college, and high school versus work alternatives? How do students' attitudes toward decision-making and risky alternatives affect their perceptions of CHSPE? How do socio-economic status and race affect high school experiences, the evaluation of alternatives to high school and CHSPE-taking? The answers to these and other questions will help specify the nature of decisions about future alternatives.

Evaluation: The intent of the legislation creating CHSPE—to offer a meaningful alternative for high school students bored with their high school programs and eager to begin work or college—has evidently not been realized. We will be able to examine var-

ious possible reasons for the failure of CHSPE to become more widely utilized. The results may facilitate improved administration of CHSPE itself, but more importantly, they will indicate whether adoption of early-exit options in other states is advisable. At the most general level, we hope to be able to indicate what is necessary in order to devise meaningful options for high school students.

7. *Data acquisition plan*—(a) *Method of collection:* Supervised administration to groups of students; questionnaire to counselors.

(b) *Time of collection:* Fall 1978.

(c) *Frequency:* Single time.

8. *Respondents*—(a) *Type:* Students, juniors and seniors, public/secondary schools.

(b) *Number:* Sample (3,000).

(c) *Estimated average person-hours per respondent:* 1.

(a) *Type:* Guidance Counselors, public secondary schools.

(b) *Number:* 150.

(c) *Estimated average person-hours per respondent:* .5.

9. *Information to be collected.* Questionnaire data will be collected from three sources:

(a) A stratified random sample of 2,500 public high school juniors and seniors in the eight-county greater San Francisco Bay Area.

(b) All juniors and seniors who have taken CHSPE in the sample high schools, approximately 500 students.

(c) All counselors in the sample high schools, approximately 150. *Students:* We will compare questionnaire responses from sample (a) and sample (b) to determine the factors differentiating CHSPE-takers from non-CHSPE-takers. The student questionnaire is designed to elicit information on eight kinds of variables: (1) student background characteristics; (2) school experiences of students; (3) work experiences of students; (4) students' knowledge of high school options, college requirements, the world of work and the local labor market; (5) students' attitudes toward their high school, toward college, and toward work opportunities; (8) attitudes toward risk-taking and authority.

Counselors: We will use the questionnaire data from the counselor sample to help ascertain how high school counseling affects the decision-making process of the two student samples. The counselor questionnaire is intended to provide information on the school itself, on options actually available to students, and on counselor attitudes toward various options which students face, including CHSPE. These data will be useful both in judging the accuracy of student responses about school options and information, and in weighing the effect of counselor attitudes on student decisions.

[FR Doc. 78-17405 Filed 6-22-78; 8:45 am]

[4110-08]

National Institutes of Health

LISTER HILL CENTER AND NATIONAL MEDICAL AUDIOVISUAL CENTER SUBCOMMITTEE OF THE BOARD OF REGENTS OF THE NATIONAL LIBRARY OF MEDICINE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Lister Hill Center and National Medical Audiovisual Center Subcommittee of the Board of Regents of the National Library of Medicine on August 7 and 8, 1978, in Atlanta, Georgia, at the following locations: At the Northlake Hilton Inn, 4156 LaVista Road, Tucker, Georgia, on August 7, from 8:00 p.m. to 10:00 p.m.; at the National Medical Audiovisual Center, 1600 Clifton Road, NE., Atlanta, Georgia, on August 8, from 8:30 a.m. to 12:00 noon; and at the Sheraton Hotel, 1325 Virginia Avenue, East Point, Georgia, from 1:00 p.m. to adjournment.

The entire meeting will be open to the public (times as listed above) for the review and discussion of the current program and identification of issues of the National Medical Audiovisual Center on the evening of August 7; and on the morning of August 8, for discussion of administrative matters and program operation; and on the afternoon of August 8 for the presentation of views by outside consultants. Attendance by the public will be limited to space available.

Dr. Harold M. Schoolman, Deputy Director for Research and Education, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone Number: 301-496-4725, will furnish upon request a summary of the meeting, a roster of Subcommittee members, and other information pertaining to the meeting.

Dated: June 16, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-17238 Filed 6-22-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF HEXACHLOROETHANE FOR POSSIBLE CARCINOGENICITY

Availability

Hexachloroethane (CAS 67-72-1) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of technical-grade hexachloroethane was conducted using Osborne-Mendel rats and B6C3F1 mice. Hexachloroethane in corn oil was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species. The chemical was administered 5 days a week, cyclically for 44 of 78 weeks in rats and continuously for 78 weeks in mice, followed by an observation period of 33 or 34 weeks for rats and 12 or 13 weeks for mice. The high and low time-weighted average dosages of hexachloroethane were, respectively, 423 and 212 mg/kg/day for male and female rats and 1179 and 590 mg/kg/day for male and female mice. For each species, 20 animals of each sex were placed on tests as vehicle controls. These animals were gavaged with pure corn oil at the same rate as the high dose group of the same sex. Twenty animals of each sex were placed on test as untreated controls for each species. These animals were not intubated.

A statistically significant association between increased dosage and accelerated mortality was observed in male and female rats but not in mice of either sex.

No evidence was provided for the carcinogenicity of the compound in Osborne-Mendel rats. It is concluded that under the conditions of this bioassay, hexachloroethane was carcinogenic in B6C3F1 mice, inducing hepatocellular carcinomas in both sexes.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: June 16, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-17235 Filed 6-22-78; 8:45 am]

[4110-08]

REPORT ON BIOASSY OF PYRIMETHAMINE FOR POSSIBLE CARCINOGENICITY

Availability

Pyrimethamine (CAS 58-14-0) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassy of pyrimetahmine, a prophylactic antimalarial, for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice.

Groups of 35 rats and 35 mice of each sex were administered pyrimethamine 5 days per week at one of two

doses, either 200 or 400 ppm for the rats and either 500 or 1,000 ppm for the mice. The animals were administered the chemical for 78 weeks, then observed for 26 or 27 additional weeks. Matched controls consisted of 15 untreated rats and 15 untreated mice of each sex; pooled controls consisted of the matched controls combined with 30 untreated rats and 30 untreated mice from similar bioassays of two other test compounds. All surviving rats and mice were killed at 102-105 weeks.

Mean body weights of the rats and mice fed diets containing pyrimethamine were slightly lower than those of the matched controls. Survival of the rats was not affected adversely by the chemical. In mice, survival rates of both dosed and matched-control males were low, with nearly two-thirds of the dose and one-half of the control mice dying by week 52. Some of the deaths were associated with respiratory infections and may not have been related to administration of the chemical. Numbers of animals at risk in the dose and control groups of female mice were adequate, however, for the development of late-appearing tumors.

It is concluded that under the conditions of this bioassy, pyrimethamine was not carcinogenic for male or female Fischer 344 rats or for female B6C3F1 mice. The carcinogenic potential of pyrimethamine for male B6C3F1 mice cannot be assessed by this bioassy, because of the markedly reduced life span.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: June 16, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-17236 Filed 6-22-78; 8:45 am]

[4110-89]

Office of the Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before July 24, 1978, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: June 20, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

National Assessment of Educational Progress (NAEP) Survey of Art, Writing, and Music skills of students in public and private elementary and secondary schools.

2. AGENCY/BUREAU/OFFICE

National Center for Education Statistics

3. AGENCY FORM NUMBERS

New and reinstated forms (clearance to be requested under OMB No. 051-R1204): NCES 2371-50, 51, 52; NCES 2371-53, 61; NCES 2371-54, 62; NCES 2371-55, 63; NCES 2371-56, 57, 58; NCES 2371-59, 60; and NCES 2371-64.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"* * * The (national) center (for education statistics) shall * * * collect, collate, and, from time to time, report full and complete statistics on the condition of education in the United States * * *" (Sec. 501.(a) of Pub. L. 93-380; Sec. 406.(b) of the General Education Provision Act, 20 U.S.C. 1221e-1).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The primary purpose of NAEP is to gather information concerning the degree to which education goals are being met nationally and to make this information available to the public, and particularly to persons in the field of education, so that problem areas can be specifically identified, priorities can be established, and progress over time can be determined.

An immediate advantage of NAEP lies in its ability to pinpoint widespread educational problems. Results from the writing assessment will be able to identify change over three cycles and establish whether students 9, 13, and 17 are writing more cohesively and coherently, are communicating ideas and feelings more effectively, making more or less mechanical errors, using more sophisticated and complex sentences, and writing more or less awkward sentences.

Results from the first assessment of music reflected a generally favorable attitude among respondents toward music and music activities. It was found that by age 13 children have as clear a grasp of musical concepts of notation and terminology as 17 year olds, suggesting that continued general music education beyond junior high school level could yield greater musical literacy.

Results from the Year 10 art assessment will be analyzed in several different ways, allowing inferences to be made about changes in art production skills, knowledge and attitudes from assessment Year 06 to Year 10. We might also see that children participate in fewer extra-curricular artistic activities and also have a less positive attitude toward art in Year 10 than in 06. These kinds of results, coupled with a national decrease in attention to art education in the schools—as art classes fall victim to tight scholastic budgets, could suggest links between art class offerings, art attitudes, and art production facility.

In 1969-70 the first assessment of writing took place. A second assessment followed in 1974-75. The third assessment for the area is proposed for 1978-79. Music was first assessed in 1973-74 and art was first assessed in 1975-76. The second assessment for both areas is proposed for 1978-79. Data from these past assessments will be analyzed with current data to ascertain if learning achievement in the subject areas has increased or decreased through time.

The information collected by NAEP is used by the Federal Government, national education organizations, State and local departments of education, and other external research users. Right to Read, recognizing the advanced technology of the NAEP model, asked for a "mini-assessment" of the functional literacy of 17 year olds during fiscal years 1975 and 1976. The Food and Drug Administration used NAEP in fiscal year 1977 to collect consumer information at the young adult age level. In fiscal year 1979 NIE will fund a study through National Assessment to try to determine what factors lead to lower participation among women in advanced math courses. The study, Attitudes and Achievement in Mathematics, will use items, sampling, data collection, and design capabilities from NAEP.

A valuable contribution of NAEP is its ability to aid States and localities in making their own assessments. To date, 36 States have asked NAEP for assistance in developing their own evaluation programs. Acting as a consultant in these State assessments, NAEP provides a model for the design and

administration of local assessments, allows use of its released test items, and helps design or modify additional items tailored to the smaller assessment needs.

A sample of other organizations that have reviewed NAEP data or used NAEP materials for further studies in their fields include: The American Association of Colleges for Teacher Education; the Association of American Publishers; the American Bar Association; the American Educational Research Association; the Association for Supervision and Curriculum Development; the Council of the Great City Schools; the International Reading Association; the Music Educators National Conference; the National Association of State Boards of Education; the National Council of Teachers of English; the National Council of Teachers of Mathematics; the National School Board Association; the National Science Teachers Association; the North Central Association of Secondary Schools and Colleges.

Textbook publishers, curriculum planners, and superintendents of school systems are also being encouraged to make use of NAEP data in developing their projects for the future.

Because it provides frequently updated factual information concerning educational progress or decline, NAEP can show change as it is happening, pinpointing remedial action and monitoring the progress of new educational programs. NAEP presents the field of education with a new and valid resource for determining whether the goals of an educated democracy are being met in the classroom.

7. DATA ACQUISITION PLAN

a. Method of collection: Group Administration.

b. Time of collection: October 1978–May 1979.

c. Frequency: Annual basis.

8. RESPONDENTS

a. Type: School Officials.

b. Number: Sample.

New Forms: NCES 2371-53, 61, 592; NCES 2371-54, 62, 580; NCES 2371-55, 63, 515; NCES 2371-64, 515.

c. Estimated average man-hours per respondent:

New Forms: NCES 2371-53, 61, .20; NCES 2371-54, 62, .20; NCES 2371-55, 63, .50; NCES 2371-64, .20.

a. Type: Students.

b. Number: Sample.

New Forms: NCES 2371-56, 7,800; NCES 2371-57, 10,400; NCES 2371-58, 10,400; NCES 2371-59, 10,400; NCES 2371-60, 10,400.

Forms previously cleared under OMB No. 051-S74023: NCES 2371-50, 7,800; NCES 2371-51, 10,400; NCES 2371-52, 10,400.

c. Estimated average man-hours per respondent:

New Forms: NCES 2371-56, .07; NCES 2371-57, .03; NCES 2371-58, .03; NCES 2371-59, .03; NCES 2371-60, .05.

Forms previously cleared under OMB No. 051-S74023: NCES 2371-50, .03; NCES 2371-51, .07; NCES 2371-52, .07.

9. INFORMATION TO BE COLLECTED

a. From school principals:

New Forms: NCES 2371-53, 61; –54, 62; –55, 63—Used to obtain data regarding the average amount of study exposure to art, music and writing instruction

NCES 2371-64—Used to list age 17 eligible students who have withdrawn from schools between the time that the subcontractor staff selected the 17 year old sample during the age 9 assessment and the time they return to conduct the age 17 assessment. This list allows the age 17 student sample to be updated prior to assessment.

b. From students and early graduates/discontinues:

New Forms: NCES 2371-56, -57, -58—These forms are used to obtain information on the respondent's in-school and out-of-school participation in music activities for analysis and report purposes.

NCES 2371-59, -60—Used to obtain information on the respondent's exposure to writing instruction and experiences in school for analysis and report purposes.

Forms previously cleared under OMB 051-S74023:

NCES 2371-50, -51, -52—Used to obtain background information on the respondent's in-school and out-of-school participation in art-related activities for change analysis and reporting purposes.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA COLLECTION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Report—Veterans' Cost-of-Instruction Payments Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Student Services and Veterans Programs.

3. AGENCY FORM NUMBER(S)

OE 269-1 and OE 269-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 419(c)(1)(A)(iv), the applicant will submit to the Commissioner such reports as the Commissioner may require by regulation; and * * *"

(Pub. L. 92-318; 20 U.S.C. 1070e; 1070e-1)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

Financial Status Report—Information will be used as the basis for determining project compliance with eligibility criteria imposed by Program legislation; as an effective measure of project accountability as indicated by project accomplishments. Summary information will provide a full account of funds expended, obligated, and remaining, indicate the amount of support for the project from other than Federal sources, and depict the institutional share of the Federal award for instructional purposes. Data reported by participating institutions are used by the Branch to insure full accountability for Federal funds awarded, and to generate DFAFS/OEFMIS reconciliation computer tapes.

Performance Report—Performance information is used to (1) develop profiles describing institutional services for veterans, the Office of Veterans' Affairs and demographic characteristics; (2) identify differences and similarities in institutions' veteran assistance programs; and (3) describe the degree to which institutions have met the major criteria listed in the Regulations.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.

b. Time of collection: Summer.

c. Frequency: Annually.

8. RESPONDENTS

a. Type: Institutions of higher education.

b. Number: 1,200.

c. Estimated average man-hours per respondent: 1.5.

9. INFORMATION TO BE COLLECTED

Standard Form 269, OMB 80-RO180 will be used to reflect the financial status of the VCIP Program, including the institutional share of Federal funds used for instructional purposes. The Performance Report is designed to secure information on the legislatively required services (Outreach, Recruitment, Special Education, and Counseling) and the required services and use of funds as stipulated in §§ 189.11, 189.12, 189.13, 189.14, 189.15, 189.16, and 189.35 of the rules and regulations governing the Veterans' Cost-of-Instruction Payments Program.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA COLLECTION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Report—Veterans' Cost-of-Instruction Payments Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Student Services and Veterans Programs.

3. AGENCY FORM NUMBER(S)

OE 269-1 and OE 269-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 419(c)(1)(A)(iv), the applicant will submit to the Commissioner such reports as the Commissioner may require by regulation; and * * *"

(Pub. L. 92-318; 20 U.S.C. 1070e; 1070e-1)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

Financial Status Report—Information will be used as the basis for determining project compliance with eligibility criteria imposed by Program legislation; as an effective measure of project accountability as indicated by project accomplishments. Summary information will provide a full account of funds expended, obligated, and remaining, indicate the amount of support for the project from other than Federal sources, and depict the institutional share of the Federal award for instructional purposes. Data reported by participating institutions are used by the Branch to insure full accountability for Federal funds awarded, and to generate DFAFS/OEFMIS reconciliation computer tapes.

Performance Report—Performance information is used to (1) develop profiles describing institutional services for veterans, the Office of Veterans' Affairs and demographic characteristics; (2) identify differences and similarities in institutions' veteran assistance programs; and (3) describe the degree to which institutions have met the major criteria listed in the Regulations.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.

b. Time of collection: Summer.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Institutions of higher education.
b. Number: 1,200.
c. Estimated average man-hours per respondent: 1.5.

9. INFORMATION TO BE COLLECTED

Standard Form 269, OMB 80-RO180 will be used to reflect the financial status of the VCIP Program, including the institutional share of Federal funds used for instructional purposes. The Performance Report is designed to secure information on the legislatively required services (Outreach, Recruitment, Special Education, and Counseling) and the required services and use of funds as stipulated in §§ 189.11, 189.12, 189.13, 189.14, 189.15, 189.16, and 189.35 of the rules and regulations governing the Veterans' Cost-of-Instruction Payments Program.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Assistance under the Emergency School Aid Act Educational Television Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Elementary and Secondary Education, Equal Educational Opportunity Programs.

3. AGENCY FORM NUMBER

OE Form 328.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"(b)(1) The Assistant Secretary shall carry out a program of making grants to, or contracts with, not more than ten public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of television programming, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television programs of cognitive and affective educational value.

(2) Television programs developed in whole or in part with assistance provided under this title shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Assistant Secretary may approve an application under this section only if he determines that the applicant—

(A) Will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) Will use modern television techniques of research and production; and

(C) Has adopted effective procedures for evaluating education and other changes achieved by children viewing the program."

(Pub. L. 92-318, sec. 711(b)); (20 U.S.C. 1610(b)); (45 CFR 185.71)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

The data will be used to determine the capability of the applicant to provide expertise in the development of television programming, to assure diversity and to produce integrated children's television programs of cognitive and affective educational value.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: April.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Any public or private nonprofit agency, institution, or organization.
b. Number: Sample—60.
c. Estimated average man-hours per respondent: 150 hrs.

9. INFORMATION TO BE COLLECTED

Applicants for ESAA educational television contracts are required to submit the following information;

(a) A detailed description of the facilities to be used including the type, quantity and quality of the equipment.

(b) A program narrative addressed to the five-point criteria: (1) Needs assessment, (2) objectives, (3) activities, (4) scheduling, and (5) evaluation.

(Pub. L. 92-318, sec. 711); (20 U.S.C. 1610); (45 CFR 185.73, 185.74)

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Reports—Indian Education Programs, Parts A, B, and C.

2. AGENCY/BUREAU/OFFICE

Office of Education, Office of Indian Education.

3. AGENCY FORM NUMBER

OE Form 354 and OE Form 354-1.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Section 422(a). The Commissioner shall— * * * (3) collect data and information on applicable programs * * *."

(20 U.S.C. 1231a) Pub. L. 94-482.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to maintain benefits.

6. HOW INFORMATION COLLECTED WILL BE USED

Information will be used to monitor performance of the programs and parent committee, to assure that time schedules are being met, and to compare actual accomplishments to the goals established for the period.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall and Summer.
c. Frequency: Semi-annual.

8. RESPONDENTS

a. Type: Local Educational Agencies, Indian tribes, and organizations.
b. Number: 1,200.
c. Estimated average man-hours per respondent: 5.

9. INFORMATION TO BE COLLECTED

The standard Financial Status Report (Standard Form 269) is used. The Performance Report requests actual accomplishments in terms of goals established by the grantees in their application; counts of participants by activities; number of staff receiving training; slippages and problem areas; and activities of Parent Committees.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Assessment of ESAA Supported Intergroup Relations Activities.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Office of Planning, Budgeting and Evaluation.

3. AGENCY FORM NUMBER

OE 561-1, -2, -3, -4, -6a, -6b.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 417(a)(1) of Pub. L. 93-380 requires that "* * * the Secretary shall transmit to the * * * (Congress) * * * an annual evaluation report which evaluates the effectiveness of applicable programs in achieving their legislated purposes together with recommendations relating to such programs for the improvement of such programs which will result in greater effectiveness in achieving such purposes." (20 U.S.C. 1226c)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The information collected in the study will be used to provide program managers and Congress with information about the effectiveness of different types of intergroup relations activities supported by the ESAA program.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall 1978 and Spring 1979.
c. Frequency: Twice.

8. RESPONDENTS

a. Type: ESAA School Coodinator.
b. Number: 128.
c. Estimated average man-hours per respondent: 1 hour.
a. Type: Teachers, elementary/secondary.
b. Number: 300.
c. Estimated man-hours per respondent: 1 hour.
a. Type: Principals.
b. Number: 128.
c. Estimated average man-hours per respondent: 1 hour.
a. Type: 5th grade students receiving ESAA services.
b. Number: 7,500.
c. Estimated average man-hours per respondent: 6 hours.

9. INFORMATION TO BE COLLECTED

Respondent type: ESAA School Coordinators: Recipients of intergroup relations services; Objectives and types of human relations activities supported by ESAA; Method and context of service delivery; Intensity of

services received; Stability of program; Coordination of services within district; Perceived achievement of program goals; Type and amount of resources of human relations program.

Respondent type: Teachers, elementary/secondary: Prior experience of teachers; Type of human relations services provided in the classroom; Types of resources available for human relations program; Types of compensatory and instructional services; Method of service delivery; Coordination of human relations program; Perception of intergroup relations in the school.

Respondent type: Principals: Perception of intergroup relations in the school; School policies affecting intergroup relations; Perceived achievement of program goals.

Respondent type: Students: Perception of intergroup relations in the school; Exposure to intergroup relations services; Knowledge of minority group contributions.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA COLLECTION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

A Progress and Management Study of ESEA Title IV Consolidation.

2. AGENCY/BUREAU/OFFICE

Office of Education/Office of Planning, Budgeting and Evaluation.

3. AGENCY FORM NUMBER

OE 566-1-2-3-4.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Section 416 of the General Education Provisions Act (20 U.S.C. 1226b). "Sums appropriated * * * may include for any fiscal year * * * not to exceed $25,000,000 which shall be available to the Secretary * * * for expenses * * * for (1) planning for the succeeding year * * * and (2) evaluation of * * * programs.

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

Program Management: Provide information for the multiple levels of management on effectiveness of practices on achieving legislative guidelines designed to assure (1) equitable participation of nonpublic school children (2) equitable participation of small or financially poor districts (3) allocation of funds with consideration to high cost students (4) public participation through broadly representative advisory councils.

Evaluation: assessment of effectiveness of existing organizational and management processes in simplifying program administration and strengthening State and local decision-making through program consolidation.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail and Personal Interview.
b. Time of collection: Fall 1978.
c. Frequency: One-time.

8. RESPONDENTS

a. Type: School Administrators and Supervisors.
b. Number: 2,000.
c. Estimated average man-hours per respondent: .75.
a. Type: Nonpublic, nonprofit elementary/secondary schools.
b. Number: 1,200.
c. Estimated average man-hours per respondent: .75.
a. Type: Other—SEA Federal Program Managers and Title IV Directors and Coordinators.
b. Number: 200.
c. Estimated average man-hours per respondent: .75.
a. Type: Other—State Advisory Council Members.
b. Number: 100.
c. Estimated average man-hours per respondent .75.

9. INFORMATION TO BE COLLECTED

School Administrators and Supervisors—School District characteristics; relations with SEA; Title IV programs and projects; project implementation and continuation; nonpublic school participation; Part B funds allocation. Nonpublic schools—participation in programs and projects; relations with State and local education officials; involvement in decision-making and project planning. SEA Title IV officials—Decision-making process on use of funds; coordination with other Federal and State programs; effects of Title IV on use of funds, organization and staffing; relations with State advisory councils; nonpublic school participation; funding strategies and priorities. State Advisory Council Members—Composition of councils; selection of members; resources available; relations with State education officials, role in planning, decision-making, evaluation.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Longitudinal Study of Progress in the Implementation of Pub. L. 94-142 in a Select Number of LEAs.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Education for the Handicapped/Division of Innovation and Development.

3. AGENCY FORM NUMBER

OE 625.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Commissioner shall measure and evaluate the impact of the program authorized under this part and the effectiveness of State efforts to assure the free appropriate education for all handicapped children." (Sec. 618a, Pub. L. 94-142)

"The Commissioner shall conduct, directly or by grant or contract, such studies, investigations, and evaluations as are necessary to assure effective implementation of this part." (Sec. 618b, Pub. L. 94-142; 20 U.S.C. 1418)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Evaluation: The primary objective of this study is to determine major problem areas in the implementation of Pub. L. 94-142. Additionally, an attempt will be made to try to gain insight into problems teachers and other LEA staff are having and to discuss strategies taken to deal with these problems. Once some of the problems are identified, further studies could be undertaken to develop information to be used for technical assistance. The information obtained will also be used in an annual report to the Congress on the status of the implementation of Pub. L. 94-142.

7. DATA ACQUISITION PLAN

a. Method of collection: Interview.
b. Time of collection: Fall and Spring.
c. Frequency: Semi-Annually.

8. RESPONDENTS

a. Type: Local Education Agencies—Director of special education.
b. Number: Sample, 20.
c. Estimated average man-hours per respondent: 30 minutes.
a. Type: Principals (Schools).
b. Number: Sample, 50.
c. Estimated average man-hours per respondent: 30 minutes.
a. Type: School administrators and supervisors of instruction.
b. Number: Sample, 50.
c. Estimated average man-hours per respondent: 45 minutes.
a. Type: Teachers, elementary/secondary.
b. Number: Sample, 100.
c. Estimated average man-hours per respondent: 45 minutes.

9. INFORMATION TO BE COLLECTED

Information requested of these groups will seek to identify strategies by which the intent of Pub. L. 94-142 is being implemented and problems encountered as implementation occurs. Information related to LEA implementation strategies and obstacles encountered for the following provisions of Pub. L. 94-142 will be collected: Full Education Opportunity Goal; Free Appropriate Public Education; Personnel Development; Non-Discriminatory Testing; Individual Educational Program; Least Restrictive Environment; Due Process.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Directory of Women Administrators in Vocational Education.

2. AGENCY/BUREAU/OFFICE

Office of Education, Bureau of Occupational and Adult Education.

3. AGENCY FORM NUMBER

OE Form 640.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Section 171(a) Funds reserved to the Commissioner * * * shall be used primarily for contracts * * * for—

(2) Support of a national center for research in vocational education * * * which center shall * * *

(A) Conduct applied research and development on problems of national significance in vocational education * * *" (Pub. L. 94-482, Title II, Section 202; (20 U.S.C. 2401)).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The information collected will be used to compile a directory which will provide decision makers at all levels with information on women administrators in vocational education. The directory will provide a listing of women administrators by each of the following administrative areas:

a. State Education Agencies (SEA's).
b. Local Education Agencies (LEA's).
c. Regional Education Agencies (REA's).
d. State Advisory Councils for Vocational Education (SACVE).
e. Community Colleges/Junior Colleges/ Technical Institutes.

It will also highlight those women who administer programs in traditionally male occupational areas. This directory will help to give decision makers a greater awareness of, and access to, women administrative personnel and thereby increase the opportunities for women to participate in vocational education administration.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: November-December, 1978.
c. Frequency: Single Time.

8. RESPONDENTS

a. Type: School Administrators and Supervisors.
b. Number: 1,000.
c. Estimated average man-hours per respondent: 0.4 hours.

9. INFORMATION TO BE COLLECTED

Professional information: Name; job title; employing organization; size of budget administered; number of vocational programs, students, and teachers supervised; school district serving; percentage of time devoted to administering a vocational-technical education program; number of years in present position; highest level of education; specialized training in administration; area of expertise; degree of involvement in policy and decision-making; and membership in professional administration associations. Personal information: (This information will not be personally identifiable but will be used to generate a profile of women administrators as a group.) Age range, salary range, ethnic background, marital status, age when first administrative position was assumed.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Identifying Needs of Disadvantaged Sub-Populations.

2. AGENCY/BUREAU/ OFFICE

Office of Education, Bureau of Occupational and Adult Education.

3. AGENCY FORM NUMBER

OE Form 641.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Section 171(a) Funds reserved to the Commissioner * * * shall be used primarily for contracts * * * for—

(2) Support of a national center for research in vocational education * * * which center shall * * *

(A) Conduct applied research and development on problems of national significance in vocational education * * *" (Pub. L. 94-482, Title II, Section 202; 20 U.S.C. 2401).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Data collected for this research project will assist in determining the common and unique educational needs of the special needs sub-populations. This needs analysis data will provide currently unavailable information to concurrent projects. These projects will be developing prototype materials and formulating intervention strategies to be used by teachers, counselors, and administrators in vocational education and these materials will be designed to provide greater access to, and performance in, vocational education programs for special needs sub-populations.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: October 1978.
c. Frequency: Single Time.

8. RESPONDENTS

a. Type: Principals (School).
b. Number: Sample (100).
c. Estimate average man-hours per respondent: 0.5 hours.
a. Type: School Administrators and Supervisors.
b. Number: Sample (300).
c. Estimated average man-hours per respondent: 0.5 hours.
a. Type: Students, Public Elementary/Secondary Schools.
b. Number: Sample (200).
c. Estimated average man-hours per respondent: 0.5 hours.
a. Type: Individuals.
b. Number: Sample (200).
c. Estimated average man-hours per respondent: 0.5 hours.

9. INFORMATION TO BE COLLECTED

Demographic information including age, sex, race, and education will be collected from all respondent groups. Questions tailored to the four respondent groups will solicit perceptions of the barriers and/or facilitators to entry into, and completion of, vocational educational programs by special needs sub-populations. Questions will also solicit recommended changes in vocational education programs and/or policies that could improve entry into, and completion of, vocational education programs by special needs sub-populations.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Surveys of ESSA-TV Producers, and National, Regional and Local Broadcasters, Non-Broadcast Distributors, and Media Advocacy Groups.

2. AGENCY/BUREAU/OFFICE

Department of Health, Education and Welfare, U.S. Office of Education, Office of Planning, Budgeting and Evaluation.

3. AGENCY FORM NUMBER

OE—645.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"The Secretary shall transmit to (appropriate Congressional Committees) an annual evaluation report which evaluates the effectiveness of applicable programs * * * such report shall * * * contain information on progress being made * * describe the cost and benefits of the applicable program * * * identify which sectors of the public receive the benefits of such program * * *" (20 U.S.C. 1226c)

Section 713 of Title VII. Pub. L. 92-318 also provides a one percent administrative set-aside for evaluation purposes as part of the Emergency School Aid Act. (20 U.S.C. 1112.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

This study is one component of the USOE effort to evaluate its sponsorship of educational television programs. This research is designed to evaluate the ESSA-TV Program, focussing on management/administration, production, distribution and fiscal issues. Data derived from this study will be used to assess the extent to which the Program has accomplished its legislative mandate "* * * to produce television series of high quality that will meet the needs of the target population, so that distribution will be facilitated and viewing by intended audiences maximized." Data collected in this study will also be used in the formative evaluation of USOE's TvAC promotion campaign which is designed to increase usage of ESSA-TV series by local commercial broadcast licensees.

7. DATA ACQUISITION PLAN

a. Method of collection: The primary mode of data collection is face-to-face interviews. In cases where it is not possible to conduct interviews face-to-face telephone and mail will be used.
b. Time of collection: Interviews will be conducted in the Fall of 1978 and Winter of 1979.
c. Frequency: One time only.

8. RESPONDENTS

a. Type: Executive Producers/Project Directors of ESSA-TV Series.
b. Number: 30.
c. Estimated average person-hours per respondent: 1.5.
a. Type: Representatives of ESSA-TV Producer Organizations.
b. Number: 19.
c. Estimated average person-hours per respondent: 1.5.
a. Type: ESSA-TV Project Financial Officers.
b. Number: 30.
c. Estimated average person-hours per respondent: 1.5.
a. Type: Project Advisory Committee Members.
b. Number: 44.
c. Estimated average person-hours per respondent: .5.
a. Type: Network Programing Directors for Children's and Family Oriented Programing.
b. Number: 25.
c. Estimated average person-hours per respondent: 1.4.
a. Type: Instructional Television Coordinators.

b. Number: 73.
c. Estimated average person-hours per respondent: 1.2.
a. Type: Acquisitions, Rental, Sales and Distribution Managers for Non-Broadcast Distributors.
b. Number: 30.
c. Estimated average person-hours per respondent: 1.4.
a. Type: National and Local Media Advocacy Group Spokespersons.
b. Number: 42.
c. Estimated average person-hours per respondent: .75.
a. Type: Local and State Broadcast Station Program Managers.
b. Number: 117.
c. Estimated average person-hours per respondent: 1.4.

9. INFORMATION TO BE COLLECTED

Executive Producers/Project Directors: Proposal development process; Effect of factors in contract negotiation on series production; Description of production staffing and facilities; Assessment of target audience needs and series objectives; Description of series production process and effects of USOE policies and other factors that affect production; Description of activities undertaken to promote the series; Producers perceptions of impact of USOE policy and practice and other factors influencing broadcaster carriage decisions.

Senior Organization Representatives: Interface between organization operating policies and practices and USOE policies and practices; Proposal development processes and activities; Effects of factors in contract negotiation on series production; Description of series production process and effects of USOE policies and other factors that affect production; Impact of legislative requirements and USOE regulations on production and interface between USOE and organization.

Project Unit Managers/Financial Officers: Costs of production and categories of expenditures; USOE and non-USOE contributions to funding ESAA-TV series; Effects of union regulations on production costs.

Project Advisory Committee Members: Factors associated with decision to participate as a PAC member; Nature of PAC participation in production process; PAC perceptions of the degree to which target audience needs were met; Impact of legislative requirements and program regulations on the series success at meeting target audience needs.

Network Programming Directors for Children's and Family Oriented Programming: Program Managers' awareness, evaluation, and carriage of ESAA-TV series; Awareness and impact of ESAA-TV legislative requirements and program regulations on broadcasters' carriage decisions; Awareness and evaluation of USOE's TvAC campaign; General network policies and practices relating to children's and family-oriented programming; Network policies and practices regarding minority groups; Interactions with media advocacy groups.

National, Regional, and Local Media Advocacy Group Spokespersons: Advocacy group characteristics and concerns; Group activities directed toward influencing network/station programming practices; Concerns relating to minority group programming and minorities in television; Concerns relating to employment of minorities in the broadcast industry; Participation in production and promotion of programs; Awareness and evaluation of ESAA-TV series.

General Managers/Local Broadcast Station Program Managers: Broadcasters awareness and evaluation of ESAA-TV series; Awareness and impact of ESAA-TV legislative requirements and program regulations on carriage decisions; Awareness and evaluation of USOE's TvAC promotion campaign; Policies and practices relating to childrens' and family oriented programming; Interactions with media groups.

Instructional Television (ITV) Coordinators: Characteristics of ITV Service (e.g., audiences served, types of programming broadcast or distributed organizational structures); Awareness, evaluation, and/or distribution of ESAA-TV series; Broadcast and/or distribution practices; Major policies and factors in program selection.

Non-Broadcast Distributors: Characteristics of distributors (e.g., client populations served, types of programming distributed, organizational structure); Awareness, evaluation and distribution of ESAA-TV series; Awareness and impact of ESAA-TV legislative requirements and program regulations on distribution decisions; Major policies and factors influencing program selection and distribution.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Nomination for Graduate or Professional Fellowship.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Training and Facilities.

3. AGENCY FORM NUMBER

OE Form 1048.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"* * * the Commissioner is authorized to award not to exceed 7,500 fellowships to be used for study in graduate programs at institutions of higher education * * *" (Sec. 922(a), Pub. L. 92-318, as amended by Pub. L. 94-482) "The Commissioner is authorized to require reports containing such information in such form and to file at such times as he determines necessary from any person awarded a fellowship under the provisions of this part * * *"

(Sec. 925(b), Pub. L. 92-318, as amended by Pub. L. 94-482)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

(a) To meet the objectives of the Graduate and Professional Education legislation.
(b) Monitoring citizenship eligibility of nominees.
(c) Program analysis of background characteristics of fellows.
(d) Fiscal control.
(e) Audit purposes.

7. DATA ACQUISITION PLAN

(a) Method of collection: Mail.
(b) Time for collection: Fall, 1978.
(c) Frequency: Once a year.

8. RESPONDENTS

(a) Type: Individuals.
(b) Number: 4,000.
(c) Estimated average man-hours per respondent: 1 hour.

9. INFORMATION TO BE COLLECTED

(a) To include data for the HEA, Title IX-B, HEA, Title IX-C, and HEA, Title IX-D programs.
(b) To collect data by-sex, by-ethnic group, and by-age.
(c) To collect data for previous academic study.
(d) To collect data by type to degree to be received.
(e) To collect special background and previous experiences. (Title IX-B fellows only.)

[FR Doc. 78-17378 Filed 6-22-78; 8:45 am]

[4110-92]

Office of Human Development Services

DEVELOPMENTAL DISABILITIES PROGRAM

Intent to Reallot Services and Facilities Basic Support and Protection and Advocacy Funds

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Notice of Intent to Reallot Developmental Disabilities Services and Facilities Basic Support and Protection and Advocacy Funds.

DATES: Comments must be received on or before July 24, 1978.

ADDRESS: Commissioner, Rehabilitation Services Administration, Developmental Disabilities Office, Office of Human Development Services, Department of Health, Education, and Welfare, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Dr. George N. Bouthilet, 202-245-1338.

ACTION: American Samoa and the Trust Territory of the Pacific Islands have notified the Office of the Human Development Services that their Fiscal Year 1978 allotments for Basic Support in the amount of $100,000 and for Protection and Advocacy in the amount of $40,000 will not be required. This Agency therefore is realloting these funds in accordance with Section 132(d) of the Developmental Disabilities Services and Facilities Construction Act, as amended by Pub. L. 94-103.

Section 132(d) also required that such reallotments not be made until 30 days after notice has been published in the FEDERAL REGISTER.

Comments are invited but must be in writing and be received on or before July 24, 1978.

Notice is hereby given that reallotments will be made as follows:

BASIC SUPPORT

State:	
Alabama	$2,593
Alaska	606
Arizona	1,123

BASIC SUPPORT—Continued

Arkansas	1,451
Colorado	1,143
Connecticut	1,398
Delaware	606
District of Columbia	606
Florida	4,097
Georgia	1,884
Hawaii	606
Idaho	606
Illinois	5,242
Iowa	1,717
Kansas	1,209
Louisiana	2,448
Maine	720
Maryland	1,903
Massachusetts	2,899
Minnesota	2,192
Mississippi	1,780
Missouri	2,736
Montana	606
Nebraska	903
Nevada	606
New Hampshire	606
New Jersey	3,332
New Mexico	697
New York	8,593
North Carolina	3,539
North Dakota	606
Ohio	5,696
Oklahoma	1,657
Oregon	1,176
Pennsylvania	6,777
Puerto Rico	2,884
Rhode Island	606
South Carolina	1,869
Tennessee	2,744
Texas	6,518
Utah	701
Vermont	606
Virginia	2,766
Washington	1,685
West Virginia	1,565
Wisconsin	2,697
Total	100,000

PROTECTION AND ADVOCACY

State:	
Alabama	$1,509
Alaska	499
Arizona	669
Colorado	692
Delaware	499
District of Columbia	499
Hawaii	499
Idaho	499
Kentucky	1,420
Louisiana	1,449
Maine	499
Maryland	1,102
Massachusetts	1,727
Minnesota	1,237
Mississippi	1,062
Missouri	1,603
New Jersey	1,967
New Mexico	499
New York	5,223
North Dakota	499
Oklahoma	969
Pennsylvania	3,915
Rhode Island	499
South Carolina	1,119
South Dakota	499
Texas	3,870
Vermont	499
Virginia	1,601
Washington	1,004
West Virginia	848
Wisconsin	1,525
Total	40,000

(Catalog of Federal Domestic Assistance Program No. 13.630 Developmental Disabilities—Basic Support)

Dated: June 15, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-17073 Filed 6-22-78; 8:45 am]

[4110-12]

Office of the Secretary

OFFICE OF THE GENERAL COUNSEL

Statement of Organization, Functions, and Delegations of Authority

Part A of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, is amended to reflect certain changes in Chapter AG, Office of the General Counsel, (38 FR 17032-3, dated 6/28/73, as amended by 38 FR 22667, dated 8/23/73, and 42 FR 42716, dated 8/24/77).

The description of the Immediate Office of the General Counsel is amended to show the addition of the Associate General (Regional Operations) and the addition of two new staff offices: Office of Legal Counsel and Office for Regulation Review.

These changes are reflected in revisions to Section AG.10 *Organization,* Section AG.14, *Immediate Office of the General Counsel,* Section AG.21 *Immediate Office of the General Counsel,* Section AG.22 *Divisions in the Office of the General Counsel,* and Section AG.23 *Office of the Regional Attorney, Regions I-X.* The revisions are as follows:

Delete current Section AG.10 and add revised section as follows:

Section AG.10 *Organization.*

The Office of the General Counsel, under the supervision of a General Counsel, consists of:

1. Immediate Office of the General Counsel.
2. Office of Legal Counsel.
3. Office for Regulation Review.
4. Divisions in the Office of the General Counsel.
5. Offices of the Regional Attorneys.

Delete current Section AG.14 and add revised section as follows:

Section AG.14 Immediate Office of the General Counsel

A. The Immediate Office of the General Counsel consists of:

1. General Counsel.
2. Deputy General Counsel.
3. Associate General Counsel (Regional Operations).
4. Deputy General Counsel, Office of Legal Counsel.
5. Deputy General Counsel, Office for Regulation Review.
6. Special Assistants to the General Counsel.
7. Executive Assistant to the General Counsel.

Delete current Section AG.21 and add revised section as follows:

Section AG.21 *Immediate Office of the General Counsel*

A. The General Counsel:

1. Is responsible to and serves as Special Advisor to the Secretary on legal matters in connection with the administration of the Department.
2. Exercises general direction and supervision over all legal activities carried on by the Department.

B. The Deputy General Counsel assists the General Counsel in carrying out his/her responsibilities and performs such duties as the General Counsel prescribes.

C. The Associate General Counsel (Regional Operations) assists the General Counsel and the Deputy General Counsel in carrying out their responsibilities and performs such duties as the General Counsel and the Deputy General Counsel prescribe.

D. The Deputy General Counsel, Office of Legal Counsel, assists the General Counsel in providing legal advice and opinions relating to major new policy directions, innovative programs not clearly delineated by statutory authority, and Departmental programs and initiatives involving more than one Principal Operating Component.

E. The Deputy General Counsel, Office for Regulation Review, assists the General Counsel in providing necessary legal support to improve the quality and meaningfulness of Departmental regulations.

F. The Assistants to the General Counsel assist the General Counsel and the Deputy General Counsel in carrying out their professional and managerial responsibilities.

Insert revised lead sentence as follows:

Section AG.22 *Divisions in the Office of the General Counsel.*

A. The Divisions in the Office of the General Counsel, under the direction of an Assistant General Counsel, have the following responsibilities: (No changes in current list of divisions and functions).

Insert new section as follows:

Section AG.23 *Office of the Regional Attorney, Regions I-X.*

These offices provide professional legal and managerial expertise for the Office of the General Counsel, in their respective geographical locations.

Dated: May 31, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-17415 Filed 6-22-78; 8:45 am]

[4110-85]

Public Health Service

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice is hereby given, pursuant to 42 CFR § 110.605, that in the month of April 1978 the following entities have been determined to be qualified health maintenance organizations (HMOs) under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

In addition, a revised service area is announced at the end of the list with respect to a previously qualified HMO.

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS, NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

1. Metropolitan Baltimore Health Care, Inc., (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 1005 North Point Boulevard, Baltimore, Maryland 21224. Service area: Zip codes as follows: 21201, 21202, 21204, 21205, 21206, 21207, 21208, 21209, 21210, 21211, 21212, 21213, 21214, 21215, 21216, 21217, 21218, 21219, 21220, 21221, 21227, 21228, 21229, 21230, 21231, 21234, 21236, 21237, 21239, 21061, 21090.

Date of qualification: April 3, 1978.

(Transitionally Qualified Health Maintenance Organizations: 42 CFR 110.603(b))

2. Michigan Health Maintenance Organization Plans, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 2200 Edison Plaza, 600 Plaza Drive, Detroit, Michigan 48226. Service area: Wayne County and zip codes in Oakland and Macomb Counties:

OAKLAND

48008, 48009, 48010, 48011, 48013, 48017, 48024, 48025, 48030, 48053, 48055, 48057, 48058, 48063, 48067, 48069, 48070, 48071, 48072, 48073, 48075, 48076, 48084, 48220, 48237.

MACOMB

48015, 48021, 48026, 48066, 48080, 48081, 48082, 48089, 48091, 48092, 48093.

Date of Qualification: April 13, 1978.

3. Michael Reese Health Plan, Inc., (Staff Model, see action 1310(b)(1) of the Public Health Service Act), 3055 South Cottage Grove Avenue, Chicago, Illinois 60616. Service area: City of Chicago and Cook and DuPage Counties, except the following zip codes in these counties: 60067, 60103, 60108, 60172, 60184, 60185, 60190, 60411, 60425, 60429, 60438, 60443, 60461, 60466, 60471, 60473, 60476, 60519, 60532, 60555.

Date of Qualification: April 17, 1978.

REVISED SERVICE AREAS

The service area listed in the annual cumulative list of qualified HMOs and published in the FEDERAL REGISTER on April 7, 1978, (43 FR 14910) with respect to ChoiceCare Health Services, Inc., 2120 South College Avenue, Fort Collins, Colorado 80521 has been revised as follows:

Change from—Service area: Larimer County, Colorado.

Change to—Service area: Larimer and Weld Counties, Colorado.

Date of qualification: Transitionally qualified—August 12, 1976 (41 FR 41137).

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd floor, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified HMOs should be sent to the same office.

Dated: June 9, 1978.

JAMES F. DICKSON,
Acting Assistant Secretary for Health.

[FR Doc. 78-17417 Filed 6-22-78; 8:45 am]

[4210-01]

HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

[Docket No. N-78-880]

PERFORMANCE OF LEGAL WORK ASSOCIATED WITH GNMA HELD MORTGAGES

Notice of Application

AGENCY: Government National Mortgage Association (GNMA).

ACTION: Notice of Application.

SUMMARY: GNMA is requiring that attorneys apply for approval to perform legal work associated with GNMA held mortgages. The requirement is needed in order to encourage a broader and more equitable selection of practitioners in this field of work.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Irving P. Margulies, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-7203.

SUPPLEMENTARY INFORMATION: The Government National Mortgage Association (GNMA) is the owner and holder of a large number of single family mortgages acquired under its mortgage purchase programs. Any holder of mortgages must either service the mortgages itself or obtain the services of a company qualified to perform such an activity. As GNMA does not have the staff to perform the mortgage servicing required for its large portfolio, mortgage servicing is performed for and on behalf of GNMA by mortgage servicers it has approved.

Attorneys are often required for mortgage foreclosures in conjunction with mortgage servicing. As would be expected with mortgage portfolios, the incidence of foreclosure generally increases proportionately as the loan portfolio size increases. GNMA bears all the cost of paying for the foreclosure and is liable for any and all shortfalls arising from the foreclosure of conventional single-family mortgages or in connection with the claim payments made under the FHA and VA programs. It is to GNMA's benefit, therefore, to obtain qualified representation to expedite foreclosure actions, thus reducing its exposure to losses associated with conventional mortgages or under the insurance and guarantee programs.

Prior to October 1976, GNMA historically required that the attorney representing it in the foreclosure action be approved by it; but on October 28, 1976, GNMA discontinued this practice. The servicing institution was permitted to select the attorney based on the servicer's determination of the attorney's professional qualifications; GNMA reserved, however, the right to disqualify an attorney for cause.

At the time the previous practice was changed, in 1976, it was intended that this field of legal work generated by the Federal government would be opened up on an equal basis to all qualified practitioners. However, elimination of the GNMA approval requirement has had the effect rather of perpetuating the status of a limited group of attorneys qualified by GNMA to handle foreclosure. Attorneys who had not received GNMA approval prior to October 28, 1976, seem to have been excluded as a practical matter since servicers appear to depend upon attorneys already approved. The impact has been disproportionately heavy on the attorneys most recently admitted to practice and this class of attorneys is composed, to a much greater degree than was true even a few years ago, of women and minorities.

To overcome these inequities GNMA will require that effective August 1, 1978, attorneys must be approved by GNMA before they are retained to render legal services concerning GNMA-owned mortgages. All attorneys seeking qualification to perform these services, including those who have been approved in the past, must apply for approval by submitting the most current following information to the General Counsel, Room 10214, Department of Housing and Urban Development, Washington, D.C. 20410:

1. Name (firm or individual);
2. Bar membership (where and when admitted);
3. City in which principal office is located;
4. Experience in mortgage foreclosures.

Issued at Washington, D.C., June 19, 1978.

JAY JANIS,
Under Secretary, Department of Housing and Urban Development.

[FR Doc. 78-17418 Filed 6-22-78; 8:45 am]

[4210-01]

Office of the Secretary

[Docket No. N-78-881]

PRIVACY ACT OF 1974

Amendment to Routine Uses

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Amendment of Existing System of Records.

SUMMARY: This notice amends the routine uses of HUD's Privacy Act system of records entitled Housing Counseling (HUD/DEPT-22).

EFFECTIVE DATE: This amendment shall become effective without further notice on July 23, 1978, unless comments are received on or before July 23, 1978, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone (202) 755-5192.

SUPPLEMENTARY INFORMATION: The proposed additions to routine users consist of organizations and agencies operating in the real estate field with which the subject individual may have financial and related problems and community service organizations that offer supportive services. These changes are being made to enable HUD-approved counseling agencies to release data to these organizations in order to arrange for consolidation of debts or short-term forbearance of debt payments on behalf of the counselee. Also, the Categories of Individuals Covered by the System and the Categories of Records in the System have been rewritten to describe better the contents therein.

The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 42 FR 54756 (October 7, 1977). Appendix A which lists the addresses of HUD's field offices was published at 42 FR 54777 (October 7, 1977).

Accordingly, HUD proposes to amend the routine uses of the Housing Counseling system to read as follows:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in the prefatory statement. Other routine uses: to HUD-approved counseling agency staff for the purpose of providing supportive counseling services to meet the short and long term needs of the individual being counseled. Financial institutions servicing HUD insured or assisted loans; local housing authorities; rental agents and managers; real estate brokers, agents and creditors have access only to current financial, employment and family composition data regarding persons currently being counseled. Data available to these institutions and individuals in such circumstances is limited to: savings/checking/credit union account records, commercial credit reports, and credit account records with utility companies, retail stores, and other commercial credit sources; specific employment information concerning name and address of employer, length of service, and salary; and family composition data through the authorized counseling agency or HUD staff. Community service agencies to which the individual being counseled is referred for additional supportive services have limited access to information appropriate to the reason for referral only through authorized counseling agency staff.

For the convenience of the public, the Department is printing below the system of records in its entirety including the modifications as proposed.

HUD/DEPT-22

System Name:

Housing Counseling

System location:

Many regional, area, insuring and service offices, as well as Headquarters, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A. In addition to these offices, HUD-approved counseling agencies in many cities, both voluntary and paid by the Department, maintain files of this type. To determine whether such an agency exists in a particular city, contact the nearest HUD field office shown in Appendix A.

Categories of individuals covered by the system:

This system contains records of individuals who have been referred but not counseled; individuals who have been or are receiving counseling and assistance with housing problems and related family and financial problems, as well as individuals seeking general and consumer information.

Categories of records in the system:

This system contains records of dates of counseling, summaries of aid furnished the individual being counseled, correspondence with or on behalf of the individual being counseled, standard forms, letters and reports, purchase and financial data, medical history, employment information and problems, family composition, referral information and specific family and/or individual problems.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses paragraphs in the prefatory statement. Other routine uses: to HUD-approved counseling agency staff for the purpose of providing supportive counseling services to meet the short and long term needs of the individual being counseled. Financial institutions servicing HUD insured or assisted loans; local housing authorities; rental agents and managers; real estate brokers, agents and creditors have access only to current financial, employment and family composition data regarding persons currently being counseled. Data available to these institutions and individuals in such circumstances is limited to: savings/checking/credit union account records, commercial credit reports, and credit account records with utility companies, retail stores, and other commercial credit sources; specific employment information concerning name and address of employer, length of service, and salary; and family composition data through the authorized counseling agency or HUD staff. Community service agencies to which the individual being counseled is referred for additional supportive services have limited access to information appropriate to the reason for referral only through authorized counseling agency staff.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

The records are stored in paper files which are kept in standard lockable file cabinets and desks.

Retrievability:

Records are retrievable by name, case number or property address.

Safeguards:

During the counseling process and the retention period, records are maintained in confidential files with access limited to those whose official duties require access.

Retention and disposal:

Counseling records are maintained by the counseling agency for as long as the individual being counseled participates in the program and up to five (5) years thereafter. The Department may maintain summary records of the counseling for as long as the individual being counseled lives in HUD-insured or assisted property.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

Notification procedure:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Record source categories:

Information in this system of records is: (1) supplied directly by the individual, and/or (2) supplied by a member of the individual's family, and/or (3) supplied by mortgagees, employers (past and present), creditors and credit reports, landlords (both public and private) and/or (4) supplied by sources to whom the individual being counseled has been referred, or has gone to for assistance, and/or (5) derived from information supplied by the individual, and/or (6) supplied by Department officials and/or (7) supplied by program counselors.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., June 15, 1978.

VINCENT J. HEARING,
Deputy Assistant Secretary for Administration.

[FR Doc. 78-17517 Filed 6-22-78; 8:45 am]

[4210-01]

[Docket No. N-78-858]

PRIVACY ACT OF 1974

Correction of New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Correction of notification of new system of records.

SUMMARY: On March 27, 1978 at 43 FR 12761, the Department published an interim notice of a new system of records subject to the Privacy Act. The new system is identified as the National Flood Insurance Application and Related Documents Files (HUD/FIA-2). The routine uses described therein are corrected by the addition of the Small Business Administration. The correct system description is published in its entirety below.

EFFECTIVE DATE: This system of records shall become final without further notice on July 23, 1978, unless comments are received on or before July 23, 1978, which would result in a contrary determination. Thus, the comment period is extended from the earlier date of April 26, 1978.

ADDRESS: Rules Docket Clerk, Room 5218. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The system of records results from processing applications, endorsements and claims under the National Flood Insurance Program.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on November 4, 1977.

The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 42 FR 54765 (October 7, 1977). Appendix A which lists the addresses of HUD's field offices was published at 42 FR 54777 (October 7, 1977).

HUD/FIA-2

System name:

The National Flood Insurance Application and Related Documents Files.

System location:

Various offices of the Servicing Agent under contract to the Department.

Categories of individuals covered by the system:

Applicants for individual flood insurance and individuals insured.

Categories of records in the system:

Flood insurance policy issuance and administration records and claims adjustment records, including applications for emergency and regular flood insurance, Endorsements, Renewal Applications, Cancellation Notices, Policy Questionnaires, Notices of Loss, and Proofs of Loss.

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

See Routine Uses in prefatory statement. Other routine uses: For use of insurance agents, brokers and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; and to Small Business Administration for verification of nonduplication of benefits.

Policies and practices for storing, retrieving, assessing, retaining and disposing of records in the system:

Storage:

In the file folders and on magnetic tape/disc/drum.

Retrievability:

Name, policy number.

Safeguards:

Records kept in a secured area; automated systems have restricted access limited to authorized personnel.

Retention and Disposal:

Policy records are kept as long as insurance is desired and premiums paid and for an appropriate time thereafter and claim records are kept for the statutory time within which to file a claim.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Notification procedures:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location.

This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories:

Individuals who apply for flood insurance under the National Flood Insurance Program and individuals who are insured under the program.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., June 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 78-17518 Filed 6-22-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO-WYOMING

Modification of Grazing District Boundaries

Pursuant to the authority vested in the Secretary of the Interior by the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269) as amended and delegated to the Director, Bureau of Land Management by 235 DM 1.1, the boundary between the Rock Springs, Wyoming, and Idaho Falls, Idaho, Districts are hereby modified as follows:

The west boundary of Wyoming Grazing District No. 4 (Rock Springs), is adjusted so as to eliminate the following described land from Wyoming Grazing District No. 4, and these lands are hereby placed under the administrative jurisdiction of the Idaho Falls District, Idaho.

All vacant, unappropriated public land in:

BOISE MERIDIAN, IDAHO

T. 11 S., R. 46 E.
Sec. 34, SE¼;
Sec. 35, Lots 3 and 4, W½SW¼.
T. 12 S., R. 46 E.
Sec. 2, (All) Lots 1, 2, 3, 4, and 5, SW¼NW¼, W½SW¼;
Sec. 3, (All) Lots 1-7, SW¼NE¼, S½NW¼,SW¼, W½SE¼;
Sec. 4, (All), Lots 1-4, S½N½, S½;
Sec. 5, (E½) Lots 1 and 2, S½NE¼, SE;
Sec. 8, (E½) Lots 1-4, W½E½;
Sec. 9, All;
Sec. 10, All;
Sec. 11, (All) Lots 1-4, W½W½;
Sec. 14, (All) Lots 1-4, W½W½;
Sec. 15, All;
Sec. 16, All;
Sec. 17, (E½) Lots 1-4, W½E½;
Sec. 20, (E½) Lots 1-3, 6 and 7, W½NE¼, NW¼SE¼;
Sec. 21, All;
Sec. 22, All;
Sec. 23, (All) Lots 1-4, W½W½;
Sec. 26, (All) Lots 1-4, W½W½;
Sec. 27, All;
Sec. 28, All;
Sec. 29, E½;
Sec. 32, E½;
Sec. 33, All;
Sec. 34, All;
Sec. 35, (All) Lots 1-4, W½W½;
T. 13 S., R. 46 E.
Sec. 2, Lots 1-4;
Sec. 3, (All) Lots 1-4, S½N½, S½;
Sec. 4, (All) Lots 1-4, S½N½, S½;
Sec. 5, (E½) Lots 1 and 2, S½NE¼, SE¼;
Sec. 8, E½;
Sec. 9, All;
Sec. 10, All;
Sec. 11, (All) Lots 1-4;
Sec. 14, (All) Lots 1-4;
Sec. 15, All;
Sec. 16, All;
Sec. 17, E½;
Sec. 20, E½;
Sec. 21, All;
Sec. 22, All;
Sec. 23, (All) Lots 1-4;
Sec. 26, (All) Lots 1-4;
Sec. 27, All;
Sec. 28, All;
Sec. 29, E½;
Sec. 32, E½;
Sec. 33, All;
Sec. 34, All;
Sec. 35, (All) Lots 1-4.
T. 14 S., R. 46 E.
Sec. 2, (All) Lots 1-4;
Sec. 3, (All) Lots 1-4, S½N½, S½;
Sec. 4, (All) Lots 1-4, S½N½, S½;
Sec. 5, (E½) Lots 1 and 2, S½NE¼, SE¼;
Sec. 8, E½;
Sec. 9, All;
Sec. 10, All;
Sec. 11, (All) Lots 1-4;
Sec. 14, (All) Lots 1-4;
Sec. 15, All;
Sec. 16, All;
Sec. 17, E½;
Sec. 20, E½;
Sec. 21, All;
Sec. 22, All;
Sec. 23, (All) Lots 1-4;
Sec. 26, (All) Lots 1-4;
Sec. 27, All;
Sec. 28, All;
Sec. 29, E½;
Sec. 32, E½;
Sec. 33, All;
Sec. 34, All;
Sec. 35, (All) Lots 1-4.
T. 15 S., R. 46 E.
Sec. 2, (All) Lots 1-4;
Sec. 3, (All) Lots 1-4, S½N½, S½;
Sec. 4, (All) Lots 1-4, S½N½, S½;
Sec. 5, (E½) Lots 1 and 2, S½NE¼, SE¼;
Sec. 8, E½;
Sec. 9, All;
Sec. 10, All;
Sec. 11, (All) Lots 1-4;
Sec. 14, (All) Lots 1-4;
Sec. 15, All;
Sec. 16, All;
Sec. 17, E½;
Sec. 20, E½;
Sec. 21, All;
Sec. 22, All;
Sec. 23, (All) Lots 1-4;
Sec. 26, (All) Lots 1-4, W½W½;
Sec. 27, All;
Sec. 28, All;
Sec. 29, E½;
Sec. 32, E½;
Sec. 33, All;
Sec. 34, All;
Sec. 35, (All) Lots 1-4, W½W½;
T. 16 S., R. 46 E.
Sec. 2, (All) Lots 1-4;
Sec. 3, All;
Sec. 4, All;
Sec. 5, E½;
Sec. 8, E½;
Sec. 9, All;
Sec. 10, All;
Sec. 11, (All) Lots 1-4;
Sec. 14, (All) Lots 1-4;
Sec. 15, All;
Sec. 16, All;
Sec. 17, E½;
Sec. 20, E½;
Sec. 21, All;
Sec. 22, All;
Sec. 23, (All) Lots 1-4;
Sec. 26, (All) Lots 1-3;
Sec. 27, (All) Lots 1-8;
Sec. 28, (All) Lots 1-8;
Sec. 29, (E½) Lots 1, 2, 7 and 8.

This transfer of jurisdiction will not affect the status or use of the public lands involved and shall become effective June 23, 1978.

Dated: June 14, 1978.

ARNOLD E. PETTY,
Acting Associate Director.

[FR Doc. 78-17379 Filed 6-22-78; 8:45 am]

[4310-84]

[NM 33599 and 33600]

NEW MEXICO

Applications

JUNE 16, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch and one 6⅝-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 26 E.,
Sec. 34, SW¼NE¼, NE¼SW¼ and NW¼SE¼.
T. 19 S., R. 33 E.,
Sec. 14, W½E½;
Sec. 23, W½E½.

These pipelines will convey natural gas across 2.187 miles of public lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land

Management, P.O. Box 1397, Roswell, New Mexico 88201.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-17380 Filed 6-22-78; 8:45 am]

[4310-84]

[NM 33601 and 33602]

NEW MEXICO

Applications

JUNE 16, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 9 W.,
Sec. 18, lots 15 and 18.
T. 30 N., R. 14 W.,
Sec. 35, NW¼NW¼.

These pipelines will convey natural gas across 0.258 mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-17381 Filed 6-22-78; 8:45 am]

[4310-84]

OUTER CONTINENTAL SHELF IN THE EASTERN GULF OF MEXICO

Availability of Final Environmental Statement Regarding Proposed Oil and Gas Lease Sale No. 65, Eastern Gulf of Mexico

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 116 tracts consisting of 270,024 hectares (667,229 acres) of submerged lands on the OCS in the Eastern Gulf of Mexico (OCS Sale No. 65).

Single copies of the final environmental statement can be obtained from the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the final environmental statement will also be made available for review in the following public libraries: Harrison County Library, P.O. Box 4018, 21st Avenue & Beach, Gulfport, Mississippi; Mobile Public Library, 701 Government Street, Mobile, Alabama; Montgomery Public Library, 445 S. Lawrence Street, Montgomery, Alabama; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Florida; West Florida Regional Library, 200 W. Gregory, Pensacola, Florida; N.W. Regional Library System, 25 W. Government, Panama City, Florida; Leon County Public Library, 127 N. Monroe, Tallahassee, Florida; Lee County Free Library, 3355 Fowler Street, Fort Myers, Florida; Charlotte-Glades Regional Library System, 801 NW Aaron Street, Port Charlotte, Florida; and Tampa-Hillsborough County Public Library System, 800 N. Ashley, Tampa, Florida.

FRANK GREGG,
Director, Bureau of Land Management.

Approved:

LARRY E. MEIROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-17523 Filed 6-22-78; 8:45 am]

[4310-84]

[W-63535]

WYOMING

Application

JUNE 15, 1978.

Notice is hereby given that pursuant to sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Phillips Petroleum Company of Denver, Colorado has filed an application for a right-of-way to construct a 6-inch inner diameter low pressure pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 46 N., R. 70 W.,
Sec. 14, S½SE¼;
Sec. 24, W½NW¼, W½SE¼ and SE¼SE¼.

The proposed pipeline will transport natural gas from a point in the SW¼NW¼ of sec. 30, T. 46 N., R. 69 W., and SW¼SE¼ sec. 24, T. 46 N., R. 70 W., to a point in the SW¼SE¼ sec. 14, T. 46 N., R. 70 W., 6th P.M., Campbell County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 7 Union Blvd., P.O. Box 2834, Casper, Wyoming 82601.

GLENNA M. LANE,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-17382 Filed 6-22-78; 8:45 am]

[4310-70]

National Park Service

AVON PIER AND RECREATION ENTERPRISES, INC.

Intention to Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on July 24, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Avon Pier and Recreation Enterprises, Inc., authorizing it to continue to provide concession facilities and services for the public within Cape Hatteras National Seashore for a period of five (5) years from January 1, 1979, through December 31, 1983.

An analysis of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental analysis may be reviewed in the Regional Office, 1895 Phoenix Boulevard, Atlanta, Georgia 30349.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Avon Pier and Recreation Enterprises, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the con-

tract, if, its proposal is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before July 24, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: May 26. 1978.

VERNON I. DAME,
Acting Associate Director,
National Park Service.

[FR Doc. 78-17397 Filed 6-22-78; 8:45 am]

[4310-70]

[INT FES 78-7]

Availability of Final Environmental Statement on Proposed Wilderness Recommendation

EVERGLADES NATIONAL PARK, FLA.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Final Environmental Statement on the proposed Wilderness Recommendation for Everglades National Park, Florida.

The statement considers the establishment of a wilderness area within Everglades National Park pursuant to the Wilderness Act of 1964.

Written comments on the Environmental Statement are invited and will be accepted for a period of 30 days following publication of this notice. Comments should be addressed to the Regional Director, Southeast Region, or the Superintendent, Everglades National Park, at the addresses given below.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30349;
Superintendent, Everglades National Park, P.O. Box 279, Homestead, Florida 33030; and
Park Manager, Big Cypress National Preserve, P.O. Box 1247, Naples, Florida 33939.

NOTE.—The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: April 24, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant
Secretary of the Interior.

[FR Doc. 78-17448 Filed 6-22-78; 8:45 am]

[4310-70]

GLACIER PARK BOAT CO., INC.

Intention to Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on July 24, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Glacier Park Boat Company, Inc., authorizing it to continue to provide concession facilities and services for the public at Glacier National Park for a period of five (5) years from January 1, 1978 through December 31, 1982.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Glacier National Park, West Glacier, Montana 59936.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Glacier Park Boat Company, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Glacier Park Boat Company, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before July 24, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Date: June 16, 1978.

ROBERT STANTON.
Acting Associate Director,
National Park Service.

[FR Doc. 78-17398 Filed 6-22-78; 8:45 am]

[4310-70]

WIEN AIR ALASKA, INC.

Intention to Extend Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on July 24, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Wien Air Alaska, Inc., authorizing it to continue to provide concession facilities and services for the public at Katmai National Monument for a period of one (1) year from January 1, 1979, through December 31, 1979.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Regional Office, Pacific Northwest Region, 601 Fourth and Pike Building, Seattle, Washington 98101.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Wien Air Alaska, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if the offer of Wien Air Alaska, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Wien Air Alaska, Inc., (as determined by the Secretary) is submitted, Wien Air Alaska, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal, the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Wien Air Alaska, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal including that of the existing concessioner, must be submitted on or before July 24, 1978 to be considered and evaluated.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: June 2, 1978.

DANIEL J. TOBIN, Jr.,
Associate Director,
National Park Service.

[FR Doc. 78-17399 Filed 6-22-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-47]

CERTAIN FLEXIBLE FOAM SANDALS

Commission Order and Memorandum

PROCEDURAL BACKGROUND

On April 17, 1978, a joint motion for the termination of Graham-Brown Shoe Company of Dallas, Texas (Graham-Brown),[1] a party respondent to the subject investigation, was filed by the complainant, TIDDIES, Inc., and the Commission Investigative Attorney, and Graham-Brown. No responses to the motion are of record. The presiding officer, acting in conformity with sections 210.51 (a) and (c) and 210.53 of the Commission's Rules of Practice and Procedure,[2] concluded that no violation of section 337 of the Tariff Act of 1930, as amended,[3] exists with respect to Graham-Brown and, by order of May 19, 1978,[4] recommend that Graham-Brown be terminated as a party respondent.

DETERMINATION AND ORDER

Having considered the motion to terminate and the brief filed in support thereof, the Commission Determines That Graham-Brown is not currently in violation of section 337.

Accordingly, the Commission grants motion No. 47-1 and orders that Graham-Brown be and hereby is terminated as a party respondent to the instant investigation.

OPINION

The joint motion of April 17, 1978, was accompanied by a brief filed on behalf of the complainant, the Commission's Investigative Attorney, and Graham-Brown, which affirmed that Graham-Brown had not imported the complained-of merchandise and also contained assurances that Graham-Brown would not import such merchandise in the future. In view of these facts and because both the complainant and the Commission's Investigative Attorney support the termination of Graham-Brown as a party respondent, the Commission has determined that Graham-Brown is not in violation of section 337 and has granted the joint motion.

Issued: June 20, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-17482 Filed 6-22-78; 8:45 am]

[1] Motion docket No. 47-1.
[2] 19 C.F.R. 210.51 (a) and (c) and 210.53.
[3] 19 U.S.C. 1337.
[4] Order Recommending Termination, filed May 19, 1978.

[7020-02]

[AA1921-183]

SORBATES FROM JAPAN

Investigation and Hearing

Having received advice from the Department of the Treasury on June 13, 1978, that sorbates from Japan, with the exception of that merchandise produced by Chisso Corp., Daicel, Ltd., and Ueno Fine Chemical Industries, Ltd., are being, or are likely to be, sold at less than fair value, the United States International Trade Commission, on June 16, 1978, instituted investigation No. AA1921-183 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For the purpose of its determination concerning sales at less than fair value, the Treasury Department defined "sorbates" as sorbic acid and potassium sorbate, which are classified under item numbers 425.8720 and 426.8420, respectively, of the Tariff Schedules of the United States, Annotated.

Hearing. A public hearing in connection with the investigation will be held in Washington, D.C. beginning at 10:00 a.m., e.d.t., on Tuesday, August 1, 1978. All persons shall have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, July 27, 1978.

Issued: June 20, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-17481 Filed 6-22-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. CALIFORNIA AND HAWAIIAN SUGAR CO., ET AL.

Proposed Consent Judgments and Competitive Impact Statement Thereon

U.S. v. *California and Hawaiian Sugar Company, et al.*, Civ. No. 74-2675 RHP, *U.S.* v. *Great Western Sugar Company, et al.*, Civ. No. 74-2674 SW, *U.S.* v. *Utah-Idaho Sugar Company, et al.*, Civ. No. 74-2676 SC.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b)-(h), that proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Northern District of California in *U.S.* v. *California and Hawaiian Sugar Company, et al.*, Civ. No. 74-2675 RHP, *U.S.* v. *Great Western Sugar Company, et al.*, Civ. No. 74-2674 SW, and *U.S.* v. *Utah-Idaho Sugar Company, et al.*, Civ. No. 74-2676 SC. The complaints in these cases allege that the defendants conspired to fix, raise, maintain, and stabilize the price of refined sugar in the states described in the Complaints in violation of Section 1 of the Sherman Act.

The proposed judgments in *U.S.* v. *Great Western Sugar Company, et al.*, C74-2674 SW and *U.S.* v. *California and Hawaiian Sugar Company, et al.*, C74-2675 RHP prohibit the defendants from having any agreement or understanding to fix prices. These two proposed judgments also limit direct and indirect communication among defendants concerning past, present and future prices of refined sugar. These judgments further prohibit defendants sending information on prices to other refiners through third persons such as sugar brokers. The proposed judgment in *U.S.* v. *Utah-Idaho Sugar Company, et al.*, C74-2676 SC prohibits the defendants from agreeing to refuse to sell private label sugar.

The proposed judgments require the defendants to serve copies of the consent judgment on their past, present and future sugar brokers. Any person desiring to comment on the proposed judgments should send such comments, within the sixty (60) day comment period, to Anthony E. Desmond, Chief, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Franscico, Calif. 94102.

Dated: June 12, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations.

Christopher S Crook, Glenda R. Jermanovich, U.S. Department of Justice, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, Telephone: (415) 556-6300.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Great Western Sugar Company; Holly Sugar Corporation; California and Hawaiian Sugar Company; Amalgamated Sugar Company; and National Sugarbeet Growers Federation*, Defendants.

Civil No. C74-2674 SW
Filed: June 12, 1978.

STIPULATION

It is hereby stipulated by and between the undersigned parties, plaintiff United States of America, and defendants Great Western Sugar Company, Holly Sugar Corporation,

California and Hawaiian Sugar Company, Amalgamated Sugar Company, and National Sugarbeet Growers Federation, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing said notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: June 12, 1978.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F.B. McAleer, Anthony E. Desmond, Christoper S Crook, Glenda R. Jermanovich, *Attorneys, Department of Justice.*

For the Defendants: Arnold & Porter, Washington, D.C., Bruce L. Montgomery, *Attorneys for Great Western Sugar Company;* White & Case, New York, New York, Rayner M. Hamilton, *Attorneys for Holly Sugar Corporation;* Brobeck, Phleger & Harrison, San Francisco, California, William S. Boyd, *Attorneys for California and Hawaiian Sugar Company;* Lawler, Felix & Hall, Los Angeles, California, Robert P. Mallory, *Attorneys for Amalgamated Sugar Company;* Holme, Roberts & Owen, Denver, Colorado, Charles J. Kall, *Attorneys for National Sugarbeet Growers Federation.*

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff v. *Great Western Sugar Company; Holly Sugar Corporation; California and Hawaiian Sugar Company; Amalgamated Sugar Company; and National Sugarbeet Growers Federation* Defendants.

Civ. No. 74-2674 SW.
Filed: June 12, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 19, 1974 and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment in the above-captioned case, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law herein:

Now, therefore, without any testimony being taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent of all parties hereto, it is hereby ordered, adjudged, and decreed:

I

This Court has jurisdiction of the subject matter herein and the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section I of the Act of Congress of July 2, 1890, commonly known as the Sherman Act, as amended (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or any other business or legal entity;

(B) "Refined sugar" means any grade or type of refined dry or liquid sugar derived from sugar beets or raw cane sugar;

(C) "Refiner" means any company engaged in the processing of sugar beets or the refining of raw cane sugar into, and the sale of, refined sugar;

(D) "Basis price" means the list price of refined sugar sold by a refiner f.o.b. its refinery or processing factory;

(E) "Prepaid freight application," commonly known as a "prepay," means a portion of the delivered price for refined sugar equal in amount to a freight charge from a basing point to the customer's location;

(F) "Delivered price" means the price of refined sugar delivered to the customer and generally consists of the basis price plus the prepaid freight application;

(G) "Allowance" means a discount from delivered price;

(H) "Effective selling price" means the price actually charged to the customer by the refiner and generally consists of the delivered price, less any allowance;

(I) "Prices, terms or conditions for the sale of refined sugar" includes, but is not limited to basis prices, prepaid freight applications, allowances, delivered prices or effective selling prices;

(J) "Broker" means a person not an employee of a refiner who arranges the sale of sugar for one or more refiners in exchange for a commission;

(K) "Jobber" means a person who purchases sugar from refiners for resale to industrial users or to wholesalers of grocery sugar;

(L) "Sugarbeet grower representative" means a person who represents one or more associations or organizations of sugarbeet growers;

(M) "Future Prices" means (1) changes or revisions in the prices at which, or the terms or conditions upon which a refiner then sells or offers to sell sugar or (2) the prices, terms or conditions of sale which have been announced publicly by a refiner but have not yet become effective pursuant to the terms of the announcement.

III

The provisions of this Final Judgment shall apply to the defendants and to each of their respective officers, directors, agents and employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them, including brokers, and sugarbeet grower representatives, who shall receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment, each defendant, together with its parent company, its controlled subsidiaries, and commonly controlled affiliates along with each of its officers, directors and employees when acting solely in such capacity shall be deemed to be one person. The provisions of this Final Judgment shall apply to acts or transactions of any defendant occurring within, or affecting any acts or transactions within, the States of Indiana, Illinois, Iowa, Minnesota, Wisconsin, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Montana, Missouri, New Mexico, Oklahoma, Texas and Wyoming (east of the town of Rawlins).

IV

Each refiner defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, enforcing or claiming any right under any agreement, contract, understanding, or combination reached directly with any other refiner, jobber or other seller of refined sugar (except retail grocers), or indirectly through any intermediary, including but not limited to brokers, sugarbeet grower representatives and sugar cane grower representatives, to:

(A) Fix, raise, maintain or stabilize the prices, terms or conditions for the sale of refined sugar;

(B) Give any prior notice of or announce in advance any change or contemplated change in prices, terms or conditions for the sale of refined sugar.

V

Each refiner defendant is enjoined and restrained from:

(A) Directly communicating to any other refiner information concerning Future Prices.

(B) Requesting, requiring or coercing any third person, including but not limited to brokers and sugarbeet grower representatives, to communicate to any other refiner, information concerning Future Prices.

(C) For a period of ten (10) years from the date of entry of this Final Judgment,

(1) Directly communicating to any other refiner information concerning:

(a) The prices at which, or terms or conditions upon which, refined sugar is then being sold or offered for sale; or

(b) The prices at which, or terms or conditions upon which, other than prices or terms or conditions described in subsection (1)(a) of this paragraph (C), refined sugar has been sold or offered for sale within the one (1) year period ending on the date of the communications;

(2) Requesting, requiring or coercing any third person, including but not limited to brokers and sugarbeet growers representatives, to communicate to any other refiner, information concerning the prices at which, or terms or conditions upon which, refined sugar is then being sold or offered for sale.

VI

Without limiting the provisions of Sections IV and V nothing in Paragraphs IV and V above shall prohibit:

(A) The communication or exchange, either directly or indirectly, of any prices, terms or conditions of sale from any refiner defendant to another refiner solely in connection with a proposed or actual bona fide sale of refined sugar from one refiner to another refiner or to any agreement to the prices, terms or conditions at which any such bona fide sale is actually made;

(B) The communication or exchange, either directly or indirectly, of any prices, terms or conditions of sale between any refiner defendant and a buyer of refined sugar (other than a refiner) concerning a proposed or actual bona fide sale by such a refiner or any other refiner to such buyer or to any agreement to the prices, terms or conditions at which any such bona fide sale is actually made;

(C) The communication or exchange, either directly or indirectly, of any prices,

terms or conditions of sale between a sugarbeet grower representative or a sugar cane grower representative and a refiner solely in connection with a proposed or actual bona fide sale of sugar beets or sugarcane to that refiner or to any agreement to the prices, terms or conditions at which any such bona fide sale is actually made;

(D) The communication or exchange, either directly or indirectly, between any refiner defendant and any broker of any prices, terms or conditions of sale communicated between a refiner and a buyer of refined sugar (other than a refiner) concerning a proposed or actual bona fide sale of refined sugar; and

(E) The transmission to a broker of a refiner's own price lists or price announcements, including price announcements whose terms have not yet become effective, at the same time or after such price lists or announcements are released for publication by such refiner, with the request that such information be publicly disseminated.

VII

Defendant National Sugarbeet Growers Federation is enjoined and restrained from:

(A) Entering into, adhering to, participating in, maintaining, enforcing, or claiming any right under any agreement, contract, understanding, or combination between two or more refiners or jobbers to fix, raise, maintain or stabilize the prices, terms or conditions for the sale of refined sugar;

(B) Requesting, requiring or coercing any refiner or jobber to enter into, adhere to, participate in, maintain or enforce any agreement, contract, understanding or combination between two or more refiners or jobbers to fix, raise, maintain or stabilize the prices, terms or conditions for the sale of refined sugar;

(C) Transmitting or communicating among two or more refiners or jobbers any information concerning prices, terms or conditions for the sale of refined sugar;

(D) Nothing in this Paragraph VII shall apply to any prices, terms or conditions of sale communicated between a sugarbeet grower representative and a refiner solely in connection with a proposed or actual bona fide sale of sugar beets to that refiner.

VIII

Each refiner defendant is ordered and directed:

(A) Within sixty (60) days from the entry of the Final Judgment to (1) serve a copy of this Final Judgment upon each of its officers, directors, agents and employees who have any responsibility for the sale of refined sugar, and (2) obtain a written statement from each such person evidencing his receipt of the Final Judgment, such statement to be retained in the files of the President of each defendant for a period of ten (10) years from the date of service;

(B) Within sixty (60) days after each new officer, director, agent or employee having any responsibility for the sale of refined sugar becomes employed by a defendant, that defendant shall serve a copy of the Final Judgment on that person and obtain a written statement evidencing his receipt of the Judgment, such statement to be retained in the files of the President of each defendant for a period of ten (10) years from the date of service;

(C) Within ninety (90) days from the entry of this Final Judgment, to serve upon plaintiff and to file with the Court, an affidavit concerning the fact and manner of compliance with Subsection (A) of this Section VIII.

IX

Each refiner defendant is ordered and directed:

(A) Within sixty (60) days of entry of this Final Judgment to (1) serve by certified mail, return receipt requested, a copy of this Final Judgment upon each broker who, within the past five years has sold its refined sugar, and (2) retain the certified mail receipts evidencing the mailing of the Final Judgment, such receipts to be retained in the files of the President of each defendant for a period of ten (10) years from the date of mailing;

(B) To (1) serve by certified mail, return receipt requested, a copy of this Final Judgment upon each of its future brokers at the time the broker begins selling its refined sugar, and (2) retain the certified mail receipts evidencing the mailing of the Final Judgment, such receipts to be retained in the files of the President of each defendant for a period of ten (10) years from the date of mailing.

(C) Within ninety (90) days from the entry of this Final Judgment, to serve upon the United States and to file with the Court, an affidavit concerning the fact and manner of compliance with Subsection (A) of this Section IX, including the identity of the brokers served.

X

The defendant National Sugarbeet Growers Federation is ordered and directed:

(A) Within sixty (60) days from the entry of the Final Judgment to (1) serve a copy of this Final Judgment upon each of its officers, agents, directors and all directors of those sugarbeet grower organizations which are members of the National Sugarbeet Growers Federation, and (2) obtain a written statement from each such person evidencing his receipt of the Final Judgment, such statement to be retained in the files of the National Sugarbeet Growers Federation for a period of ten (10) years from the date of service;

(B) To serve a copy of the Final Judgment on any new director of any sugarbeet grower organizations which is a member of the National Sugarbeet Growers Federation and on any new officer, director or employee of the National Sugarbeet Growers Federation within sixty (60) days of his employment or election and obtain a written statement evidencing his receipt of the Judgment, such statements to be retained in the files of the National Sugarbeet Growers Federation for a period of ten (10) years from the date of service;

(C) Within ninety (90) days from the entry of this Final Judgment, to serve upon the United States and to file with the Court an affidavit concerning the fact and manner of compliance with Subsection (A) of this Section X.

XI

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section XI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

XII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XIII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

Christopher S Crook, Glenda R. Jermanovich, U.S. Department of Justice, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, Telephone: (415) 556-6300.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *California and Hawaiian Sugar Company; Holly Sugar Corporation; and Consolidated Foods Corporation*, Defendants.

Civil No. C74-2675 RHP.

Filed: June 12, 1978.

STIPULATION

It is hereby stipulated by and between the undersigned parties, plaintiff United States of America, and defendants California and Hawaiian Sugar Company, Holly Sugar Corporation, and Consolidated Foods Corporation, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing said notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: June 12, 1978.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F.B. McAleer, Anthony E. Desmond, Christopher S Crook, Glenda R. Jermanovich, *Attorneys, Deparment of Justice.*

For the Defendants: Brobeck, Phleger & Harrison, San Francisco, California, William S. Boyd, *Attorneys for California and Hawaiian Sugar Company;* White & Case New York, New York, Rayner M. Hamilton, *Attorneys for Holly Sugar Corporation;* Heller Ehrman White & McAuliffe, San Francisco, California, Lawrence W. Keeshan, *Attorneys for Union Sugar Division of Consolidated Foods Corporation.*

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *California and Hawaiian Sugar Company; Holly Sugar Corporation; and Consolidated Foods Corporation,* Defendants.

Civ. No. 74-2675 RHP.
Filed: June 12, 1978.
Entered:

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 19, 1974 and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment in the above-captioned case, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any issue of fact or law herein:

Now, therefore, without any testimony being taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent of all parties hereto, it is hereby ordered, adjudged, and decreed:

I

This Court has jurisdiction of the subject matter herein and the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section I of the Act of Congress of July 2, 1890, commonly known as the Sherman Act, as amended (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or any other business or legal entity;

(B) "Refined sugar" means any grade or type of refined dry or liquid sugar derived from sugar beets or raw cane sugar;

(C) "Refiner" means any company engaged in the processing of sugar beets or the refining of raw cane sugar into, and the sale of, refined sugar;

(D) "Basic price" means the list price of refined sugar sold by a refiner f.o.b. its refinery or processing factory;

(E) "Prepaid freight application," commonly known as a "prepay," means a portion of the delivered price for refined sugar equal in amount to a freight charge from a basing point to the customer's location;

(F) "Delivered price" means the price of refined sugar delivered to the customer and generally consists of the basis price plus the prepaid freight application;

(G) "Allowance" means a discount from delivered price;

(H) "Effective selling price" means the price actually charged to the customer by the refiner and generally consists of the delivered price, less any allowance;

(I) "Prices, terms or conditions for the sale of refined sugar" includes, but is not limited to basis prices, prepaid freight applications, allowances, delivered prices or effective selling prices;

(J) "Broker" means a person not an employee of a refiner who arranges the sale of sugar for one or more refiners in exchange for a commission;

(K) "Jobber" means a person who purchases sugar from refiners for resale to industrial users or to wholesalers of grocery sugar;

(L) "Sugarbeet grower representative" means a person who represents one or more associations or organizations of sugarbeet growers;

(M) "Future Prices" means (1) changes or revisions in the prices at which, or the terms or conditions upon which a refiner then sells or offers to sell sugar or (2) the prices, terms or conditions of sale which have been announced publicly by a refiner but have not yet become effective pursuant to the terms of the announcement.

III

The provisions of this Final Judgment shall apply to the defendants and to each of their respective officers, directors, agents and employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them, including brokers, and sugar beet grower representatives, who shall receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment, each defendant, together with its parent company, its controlled subsidiaries, and commonly controlled affiliates along with each of its officers, directors and employees when acting solely in such capacity shall be deemed to be one person. The provisions of this Final Judgment shall apply to acts or transactions of any defendant occurring within, or affecting any acts or transactions within, the States of California and Arizona and the Cities of Las Vegas and Reno, Nevada.

IV

Each refiner defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, enforcing or claiming any right under any agreement, contract, understanding, or combination reached directly with any other refiner, jobber or other seller of refined sugar (except retail grocers), or indirectly through any intermediary, including but not limited to brokers, sugar beet grower representatives and sugar cane grower representatives, to:

(A) Fix, raise, maintain or stabilize the prices, terms or conditions for the sale of refined sugar;

(B) Give any prior notice of or announce in advance any change or contemplated change in prices, terms or conditions for the sale of refined sugar.

V

Each refiner defendant is enjoined and restrained from:

(A) Directly communicating to any other refiner information concerning Future Prices.

(B) Requesting, requiring or coercing any third person, including but not limited to brokers and sugar beet grower representatives, to communicate to any other refiner, information concerning Future Prices.

(C) For a period of ten (10) years from the date of entry of this Final Judgment,

(1) Directly communicating to any other refiner information concerning:

(a) The prices at which, or terms or conditions upon which, refined sugar is then being sold or offered for sale; or

(b) The prices at which, or terms or conditions upon which, other than prices or terms or conditions described in subsection (1)(a) of this paragraph (C), refined sugar has been sold or offered for sale within the one (1) year period ending on the date of the communications;

(2) Requesting, requiring or coercing any third person, including but not limited to brokers and sugar beet growers representatives, to communicate to any other refiner, information concerning the prices at which, or terms or conditions upon which, refined sugar is then being sold or offered for sale.

VI

Without limiting the provisions of Sections IV and V nothing in Paragraphs IV and V above shall prohibit:

(A) The communication or exchange, either directly or indirectly, of any prices, terms or conditions of sale from any refiner defendant to another refiner solely in connection with a proposed or actual bona fide sale of refined sugar from one refiner to another refiner or to any agreement to the prices, terms or conditions at which any such bona fide sale is actually made;

(B) The communication or exchange, either directly or indirectly, of any prices, terms or conditions of sale between any refiner defendant and a buyer of refined sugar (other than a refiner) concerning a proposed or actual bona fide sale by such a refiner or any other refiner to such buyer or to any agreement to the prices, terms or conditions at which any such bona fide sale is actually made;

(C) The communication or exchange, either directly or indirectly, of any prices, terms or conditions of sale between a sugar beet grower representative or a sugarcane grower representative and a refiner solely in connection with a proposed or actual bona

fide sale of sugar beets or sugar cane to that refiner or to any agreement to the prices, terms or conditions at which any such bona fide sale is actually made;

(D) The communication or exchange, either directly or indirectly, between any refiner defendant and any broker of any prices, terms or conditions of sale communicated between a refiner and a buyer of refined sugar (other than a refiner) concerning a proposed or actual bona fide sale of refined sugar; and

(E) The transmission to a broker of a refiner's own price lists or price announcements, including price announcements whose terms have not yet become effective, at the same time or after such price lists or announcements are released for publication by such refiner, with the request that such information be publicly disseminated.

VII

Each refiner defendant is ordered and directed:

(A) Within sixty (60) days from the entry of the Final Judgment to (1) serve a copy of this Final Judgment upon each of its officers, directors, agents and employees who have any responsibility for the sale of refined sugar, and (2) obtain a written statement from each such person evidencing his receipt of the Final Judgment, such statement to be retained in the files of the President of each defendant for a period of ten (10) years from the date of service;

(B) Within sixty (60) days after each new officer, director, agent or employee having any responsibility for the sale of refined sugar becomes employed by a defendant, that defendant shall serve a copy of the Final Judgment on that person and obtain a written statement evidencing his receipt of the Judgment, such statement to be retained in the files of the President of each defendant for a period of ten (10) years from the date of service;

(C) Within ninety (90) days from the entry of this Final Judgment, to serve upon plaintiff and to file with the Court, an affidavit concerning the fact and manner of compliance with Subsection (A) of this Section VII.

VIII

Each refiner defendant is ordered and directed:

(A) Within sixty (60) days of entry of this Final Judgment to (1) serve by certified mail, return receipt requested, a copy of this Final Judgment upon each broker who, within the past five years has sold its refined sugar, and (2) retain the certified mail receipts evidencing the mailing of the Final Judgment, such receipts to be retained in the files of the President of each defendant for a period of ten (10) years from the date of mailing;

(B) To (1) serve by certified mail, return receipt requested, a copy of this Final Judgment upon each of its future brokers at the time the broker begins selling its refined sugar, and (2) retain the certified mail receipts evidencing the mailing of the Final Judgment, such receipts to be retained in the files of the President of each defendant for a period of ten (10) years from the date of mailing;

(C) Within ninety (90) days from the entry of this Final Judgment, to serve upon the United States and to file with the Court, an affidavit concerning the fact and manner of compliance with Subsection (A) of this Section VIII, including the identity of the brokers served.

IX

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted;

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

XI

Entry of this Final Judgment is in the public interest.

_____,

United States District Judge.

Christopher S Crook, Glenda R. Jermanovich, U.S. Department of Justice, Antitrust Division, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, Telephone: (415) 556-6300.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Utah-Idaho Sugar Company;* and *California and Hawaiian Sugar Company,* Defendants.

Civil No. C74-2676 SC

Filed: June 12, 1978

STIPULATION

It is hereby stipulated by and between the undersigned parties, plaintiff United States of America, and defendants Utah-Idaho Sugar Company, and California and Hawaiian Sugar Company, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16) and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing said notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: June 12, 1978.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* William E. Swope, Charles F. B. McAleer, Anthony E. Desmond, Christopher S Crook, Glenda R. Jermanovich, *Attorneys, Department of Justice.*

For the Defendants: Pillsbury, Madison & Sutro, San Francisco, California, By James F. Kirkham, *Attorneys for Utah-Idaho Sugar Company.* Brobeck, Phleger & Harrison, San Francisco, California, By William S. Boyd, *Attorneys for California and Hawaiian Sugar Company.*

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Utah-Idaho Sugar Company;* and *California and Hawaiian Sugar Company,* Defendants.

Civ. No. 74-2676 SC

Filed: June 12, 1978

Entered:

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on December 19, 1974 and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment in the above-captioned case, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or admission by any party with respect to any issues of fact or law herein:

Now, therefore, without any testimony being taken herein, and without trial on adjudication of any issue of fact or law herein, and upon consent of all parties hereto, it is hereby ordered, adjudged, and decreed:

I

This Court has jurisdiction of the subject matter herein and the parties hereto. The complaint states a claim upon which relief may be granted against the defendants under Section I of the Act of Congress of July 2, 1890, commonly known as the Sherman Act, as amended (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, or any other business or legal entity;

(B) "Refined sugar" means any grade or type of refined dry or liquid sugar derived from sugar beets or raw cane sugar;

(C) "Refiner" means any company engaged in the processing of sugar beets or the refining of raw cane sugar into, and the sale of, refined sugar;

(D) "Private label sugar" means refined sugar packed by a refiner for resale to the general public as sugar, and sold under the brand name of a nonrefiner purchaser and which does not reveal the identity of the refiner of the sugar on the package.

III

The provisions of this Final Judgment shall apply to the defendants and to each of their respective officers, directors, agents and employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them, including brokers, jobbers and sugarbeet grower representatives, who shall receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall apply to acts or transactions of any defendant occurring within, or affecting any acts or transactions within, the States of Washington, Oregon, Utah, Idaho and Wyoming (west of the town of Rawlins).

IV

Each refiner defendant is enjoined and restrained from entering into, adhering to, participating in, maintaining, enforcing or claiming any right under any agreement, contract, understanding, or combination reached directly with any other refiner or indirectly through any intermediary, including but not limited to brokers, sugarbeet grower representatives and sugar cane grower representatives, to refrain from selling private label sugar.

V

Each refiner defendant is ordered and directed for a period of ten (10) years:

(A) Within sixty (60) days from the entry of the Final Judgment to (1) serve a copy of this Final Judgment upon each of its officers, directors, agents and employees who have any responsibility for the sale of refined sugar, and (2) obtain a written statement from each such person evidencing his receipt of the Final Judgment, such statement to be retained in the files of the President of each defendant for a period of ten (10) years from the date of service;

(B) Within sixty (60) days after each new officer, director, agent or employee having any responsibility for the sale of refined sugar becomes employed by a defendant, that defendant shall serve a copy of the Final Judgment on that person and obtain a written statement evidencing his receipt of the Judgment, such statement to be retained in the files of the President of each defendant for a period of ten (10) years from the date of service;

(C) Within ninety (90) days from the entry of this Final Judgment, to serve upon plaintiff and to file with the Court, an affidavit conerning the fact and manner of compliance with Subsection (A) of this Section V.

VI

Each refiner defendant is ordered and directed:

(A) Within sixty (60) days of entry of this Final Judgment to (1) serve by certified mail, return receipt requested, a copy of this Final Judgment upon each broker who, within the past five years has sold its refined sugar, and (2) retain the certified mail receipts evidencing the mailing of the Final Judgment, such receipts to be retained in the files of the President of each defendant for a period of ten (10) years from the date of mailing;

(B) Serve by certified mail for a period of 10 years, return receipt requested, a copy of this Final Judgment upon each of its future brokers at the time the broker begins selling its refined sugar, and (2) retain the certified mail receipts evidencing the mailing of the Final Judgment, such receipts to be retained in the files of the President of each defendant for a period of ten (10) years from the date of mailing;

(C) Within ninety (90) days from the entry of this Final Judgment, to serve upon the United States and to file with the Court, an affidavit concerning the fact and manner of compliance with Subsection (A) of this Section VI, including the identity of the brokers served.

VII

For the purpose of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c) (7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c) (7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

VIII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

IX

Entry of this Final Judgment is in the public interest.

Dated:

_____,

United States District Judge.

Christopher S Crook, Glenda R. Jermanovich, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, Box 36046, San Francisco, California 94102, (415) 556-6300.

Filed: June 12, 1978

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Great Western Sugar Company; Holly Sugar Corporation; California and Hawaiian Sugar Company; Amalgamated Sugar Company;* and *National Sugarbeet Growers Federation*, Defendants.

Civil No. C74-2674 SW

United States of America, Plaintiff, v. *California and Hawaiian Sugar Company; Holly Sugar Corporation;* and *Consolidated Foods Corporation*, Defendants.

Civil No. C74-2675 RHP

United States of America, Plaintiff, v. *Utah-Idaho Sugar Company;* and *California and Hawaiian Sugar Company*, Defendants.

Civil No. C74-2676 SC

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), the United States hereby submits this Competitive Impact Statement relating to the proposed Consent Judgments submitted for entry in this civil antitrust proceeding.

I

NATURE OF PROCEEDING

On December 19, 1974, two single count indictments were returned in the Northern District of California against five of the defendants in these civil cases. The indictments charged separate conspiracies to fix the price of refined sugar in two distinct geographic markets. *United States* v. *California and Hawaiian Sugar Company, et al.*,

CR 74-829 RHS, charged California and Hawaiian Sugar Company, Holly Sugar Corporation, and Consolidated Foods Corporation with conspiracy to fix, raise and maintain prices of refined sugar in California, Arizona and the cities of Las Vegas and Reno, Nevada (hereafter the California-Arizona area). *United States* v. *Great Western Sugar Company, et al.*, CR 74-830 RHS, charged Great Western Sugar Company, Holly Sugar Corporation, California and Hawaiian Sugar Company, American Crystal Sugar Company, and Amalgamated Sugar Company with conspiracy to fix, raise, and maintain prices of refined sugar in the Chicago-West area (the States of Indiana, Illinois, Iowa, Minnesota, Wisconsin, North Dakota, South Dakota, Nebraska, Kansas, Colorado, Montana, Missouri, New Mexico, Oklahoma, Texas and parts of Wyoming). Each of the defendants pleaded *nolo contendere* and each was fined the maximum fine of $50,000 in each case.

On the day the indictments were filed, the Department of Justice also filed two companion civil cases, *United States* v. *Great Western Sugar Company, et al.*, C74-2674, and *United States* v. *California and Hawaiian Sugar Company, et al.*, C74-2675, against the same defendants alleging conspiracies to fix the price of refined sugar in the same geographic markets as had the indictments. In the Chicago-West case (*United States* v. *Great Western Sugar Company, et al.*, C74-2674), the National Sugarbeet Growers Federation was named as an additional defendant. The civil cases allege separate conspiracies to fix the price of refined sugar in the two geographic markets.

Each of these complaints asks the Court to find that the defendants have violated Section 1 of the Sherman Act (15 U.S.C. 1) and further requests the Court to enjoin the continuance of the conspiracy. Specifically, the complaints request the Court to enjoin the defendants from communicating directly or indirectly to another sugar refiner information concerning the price of refined sugar, except to the extent necessary in connection with a *bona fide* purchase or sales transaction.

Also on December 19, 1974 a third civil complaint was filed in the Northern District of California, naming Utah-Idaho Sugar Company (U-I) and California, and Hawaiian Sugar Company (C&H), as defendants and alleging a violation of Section 1 of the Sherman Act, 15 U.S.C. 1. This complaint (*United States* v. *Utah-Idaho Sugar Co., et al.*, C74-2676), alleges that U-I and C&H conspired to prevent and suppress the sale of private label sugar within the Intermountain-Northwest area (the States of Washington, Oregon, Utah, Idaho and parts of Wyoming). Private label sugar is refined sugar packed by a sugar refiner for resale to the general public which sold under the brand name of the purchase.

II

Description of Defendants

CHICAGO-WEST

Great Western Sugar Company is a beet sugar refiner with processing plants in Wyoming, Montana, Kansas, Colorado, Nebraska and Ohio.

C&H is the largest cane sugar refiner in the United States with its principal refinery in Crockett, California.

Holly Sugar is a beet sugar refiner with beet sugar plants in Colorado, California, Montana, Texas and Wyoming.

Amalgamated Sugar Company is a beet sugar refiner with processing plants in Oregon and Idaho.

The National Sugarbeet Growers Federation is a group of sugar beet growers' associations located through the Rocky Mountain and Midwestern States.

The American Crystal Sugar Company was named as a defendant in the complaint but was dismissed from the case by the Court.

CALIFORNIA-ARIZONA

In the California-Arizona case (C74-2675 RHP), the defendants are California and Hawaiian Sugar Company, Holly Sugar Corporation, and Consolidated Foods Corporation. The Union Sugar Division of Consolidated Foods is a beet sugar refiner with one processing plant in California.

INTERMOUNTAIN-NORTHWEST

In the Intermountain-Northwest case (C74-2676 SC), the defendants are California and Hawaiian Sugar Company and Utah-Idaho Sugar Company. Utah-Idaho is a beet sugar refiner with processing plants in Washington, Utah and Idaho.

III

Practices Giving Rise to the Alleged Violation

The defendants in the three civil cases are alleged to have participated in separate conspiracies, each within the marketing areas described in the complaints. Although there was one common defendant, C&H, each conspiracy was separately begun and carried out within the respective markets, Chicago-West, California-Arizona and Intermountain-Northwest.

In *United States* v. *Great Western Sugar Company, et al.*, C74-2674, the Government was prepared to show that, beginning at least as early as 1970 and going through 1972, various prices or components of prices charged in states within the Chicago-West area were set as a result of communications among the defendants. The communications among the defendants were usually made through intermediaries, either sugar brokers or representatives of the defendant National Sugarbeet Growers Federation. On the freight component of sugar prices called prepays, the Government was prepared to show direct communication among defendant refiners' employees who were in charge of prepays which communications resulted in setting prepays within the Chicago-West area. The Government was also prepared to show that certain discounts offered within the Chicago-West area were eliminated as the result of direct and indirect communications among refiners.

In *United States* v. *California and Hawaiian Sugar Company, et al.* (C74-2675), the Government was prepared to show that beginning at least as early as 1970 and going through 1972 that prices or components of prices charged in California or Arizona were set as a result of direct and indirect communications among the defendants. Most of the communications, which led to price increases and elimination of allowances within California and Arizona, were made through sugar brokers. The Government was also prepared to show a history of both direct and indirect contacts among defendants for many years prior to 1970.

In *United States* v. *Utah-Idaho Sugar Company, et al.*, C74-2676 SC, the Government was prepared to show that beginning at least as early as February 1972 the defendants had conspired to withhold sale of private label sugar to large grocery chain stores within the Intermountain-Northwest area. The alleged agreement not to sell private label sugar was the result of communications between representatives of the defendants.

IV

Explanation of the Proposed Consent Judgment

The United States and the defendants have agreed that the consent judgments, in a form negotiated by the parties, may be entered by the court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Judgments provide there has been no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of a consent judgment by the court is conditioned upon a determination of the court that the proposed judgment is in the public interest.

THE CHICAGO-WEST AND CALIFORNIA-ARIZONA DECREES

The judgments in the Chicago-West and California-Arizona cases are virtually identical. The only differences between these cases are the geographic territories they cover and the defendants.

1. *Prohibited Conduct.*—a. *Refiner Defendants.* The proposed judgments will prohibit the refiner defendants from entering into any agreement or arrangement with a competitor refiner to fix, raise, maintain or stabilize the prices or the terms or conditions for sale of refined sugar. Further, the judgment will prohibit any of the refiner defendants from communicating to any competitor refiner information concerning future prices, terms or conditions for the sale of refined sugar or from communicating that it is considering changes in such prices or terms or conditions. The defendants are also prohibited from requesting third parties such as brokers to act as intermediaries among sugar refiners concerning future sugar prices, terms or conditions of sale, or consideration of changes in prices. In addition, the judgments bar the refiner defendants for a period of ten years from directly communicating to any other sugar refiner information concerning current sugar prices as well as prices at which sugar has been sold or offered for sale during the preceding one-year period.

b. *National Sugarbeet Growers Federation.* In the Chicago-West case, defendant National Sugarbeet Growers Federation is separately enjoined from agreeing or participating in an agreement or initiating an agreement among two or more sugar refiners to fix, raise, maintain or stabilize the price of refined sugar. The National Sugarbeet Growers Federation is further enjoined from acting as an intermediary between and among sugar refiners in communicating prices of refined sugar from one sugar refiner to another refiner.

2. *Exemptions.* Attorneys for several of the defendants expressed concerns that the judgments would hinder normal buy-sell agreements between sugar purchasers and refiners. Defense counsel have further stated that the judgments are unclear as to the permissible communications between a refiner defendant and a sugar broker. In order to clarify these two judgments, five

sections were added to the judgments (Sections VI (A)-(D) and VII(D).

a. Section VI(A) exempts communications concerning certain prices from the judgment. Exempted are communications between two refiners concerning refined sugar prices where the communications involve a purchase by one refiner from another refiner. Such sales frequently involve brown sugar, which is purchased by beet sugar refiners from cane sugar refiners. Refined brown sugar cannot be made from sugarbeets and, therefore, a sugarbeet refiner which wants to market a complete line of sugar must purchase brown sugar from a sugar cane refiner. The Government has no evidence that such communications were used in aid of the conspiracy alleged.

Section VI(B) clarifies the judgment so that refiner defendants may discuss prices with sugar purchasers in the context of an actual or proposed *bona fide* sale. Pricing information gained by a refiner defendant from a purchaser as a result of communications concerning a proposed or actual sale of refined sugar is not prohibited by the judgment. However, this Section VI(B) does not allow a defendant refiner to initiate contact with a sugar purchaser for the purpose of communicating prices to another refiner.

c. Sections VI(C) and VII(D) signify that the judgment does not prohibit negotiations and pricing communications between defendant refiners and their suppliers of sugarbeets or sugar cane concerning sugar cane or sugarbeet prices.

d. Section VI(D) clarifies that the judgment does not interfere with the legitimate communications by a refiner defendant through sugar brokers to sugar purchasers. Defendant refiners may transmit *bona fide* offers to sell to sugar purchasers through brokers. Defendant refiners may also receive pricing information from sugar brokers, which information the brokers have received in the course of business from purchasers or other refiners. However, this Section VI(D) does not modify or weaken the prohibition on defendant refiners initiating communications to other refiners through brokers. Furthermore, the prohibition on refiner defendants requesting brokers to gather pricing information from other refiners remains unaffected by this section.

B. THE INTERMOUNTAIN-NORTHWEST DECREE

The proposed judgment will prohibit the defendants from entering into any agreement or arrangement with any other refiner to refrain from selling private label sugar. The judgment will enjoin defendants from arranging such agreements directly or indirectly through intermediaries such as sugar brokers.

C. SCOPE OF THE PROPOSED JUDGMENTS

The proposed judgments apply to each defendant and to each of its officers, directors, employees and agents, and to all other persons in active concert or participation with any of the defendants: *Provided*, That such persons have actual notice of the judgment. Each defendant will be required, within 60 days after entry of judgment, to furnish a copy of the judgment to each of its officers, directors, and employees responsible for sale of refined sugar. Furthermore, each refiner defendant will be required to provide its current, future and former sugar brokers with a copy of the proposed judgment.

In the Intermountain-Northwest case, a ten (10) year limitation has been placed on the defendants' obligation to serve copies of the consent decree on future officers, employees and brokers (Sections V and VI). This ten-year limitation does not limit the effective life of the decree. Although the Government has agreed in this one case to limit the service provision, the Government believes that the essence and spirit of the decree requires at all times some form of antitrust compliance program to insure that the corporate defendants do not violate the consent decree. The effect of the service limitation is that, after ten years, the Government cannot allege a failure to serve the decree as a violation of the decree.

The judgments apply to defendants' activities only within the areas named in the respective complaints. According to sales figures filed by the defendants with the U.S. Department of Agriculture for 1974, the terms of the respective judgments would affect approximately 54 percent of Great Western's sales, approximately 67 percent of Amalgamated's sales, approximately 45 percent of Utah-Idaho's sales and approximately 99 percent of Consolidated Foods' sales. Approximately 99 percent of Holly's sales are affected by the terms of the Chicago-West and California-Arizona judgments, while approximately 98 percent of C&H's sales are affected by the terms of the judgments in all three civil cases.

D. EFFECT OF THE PROPOSED JUDGMENT ON COMPETITION

The proposed judgments are designed to prevent any recurrence of the activities alleged in the complaints. The prohibitions in the judgments should ensure that future price actions of the refiner defendants will be independently determined without the restraining and artificial influences which result from communications and agreements amoung competitiors.

The judgments provide methods for determining the defendants' compliance with the terms of the judgments. Officers' employees and agents of each defendant may be interviewed by duly authorized representatives of the Department of Justice regarding the defendants' compliance with the judgments, the Government is given access, upon reasonable notice, to the records of the defendants, to examine these records for possible violations of the judgment, and reports may be required on matters contained in the judgments.

V

Alternative Remedies Considered by the Government

During the negotiating process leading to the proposed judgments, provisions substantially similar to those contained in the judgments were considered. At an early point in the negotiations, the Justice Department proposed a judgment which would have further prohibited defendant refiners from receiving any price information originating from another refiner. This prohibition was dropped from the judgments because it might have prohibited normal market communications as to prices.

The Justice Department had also considered a provision in the California-Arizona and Chicago-West judgments that would have perpetually prohibited all proscribed communications. The proposed California-Arizona and Chicago-West judgments limit the ban on communications on current prices to a period of ten years. Attorneys for some defendants had contended that a perpetual ban would have disadvantaged refiner defendants by prohibiting information gathering conduct, not of itself illegal, which conduct was still used by non-defendant competitor refiners. Regardless of the merits of defendants' arguments, the Justice Department believes that the ten-year period, together with the perpetual injunctions on communications of future prices will eliminate any existing practices involving prohibited communications among sugar refiners. The ten-year ban also applies to communications concerning prices used in the preceding one-year period. Although at one time the Justice Department proposed a ban on all past price communications, it is considered that the one-year period adequately prevents communications of prices having current competitive significance.

Initially in the Intermountain-Northwest case, the Justice Department proposed a judgement similar to the judgment in the other two cases. However, unlike the other two civil cases, there was no criminal indictment filed in the Intermountain-Northwest and the civil complaint does not allege a classic price fixing conspiracy. The Department of Justice has agreed to the proposed Intermountain-Northwest judgment which prevents restraints on the sale of private label sugar because that was the only violation alleged in the complaint and that was the only violation which the Government was prepared to show at trial.

Throughout the negotiating process, the Justice Department insisted that all the judgments should apply nationwide; all defendants insisted on judgments limited to the states covered by the complaints. The Department of Justice was prepared to go to trial solely for the purpose of obtaining nationwide injunctive relief. However, after a full hearing on the issue of nationwide relief in the California-Arizona case, the Court indicated in a memorandum opinion (C74-2675 RHP) that, should the Government prevail, the Court would limit its injunctive relief to the states covered by the complaint. As a result of this ruling, the Government decided that there was no purpose in going forward to trial and agreed to limit the geographic scope of the judgments.

VI

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed consent judgments in these proceedings will neither impair nor assist the bringing of any such private antitrust actions. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), these consent judgments have no *prima facie* effect in the lawsuits which have and may be brought against these defendants.

VII

Procedures Available for Modification of the Proposed Judgment

As provided by the Procedures and Penalties Act, any person believing that the proposed consent judgment(s) should be modified may submit written comments to Anthony E. Desmond, Department of Justice, Antitrust Division, San Francisco, Califor-

nia 94102, within the 60-day period provided by the Act. These comments and the responses to them will be filed with the court and published in the Federal Register. All comments will be given due consideration by the Department of Justice which remnains free to withdraw its consent to any of the the proposed consent judgments at any time prior to entry if it should determine that some modification is necessary. The proposed judgments provide that each court retains jurisdiction and the parties may apply to the court for such orders as may be necessary or appropriate for modification of the judgments.

VIII

The only document as described in Section (b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)), which was determinative in formulating the proposed judgments, is the February 17, 1978 Memorandum of Judge Peckham concerning limiting the geographic scope of any injunctive relief. A copy of that memorandum is attached to this competitive impact statement.

Dated: June 12, 1978.

CHRISTOPHER S. CROOK,
Attorney,
Department of Justice.

[FR Doc. 78-17383 Filed 6-22-78; 8:45 am]

[4410-09]

Drug Enforcement Administration

IMPORTATION OF CONTROLLED SUBSTANCES

Clarification of Application

On May 25, 1978, a notice of application by Argon Research Corp., 336 West Liberty Street, Reno, Nev. 89501, as an Importer of a certain basic class of controlled substances, was published in the FEDERAL REGISTER (43 FR 22461).

It should be noted that poppy straw (opium plant form) and concentrate of poppy straw are presently imported into the United States under the terms of the emergency provisions of section 1002(a)(2)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a)(2)(A). Thus, while the Drug Enforcement Administration (DEA) invites the filing of comments on the advisability or propriety of granting an additional registration to import poppy straw (opium plant form) and concentrate of poppy straw, the terms of section 1008(h) of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)) clearly leave it to the discretion of the Administrator to grant or deny a hearing to any party on issues concerning such importation.

In addition, the terms of section 1008(h) of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)) obligate the Administrator to give only to manufacturers holding registrations for the bulk manufacture of a substance sought to be imported the opportunity for a hearing on issues associated with the proposed registration of a bulk manufacturer of the substance or associated with the proposed actual importation of the substance. In the case of imported raw opium, there exists no registered bulk manufacturer of the substance, hence, it is likewise left to the discretion of the Administrator to grant or deny a hearing to any party on issues concerning the importation of raw opium.

The closing date for comments on this application remains June 26, 1978.

Dated: June 22, 1978.

PETER B. BENSINGER,
Administrator, Drug
Enforcement Administration.

[FR Doc. 78-17701 Filed 6-22-78; 11:09 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL COMMITTEE ON APPRENTICESHIP SUBCOMMITTEE ON AUTOMOTIVE REPAIR APPRENTICESHIP STANDARDS

Public Meeting

Pursuant to section 10(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Subcommittee on Automotive Repair Apprenticeship Standards to be held on July 11, 1978, at the Hilton Inn, 154 West 6th South, Salt Lake City, Utah 84101.

The meeting will be in session from 1 p.m. until approximately 4 p.m.

The purpose of the meeting is to receive and hear comments on the proposal by the Automotive Service Councils made to the Federal Committee on Apprenticeship on March 31, 1978, to revise or otherwise modify the Standards of Apprenticeship for the training of General Automotive Mechanic.

The proposed revision would provide that the basic theory of automotive repair be taught in 4,000 hours (2-year period). The third and fourth year of the apprenticeship would be devoted to specializing in specific categories of automotive repair.

The meeting will be open to the public to the extent that space and facilities will permit. Persons wishing to appear before the Subcommittee to present oral statements must submit a written statement, also nature of intended presentation, and amount of time needed, to Subcommittee Chairperson Robert J. Jensen, Assistant Director, Skilled Trades Dept. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, 8000 East Jefferson Avenue, Detroit, Michigan 48214, for his consideration.

Any member of the public who wishes to file *written* data, views, or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

At the opening of the meeting on July 11, 1978, Chairperson Jensen will announce the names of those persons who will be allotted time to present their views on the subject.

Further information concerning the meeting may be obtained from Mrs. Marion M. Winters, Executive Secretary of the Federal Committee on Apprenticeship, U.S. Department of Labor, 601 D Street NW., Room 5434, Washington, D.C. 20213.

Signed at Washington, D.C., this 20th day of June 1978.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

[FR Doc. 78-17475 Filed 6-22-78; 8:45 am]

[4510-30]

FEDERAL COMMITTEE ON APPRENTICESHIP

Public Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct the following open meetings at The Hilton Inn, 154 West 6th South, Salt Lake City, Utah, as shown below:

(a) FCA Subcommittee on Goals of the FCA—
Date: July 12, 1978.
Time: 9 a.m.-12 noon.
Place: The Hilton Inn.
(b) FCA Subcommittee on Federal-State Relations—
Date: July 12, 1978.
Time: 1:30-3:30 p.m.
Place: The Hilton Inn.

The Federal Committee on Apprenticeship will hold a full open meeting on Thursday, July 13, from 8:30 a.m. to 12 noon; Friday, July 14, 1978, from 8 a.m. to 12 noon at The Hilton Inn.

The agenda for the meeting on July 13 will include:

1. Swearing in New Members.
2. Remarks by Robert W. Glover, Chairperson, FCA.
a. Overview of FCA Accomplishments, Progress and Prospects.
b. Review of Agenda.
3. Product Oriented Education and Quality Control in the Public Schools.
4. Modular Apprenticeship Concept in Mining.
5. Visit to the Utah Copper Division of Kennecott Copper Corporation.

The agenda for the meeting on July 14 wil cover:

1. GAO Report on the Apprenticeship Outreach Programs.
2. Private Sector Initiative Program, Title VII.

3. Reports of FCA Subcommittees.
4. 29 CFR 30—Equal Employment Opportunity in Apprenticeship and Training—Questions and Answers.

Agendas is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the FCA meeting.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty copies are needed for the members and for the inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of the intended presentation and amount of time needed. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street NW., (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of June 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training Administration.

[FR Doc. 78-17477 Filed 6-22-78; 8:45 am]

[4510-30]

FEDERAL-STATE EXTENDED BENEFITS

Notice of Ending of Extended Benefit Period in the State of Washington

This notice announces the ending of the Extended Benefit Period in the State of Washington, effective on June 24, 1978.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Public Law 91-373; 84 Stat. 695, 708; 26 USC 3304 note) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. The Act is implemented by regulations of the Department of Labor at Part 615 of title 20 of the Code of Federal Regulations, 20 CFR Part 615 (43 FR 13818, March 31, 1978), and in the unemployment compensation laws of the several States.

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered on when unemployment in the State or in all States collectively reaches the high levels set in the Act. During an Extended Benefit Period the maximum amount of Extended Benefits which is payable to eligible individuals is up to 13 weeks, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks. An Extended Benefit Period commenced in the State of Washington on October 10, 1979.

The Act and the Washington unemployment compensation law also provide that an Extended Benefit Period in a State will trigger off when unemployment in the State is no longer at the high levels set in the Act. A benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator. The Extended Benefit Period in Washington has now triggered off.

DETERMINATION OF "OFF" INDICATOR

The head of employment security agency of the State of Washington has determined, in accordance with the State law and 20 CFR § 615.12(e), that the average rate of insured unemployment in the State for the period consisting of the week ending on June 3, 1978, and the immediately preceding twelve weeks, has decreased so that for that week there was an "off" indicator in that State. Therefore, the Extended Benefit Period in that State terminates with the week ending on June 24, 1978.

INFORMATION FOR CLAIMANTS

Persons who wish information about their rights to Extended Benefits in the State of Washington should contact the nearest State Employment Office of the Washington Employment Security Department in their locality.

Signed at Washington, D.C., onJune 19, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-17476 Filed 6-22-78; 8:45 am]

[4510-23]

Office of the Secretary

[Order 8-78]

OFFICE OF SPECIAL INVESTIGATIONS, OFFICE OF THE SECRETARY

Establishment

JUNE 13, 1978.

1. *Purpose.* To establish and define the role and responsibilities of the Office of Special Investigations; provide for the centralization of certain audit, investigations, and related activities within the Department into the Office of Special Investigations; and to define the relationship of that Office to other organizations in the Department.

2. *Authority and Directives Affected.*—a. *Authority.* This Order is issued pursuant to the Act of March 4, 1913 (37 Stat. 736); 29 U.S.C. 551; and 5 U.S.C. 301 and 302 (b)(1).

b. *Directives Affected.* Secretary's Order 18-76 is cancelled.

3. *Policy.* It is the policy of the Department of Labor to utilize its resources efficiently and economically, and to ensure accountability of Federal funds and the integrity of its programs and employees. This is accomplished through program performance controls, monitoring and direction by program managers coupled with a comprehensive objective and independent system of audits and investigations.

4. *Background.* The Department has an obligation to provide for, and the public has a right to expect, full and proper accountability of funds expended through programs administered by the Department of Labor. Additionally, there is an obligation to ensure the integrity of our own employees and to promptly investigate problems and allegations regarding employee integrity. This accountability can best be ensured through an effective investigation and audit program which will also contribute to the prevention of fraud and fiscal abuse as well as increased efficiency and economy of operations. The net result will be improved service to those for whom our programs are intended, and public support for and confidence in them.

To be effective and achieve the desired results it is essential that an audit and investigation program be carried out with the maximum degree of objectivity and independence from day-to-day operations and management. For the past several months a temporary organization reported directly to the Secretary ; but an assessment of the operations of the unit and of other units in the Department performing similar functions has reaffirmed the need for a permanent organization. The experience also brought into sharper focus the need to consoli-

date into a single unit the several organizational components carrying out audit and/or investigative activities which parallel or are supportive of the special investigation functions.

The consolidation, which is effected by this Order, is necessary to ensure fully coordinated planning and conduct of audits and investigations, to attain and maintain the desired objectivity and independence, and to avoid duplicative actions and the appearance of duplication by reserving to the Office of Special Investigations the use of the words "special investigations" in organizational titles. Included in this consolidation is responsibility for administering the Department's participation in the Organized Crime Strike Force Program.

5. *Establishment.* There is hereby established in the Office of the Secretary, Department of Labor, an Office of Special Investigations headed by a Director. So that complete independence is assured the Director will report and be directly responsible to the Secretary. Organizational components performing certain audit and investigation functions related to possible abuse in the operation or administration of the Department's programs and performing functions related to the administration of the Department's participation in the Organized Crime Strike Force Program are hereby consolidated into the Office of Special Investigations as provided for in the following Section.

6. *Transfer.* Audit and investigation and related functions, staff, records and other resources of organizations as follows are transferred to the Office of Special Investigations, Office of the Secretary.

a. The Directorate of Audit and Investigations, OASAM.

b. The Division of Special Review, OIC, ETA.

c. The Division of Investigations, OWCP, ESA.

d. The Organized Crime Strike Force Program, LMSE, LMSA.

The Assistant Secretary for Administration and Management is responsible for ensuring a reasonable and adequate transfer of resources.

7. *Assignment of Responsibilities.*—a. *The Director, Office of Special Investigations,* is responsible for:

(1) Planning, directing and conducting a comprehensive audit and investigations program in the Department to assure that Agency program monitoring systems provide for the early detection and prevention of program abuse and fraud through the review of Agency monitoring systems and the conduct of investigations and audits.

(2) Maintaining liaison with Agency organizations and management on matters relating to program monitoring and performance and providing review, advice and assistance to change those systems to provide an early warning mechanism for facilitating detection of program abuse and fraud.

(3) Advising the Secretary of the results of audits and investigations, of serious problems and trends, and for recommending courses of action, including possible changes in Agencies' programs and operations to prevent program abuse and fraud.

(4) Monitoring implementation of recommended and accepted changes and reporting to the Secretary on results of implementation of changes.

(5) Maintaining liaison with other Federal, State and local authorities and coordinating program investigative and audit activities with those authorities.

(6) Planning and directing an investigation program covering employee integrity.

(7) Administering the Department's participation in the Organized Crime Strike Force Program.

(8) Reviewing all DOL Agency investigative activities to determine areas in need of improvement and recommending and developing, as needed, policies, procedures, guidelines, and regulations, consistent with the Secretary's objectives.

(9) Conducting as required, special and confidential assignments.

b. *Agency heads are responsible for:* (1) Developing and implementing effective monitoring systems and mechanisms to provide for the early detection of and the prevention of program abuse and fraud and to measure program results to ensure that program goals and objectives are being achieved.

(2) Providing the Office of Special Investigations with access to all information, data and reports as may be required and determined necessary by the Director, Office of Special Investigations in order to develop and conduct audits and investigations expeditiously.

(3) Implementing changes in program monitoring systems recommended by the Office of Special Investigations.

(4) Promptly advising the Office of Special Investigations of any possible or alleged abuses, fraud or wrongdoing in the conduct of administration of the Department's programs which come to their attention.

c. *The Solicitor of Labor* is responsible for providing such legal assistance as may be appropriate.

8. *Effective Date.* This Order is effective immediately for planning purposes and for implementation in accordance with the following sequence:

a. The Directorate of Audit and Investigations, OASAM, by May 3, 1978 (accomplished by separate action);

b. The Division of Investigations, OWCP, ESA, by July 15, 1978;

c. The Division of Special Review, OIC, ETA by August 1, 1978; and,

d. The Organized Crime Strike Force Program, LMSE, LMSA, by October 1, 1978, except that any dealings with the Justice Department relating to that program for Fiscal Year 1979 and thereafter will be coordinated through the Director, Office of Special Investigations.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-17333 Filed 6-22-78; 8:45 am]

[4510-29]

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Alternative Method of Compliance for the Sponge Rubber Products Pension Plan

AGENCY: Department of Labor.

ACTION: Grant of alternative method of compliance.

SUMMARY: The Department of Labor (the Department) hereby grants an alternative method of compliance with the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 (the Act) for the Sponge Rubber Products Pension Plan (the Plan).

FOR FURTHER INFORMATION CONTACT:

Charles Edelstein of the Department, (202) 523-8444. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On May 12, 1978, notice was published in the FEDERAL REGISTER (43 FR 20566) of the pendency before the Department of an alternative method of compliance with the reporting and disclosure requirements of the Act for the Plan.[1] The alternative method of compliance was requested in a petition filed by William M. Cullina, the trustee of the Plan acting in his capacity as the administrator of the Plan, pursuant to section 110(a) of the Act.

The notice set forth a summary of the facts and representations contained in the petition for an alternative method of compliance and referred interested persons to the petition on file with the Department for a complete statement of the facts and representations. The petition has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested alternative method of compliance to

[1] The Department notes that the alternative method of compliance granted relates only to the reporting and disclosure requirements of the Act and does not afford relief from any provisions of the Internal Revenue Code of 1954.

the Department. One commentator favored a simpler alternative method of compliance than was proposed. Two commentators raised questions concerning the amount of benefits which participants have or should receive, but, with respect to these questions, it appears to the Department that compliance with the reporting and disclosure requirements of the Act would not increase the benefits which have been or will be paid to participants.

Alternative method of compliance: In accordance with section 110(a) of the Act and based upon the entire record, the Department makes the following determinations:

(1) The use of the alternative method is consistent with the purposes of Title I of the Act and provides adequate disclosure to Plan participants and beneficiaries and adequate reporting to the Department;

(2) The application of the reporting and disclosure requirements would increase the costs to the Plan or impose unreasonable administrative burdens with respect to the operation of the Plan, having regard to the particular characteristics of the Plan or type of plan involved; and

(3) The application of the reporting and disclosure requirements of the Act would be adverse to the interests of Plan participants in the aggregate.

Accordingly, the Department hereby grants the alternative method of compliance proposed in the notice of May 12, 1978, 43 FR 20566.

The availability of this alternative method of compliance is subject to the express conditions that the material facts and representations contained in the petition are true and complete and that the petition accurately describes all factors material to the granting of the alternative method of compliance.

Signed at Washington, D.C., this 20th day of June 1978.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-17490 Filed 6-21-78; 9:40 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

ADVISORY COMMITTEE HUMANITIES PANEL

Meeting

JUNE 19, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW, Washington, D.C. 20506, in the First Floor Conference Room, from 8 a.m. to 6 p.m. on July 12 and 13, 1978.

The purpose of the meeting is to review public media applications in all of the fields of the humanities submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would consitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c), and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-17412 Filed 6-22-78; 8:45 am]

[7536-01]

ADVISORY COMMITTEE HUMANITIES PANEL

Meeting

JUNE 12,1978.

Pursuant to the provisions of the Federal Advisory Committee act (Public Law 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street NW, Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on July 17 and 18, 1978.

The purpose of the meeting is to review applications for subvention of publication submitted to the National Endowment for the Humanities for projects beginning after September 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc. 78-17413 Filed 6-22-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Event

Fuel Assembly Control Rod Guide Tube Integrity (a Generic Concern)

Section 208 of the Energy Reorganization Act of 1974, as amended, required the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following generic concern was determined to be an abnormal occurrence using the criteria published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10950). Appendix A (Example I.D.4) of the Policy Statement notes that incidents with implications for similar facilities (generic incidents), which create major safety concern, can be considered an abnormal occurrence.

Date and Place. On December 13, 1977, during a plant refueling outage at Northeast Nuclear Energy Company's Millstone Point Unit 2, wear penetrations (holes) were observed in several fuel assembly control rod guide tubes. Subsequent inspections at other facilities designed by Combustion Engineering (CE) have disclosed similar indications of control rod guide tube wear and have resulted in the identification of a generic safety concern.

In addition to Millstone Unit No. 2, significant guide tube wear has been observed at Baltimore Gas and Electric Company's Calvert Cliffs Unit No. 1, at Florida Power and Light Company's St. Lucie Unit 1, and at Maine Yankee Atomic Power Company's Maine Yankee Plant. Wear is also suspected at Calvert Cliffs Unit No. 2 where an inspection is scheduled for the first refueling outage. Inspections were performed at Omaha Public Power District's Fort Calhoun Station Unit No. 1 and no significant wear was found.

Although this safety concern is primarily directed toward CE plants, the susceptibility of Westinghouse and Babcock and Wilcox designs is being investigated by the NRC staff. Preliminary indications reveal that these designs are also susceptible to guide tube wear, but to a lesser degree.

Nature and Probable Consequences. The guide tubes serve in a dual capac-

ity as the principal structural members of the fuel assemblies and as the guide channels for movement of the control rods. Structural integrity of the guide tubes is required under both normal and accident conditions to ensure that the control rods are capable of inserting and shutting down (scramming) the reactor when needed for safety and that the coolable geometry of the core is maintained. Significant wear of the guide tubes could jeopardize this safety function, although it was not impaired by the degree of wear so far encountered. As described below, actions have been taken to minimize such wear and to assure continued safe operation of affected plants.

Cause or Causes. Control rod guide tube wear is believed to be caused by flow-induced vibration of the control rods against the guide tubes. The wear occurs at the top of the guide tubes adjacent to the tips of the control rods in their fully withdrawn position, the position at which many rods normally remain for a large part of the time.

Actions Taken To Prevent Recurrence

Licensee/Vendor. An extensive inspection program of fuel assemblies removed from the reactors has been undertaken by CE. The inspection measures the amount of wear-induced erosion of the guide tube wall. Structural analyses have been completed using the reduced wall thicknesses measured during the inspection program to demonstrate that continued operation of such fuel elements is safe.

The licensees of Millstone Unit No. 2, St. Lucie Unit No. 1, and Calvert Cliffs Unit No. 1 have modified the fuel assemblies in their present cores during their most recent refueling outages by installing stainless steel sleeves in both worm and unworm guide tubes. The sleeves provide reinforcement by adding strength and stiffness in the worn region. The sleeving modification serves as an interim solution to mitigate the effects of guide tube wear but does not eliminate the cause of the wear.

All the remaining operating CE reactors that have not shut down for refueling since the discovery of the generic wear problem are presently operating with their control rods inserted 3 inches further into the reactor core. This repositioning of the control rods is expected to reduce the local severity of the guide tube wear and improve assurance of control rod scram capability. This is supported by recent data obtained at St. Lucie Unit No. 1 during refueling.

The safety of the continued operation with unsleeved worn guide tubes is further supported by the positive results of worn guide tube scram tests that have recently been completed by CE. Investigations are continuing by CE through out-of-reactor flow visualization tests in an effort to understand the specific mechanism of the flow-induced control rod vibration. CE anticipates that the results of these tests can be used to effect a permanent solution to the guide tube wear problem.

NRC. The NRC has reviewed and approved the actions taken by affected licensees to assure safe continued operation of their facilities. The NRC has issued safety Evaluation Reports approving both the 3 inch insertion of the control rods for plants operating with potentially worn "unsleeved" guide tubes and the sleeving modifications for plants that have chosen to modify their core during recent refueling outages.

The NRC has approved continued operation with the 3 inch insertion of the control rods on the basis that such action improves assurance of the scram capability of the reactor, stops the wear at the previous fully withdrawn location and provides additional strength and stiffness across the worn area of the guide tube.

The NRC has approved the guide tube sleeving modifications on the basis that sleeves stiffen and strengthen the worn tubes, minimize further wear, and improve reload assembly positioning flexibility. Furthermore, based on tests and analyses, sleeving neither hinders control rod operation, nor significantly changes core temperture or flow.

The NRC requires affected licensees to conduct guide tube inspection programs during scheduled refueling outages. The NRC staff will continue to review the results of these programs and to take action as necessary.

The Westinghouse and Babcock and Wilcox reactor designs appear to be less susceptible to control rod guide tube wear since the control rods are stiffer and are supported differently. However, the NRC has initiated action to obtain information from these vendors and associated licensees, and is actively pursuing any generic implications of this issue.

The NRC staff has met on numerous occasions with representatives of the affected utilities to discuss problems related to this issue. An intensive review process led to the above actions and is continuing.

Dated at Washington, D.C. this 20th day of June 1978.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 78-17498 Filed 6-22-78; 8:45 am]

[7590-01]

[Docket No. 50-409]

DAIRYLAND POWER COOPERATIVE

Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Provisional Operating License No. DPR-45 issued to Dairyland Power Cooperative (the licensee) which revised Technical Specifications for operation of the La Crosse Boiling Water Reactor (LACBWR), located in Vernon County, Wisconsin. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications for LACBWR by revising the Reference Transition Temperature for LACBWR to assure conformance with 10 CFR Part 50, Appendix G, "Fracture Toughness Requirements."

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 11, 1978; (2) Amendment No. 13 to License No. DPR-45; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of June 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-17391 Filed 6-22-78; 8:45 am]

[7590-01]

[Docket No. 50-321]

GEORGIA POWER CO., ET AL

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications by (1) revising the limiting conditions for operation and surveillance requirements associated with the Plant Service Water System to reflect the addition of an independent capability of providing cooling water to diesel generator 1B, (2) revising the surveillance requirements for relief/safety valves to reflect the replacement of three-stage topworks valves with the two-stage topwork design which is identical to that to be used on Hatch Unit 2, and (3) revising the operability requirements for the Standby Gas Treatment System to reflect an extension of the HNP-1 secondary containment by the addition of that space which comprises the refueling floor of HNP-2.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated February 9 and 10 and April 26, 1978, (2) Amendment No. 56 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of June 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc. 78-17392 Filed 6-22-78; 8:45 am]

[7590-01]

[Docket Nos. 50-443; 50-444]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL. (SEABROOK STATION, UNITS 1 AND 2)

Rescheduling Prehearing Conference

The prehearing conference previously scheduled for June 28, 1978 is postponed until July 25, 1978. The time and place remain unchanged.

By order of the Board.

Dated at Bethesda, Maryland this 16th day of June, 1978.

For the Atomic Safety and Licensing Board.

IVAN W. SMITH,
Chairman.

[FR Doc. 78-17393 Filed 6-22-78; 8:45 am]

[7590-01]

[Docket Nos. STN 50-556; STN 50-557]

PUBLIC SERVICE CO. OF OKLAHOMA, ASSOCIATED ELECTRIC COOPERATIVE, INC. AND WESTERN FARMERS ELECTRIC COOPERATIVE, INC. (BLACK FOX STATION, UNITS 1 AND 2)

Notification of Prehearing Conference

As stated in our Order issued on May 31, 1978, the prehearing conference will be held on June 29 and 30, 1978 pursuant to 10 CFR § 2.752. Notices is hereby given that said prehearing conference will be held on those dates at 9:00 a.m. in Courtroom No. 3, United States Courthouse, 333 W. 4th Street, Tulsa, Oklahoma. This prehearing conference will deal with the following matters:

1. Simplification, clarification, and specification of the issues;
2. The necessity or desirability of amending the pleadings;
3. The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;
4. Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;
5. The setting of a hearing schedule; and
6. Such other matters as may aid the orderly disposition of the proceeding.

Members of the public are invited to attend this prehearing conference. After the discussion and resolution of the matters set forth above, to the extent that time permits, individuals or organizations wishing to make limited appearances (with regard to health and safety issues) will be permitted to do so. Oral statements will be limited to five (5) minutes each but written statements may be submitted without limitation on length. If the limited appearance statements cannot be completed prior to the conclusion of the prehearing conference, such statements may be made at the beginning of the evidentiary hearing which will be held at a subsequent, but as yet unscheduled, time.

It Is So Ordered.

Dated at Bethesda, Maryland this 19th day of June, 1978.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE,
Chairman.

[FR Doc. 17394 Filed 6-22-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO STANDARD REVIEW PLAN

Notice of Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced, (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 2.4.12, Dispersion, Dilution and Travel Times of Accidental Releases of Liquid Effluents in Surface Waters, of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the

improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 2.4.12 is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Maryland this 6th day of June, 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-17395 Filed 6-22-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO STANDARD REVIEW PLAN

Notice of Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced, (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Appendix 8-A, Branch Technical Positions (PSB), of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the Plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 Appendix 8-A is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 16th day of June, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-17396 Filed 6-22-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on June 16, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Purchasers' Questionnaire for Inv. No. AA1921-182 (Steel Wire Strand for Prestressed Concrete from India), single-time, 150 purchasers of steel wire strand for prest. concrete, C. Louis Kincannon, 395-3211.

DEPARTMENT OF ENERGY

Manpower Requirements for Geothermal Energy Development, single-time, 700 organizations engaged in geothermal energy activities, C. Louis Kincannon, Strasser, A., 395-3211.

DEPARTMENT OF ENERGY

Coal Loan Guarantee Application, RA-16, single-time, 200 small coal producers, C. Louis Kincannon, 395-3211.

DEPARTMENT OF COMMERCE

Bureau of Census:

1977 Economic Censuses General Schedule—Short Form NC-X4, single-time, 28,750 economic censuses, Off. of Federal Statistical Policy and Standard, 673-7959.

Survey of Registration and Voting—Records Check Advance Contact Questionnaire, RAV-500, single-time, 955 election officials in 955 selected jurisdictions, Clearance Office, 395-3772.

Industry and Trade Administration, Reports on General License Exports of U.S.-Origin Commodities Imported for Servicing, EAR 371.17(A)(4), on occasion, 500 exporters, C. Louis Kincannon, 395-3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration, Querstionnaire for Study of Patterns of Utilization of Contraceptive Services for Teenagers, single-time, 800 teenage clients of title X clinics, Clearance Office, 395-3772.

Food and Drug Administration, Effects of PPIS as a Function of Critical Variations, single-time, 1,800 patients receiving prescriptions at pharmacies, Off. of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration, Minority Business Participation Report, HUD 525, on occasion, 50 State governments, Laverne V. Collins, 395-3214.

Community Planning and Development, Instructions for Compliance with Title VI of the Civil Rights Act of 1964, annually, 1,800 small cities applying for CDBG discre. Balance funds, Laverne V. Collins, 395-3214.

Housing Management, U.S. Department of Housing Reporting of Human Services Programs Provided to Public Housing Residents, semi-annually, 1,400 public housing agencies (with more than 200 units), Caywood, D. P., 395-3443.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Additive Manufacturer Notification, Report (see supporting statement), EPA(DUR) 365, 365A, 366, on occasion, 5590 additive

manufacturer, 1,500 responses, 1,500 hours, Ellett, C. A., 395-6132.

Fuel Manufacturer Notifications, Reports (see supporting statement), EPA(DUR) 367, 367A, 368, 369, 370, 370A, 371, 372, other (see SF-83), 2,528 petroleum industry, 2,250 responses, 27,000 hours, C. Louis Kincannon, 395-3211.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Food Preference Report, FNS-35, annually, 1,125 State Distribution Agencies and School Districts, 16,431 responses, 4,259 hours, Clearance Office, 395-3772.

Economics, Statistics, and Cooperatives Service, Prices Received by Farmers, other (see SF-83), 59,148 buyers, sellers of farm products, 59,040 responses, 6,890 hours, Off. of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF COMMERCE

Bureau of Census:

Current Retail Sales and Credit Report B-100, B-101, B-102, monthly, 138,600 retail business firms, 131,400 responses, 44,680 hours, Off. of Federal Statistical Policy and Standards, 673-7959.

Interview Rating Form, D-269A1(XN) through D-269E1(XN), single-time, 1,000,000 applicants for census jobs, 1,000,000 responses, 133,000 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Instructions for Financial Status Report and Performance Report—Vocational Education Formula Grants, OE-345 and 346, annually, 57 SEA's, 111 responses, 6,216 hours, Budget Review Division, 395-4775.

Food and Drug Administration, Cosmetic Product Ingredient Statement, FD-2512 and 2512A, on occasion, 2,800 cosmetic product manufacturers and distributors, 5,000 responses, 2,500 hours, Richard Eisinger, 395-3214.

Health Care Financing Administration (Medicare), Report of State Buy-in Problem, HCFA-1957, on occasion, 50,000 county and State welfare offices, 50,000 responses, 12,500 hours, Marsha Traynham, 395-3773.

Office of Education, Report of Handicapped Children Receiving Special Education and Related Services, OE-9058, semiannually, 57 State educational agencies, 114 responses, 114 hours, Office of Federal Statistical Policy and Standard, 673-7959.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Farm and Rural Development Administration, Statement of Budget, Income and Equity—FmHA borrower, FmHA 442-2, quarterly, 3,900 FmHA borrowers, 20,000 responses, 20,000 hours, Ellett, C. A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-17479 Filed 6-22-78; 8:45 am]

[7905-01]

RAILROAD RETIREMENT BOARD

PRIVACY ACT OF 1974

Notice of Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Proposed Changes to Systems of Records.

SUMMARY: The Railroad Retirement Board proposes changes to three systems of records identified as follows: Master File of Railroad Employees' Creditable Compensation, Social Security Administration Summary Earnings File and Railroad Retirement, Survivor, and Pensioner Benefit System. The modifications to these systems are necessitated by changes to record storage, retrievability and accessibility. This document also gives notice of a new routine use, a reworded routine use for purpose of clarification and the addition of categories of records to the system of records, Master File of Railroad Employees' Creditable Compensation. To facilitate public review, the systems altered are published in their entirety below with the modifications indicated by italics.

DATES: These changes to systems of records will become effective as proposed without further notice on July 23, 1978, unless comments are received that would result in a contrary determination.

ADDRESS: Send comments to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago Illinois 60611.

FOR FURTHER INFORMATION CONTACT:

Mr. W. V. Radesk, Director of Management Control, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312-751-4690.

SUPPLEMENTARY INFORMATION: The U.S. Railroad Retirement Board submitted the proposed changes to the three systems of records to the Congress and Office of Management and Budget (OMB) on May 1, 1978. This submission is in accordance with prvisions of OMB Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975 and Transmittal Memorandum No. 3, dated May 17, 1976 which provide supplemental guidance regarding reporting requirements of a change to a system of personal records subject to the Privacy Act of 1974, 5 U.S.C. § 552a(o). The OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The changes proposed to all three systems are outlined below:

Storage: Certain records in these systems, accessed frequently, will be housed on magnetic disk, affording on-line access through video display terminals.

Safeguards: Magnetic disk-computer and computer storage rooms are restricted to authorized personnel. In cases of access through on-line computer terminals, safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail.

Retention and disposal: The records stored on disk will be updated at regular intervals and permanently retained.

The categories of records being added to the system of records identified as Master File of Railroad Employees' Creditable Compensation are: date of birth, sex and race. The proposed routine use will be designated as "n" and authorized disclosure of all records in this system to the Social Security Administration. The routine use "b" was rewritten for the purpose of clarification.

BY AUTHORITY OF THE BOARD.

R. F. BUTLER,
Secretary.

System name:

Master File of Railroad Employees' Creditable Compensation—RRB.

System location:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Categories of individuals covered by the system:

All individuals with compensation creditable under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

Categories of records in the system:

Individual name, social security account number, claim number, *date of birth, sex, race,* last employer identification number, master file of service, and compensation 1937-current.

Authority for maintenance of the system:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1)).

Routine uses of records maintained in the system, including categoies of users and the purposes of such uses:

a. Records may be transferred to the Social Security Administration to correlate disability freeze actions and in cases where the railroad employees do not acquire 120 creditable service months before retirement or death, or have no current connection with the railroad industry, to enable SSA to credit the employee with the compensation and to pay or deny benefits.

b. *Yearly service months, cumulative service months, yearly creditable com-*

pensation, and cumulative creditable compensation may be released to the employees directly or through their respective employers.

c. Service months and earnings may be released to employers or former employers for correcting or reconstructing earnings records for railroad employees.

d. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and/or the Railroad Unemployment Insurance Act.

e. Employee identification and potential entitlement may be furnished to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State, and local welfare or public aid agencies to assist them in processing application for benefits under their respective programs.

f. Employee identification and other pertinent information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

g. The last employer information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

h. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the employee's potential eligibility for enemployment, sickness or retirement benefits may be released to the requesting employer for the purpose of determining entitlement to and the rates of private supplemental pension, sickness or enemployment benefits and to calculate estimated benefits due from the employer.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his anticipated benefit may be disclosed to the labor organization official.

k. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

l. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

m. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

n. All records may be disclosed to the Social Security Administration for purposes of administration of the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tape, *magnetic disk* and paper.

Retrievability:

Social security number, claim number and name.

Safeguards:

Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail. Paper: bound in hard covers and stored on steel shelving accessible to only authorized personnel.

Retention and disposal:

Magnetic tape and magnetic disk: permanent retention; updated annually. Paper: retained five years and destroyed; last year ledger put in storage when current year ledger complete.

System manager(s) and address:

Director of Data Processing and Accounts, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures:

See Notification section above.

Contesting record procedures:

See Notification section above.

Record source categories:

Railroad employer.

System name:

Social Security Administration Summary Earnings File—RRB.

System location:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Categories of individuals covered by the system:

Railroad employees and their auxiliary beneficiaries.

Categories of records in the system:

Social security account number, name, date of birth, sex, social security claim status, creditable earnings from 1937 to date.

Authority for maintenance of the system:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Internal use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Magnetic tape and *magnetic disk.*

Retrievability:

Social security account number and name.

Safeguards:

Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail.

Retention and disposal:

Magnetic tape and magnetic disk: permanent retention; updated annually.

System manager(s) and address:

Director of Data Processing and Accounts, U.S. Railroad Retirement

Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name, social security account number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures:

See Notification section above.

Contesting record procedures:

See Notification section above.

Record source categories:

Social Security Administration.

System name:

Railroad Retirement, Survivor, and Pensioner Benefit System—RRB.

System location:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Regional and District Offices: See Appendix I for addresses.

Categories of individuals covered by the system:

Applicants for retirement and survivor benefits, their dependents (spouses, children, parents, grandchildren), individuals who filed for lump sum death benefits and/or residual payments.

Categories of records in the system:

Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: name, address, social security number, claim number, proofs of age, marriage, relationship, and military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act, Veterans Administration or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, record of determination and appeal by beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information.

Authority for maintenance of the system:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Entitlement and benefit rates may be released to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Retirement Act.

e. Beneficiary identifying information, address, check rate, number and date may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, to reconcile reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Beneficiary identifying information, address, check rate, date, number and other supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

g. Beneficiary identifying information, entitlement data, medical evidence and related evaluatory data, and benefit rate may be released to he Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

h. Beneficiary identifying information, including social security account number, and supplemental annuity amounts may be released to the Internal Revenue Service, state and local taxing authorities for tax purposes (Form G-1099, for those annuitants receiving supplemental annuities).

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data and months paid may be released to the Veterans Administration to verify continued entitlement to benefits.

j. Beneficiary identifying information, entitlement data and benefit rates may be released to the Department of State and embassy officials to aid in the development of applications, supporting evidence and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration, Bureau of Supplemental Security Income, Health Care Financing Administration, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. The last addresses and employer information may be released to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. Beneficiary identifying information and medical evidence may be released to state or local agencies required by state or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for a disability annuity.

o. Medical evidence may be released to Board-appointed medical examiners to carry out their functions.

p. Information obtained in the administration of Title XVIII (Medicare) which may indicate unethical or unprofessional conduct of a physician or practitioner providing services to beneficiaries may be released to Professional Standards Review Organizations and State Licensing Boards.

q. Information necessary to study the relationship between benefits paid by the Railroad Retirement Board and civil service annuities may be released to the Civil Service Commission.

r. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II and Title XVIII of the Social Security Act, as amended, or the Railroad Retirement Act.

s. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

t. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

u. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of retire-

ment benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

v. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

w. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

x. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

y. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

z. The amount of a residual lump sum payment and the identity of the payee may be released to the Internal Revenue Service for tax audit purposes.

aa. The amount of any death benefit or annuities accrued but unpaid at death and the identity of such payee may be released to the appropriate state taxing authorities for tax assessment and auditing purposes.

bb. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper, microforms, magnetic tape and *magnetic disk.*

Retrievability:

Claim number, social security number and full name.

Safeguards:

Paper and microforms: maintained in areas not accessible to the public, offices are locked during non-business hours. Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail.

Retention and disposal:

Paper: individual claim folders with records of all actions pertaining to the payment or denial of claims are shredded 25 years after the date of last payment or denial activity; other paper listings are destroyed one year after date of issue, except for accounts receivable listings which are destroyed only after General Accounting Office audit. Microforms: originals are kept for five years, duplicates are kept for one year and then destroyed by shredding. *Magnetic tape: magnetic tape records are used to daily update the disk files and then are retained for 90 days and then written over. Magnetic disk: continually updated and permanently retained.*

System manager(s) and address:

Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure:

Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any records will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures:

See Notification section above.

Contesting record procedures:

See Notification section above.

Record source categories:

Individual applicants or their representatives, railroad employers, other employers, physicians, labor organizations, federal, state and local government agencies, attorneys, funeral homes, congressmen, schools, foreign governments.

[FR Doc. 78-17375 Filed 6-22-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1488]

ALABAMA

Declaration of Disaster Loan Area

Morgan County and adjacent counties within the State of Alabama constitute a disaster area as a result of damages cause by a tornado and high winds which occurred on May 12-13, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 14, 1978, and for economic injury until the close of business on March 14, 1979, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Alabama 35205.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: June 15, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-17449 Filed 6-22-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1435; Amdt. No. 3]

MASSACHUSETTS

Declaration of Disaster Loan Area

The above numbered Declaration (See 43 FR 8605), Amendment No. 1 (See 43 FR 10455) and Amendment No. 2 (See 43 FR 16583) are amended by extending the filing date for physical damage until the close of business on July 5, 1978, and for economic injury until the close of business on January 11, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 15, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-17450 Filed 6-22-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1489]

TEXAS

Declaration of Disaster Loan Area

Sutton County and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by hail, high winds, and flooding which occurred on June 2, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 17, 1978, and for economic injury until the close of business on March 16, 1979, at:

Small Business Administration, District Office, 727 East Durango, Room A-513, Federal Building, San Antonio, Texas 78206.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 16, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-17451 Filed 6-22-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

ADVISORY COMMITTEE ON TRANSNATIONAL ENTERPRISES

Closed Meeting

In accordance with 5 USC Appendix, Section 10(a)(2), notice is hereby given that the Advisory Committee on Transnational Enterprises will meet in closed session on Thursday, July 20. The meeting will convene at 9:30 a.m. in Room 1207 of the Department of State, 2201 C Street, N.W., Washington, D.C.

The purpose of the meeting is to consider the U.S. negotiating position for a proposed bilateral investment treaty and to discuss a draft text as the basis for these negotiations. Premature disclosure of the details of this discussion could adversely affect our ability to negotiate a satisfactory treaty. Therefore, the meeting will be closed consistent with 5 USC Appendix, Section 10(d) and 5 USC 552b (c)(9)(B).

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Dated: June 20, 1978.

RICHARD D. KAUZLARICH,
Executive Secretary.

[FR Doc. 78-17456 Filed 6-22-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

[Notice No. 78-9; Reference: ATF O 1100.]

ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT)

Delegation of Authority

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 212, to the Assistant Director (Regulatory Enforcement), and permits redelegation to Regulatory Enforcement personnel in Bureau Headquarters.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to the formulation of completely denatured alcohol, specially denatured alcohol, and specially denatured rum; to the specifications for denaturants; and to the uses of denatured spirits. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 212, Formulas for Denatured Alcohol and Rum, belong at and should be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director (Regulatory Enforcement) the authority to take final action on the following matters relating to 27 CFR Part 212, Formulas for Denatured Alcohol and Rum:

a. To prescribe all forms required by regulations, under 27 CFR 212.2.

b. To approve applications by denaturers to dispose of stocks of denaturants or formulas of specially denatured spirits no longer authorized by regulations, under 27 CFR 212.3.

c. To authorize the use of alcohol of less than 185 degrees of proof in the manufacture of formulas of specially denatured alcohol, under 27 CFR 212.15(a).

d. To approve applications for variation from the denaturant specifications set forth in subpart E of 27 CFR Part 212 or the use of substitute denaturants in order to meet the requirements of national defense or for other valid reasons, whenever such variation or substitution will not jeopardize the revenue, under 27 CFR 212.65.

4. *Coordination with other offices.* To complete the action in paragraphs 3b through 3d above, coordination will be made, as deemed necessary, with the Chief, Scientific Services Division (T:S). Certain authorizations delegated to the Assistant Director (Technical and Scientific Services) are listed in ATF O 1100.66A.

5. *Redelegation.*

a. The authority in paragraph 3a above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of branch chief.

b. The authorities in paragraphs 3b through 3d above, may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters not lower than the position of ATF specialist.

Effective date. This order becomes effective on June 12, 1978.

JUNE 12, 1978.

REN D. DAVIS,
Director.

[FR Doc. 78-17390 Filed 6-22-78; 8:45 am]

[4810-22]

Office of the Secretary

PHOTOGRAPHIC COLOR PAPER FROM WEST GERMANY

Termination of Investigation Based on No Likelihood of Injury

AGENCY: United States Treasury Department.

ACTION: Termination of Antidumping Investigation.

SUMMARY: This notice is to advise the public that an antidumping investigation involving photographic color paper from West Germany is being terminated. The investigation is being terminated as the result of a finding by the United States International Trade Commission that there is "no reasonable indication of injury or likelihood of injury" to the domestic industry caused by imports of the subject merchandise from West Germany.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

James C. Davenport, Office of Tariff Affairs, U.S. Treasury Department, 15th & Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-2951.

SUPPLEMENTARY INFORMATION: On April 12, 1978, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER with respect to photographic color paper from West Germany (43 FR 15381).

The notice stated that Treasury has concluded there was substantial doubt of injury to, or likelihood of injury to, an industry in the United States by reason of imports of photographic color paper from West Germany. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Antidumping Act of 1921, as amended (19 U.S.C. 160(c)(2)) (hereinafter referred to as the "Act").

The United States International Trade Commission has determined,

and on May 8, 1978, it advised the Secretary of the Treasury pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)), that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of photographic color paper, alleged to be sold at less than fair value, from West Germany into the United States (43 FR 29875) (May 15, 1978).

Accordingly, the antidumping investigation with respect to photographic color paper from West Germany is hereby terminated, as provided for in section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Dated: June 15, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-17403 Filed 6-22-78; 8:45 am]

[4810-22]

PHOTOGRAPHIC COLOR PAPER FROM JAPAN

Termination of Investigation Based on No Likelihood of Injury

AGENCY: United States Treasury Department.

ACTION: Termination of Antidumping Investigation.

SUMMARY: This notice is to advise the public that an antidumping investigation involving photographic color paper from Japan is being terminated. The investigation is being terminated as the result of a finding by the United States International Trade Commission that there is "no reasonable indication of injury or likelihood of injury" to the domestic industry caused by imports of the subject merchandise from Japan.

EFFECTIVE DATE: June 23, 1978.

FOR FURTHER INFORMATION CONTACT:

James C. Davenport, Office of Tariff Affairs, U.S. Treasury Department, 15th & Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-2951.

SUPPLEMENTARY INFORMATION: On April 12, 1978, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER with respect to photographic color paper from Japan (43 FR 15380).

The notice stated that Treasury has concluded there was substantial doubt of injury to, or likelihood of injury to, an industry in the United States by reason of imports of photographic color paper from Japan. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c)(2) of the Antidumping Act of 1921, as amended (19 U.S.C. 160(c)(2) (hereinafter referred to as the "Act").

The United States International Trade Commission has determined, and on May 8, 1978, it advised the Secretary of the Treasury pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)), that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of photographic color paper, alleged to be sold at less than fair value, from Japan into the United States (43 FR 29875) (May 15, 1978).

Accordingly, the antidumping investigation with respect to photographic color paper from Japan is hereby terminated, as provided for in section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Dated: June 15, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 78-17404 Filed 6-22-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 691]

ASSIGNMENT OF HEARINGS

JUNE 20, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 124947 (Sub-No. 79), Machinery Transports, Inc., now assigned July 17, 1978 at Phoenix, Arizona, will be held in Room 235, Post Office Building, 522 North Central Avenue.

No. MC 13327, Tri-State Motor Transit Co.—Purchase (Portion)—Dealers Transit, Inc. and No. MC 109397 (Sub-No. 367), Tri-State Motor Transit Co., now assigned July 24, 1978 at Phoenix, Arizona, will be held in Room 235, Post Office Building, 522 North Central Avenue.

No. MC-F-13355, B&L Motor Freight, Inc.—Merge—Prunty Motor Express, Inc. and No. MC 123255 (Sub-No. 124), B&L Motor Freight Inc., now being assigned for July 25, 1978 (1 day), at Parksburg, West Virginia, in a hearing room to be later designated.

No. AB 43 (Sub-No. 43), Illinois Central Gulf Railroad Company Abandonment between Herscher and Barnes in KanKakee, Ford, Livingston and McLean Counties, Illinois, and No. 36643, Bloomer Shippers Association versus Illinois Central Gulf Railroad Company, now assigned June 26, 1978 at Bloomington, Illinois, will be held at the McLean County Law & Justice Center, E.O.C. Room (basement), 104 West Front Street.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17459 Filed 6-22-78; 8:45 am]

[7035-01]

[Notice No. 892]

ASSIGNMENT OF HEARINGS

JUNE 20, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

*Correction**

No. MC 6078 (Sub-No. 86F), D. F. Bast, Inc., now assigned for hearing July 27, 1978 at Philadelphia, Pennsylvania, will be held in the Tax Court, Room 7405, Seventh Floor, U.S. Courthouse, 601 Market Street.

No. MC 143829, Scalea Airport Service, Inc., now assigned for continued hearing July 25, 1978 at Philadelphia, Pennsylvania, will be held in the Tax Court, Room 7405, Seventh Floor, U.S. Courthouse, 601 Market Street.

NANCY WILSON,
Acting Secretary.

[FR Doc. 78-17458 Filed 6-22-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Hill Truck Line, Inc. (MC-141439), Falls City Transfer Co. (MC-133004 Sub-No. 2), and Earl Koch Trucking, Inc. (MC-84574), all under common control have filed a petition for waiver of paragraphs (a)(3) and (c) of section 1057.4 of Lease and Interchange of Vehicles Regulations (49 CFR Part 1057).

We find: 1. That petitioners have an effective jointly administered safety program.

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*Previous publication of the hearing room location for both the above applications showed the wrong address, as well as the wrong room number.

2. That petitioners will be able to more efficiently operate if permitted to trip lease.

3. That petitioners request for relief beyond that already provided by paragraph (c), as amended by Ex Parte MC-43 (Sub-No. 6), is not warranted.

It is ordered: 1. That waiver of paragraph (a)(3) is granted, provided petitioners remain under common control.

2. That waiver of paragraph (c) is denied.

Decided May 18, 1978.

By the Commission, Motor Carrier Leasing Board, Board Members Burns, Turkington, and Sibbald. Board Member Burns not participating.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17466 Filed 6-22-78; 8:45 am]

[7035-01]

[Notice No. 73]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before July 24, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC 77628, filed April 17, 1978. Transferee: STEPHEN'S BUS TOURS, INC., 25 Charter Oak Ave., Hartford, CT 06106. Transferor: Theodore E. Malec, doing business as Pierre Bus Tours, 391 Woodland St., Windsor Locks, CT 06096. Applicant's representative: Edmund Liszka, President, Stephens Bus Tours, Inc., 25 Charter Oak Ave., Hartford, CT 06106. Application seeking to purchase License No. MC 12572 (Sub-No. 1) issued July 18, 1977 authorizing operations as a broker at Plainsville, CT in connection with the transportation of passengers and their baggage between Danbury, Waterbury, and Hartford, CT, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC and passengers and their baggage in round-trip tours beginning and ending at points in Hartford and New Haven Counties, CT and extending to points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. Transferee holds no Commission authority and does not seek Section 210a(b) temporary authority.

No. MC-FC-77662, filed May 11, 1978. Transferee: LORD'S CONVOY SERVICE, INC., 513 Urquhart Dr., Beech Island, SC 29842. Transferor: Stephens Car Transport, Inc. (Robert F. Anderson, Trustee in Bankruptcy), 830 Laurel St., Columbia, SC 29201. Applicant's representative: John H. Lumpkin, Jr., 1250 SCN Center, Columbia, SC 29201. Authority sought for purchase of the operating rights set forth in Certificate No. MC 135541 (Sub-No. 1) issued March 5, 1975, revoked effective November 5, 1976, and reinstated January 31, 1977, as follows: Used passenger automobiles, in truckaway service, between the site of Clanton Auto Auction at Darlington, SC, on the one hand, and, on the other, points in NC, VA, TN, GA, FL, and AL. Transferee presently holds no Commission authority but does seek Section 210a(b) authority.

No. MC-FC-77687, filed May 23, 1978. Transferee: ROGER SCOTT McNEIL d.b.a. McNEIL TRUCK LINE, 217 N. 5th St., Ellendale, ND 58436. Transferor: Raymond McNeil, d.b.a. McNEIL TRUCK LINE 7th N. Jackson St., Aberdeen, SD 57401. Applicant's representative: Roger S. McNeil, 217 N. 5th St., Ellendale, ND 58436. Authority sought for purchase of the operating rights set forth in Certificate No. MC 106486 issued April 27, 1950 as follows: *General commodities* with usual exceptions over a specified regular route between Hecla, SD and Aberdeen, SD servicing all intermediate points and the off-route point of Columbia, SD; general commodities with exceptions between Barnard, SD and Ellendale, ND over a regular route serving the intermediate point of Frederick, SD; and household goods between Oakes, ND and Aberdeen, SD over a regular route serving all intermediate points and specified off-route points in ND and SD. Transferee presently holds no Commission authority and does not seek Section 210a(b) authority.

No. MC-FC-77691, filed May 30, 1978. Transferee: THOMAS E. FANELLI, d.b.a. AIR CARGO SERVICES, P.O. Box 30961, Raleigh, N.C. 27612. Transferor: Louis Clairborne Hunt, d.b.a. L. C. Hunt Agency, 1616 Kent St., Durham, NC 27707. Applicant's representative: Thomas E. Fanelli, P.O. Box 30961, Raleigh, NC 27612. Authority sought for purchase of the operating rights set forth in Certificate No. MC 136053 (Sub-No. 1) and MC 136053 (Sub-No. 3) issued September 10, 1974 and November 12, 1975 respectively, as follows: Pharmaceutical materials, human blood, and human organs from Raleigh-Durham, NC Airport to Durham, and Chapel Hill, NC and points in Wake County, NC. Transferee presently holds no Commission authority and does not seek Section 210a(b) authority.

No. MC-FC-77693, filed May 30, 1978. Transferee: CROWN TRANSPORTATION, INC., 549 E. Cucharras, P.O. Box 1056, Colorado Springs, CO 80901. Transferor: Art Walker, d.b.a. Colorado Springs—Limon Transportation Company, 1619 Kodiak Drive, Colorado Springs, CO 80901. Applicants' representative: J. Albert Sebald, 1700 Western Federal Savings Bldg., Denver, CO 80202. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC 120425 (Sub-No. 1), issued October 15, 1969, as follows: Passengers, baggage, and express, between specified points in the State of CO. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77695, filed June 1, 1978. Transferee: TEXAS, NEW MEXICO & OKLAHOMA COACHES, INC., P.O. Box 1800, Lubbock, TX 79408. Transferor: T.N.M.&O. Tours, Inc., 1313 Thirteenth Street, Lubbock, TX 79401. Applicants' representative: Anthony P. Carr, Greyhound Tower, Phoenix, AZ 85077. Authority sought for purchase by transferee of the operating rights of transferor to engage in operations as a broker in Lubbock, TX, as set forth in License No. MC 12910, issued February 24, 1966, as follows: Passengers and their baggage, in special and charter operations, in round-trip, all-expense tours, beginning and ending at specified points in Texas and extending to points in the United States. Transferee is presently

authorized to operate as a common carrier under Certificate No. MC 61120 and subs thereafter. Transferee is also affiliated with the Greyhound Corporation and Continental Trailways, Inc. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77701, filed June 6, 1978. Transferee: FITTON MOVERS, INC., 95 Fourth St., Fall River, MA 02721. Transferor: Nicholas Fitton & Edith M. Fitton, A Partnership (Edith M. Fitton, Trustee), d.b.a. Fitton Movers, Inc., 95 Fourth St., Fall River, MA 02721. Applicants' representative: Kenneth R. Tremblay, 5 Jay St., Portsmouth, RI 02871. Authority sought for purchase of the operating rights set forth in Certificate No. MC 65099 issued August 31, 1954 as follows: Lumber from Portsmouth, RI to Fall River, MA; newspapers from Fall River, MA to Pawtucket, Providence, and Woonsocket, RI and points in Bristol and Newport Counties, RI; textile machinery from West Warwick, RI to Northbridge, MA, from Jewett City, CT and Warren, RI to New Bedford, MA, between Fall River, MA, on the one hand, and, on the other, specified points in ME, NH, NJ, NY, and RI; new furniture from Fall River, MA to points in Bristol and Newport Counties, RI; and household goods between Fall River, MA and points in MA and RI within 15 miles thereof, on the one hand, and, on the other, points in MA, NH, VT, RI, CT, NY, and NJ. Transferee holds no Commission authority and does not seek Section 210a(b) temporary authority.

No. MC-FC-77702, filed June 6, 1978. Transferee: RENFREW COUNTY BUS LINES LTD., Post Office Box 127, Renfrew, Ontario, Canada. Transferor: Capital Coach Lines Co., Ltd., 30 Heritage Road, Markham, Ontario, Canada. Applicants' representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 119860 Subs 2, 3 and 4 issued November 3, 1967, June 30, 1969, and September 2, 1971, respectively, as follows: passengers and their baggage in charter and special operations beginning at ports of entry on the International Boundary line between the United States and Canada and extending to points in the United States. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17460 Filed 6-22-78; 8:45 am]

[7035-01]

[Notice No. 99]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 16, 1978.

IMPORTANT NOTICE

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9291 (Sub-No. 7TA), filed April 21, 1978. Applicant: CARROL BALL, 312 East Market Street, Centerville, KS 33014. Applicant's representive: Clyde N. Christey, Kansas Credit Union Bldg., Suite 110L, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregulator routes, transporting: *Iron and steel articles*, (a) from the facilities of Lone Star Industries at or near Ft. Collins, CO, and the facilities of Brown-Strauss Corp., at or near Aurora, CO, to the facilities of Brown-Strauss Corp., at or near Kansas City, KS; and (2) from the facilities of Brown-Strauss at or near Kansas City, KS, to the facilities of George E. Failing at or near Enid, OK, for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brown-Strauss Corp., Division of Azcon, 14th & Osage Avenue, Kansas City, KS. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building & U.S. Courthouse, 444 SE. Quincy, Topeka, KS 66683.

No. MC 29910 (Sub-No. 189TA), filed May 25, 1978. Applicant: ARKANSAS-BEST FREIGHT SYS TEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Applicant's representative: Gary D. Bronson, 301 South Eleventh Street, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings, equipment, supplies and building materials*, from the plantsite of Carolina Log Buildings, Inc., located in Surry County NC, to points in and east of MT, WY, CO, and NM, restricted to shipments originating at the facilities of Carolina Log Buildings, Inc., in Surry County, NC, for 180 days. Supporting shipper(s): Carolina Log Buildings, Inc., Howard Gap Road, Fletcher NC 28732. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 61977 (Sub-No. 8TA), filed May 15, 1978. Applicant: ZERKLE TRUCKING COMPANY, 537 High Street, Box 308, Middleport, OH 45760. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from Fourco Glass Company facilities at Clarksburg and Jerry Run, Flemington District, Taylor County, WV, to points in AR, KS, MO, OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Carter L. Shelton, Traffic Manager, Fourco Glass Company, P.O. Box 890, Bridgeport, WV 26330. Send protests to: Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 67866 (Sub-No. 34TA), filed May 30, 1978. Applicant: FILM TRANSIT, INC., 3931 Homewood Road, P.O. Box 18642, Memphls, TN 38118. Applicant's representative: Mr. Warren A. Goff, 2008 Clark Tower, 5100 Polar Avenue, Memphis TN 38118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commod-*

ities, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and livestock, between Memphis, TN, and points in its commercial zone, on the one hand, and, on the other, points and their commercial zones in OK on and east of the line which bounds that area commencing at the point where U.S. Hwys 281 and 277 intersect with the OK-TX State line, thence north over U.S. Hwys 281 and 277 to a point north of Lawton, OK, where U.S. Hwys 281 and 277 separate, thence northeast over U.S. Hwy 277 to its intersection with U.S. Hwy 81, thence north over U.S. Hwy 81 to the OK-KS State line. Restrictions: No service shall be rendered in the transportation of any package or article weighing more than 70 pounds, or exceeding 96 inches in length, or exceeding 150 inches in length and girth combined; and no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 200 pounds from one consignor to one consignee on any one day. Applicant intends to tack the authority here applied for with its presently held authority contained in MC 67866, Sub-No. 31. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (70) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof may be examined at the field office named below. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

No. MC 100597 (Sub-No. 7TA), filed May 22, 1978. Applicant: FAIRFIELD TRUCKING, INC., Route 5, Box 480, Pine Bluff, AR 71601. Applicant's representative: Harry E. Dixon, Jr., P.O. Box 4319, 1209 North 18th St., Monroe, LA 71203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Particleboard on flatbed trailers,* from Lillie, LA to points and places in the states of AR, OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Olinkraft, Inc., P.O. Box 488, West Monroe, LA 71291. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little West Capitol, Little Rock, AR 72201.

No. MC 107295 (Sub-No. 877TA), filed May 17, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, 100 S. Main Street, Farmer City, IL 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, couplings, connections and accessories* (except iron or steel and commodities which because of size or weight require the use of special equipment), from the facilities of Armco Steel Corp., Metal Products Division at Greencastle, PA, to points in the states of MI, OH and NY, restricted to traffic originating at the above facilities and destined to points shown above and further restricted against the transportation of oil field commodities as defined in Mercer-Extension-Oil Field Commodities, 74 M.C.C. 459, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): C. W. Hall, Director of Transportation, Armco Steel Corporation, Middletown, OH 45043. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 107496 (Sub-No. 1146TA), filed May 17, 1978. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid fertilizer,* (in bulk, in tank vehicles), from Burns Harbor, IN, to points in MI, IN, IL and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Agrico Chemical Company, P.O. Box 3166, Tulsa, OK 74101. (2) International Materials, 54 Meddlesex Turnpike, Bedford, ME. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 107515 (Sub-No. 1141TA), filed April 27, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Serby & Mitchell, 5th Floor Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* (except in bulk), from the plantsite or facilities of Rich Products Corp., at or near Murfreesboro, TN, to points in AR, DE, IL, IN, IA, KS, KY, LA, MD, MN, MO, NJ, NY, OH, OK, PA, TN, TX, VA, WV and WI, for 180 days. Supporting shipper(s): Rich Products Corporation, 1145 Niagara Street, Buffalo, NY 14213. Send protests to: E. A. Bryant District Supervisor, Interstate Commerce Commission, Room 300, 1252 W. Peachtree Street, NW., Atlanta, GA 30309.

No. MC 107541 (Sub-No. 50TA), filed May 17, 1978. Applicant: WASHINGTON OREGON LUMBER FREIGHTERS, INC., 12925 N.E., Rockwell Drive, Vancouver, WA 98665. Applicant's representative: Edward A. Francom, 12925 N.E., Rockwell Drive, Vancouver, WA 98665. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Dry fertilizer,* and (2) *dry fertilizer and fertilizer ingredients,* (1) from the facilities of Valley Nitrogen Producers, Inc., at or near Bena, Edison, Hercules, Helm, Stockton, and El Centro, Calif., and Chandler, AZ, to points in ID and UT, and between the facilities at or near Bena, Edison, Hercules, Helm, Stockton and El Centro, CA, on the one hand, and on the other, Chandler, AZ; and (2) from Pocatello and Conda, ID, and Wendover, UT, to points in CA and AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Valley Nitrogen Producers, Inc., P.O. Box 128, Helm, CA 93627. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

No. MC 111045 (Sub-No. 152TA), filed May 22,1978. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601, Also: 7809 Palm River Road. Applicant's representative: L. W. Fincher (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer,* in bags, from Florence, AL, to points in TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Minerals & Chemical, 1230 Terrace Street, Florence, AL 35630. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, 8410 NW. 53rd Terrace, Monterey Building, Suite 101, Miami, FL 33166.

No. MC 113678 (Sub-No. 753TA), filed May 5, 1978. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Roger M. Shaner (same as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food products, and fresh meats* (except malt and alcoholic beverages, and commodities in bulk), in vehicles equipped with mechanical refrigeration, from Danbury, Pomfret Center, New Milford, and New Haven, CT; Wilmington, and Dover, DE; Cam-

bridge, Crisfield, and Mt. Airy, MD; Boston, Charlestown, Mansfield, and Everett, MA; Flemington, Edgewater, Hackettstown, Camden, Pennsauken, Thorofare, Vineland, Seabrook, Blackwood, and Millville, NJ; Vestal, Red Hook, Syracuse, New Platz, Goshen, Ontario, Oneida, Binghamton, and Fulton, NY; Philadelphia, Chester, Reading, Kelton, Kennett Square, Elizabethtown, and King of Prussia, PA, and points in the commercial zones of each of the above origin points, to points in AZ, CA, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, NE, NV, ND, NM, OH, OK, OR, UT, WA, and WI. Restriction: Restricted against the transportation of frozen foods from Philadelphia, PA to CO, ID, OR, and WA; food products other than frozen from Philadelphia, PA, to NE; meats and meat products from Allentown, PA; frozen pretzels from Reading, PA; bakery products from King of Prussia, PA; all to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI.

NOTE.—Applicant states that the purpose of the application is to replace a prior pointline service with National Freight Lines from the origins sought to the destinations sought. Said concurrence was cancelled by National Freight Lines effective April, 1978, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (30) statements of support attached to the application which may be examined at the field office named below. Send protests to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 N. Customs House, 721 19th Street, Denver, CO 80202.

No. MC 115826 (Sub-No. 314TA), filed May 15, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088, Terminal Annex, 1960 31st Street, Denver, CO 80217. Applicant's representative: HOWARD GORE, 1960 31st Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from facilities of Packers Cold Storage, Inc., near La Habra, Fullerton and Anaheim, Calif., to AZ, for 180 days. Supporting shipper(s): Packers Cold Storage, P.O. Box 549, Fullerton, CA 93732. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

No. Mc 118989 (Sub-No. 194TA), filed May 25, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Applicant's representative: Rolland K. Draves (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and caps, covers and closures, and materials and supplies* used in the manufacture and distribution thereof from Gas City, IN to Walworth, WI commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Glass Containers Corp., 1301 S. Keystone Ave., Indianapolis, IN (Joe Cook). Send protests to: Gail Daugherty, Transportation Asst., Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin 53202.

No. MC 119493 (Sub-No. 204TA), filed May 17, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th Street Road, Joplin, MO 64801. Applicant's representative: Lawrence F. Kooeppel, P.O. Box 1196, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles, coated or uncoated*, from Chicago, IL, and its commercial zone, to Hutchinson, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Farmland Industries, Inc., Kansas City, MO 64116. Send protests to: John V. Barry, District Supervisor, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 120618 (Sub-No. 10TA), filed May 15, 1978. Applicant: SCHALLER TRUCKING CORPORATION, 5700 West Minnesota St., Indianapolis, IN 46241. Applicant's representative: John R. Bagileo, 700 World Center Bldg., 918 16th St. NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten aluminum* in shipper owned containers, from the facilities of Anaconda Company, Aluminum Division at or near Sebree, KY, to points located in the commercial zones of Bedford, Yankeetown, IN and Huntingdon, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Anaconda Company, Louisville, KY. Send protests to: Beverly J. Williams, Transp. Asst., Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 East Ohio St., Rm. 429, Indianapolis, IN 46204.

No. MC 134224 (Sub-No. 12TA), filed May 16, 1978. Applicant: HAUSER TRUCKING CORP., Box 241, Cobleskill, NY 12043. Applicant's representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shale aggregate*, from Cohoes, NY, to Frederick and Hagerstown, MD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Norlite Corporation, 628 S. Saratoga Street, Cohoes, NY. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, NY 12201.

No. MC 138383 (Sub-No. 4TA), filed May 23, 1978. Applicant: SAWYER CORPORATION, 3535 Wolf Rd., Saginaw, MI 48601. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron and scrap steel*, from the port of entry on the International Boundary Line at Detroit and Port Huron, MI to various MI points, for 180 days. Supporting shipper: Zalev Brothers Ltd., 100 Grand Marais Rd., Windsor, ON, Canada N9A6N5. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, MI 48933.

No. MC 139420 (Sub-No. 36TA), filed May 11, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, ND 58201. Applicant's representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese* from points in MN, ND, SD, WY and MT to the facilities of L. D. Schreider Cheese Company, Inc., at or near Logan, UT, and at or near Green Bay, WI; and (2) *Cheese, materials and supplies* used in the production of cheese, from the facilities of L. D. Schreiber Cheese Company, Inc., at or near Green Bay, WI, and at or near Logan, UT, to points in MN, ND, SD, WY and MT; and (3) *Cheese* between the facilities of Schreiber Cheese Company, Inc., located at or near Green Bay, WI, and at or near Logan, UT, for 180 days. Supporting shipper(s): L. D. Schreiber Cheese Company, Inc., Box 610, Green Bay, WI 54305. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 140563 (Sub-No. 11TA), filed March 30, 1978. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Applicant's representative: Archie B. Culbreth, Attorney at Law, Suite 202, 220 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulating and packaging materials, molded expanded polystyrene*, from the facilities of Integrated Insulation Systems, Inc., in DeKalb County, GA, to points in AL, AR, DC, FL, IL, IN, KY, LA, MA, MS, NJ, NY, NC, OH, PA, SC, TN and VA, and (2) *Materials, equipment and supplies* used in the

manufacture or distribution of insulating and packaging materials, molded expanded polystyrene (except commodities in bulk), from points in the states named in (1) above to the facilities of Integrated Insulation Systems, Inc., in DeKalb County, GA, for 180 days. Applicant has also filed, an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Integrated Insulation Systems, Inc., 2022 Powers Ferry Road, Suite 240, Atlanta, GA 30339. Send Protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 W. Peachtree Street N.W., Room 300, Atlanta, GA 30309.

No. MC 142062 (Sub-No. 12TA), filed May 25, 1978. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box 62, Sellersburg, IN 47172. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum and aluminum products, and such other commodities* as are manufactured or distributed by a manufacturer of aluminum products, from the facilities of Reynolds Metals Company at or near Louisville, KY, to points in CO, LA, MN, and MO; and (2) *Returned, refused, or rejected shipments of the foregoing commodities,* from points in CO, LA, MN, and MO, to the facilities of Reynolds Metals Company at or near Louisville, KY, for 180 days. Restriction: Restricted to the transportation of shipments under a continuing contract or contracts with Reynolds Metals Company. Supporting shipper(s): Reynolds Metals Company, P.O. Box 32920, Louisville, KY 40232. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 144122 (Sub-No. 3TA), filed May 9, 1978. Applicant: CARRETTA TRUCKING, INC., S. 160 Route 17 North, Paramus, NJ 07652. Applicant's representative: Joseph Carretta, S. 160 Route 17 North, Paramus, NJ 07652. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Staples and staple guns* from the facilities of Arrow Fastener Co., Inc. at Saddle Brook, NJ to Wilkesboro, Charlotte, and Greensboro, NC and their respective Commercial Zones; Atlanta and Conyers, GA and their respective commercial zones; Pelham, Montgomery, and Birmingham, AL and their respective commercial zones; Nashville, Memphis, Knoxville, and Chatanooga, TN and their respective commercial zones; Jacksonville, Orlando, Tampa, St. Petersburg, and Miami, FL and their respective commercial zones; and Columbia and Greenville, SC and their respective commercial zones, for 180 days. Supporting shipper(s): Arrow Fastener Co., Inc., 271 Mayhill Street, Saddle Brook, NJ 07663. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, NJ 07102.

No. MC 144122 (Sub-No. 4TA), filed May 9, 1978. Applicant: CARRETTA TRUCKING, INC., S. 160 Route 17 North, Paramus, NJ 07662. Applicant's representative: Joseph Carretta, (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Staples and staple guns* from the facilities of Arrow Fastener Co., Inc., at Saddle Brook, NJ to Akron, Cleveland, Columbus, Cincinnati, and Toledo, OH and their respective commercial zones; Louisville, KY and its commercial zone; Indianapolis, Terre Haute, and Ft. Wayne, IN and their respective commercial zones; Chicago, Springfield, and Decateur, IL and their respective commercial zones; St. Louis and Cape Girardeau, MO and their respective commercial zones; Kansas City, Wichita, Lawrence, Salina, and Topeka, KS and their respective commercial zones; Omaha and Lincoln, NE and their respective commercial zones; Des Moines, Cedar Rapids, and Waterloo, IA and their respective commercial zones; Minneapolis and Mankato, MN and their respective commercial zones; Milwaukee, WI and its commercial zone; and Detroit, Lansing, Grand Rapids, Flint, and Kalamazoo, MI and their respective commercial zones, for 180 days. Supporting shipper(s): Arrow Fastener Co., Inc., 271 Mayhill Street, Saddle Brook, NJ 07663. Send protests to: District Supervisor, Joel Morrows, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

No. MC 144333 (Sub-No. 1TA), filed March 2, 1978. Applicant: ALLEN LIEN, d.b.a. BELLINGHAM TRANSFER HEAVY HAULING, 2123 E. Bakerville, Road, Bellingham, WA 98225. Applicant's representative: Glenn W. Toomey, Attorney at Law, 3714 Sea-1st Bank Building, Seattle, WA 98154. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Boats, heavy machinery, contractor equipment and supplies and reinforced fiberglass pipe and tanks* requiring the use of specialized equipment, between points in Whatcom and Skagit Counties, WA on the one hand, and points on the WA-BC border and points in the State of WA, ID and OR, on the other hand, for 180 days. Applicant intends to interline at the WA-BC Border. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Whatcom Skagit Crane Service, Inc., 2123 E. Bakerville, Road, Bellingham, WA 98225. Send protests to: Hugh H. Chaffe, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

No. MC 144491 (Sub-No. 1TA), filed May 5, 1978. Applicant: TRANS-FLORIDA EXPRESS, INC., P.O. Box 5647, 3101 3rd Avenue, Tampa, FL 33675. Applicant's representative: Harold G. Hernly, Jr., 118 North Street Asaph, Alexandria, VA 22314. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: (A) Regular routes; *General commodities,* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Ft. Lauderdale, FL, and Miami, FL, and points in their commercial zone serving all intermediate points: From Ft. Lauderdale over U.S. Hwy 1 (previously FL Hwy 5) to Miami, and return over the same route. Serving Coconut Grove, Dania Beach, Davie, Deerfield Beach, Golden Beach, Gulf Stream, Hialeah, Hollywood Beach, Miami Beach, Miami Springs, North Miami Beach, Opa-Locka, Pompano Beach, Port Everglades, and Wilton Manor, and points in their commercial zone, as off route points; between Ft. Lauderdale, FL, and Riviera Beach, FL, serving all intermediate points: From Ft. Lauderdale over U.S. Hwy 1 (previously FL Hwy 5) to Riviera Beach, and return over the same route. From Ft. Lauderdale over FL Hwy A1A to Riviera Beach, and return over the same route. Alternate route for operating convenience only: Between Ft. Lauderdale and Miami, FL and points in their commercial zone: From Ft. Lauderdale over FL Hwy 84 to U.S. Hwy 441 (previously FL Hwy 7), then over U.S. Hwy 441 to Miami, and return over the same route.

(B) Regular routes: *General commodities,* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Riviera Beach, FL, and Orlando, FL, and points in their commercial zone serving all intermediate points: From Riviera Beach over U.S. Hwy 1 to Titusville, then over FL Hwy 405 to its junction with FL Hwy 50, then over FL Hwy 50 to Orlando, and return over the same route. Between Miami, FL, and Orlando, FL, and points in their commercial zone serving all intermediate points: From Miami over U.S. Hwy 27 to South Bay, then over FL Hwy 80 to Belle Glade, then over U.S. Hwy 441 to Orlando, and return over the same route. Between South Bay, FL, and Orlando, FL, and points in their commercial zone serving all intermediate

points: From South Bay over U.S. Hwy 27 and 27A to Haines City, then over U.S. Hwy 17 to Orlando, and return over the same route. Between Miami, FL, and Tampa, FL, and routes in their commercial zone serving all intermediate points: From Miami over U.S. Hwy 41 to Punta Gorda, then over U.S. Hwy 17 to Bartow, then over U.S. Hwy 98 to Lakeland, then over U.S. Hwy 92 to Tampa, and return over the same route. Between Punta Gorda, FL, and Tampa, FL and points in their commercial zone serving all intermediate points: From Punta Gorda over U.S. Hwy 41 to Tampa, and return over the same route. Between the junction of U.S. Hwy 41 and FL Hwy 29 near Everglades, FL, and Ft. Myers, FL, and points in their commercial zone serving all intermediate points: From junction of U.S. Hwy 41 and FL Hwy 29 over FL Hwy 29 to its junction with FL Hwy 82, then over FL Hwy 82 to Ft. Myers, and return over the same route. Between Orlando, FL, and Tampa, FL, and points in their commercial zone serving all intermediate points: From Orlando over Interstate Hwy 4 to Tampa, and return over the same route. Serving all off-route points (including the commerical zones of each) in Florida on or south of a line beginning at the western terminus of FL Hwy 60, then easterly over FL Hwy 60 to its junction with Interstate Hwy 4, then easterly along Interstate Hwy 4 to its junction with FL Hwy 50, Hwy 4, then easterly along interestate Hwy 4 to its junction with FL Hwy 50, then easterly along Hwy 50 to its junction with FL Hwy 405, then northeasterly along Hwy 405 to its junction with FL Hwy 402, then easterly along Hwy 402 to its eastern terminus, and serving all points in Pinelles, Pasco, Hillsborough, Polk, Orange, Dade, and Monroe Counties, FL, as off-route points. Alternate route for operating convenience only: *General commodities,* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the West Palm Beach interchange on the Sunshine State Parkway and the junction of said parkway with U.S. Hwy 17: From the West Palm Beach interchange on the Sunshine Parkway over the Sunshine Parkway to its junction with U.S. Hwy 17, and return over the same route, for operating convenience only. Between West Palm Beach and Ft. Myers, FL and points in their commerical zone: From West Palm Beach over FL State road 80 to Ft. Myers and return, for 180 days. Applicant has also filed an underying ETA seeking up to 90 days of operating authority. Supporting Shippers(s): There are approximately (136) statements of support attached to the application which may be examined at the field office named below. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW. 53rd Terrace, Miami, FL 33166.

No. MC 144780 (Sub-No. 1TA), filed May 30, 1978. Applicant: PAUL EVANS, d.b.a. PAUL EVANS & SONS TRUCKING, P.O. Box 185, Wilmington, OH 45177. Applicant's representive: John L. Alden, Stiverson and Alden, 1396 W. Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paper bags,* on flatbed trailers, from Wilmington, OH, to Glens Falls, NY, Saylor and Northampton, PA, Springfield, MO, Independence, KS, and Franklin Park and Heyworth, IL, under a continuing contract or contracts with International Paper Company, for 180 days. Applicant has also filed an underying ETA seeking up to 90 days of operating authority. Supporting Shippers(s): International Paper Company, W. W. Grimes, Plant Controller, P.O. Box 745, Wilmington, OH 45177. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commision, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17467 Filed 6-22-78; 8:45 am]

[1505-01]

[Notice No. 84]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-15410 appearing at page 24158 of the issue of Friday, June 2, 1978, at page 24162 in the first paragraph, "No. MC 28404" should be "No. MC 128404."

[1505-01]

[Notice No. 93]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-16597 appearing at page 25896 in the issue of Thursday, June 15, 1978, the motor carrier number in the third paragraph of the first column should read, "No. MC 128273."

[7035-01]

[Notice No. 72]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 23, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77715. By application filed June 8, 1978, G. P. BOURROUS TRUCKING COMPANY, INC., Route 1, Box 380, Diboll, TX 75941, seeks temporary authority to transfer the operating rights of Jack Young and Ida L. Young, a partnership, d.b.a. J & L Truck Lines, P.O. Box 1238, Silsbee, TX 77656, under section 210a(b). The transfer to G. P. Bourrous Trucking Company, Inc., of the operating rights of Jack Young and Ida L. Young, a partnership, d.b.a. J & L Truck Lines, is presently pending.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17461 Filed 6-22-78; 8:45 am]

[7035-01]

[Notice No. 71]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 23, 1978.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77714. By application filed June 15, 1978, REYNOLDS CONTRACT HAULERS, INC., 1602 Sewanee Drive, West Columbia, SC 29169, seeks temporary authority to transfer the operating rights of Cranel B. Herndon, an individual, d.b.a. Cranel B. Herndon, P.O. Box 605, 117 Hoover Street, Hampton, SC 29924, under Section 210a(b). The transfer to Reynolds Contract Haulers, Inc., of the operating rights of Cranel B. Herndon, an individual, d.b.a. Cranel B. Herndon, is presently pending.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17462 Filed 6-22-78; 8:45 am]

[7035-01]

[Notice No. 70]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 23, 1978.

Application filed for temporary authority under Section 210a(b) in connection with transfer application

under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77709. By application filed June 13, 1978, WESTERN CARRIERS, INC., 2100 Alaska Way, Seattle, WA 98121, seeks temporary authority to transfer the operating rights of Everett Trucking, Inc., P.O. Box 1105, Mt. Vernon, WA 98273, under section 210a(b). The transfer to Western Carriers, Inc., of the operating rights of Everett Trucking, Inc., is presently pending.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17463 Filed 6-22-78; 8:45 am]

[7035-01]

[Notice No. 69]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 23, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77708. By application filed June 9, 1978, MOTORFLOTA, INC., (a non-carrier), 100 Larch Avenue, Jersey City, NJ 07306, seeks temporary authority to transfer the operating rights of Consolidated Express, Inc., 60 Kellogg St., Jersey City, NJ 07305, under section 210a(b). The transfer to Motorflota, Inc., of the operating rights of Consolidated Express, Inc., is presently pending.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17464 Filed 6-22-78; 8:45 am]

[7035-01]

[Notice No. 68]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 23, 1978.

Applicant filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76701. By application filed June 5, 1978, GLENGARRY TRANSPORT LIMITED, Hwy 34 South, Alexandria, Ontario, CD KOC 1AO, seeks temporary authority to transfer the operating rights of Old Colony Transportation Co., Inc., 676 Dartmouth Street, South Dartmouth, MA 02748, under section 210a(b). The transfer to Glengarry Transport Limited, of the operating rights of Old Colony Transportation Co., Inc., is presently pending.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 78-17465 Filed 6-22-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items on the June 22, 1978 agenda.

TIME AND DATE: 10 a.m., June 22, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

(Deleted) 6. Docket 32181; Pan American's request for an exemption to carry domestic Houston-New York traffic on one daily Houston-New York-London round trip (Memo No. 8013, BPDA).

(Deleted) 7. Docket 32348 and 32349, Trans World's exemption request for Minneapolis-New York fill up-authority; Trans World's request for certificate amendment for Minneapolis-New York fill-up authority by show-cause procedure (Memo No. 8012, BPDA).

(Added) 25a. Docket 31168, (*McCulloch International Airlines, Holiday Travel & Tours, Elliott Tours, Inc., Enforcement Proceeding*) discretionary review on Board initiative of initial decision and order terminating BOE proceeding alleging that respondents violated section 401(a) of the act and several sections of the regulations by transporting OTC participants who were not listed on pre-flight passenger lists and, in the case of McCulloch, by failing to retain annotated copies of charter passenger lists at its principal office. (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Items 6 and 7 were inadvertently placed on the calendar for the June 22 meeting. On June 19, the Board voted on these matters by notation in order to allow the carriers to implement service as soon as possible. Unless the Board acts by June 26, the initial decision under section 302.27 of the regulations, becomes the order of the Board on June 27, nine days after the time (June 15) for filing petitions for discretionary review so item 25a is being added to the June 22 meeting. Accordingly, the following Members have voted that agency business requires the deletion of items 6 and 7 and the addition of item 25a and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1323-78 Filed 6-21-78; 3:58 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., June 30, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S. 1320-78 Filed 6-21-78; 2:52 pm]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published at a future date.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., June 27, 1978.

CHANGES IN THE MEETING: Title of agenda item should read: Review of the economic terms and conditions of the application of the Amex Commodities Exchange, Inc. for designation as a contract market in mortgage-backed certificates guaranteed by the Government National Mortgage Association.

[S-1319-78 Filed 6-21-78; 2:52 pm]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., June 27, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Application of the Amex Commodities Exchange, Inc. for designation as a contract market in mortgage-backed certificates guaranteed by the Government National Mortgage Association.

Exclusion of cash market dealers and trade organizations from the definition of a commodity trading advisor.

Alternative petition of Rosenthal & Co. for exemption from the option suspension.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1312-78 Filed 6-21-78; 9:59 pm]

[6715-01]

5

FEDERAL ELECTION COMMISSION.

DATE & TIME: Wednesday, June 28, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, and Personnel.

* * *

DATE & TIME: Thursday, June 29, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Future meetings,
Correction and approval of minutes,
Freedom of Information Act regulations,
Reports from Division Heads: Audit Division,
Pending legislation,
Pending litigation,

Appropriations and budget,
Liaison with other Federal agencies,
Classification actions,
Memorandum of particulars, and
Routine administrative matters.

Portions closed to the public (executive session):

Any matters not concluded at the meeting of June 28.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1322-78 Filed 6-21-78; 3:13 pm]

[6740-02]

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 26361, published June 19, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., June 21, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CP-8.—CP77-363, Columbia Gas Transmission Corp., National Fuel Gas Supply Corp.
M-4.—RM78-7, Policy examination of 60-day emergency natural gas programs.

KENNETH F. PLUMB,
Secretary.

[S-1316-78 Filed 6-21-78; 11:59 am]

[6720-01]

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10:30 a.m., June 28, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED: Consideration of proposed regulations to implement the Community Reinvestment Act of 1977.

No. 160, June 21, 1978.

[S-1318-78 Filed 6-21-78; 2:52 pm]

[6730-01]

8

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 F.R. 25771, June 14, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., June 20, 1978.

CHANGES IN THE MEETING:

Addition of the following item to the open session:

11. Docket No. 73-64: Self-policing systems—Requests for postponement of effective date of rules.

Addition of the following item to the closed session:

2. Activities of Seatrain Lines, Inc., under sections 16 and 18 of the Shipping Act, 1916.

[S-1317-78 Filed 6-21-78; 11:59 am]

[6730-01]

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., June 28, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agreement Nos. 10038-3 and 10039-6: Modifications and extensions of two pooling agreements in the United States/Argentina trades incorporating provisions for the admission of additional U.S.—and Argentine—flag lines and extending the agreements through August 31, 1978.
2. Agreement No. 9978-13: Modification and extension of the Associated North Atlantic Freight Conferences Agreement and related conference and ratemaking agreements.
3. Petition for reconsideration of order of conditional approval of Agreement No. 10270.
4. Agreement No. DC 83-4: Petition for reconsideration of the Commission's order of conditional approval.
5. Informal Docket No. 429(F): *National Starch & Chemical Corp.* v. *Lykes Bros. Steamship Co., Inc.*—Review of initial decision.
6. Special Docket No. 527: *Ford France S.A.* v. *Sea-Land Service, Inc.*—Consideration of Sea-Land petition to reopen.
7. Special Docket No. 547: *Toshoku America, Inc.* v. *Sea-Land Service, Inc.*—Consideration of the record.
8. Docket No. 77-9: *United Nations* v. *Hellenic Lines Limited*—Consideration of the record.
9. Docket No. 69-57: Agreement No. T-2336—New York Shipping Association Cooperative Working Arrangement—Petition of Zim-American Israeli Shipping Co., Inc., for reconsidation of the Commission's denial of claim.
10. Docket No. 69-57: Agreement No. T-2336—New York Shipping Association Cooperative Working Arrangement—Consideration of satisfaction of claims.
11. Docket No. 78-9: Financial Responsibility for Water Pollution—Consideration of comments received in response to notice of proposed rulemaking.
12. Docket No. 73-3: *Maritime Service Corporation* v. *Acme Fast Freight of Puerto Rico, et al.*—Consideration of the record.

Portion closed to the public:

1. Docket No. 75-20: Puerto Rico Maritime Shipping Authority Rates on Government Cargo—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1313-78 Filed 6-21-78; 9:59 am]

[7020-02]

10

[USITC SE-78-31]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, July 6, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary): a. Steridyne Corporation (Thermometers) (Docket No. 516).
5. Draft letter to Ambassador Strauss relating to Commission access to ISAC materials—See document CO4-B-086.
6. Methyl alcohol from Canada (Inv. AA1921-Inq.-13)—Briefing and vote.
7. Consideration of the report on U.S. exports to the U.S.S.R. (Inv. 332-91) (if necessary).
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1315-78 Filed 6-21-78; 9:59 am]

[7550-01]

11

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, July 5, 1978.

PLACE: Board Hearing Room, 8th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of June, 1978.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone 202-523-5920.

Date of notice: June 20, 1978.

[S-1314-78 Filed 6-21-78; 9:59 am]

[7910-01]

12

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 26185, June 16, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, June 27, 1978; 10 a.m.

CHANGES IN MEETING: A. Date postponed to: Thursday, June 29, 1978; 2 p.m. B. Items 6, 7 and 8 are added to the previously announced agenda:

MATTERS TO BE CONSIDERED: Board Meeting concerning:

6. Discussion of alternative approaches to the accelerated processing of filings in the Board's backlog in the event of the lapse of Agency funding.

7. Consideration of extension of time or not for filing standard forms of contractor's report (RB Form 1) and applications of commercial exemption.

8. Recommended determination of excessive profits: Vinnell Corp., fiscal year ended December 31, 1972.

STATUS: Open to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, telephone 202-254-8277.

Dated June 21, 1978.

GOODWIN CHASE,
Chairman.

[S-1321-78 Filed 6-21-78; 2:52 pm]

13

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

NOTE: For an EEOC document establishing a standing agenda item for the open portion of EEOC meetings, see FR Doc. 78-17457 in the Notices section of this issue.

FRIDAY, JUNE 23, 1978
PART II



federal register

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates. (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisons of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Connecticut:	
CT78-3003; CT78-3004	Feb. 17, 1978.
Iowa:	
IA78-4027	Apr. 7, 1978.
Louisiana:	
LA78-4052	May 12, 1978.
Maryland:	
MD78-3020	Apr. 14, 1978.
Michigan:	
MI78-2001	Feb. 3, 1978.
Mississippi:	
MS 78-1006	Do.
Nevada:	
NV78-5009	Mar. 10, 1978.
NV78-5011; NV 78-5018	Mar. 17, 1978.
Oklahoma:	
OK78-4054	June 9, 1978.
Pennsylvania:	
PA77-3078	June 4, 1977.
PA78-3012	Arp. 28, 1978.
PA78-3013	Apr.14, 1978.
PA78-3014	Mar. 24,1978.
PA78-3015; PA78-3043	May 12, 1978.
Texas:	
TX78-4028; TX78-4030; TX78-4033; TX78-4035; TX78-4037; TX78-4040; TX78-4041; TX78-4044	Apr. 14, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the Decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR77-4173(AR78-4069)	Aug. 19, 1977.
AR77-4285(AR78-4067); AR77-4287 (AR78-4064); AR77-4288 (AR78-4068)	Sept. 30, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 16th day of June 1978.

HERBERT GOLDSTEIN,
Acting Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

DECISION NO. CT78-3003 - Mod. #3 (43 FR 7110 - February 17, 1978) Fairfield, Litchfield & Windham Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers, Building:					
Laborer	$ 7.95	.50	.70		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators	8.20	.50	.70		.10
Air track ops, block pavers; and curb setters	8.45	.50	.70		.10
Blasters	8.70	.50	.70		.10
Open Air caisson, cylindrical Work and Boring Crew:					
Top man	7.95	.50	.70		.10
Bottom man	8.45	.50	.70		.10
Laborers, Heavy and Highway:					
Laborers	7.95	.50	.70		.10
Acetylene burners; Asphalt raker; Chain saw operator; concrete & power buggy operators; concrete saw operator; fence & guard rail erectors; Form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; mason tenders; pipelayers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.20	.50	.70		.10
Air track operators; block paver; curb setters	8.45	.50	.70		.10
Blasters	8.70	.50	.70		.10
Change:					
Painters:					
Fairfield Co.; Monroe & Shelton					
Brush	10.75	.50	.80	a	.01
Hand roller, paperhangers	11.25	.50	.80	a	.01
Structural steel, epoxy, polyester	11.75	.50	.80	a	.01
Spray	14.75	.50	.80	a	.01

MODIFICATIONS P. 2

DECISION NO. CT78-3004 - Mod. #4 (43 FR 7117 - February 17, 1978) Hartford, Middlesex, New Haven, New London & Tolland Counties Connecticut	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers, Building:					
Laborers	7.95	.50	.70		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatice drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill ops	8.20	.50	.70		.10
Air track ops, block pavers, and curb setters	8.45	.50	.70		.10
Blasters	8.70	.50	.70		.10
Open Air Caisson, Cylindrical Work and Boring Crew:					
Top man	7.95	.50	.70		.10
Bottom man	9.45	.50	.70		.10
Laborers, Heavy and Highway:					
Laborers	7.95	.50	.70		.10
Acetylene burners; Asphalt raker; chain saw operator; concrete & power buggy operators; concrete saw operator; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; mason tenders; pipelayers; pneumatic drill operators; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.20	.50	.70		.10
Air track operator; block pavers; curb setters	8.45	.50	.70		.10
Blasters	8.70	.50	.70		.10
Change:					
Painters:					
New Haven Co.: Ansonia, Beacon Falls, Derby, Oxford, & Seymour:					
Brush	10.75	.50	.80	a	.01
Hand roller; paperhangers	11.25	.50	.80	a	.01
Structural steel, epoxy polyester	11.75	.50	.80	a	.01
Spray	14.75	.50	.80	a	.01

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IA78-4027-Mod#2 (43 FR-14855-April 7, 1978 Statewide Iowa Heavy and Highway					
Change:					
Scott County					
Laborers:					
Group I	9.72	.40	1.00		.035
Group II	9.97	.40	1.00		.035
Group III	10.22	.40	1.00		.035
City of Council Bluffs					
Power Equipment Operators:					
Group I	9.15	.70	.70		.08
Group II	8.75	.70	.70		.08
Group III	8.35	.70	.70		.08
Linn & Polk Counties and the Cities of Ames and Dubuque					
Laborers:					
Group I	7.95	.30	.30		.05
Group II	7.70	.30	.30		.05
Group III	7.45	.30	.30		.05
Group IV	7.30	.30	.30		.05
Group V	7.20	.30	.30		.05
Power Equipment Operators:					
Group I	9.15	.70	.70		.08
Group II	8.75	.70	.70		.08
Group III	8.35	.70	.70		.08
Cities of Burlington and Clinton and Burlington Ordnance Plant					
Laborers:					
Group I	7.95	.30	.30		.05
Group III	7.70	.30	.30		.05
Group III	7.45	.30	.30		.05
Group IV	7.30	.30	.30		.05
Group V	7.20	.30	.30		.05
City of Fort Dodge					
Power Equipment Operators:					
Group I	9.15	.70	.70		.08
Group II	8.75	.70	.70		.08
Group III	8.35	.70	.70		.08
Laborers:					
Group I	5.90	.30	.30		.05
Group II	5.65	.30	.30		.05
Group III	5.40	.30	.30		.05
Group IV	5.25	.30	.30		.05
Group V	5.15	.30	.30		.05

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
City of Iowa City					
Laborers:					
Group I	7.95	.30	.30		.05
Group II	7.70	.30	.30		.05
Group III	7.45	.30	.30		.05
Group IV	7.30	.30	.30		.05
Group V	7.20	.30	.30		.05
Power Equipment Operator:					
Group I	9.15	.70	.70		.08
Group II	8.75	.70	.70		.08
Group III	8.35	.70	.70		.08
City of Mason City					
Laborers:					
Group I	7.65	.30	.30		.05
Group II	7.40	.30	.30		.05
Group III	7.15	.30	.30		.05
Group IV	7.00	.30	.30		.05
Group V	6.90	.30	.30		.05
Power Equipment Operators:					
Group I	9.15	.70	.70		.08
Group II	8.75	.70	.70		.08
Group III	8.35	.70	.70		.08
Black Hawk County					
Laborers:					
Group I	7.95	.30	.30		.05
Group II	7.70	.30	.30		.05
Group III	7.45	.30	.30		.05
Group IV	7.30	.30	.30		.05
Group V	7.20	.30	.30		.05
Power Equipment Operators:					
City of Waterloo:					
Group I	9.15	.70	.70		.08
Group II	8.75	.70	.70		.08
Group III	8.35	.70	.70		.08
Zone 1					
Power Equipment Operators:					
Group I	7.25	.40	.20		
Group II	7.10	.40	.20		
Group III	6.95	.40	.20		
Group IV	6.65	.40	.20		

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 2					
Power Equipment Operator:					
Group I	6.65	.40	.20		
Group II	6.25	.40	.20		
Group III	5.90	.40	.20		
Group IV	5.25	.40	.20		
Zone 3					
Power Equipment Operators:					
Group I	6.15	.40	.20		
Group II	5.80	.40	.20		
Group III	5.30	.40	.20		
Group IV	4.70	.40	.20		
DECISION #LA78-4052 - Mod. #3 (43 FR 20659 - May 12, 1978) Statewide Louisiana					
Change:					
Bricklayers & stonemasons:					
Zone 8	$10.40		.25		
Cement masons (Building Construction):					
Zone 1	9.81				
Zone 8	9.12		.25		
Marble, tile & terrazzo workers & finishers:					
Zone 4:					
Marble, tile & terrazzo work.	9.37		.25		
Plasterers - Zone 8	10.40		.25		
DECISION #MD78-3020 - Mod. #2 (42 FR 16045 - April 14, 1978) Counties of Anne Arundel (excluding the D. C. Training School), Baltimore, ans Baltimore City, Maryland, and for Heavy Construction projects in Harford and Howard Counties, Maryland					
Change:					
Lead Burners	$12.15	.65			.01
Sprinkler Fitters:					
Baltimore City including a 10- mile radius beyond the City limits	11.30	.75	1.05		.05

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI78-2001 - MOD. #1 (43 FR 4817 - February 3, 1978) Kent County, Michigan					
CHANGE:					
Electricians	$11.03	.50	3%+.35		.02
DECISION #MS78-1006 - MOD. #1 (43 FR 4818 - February 3, 1978) Hinds County, Mississippi					
CHANGE:					
ASBESTOS WORKERS	$ 9.82	.45	.50		
BOILERMAKERS	9.95	1.05	1.05		.02
IRONWORKERS	9.30	.45	.85		.04
LABORERS:					
Laborers	5.23	.15	.20		.05
Mason Tenders	5.38	.15	.20		.05
Pipelayers	5.38	.15	.20		.05
Plasterer Tenders	5.38	.15	.20		.05
Mechanical Tool Operator	5.48	.15	.20		.05
Mortar Mixer	5.48	.15	.20		.05
PAINTERS:					
Brush; Roller	7.45	.15	.10		
Spray (except Structrual Steel)	7.95	.15	.10		
Structural Steel (Brush)	7.70	.15	.10		
Swing Stage: Bos'n Chair	7.95	.15	.10		
Structural Steel (Spray)	8.20	.15	.10		
PLUMBERS, Steamfitters, Pipefitters	9.53	1.05	1.00		
SPRINKLER FITTERS	10.80	.75	1.05		.08

DECISION #NV78-5009 Mod. #4
(43 FR 10229 - March 10, 1978)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

MODIFICATIONS P. 7

Change:

TRUCK DRIVERS: Remaining Counties:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dump (single or multiple units including semis, double and transfer units; Dumpcrete and bulk cement spreaders:						
Under 4 yds.	$9.60	$10.75	.91	.65		.05
4 yds. and under 8 yds.	9.80	10.95	.91	.65		.05
8 yds. and under 18 yds.	10.00	11.15	.91	.65		.05
18 yds. and under 35 yds.	10.15	11.30	.91	.65		.05
35 yds. and under 60 yds.	10.40	11.55	.91	.65		.05
60 yds. and under 75 yds.	10.55	11.70	.91	.65		.05
75 yds. and under 100 yds.	10.70	11.85	.91	.65		.05
100 yds. and over	10.85	12.00	.91	.65		.05
Transit Mix:						
Under 8 yds.	10.00	11.15	.91	.65		.05
8 yds. and including 12 yds.	10.10	11.25	.91	.65		.05
Over 12 yds.	10.30	11.45	.91	.65		.05
Water Trucks & Jetting Trucks:						
Up to 2,500 gals.	9.80	10.95	.91	.65		.05
2,500 gals. and over	10.00	11.15	.91	.65		.05
DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water tank trailers, fuel and/or grease tank, or other misc. trailers (except as defined under dump trucks)	10.25	11.40	.91	.65		.05
Flatrack; Industrial Lift with Mechanical Tailgate:						
Single unit - 2-axle	9.80	10.95	.91	.65		.05
Single unit - 3-axle	9.90	11.05	.91	.65		.05

MODIFICATIONS P. 8

DECISION #NV78-5009 (Cont'd):

Change (Cont'd):

TRUCK DRIVERS: Remaining Counties:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bus and Manhaul Drivers, Single unit; Pickup:						
Up to 18,000 lbs.	$9.65	$10.80	.91	.65		.05
18,000 lbs. and over	9.75	10.90	.91	.65		.05
Winch Trucks, A-Frame:						
Under 18,000 lbs.	9.75	10.90	.91	.65		.05
18,000 lbs. and over	9.85	11.00	.91	.65		.05
Heavy Duty Transport (highbed); Heavy Duty transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	10.15	11.30	.91	.65		.05
Bootman, Combination; Bootman and Road Oiler	10.05	11.20	.91	.65		.05
Road Oil trucks or Bootmen; Fuel drivers; Fuel man and Fuel Island Man	9.75	10.90	.91	.65		.05
Helicopter Pilot (when transporting men or materials)	10.55	11.70	.91	.65		.05
Lift Jitneys and Fork Lifts	9.85	11.00	.91	.65		.05
Warehouse Clerk	9.80	10.95	.91	.65		.05
Tire Repairman	10.00	11.15	.91	.65		.05
Truck Repairman	10.30	11.45	.91	.65		.05

*TRUCK DRIVERS - Area Definition - See "Area Definition" in Supersedeas.

DECISION #:V78-5011 - Mod. #3
(43 FR 11441 - March 17, 1978)
Washoe County, Nevada

Change:

TRUCK DRIVERS: Remaining Counties:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dump (single or multiple units including semis, double and transfer units; Dumpcrete and bulk cement spreaders:						
Under 4 yds.	$9.60	$10.75	.91	.65		.05
4 yds. and under 8 yds.	9.80	10.95	.91	.65		.05
8 yds. and under 18 yds.	10.00	11.15	.91	.65		.05
18 yds. and under 35 yds.	10.15	11.30	.91	.65		.05
35 yds. and under 60 yds.	10.40	11.55	.91	.65		.05
60 yds. and under 75 yds.	10.55	11.70	.91	.65		.05
75 yds. and under 100 yds.	10.70	11.85	.91	.65		.05
100 yds. and over	10.85	12.00	.91	.65		.05
Transit Mix:						
Under 8 yds.	10.00	11.15	.91	.65		.05
8 yds. and including 12 yds.	10.10	11.25	.91	.65		.05
Over 12 yds.	10.30	11.45	.91	.65		.05
Water Trucks & Jetting Trucks:						
Up to 2,500 gals.	9.80	10.95	.91	.65		.05
2,500 gals. and over	10.00	11.15	.91	.65		.05
DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water tank trailers, fuel and/or grease tank, or other misc. trailers (except as defined under dump trucks)	10.25	11.40	.91	.65		.05
Flatrack; Industrial Lift with Mechanical Tailgate:						
Single unit - 2-axle	9.80	10.95	.91	.65		.05
Single unit - 3-axle	9.90	11.05	.91	.65		.05

DECISION #NV78-5011 (Cont'd):

Change (Cont'd):

TRUCK DRIVERS: Remaining Counties:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bus and Manhaul Drivers, Single unit; Pickup:						
Up to 18,000 lbs.	$9.05	$10.80	.91	.65		.05
18,000 lbs. and over	9.75	10.90	.91	.65		.05
Winch Trucks, A-Frame:						
Under 18,000 lbs.	9.75	10.90	.91	.65		.05
18,000 lbs. and over	9.85	11.00	.91	.65		.05
Heavy Duty Transport (highbed); Heavy Duty transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	10.15	11.30	.91	.65		.05
Bootman, Combination; Bootman and Road Oiler	10.05	11.20	.91	.65		.05
Road Oil trucks or Bootmen; Fuel drivers; Fuel man and Fuel Island Man	9.75	10.90	.91	.65		.05
Helicopter Pilot (when transporting men or materials)	10.55	11.70	.91	.65		.05
Lift Jitneys and Fork Lifts	9.85	11.00	.91	.65		.05
Warehouse Clerk	9.80	10.95	.91	.65		.05
Tire Repairman	10.00	11.15	.91	.65		.05
Truck Repairman	10.30	11.45	.91	.65		.05

*TRUCK DRIVERS - Area Definition - See "Area Definition" in Supersedeas.

DECISION #NV78-5018 - Mod. #2
(43 FR 11447 - March 17, 1978)
Clark County (does not include the Nevada Test Site), Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Electricians; Technicians	$15.06	.73	3% +$1.30		.08
Cable Splicers	15.39	.73	3% + 1.30		.08
Glaziers	9.14	.50	.40		.05

DECISION NO. OK78-4054 - Mod. #1
(43 FR June 9, 1978)
Oklahoma, Cleveland, Caddo, Grady Canadian, Kingfisher, Lincoln, Logan, McClain, Seminole and Pottawatomie Counties, Oklahoma

CHANGE:					
ELEVATOR CONSTRUCTORS	$10.11	.545	.35	2½%+a+b	.02

DECISION #PA77-3078 - Mod. #6
(42 FR 32478 - June 4, 1977)
Lawrence & Mercer Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
DESCRIPTION OF WORK TO READ: Building Erection and Foundation Excavation (does not include single family homes and garden type apartments up to and including 4 stories).					
BRICKLAYERS & STONEMASONS					
Lawrence County	$10.98	.75	.87		.02
Mercer County	11.25	.75	.60		.02
CARPENTERS:					
Lawrence County	11.15	6%	8%	6%	25%
Mercer County	10.74	1.17	1.10		.05
CEMENT MASONS:					
Lawrence County	11.86				
Mercer County	11.32	.68	1.81		
IRONWORKERS:					
Structural and Ornamental Reinforcing	12.03	.40	1.30		.07
LABORERS:					
Laborers, carryable, pumps, west brick buggy or similar vibrator operators, walk behind fork lift or similar (non self-propelled) stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, including starting & stopping)	9.49	.85	.71		
West brick buggy or similar (self-propelled), power wheelbarrows and buggies, walk behind forklift or similar, (self-propelled) wagon drill runners' helper, (including drill mounted on truck, track or similar), blaster's helper, all operators of compacting equipment, pipe layer, burner, jackhammer man concrete buster	9.615	.85	.71		
Hod Carrier, scaffold builder, bell and bottom man on furnaces and stacks, mortar mixer, mortar					

DECISION NO. PA77-3078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
mixing machine (regardless of power used, including starting ans stopping) grout machine feeder and pump operators and concrete saw operators, wagon drill operators	$ 9.74	.85	.71		
Gunnite nozzleman	9.99	.85	.71		
Blaster	10.19	.85	.71		
MILLWRIGHTS:					
Lawrenee County	10.26	6%	6%	25%	4%
Mercer County	11.53	1.17	1.10		.05
PAINTERS:					
Commercial					
Brush & roller	11.10	.55	.90		
Spray	12.10	.55	.90		
Industrial					
Brush & roller	11.60	.55	.90		
Spray	12.60	.55	.90		
PILEDRIVERMEN					
Lawrence County	11.85	5.5%	10%		50%
Mercer County	11.53	1.17	1.10		.05
PLUMBERS & STEAMFITTERS:					
Lawrence County	12.39	.71	.71		.05
POWER EQUIPMENT OPERATORS					
CLASS 1	11.975	.95	1.00		.09
CLASS 1-A	12.225	.95	1.00		.09
CLASS 1-B	12.475	.95	1.00		.09
CLASS 1-C	12.725	.95	1.00		.09
CLASS 2	11.825	.95	1.00		.09
CLASS 3	10,50	.95	1.00		.09
CLASS 3-A	11.00	.95	1.00		.09
CLASS 4	10,50	.95	1.00		.09
CLASS 5	9.75	.95	1.00		.09
CLASS 6	9,50	.95	1.00		.09
CLASS 6-A	9.60	.95	1.00		.09
CLASS 6-B	9.75	.95	1.00		.09
CLASS 6-C	10.50				

DECISION NO. PA77-3078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:					
Mercer County	$10.20	1.17	1.10		.05
SPRINKLER FITTERS	12.31	.75	1.05		.08
TRUCK DRIVERS					
CLASS 1	9.10	6.5%	5.6%	a	
CLASS 2	9.15	6.5%	5.6%	a	
CLASS 3	9.17	6.5%	5.6%	a	
CLASS 4	9.26	6.5%	5.6%	a	
CLASS 5	9.19	6.5%	5.6%	a	
CLASS 6	9.46	6.5%	5.6%	a	
CLASS 7	9.28	6.5%	5.6%	a	
CLASS 8	9.44	6.5%	5.6%	a	

MODIFICATIONS P. 15

DECISION NO. PA78-3012 - Mod. #2
(43 FR 18476 - April 28, 1978)
Clinton, Centre, Huntingdon,
Fulton & Mifflin Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
DESCRIPTION OF WORK TO READ: Building Erection and Foundation Excavation (does not include single family homes and garden type apartments up to and including 4 stories).					
IRONWORKERS					
Zone 1	$11.685	.70	1.155		.07
LATHERS					
Zone 1	10.94		.30		.01
MILLWRIGHTS	10.26	6%	6%	25%	½%
PAINTERS					
Zone 2					
Commercial					
Brush & roller	9.94	.75	.45		.02
Spray	9.99	.75	.45		.02
Industrial					
Brush & steel	10.74	.75	.45		.02
Spray	11.24	.75	.45		.02
PILEDRIVERMEN	11.85	5.5%	10%		50%
PLUMBERS & STEAMFITTERS					
Zone 2	12.05	.84	1.07		.24
Zone 3	11.30	.70	.80		.12
POWER EQUIPMENT OPERATORS					
CLASS 1	12.075	.95	1.00		.09
CLASS 1-A	12.325	.95	1.00		.09
CLASS 1-B	12.575	.95	1.00		.09
CLASS 1-C	12.825	.95	1.00		.09
CLASS 2	11.925	.95	1.00		.09
CLASS 3	10.05	.95	1.00		.09
CLASS 3-A	10.55	.95	1.00		.09
CLASS 4	9.40	.95	1.00		.09
CLASS 5	8.35	.95	1.00		.09
CLASS 6	8.65	.95	1.00		.09
CLASS 6-A	8.75	.95	1.00		.09
CLASS 6-B	8.90	.95	1.00		.09
CLASS 6-C	9.65	.95	1.00		.09
ROOFERS					
Zone 3					
Composition	12.26	.77	1.50		.06

MODIFICATIONS P. 16

DECISION #PA78-3013 - Mod. #2
(43 FR 16097 - April 14, 1978)
Bedford, Cambria, Cameron,
Clarion, Clearfield, Jefferson,
Crawford, Venango Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
DESCRIPTION OF WORK TO READ: Building Erection and Foundation Excavation (does not include single family homes and garden type apartments up to and including 4 stories).					
BRICKLAYERS & STONEMASONS:					
Zone 4	$11.55	.60	.60		
CARPENTERS & SOFT FLOOR LAYERS:					
Zone 3	9.75	6%	6%	6.5%	½%
CEMENT MASONS					
Zone 1	11.32	.68	1.81		
ELECTRICIANS					
Zone 1	13.15	.50	3%		½ of 1%
IRONWORKERS:					
Zone 1	11.055	.875	2.01		.03
Zone 3	11.08	1.86	1.01		.10
Zone 4	12.03	.40	1.30		.07
Zone 5	11.685	.70	1.155		.07
LABORERS					
Zone 1					
CLASS I	9.40	.85	.70		
CLASS II	9.525	.85	.70		
CLASS III	9.65	.85	.70		
CLASS IV	9.90	.85	.70		
CLASS V	10.10	.85	.70		
Zone 3					
CLASS I	9.15	8%	6.5%		3.5%
CLASS II	9.40	8%	6.5%		3.5%
CLASS III	9.95	85	6.5%		3.5%
Zone 4					
CLASS I	9.49	.85	.71		
CLASS II	9.59	.85	.71		
CLASS III	9.49	.85	.71		
CLASS IV	10.04	.85	.71		
CLASS V	9.79	.85	.71		
CLASS VI	10.19	.85	.71		
CLASS VII	9.79	.85	.71		
CLASS VIII	10.04	.85	.71		
Zone 5					
CLASS I	8.20	10%	8%		
CLASS II	8.70	10%	8%		

DECISION #PA78-3013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 5					
CLASS III	$ 8.80	10%	8%		
CLASS IV	8.70	10%	8%		
CLASS V	8.25	10%	8%		
Zone 6					
CLASS I	8.35	10%	8%		
CLASS II	8.85	10%	8%		
CLASS III	8.95	10%	8%		
CLASS IV	8.85	10%	8%		
CLASS V	8.40	10%	8%		
LATHERS					
Zone 1	10.94		.30		.01
Zone 3	11.03	.70	1.20		.01
MILLWRIGHTS	10.26	6%	6%	25%	½%
PAINTERS:					
Zone 1					
Commercial					
Brush & roller	9.94	.75	.45		.02
Spray	9.99	.75	.45		.02
Industrial					
Brush	10.74	.75	.45		.02
Spray	11.24	.75	.45		.02
Zone 3					
Commercial					
Brush & roller	11.10	.55	.90		
Spray	12.10	.55	.90		
Industrial					
Brush & roller	11.60	.55	.90		
Spray	12.60	.55	.90		
PILEDRIVERMEN	11.85	5.5%	10%		50%
PLUMBERS & STEAMFITTERS					
Zone 4	12.05	.84	1.07		.24
POWER EQUIPMENT OPERATORS					
CLASS 1	12.075	.95	1.00		.09
CLASS 1-A	12.325	.95	1.00		.09
CLASS 1-B	12.575	.95	1.00		.09
CLASS 1-C	12.825	.95	1.00		.09
CLASS 2	11.925	.95	1.00		.09
CLASS 3	10.05	.95	1.00		.09
CLASS 3-A	10.55	.95	1.00		.09
CLASS 4	9.40	.95	1.00		.09

DECISION NO. PA78-3013

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS CONT'D					
CLASS 5	$ 8.35	.95	1.00		.09
CLASS 6	8.65	.95	1.00		.09
CLASS 6-A	8.75	.95	1.00		.09
CLASS 6-B	8.90	.95	1.00		.09
CLASS 6-C	9.65	.95	1.00		.09
ROOFERS:					
Zone 1	10.64	.60	.30		.05
Zone 2	12.26	.77	1.50		.06
TRUCK DRIVERS:					
Zone 2					
CLASS 1	9.10	6.5%	5.6%	a	
CLASS 2	9.15	6.5%	5.6%	a	
CLASS 3	9.17	6.5%	5.6%	a	
CLASS 4	9.26	6.5%	5.6%	a	
CLASS 5	9.19	6.5%	5.6%	a	
CLASS 6	9.46	6.5%	5.6%	a	
CLASS 7	9.28	6.5%	5.6%	a	
CLASS 8	9.44	6.5%	5.6%	a	
ADD:					
BRICKLAYERS & STONEMASONS					
Zone 5 - Bedford County	9.55	.60	.80		

DECISION # PA78-3014-MOD.#2 (FR 12603-March 24, 1978) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Wash, & Westmoreland Co, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

Change:
DESCRIPTION OF WORK TO READ: Building Erection and Foundation Excavation (does not include single family homes and garden type apartments up to and including 4 stories).

Bricklayers					
Zone 2	$11.90	.75	1.40		
Zone 3	12.665	.85	.60		
Zone 5	12.21	.60	.85		.02
Carpenters					
Zone 1	11.15	6%	8%	6%	25%
Cement masons					
Zone 1	11.32	.68	1.81		
Zone 2	12.98				
Ironworkers, structural ornamental & reinforcing	11.055	.875	2.01		.03
LABORERS					
Zone 1					
CLASS 1	9.53	.86	.71		
CLASS 2	9.655	.86	.71		
CLASS 3	9.78	.86	.71		
CLASS 4	10.03	.86	.71		
CLASS 5	10.23	.86	.71		
Zone 2					
CLASS 1	9.49	.85	.71		
CLASS 2	9.615	.85	.71		
CLASS 3	9.74	.85	.71		
CLASS 4	9.99	.85	.71		
CLASS 5	10.19	.85	.71		

DECISION # PA78-3014-MOD. #2	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
CLASS 1	9.40	.85	.70		
CLASS 2	9.525	.85	.70		
CLASS 3	9.65	.85	.70		
CLASS 4	9.90	.85	.70		
CLASS 5	10.10	.85	.70		
Millwrights	10.26	6%	6%	25%	½%
Painters:					
ZONE 1					
Commercial					
Brush	11.48	.70	.40	-	.03
Paperhangers	11.48	.70	.40		.03
Spray	11.98	.70	.40		.03
Industrial					
Brush	11.83	.70	.40		.03
Spray	12.33	.70	.40		.03
ZONE 2					
Commericial					
Brush	9.30	.70	.40	.80	
Spray	9.82	.70	.40	.80	
Industrial					
Brush	10.75	.70	.40	.80	
Spray	11.43	.70	.40	.80	
ZONE 3					
Brush & Roller	11.10	.55	.90		
Spray	12.10	.55	.90		
ZONE 6					
Commercial					
Brush	9.94	.75	.45		.02
Spray	9.99	.75	.45		.02
Industrial					
Brush	10.74	.75	.45		.02
Spray	11.24	.75	.45		.02
Piledrivermen	11.85	5.5%	10%		50%
Plasterers					
ZONE 2	12.40				

DECISION # PA78-3014-MOD.#2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers					
Zone 1	12.39	.71	.71		.05
Zone 3	11.07	.92	1.26		.07
Zone 4	12.05	.84	1.07		.24
POWER EQUIPMENT OPERATORS					
CLASS 1	11.975	.95	1.00		.09
CLASS 1-A	12.225	.95	1.00		.09
CLASS 1-B	12.475	.95	1.00		.09
CLASS 1-C	12.725	.95	1.00		.09
CLASS 2	11.825	.95	1.00		.09
CLASS 3	10.50	.95	1.00		.09
CLASS 3-A	11.00	.95	1.00		.09
CLASS 4	10.50	.95	1.00		.09
CLASS 5	9.75	.95	1.00		.09
CLASS 6	9.50	.95	1.00		.09
CLASS 6-A	9.60	.95	1.00		.09
CLASS 6-B	9.75	.95	1.00		.09
CLASS 6-C	10.50	.95	1.00		.09
Roofers	12.26	.77	1.50		.06
Stonemasons:					
Zone 1	12.04	.60	1.10		
Zone 4	12.665	.85	.60		
Zone 6	12.21	.60	.85		.02
Tile Setters					
Zone 1	11.50	.60	1.40		
TRUCK DRIVERS					
CLASS 1	9.10	6.5%	5.6%	a	
CLASS 2	9.15	6.5%	5.6%	a	
CLASS 3	9.17	6.5%	5.6%	a	
CLASS 4	9.26	6.5%	5.6%	a	
CLASS 5	9.19	6.5%	5.6%	a	
CLASS 6	9.46	6.5%	5.6%	a	
CLASS 7	9.28	6.5%	5.6%	a	
CLASS 8	9.44	6.5%	5.6%	a	

DECISION #PA78-3015 - Mod. #1
(43 FR 20697 - May 12, 1978)
Greene, Somerset & Potter Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

Change:
DESCRIPTION OF WORK TO READ: Building Erection and Foundation Excavation (does not include single family homes and garden type apartments up to and including 4 stories).

BRICKLAYERS & STONEMASONS:					
Zone III	$11.55	.60	.60		
CARPENTERS:					
Zone II	11.15	6%	8%	6%	25%
CEMENT MASONS					
Zone I	11.32	.68	1.81		
IRONWORKERS					
Zone II	11.685	.70	1.155		.07
LABORERS					
Zone II					
CLASS I	9.15	8%	6.5%		3.5%
CLASS II	9.40	8%	6.5%		3.5%
CLASS III	9.95	8%	6.5%		3.5%
Zone III					
CLASS 1	9.40	.85	.70		
CLASS 2	9.525	.85	.70		
CLASS 3	9.65	.85	.70		
CLASS 4	9.90	.85	.70		
CLASS 5	10.10	.85	.70		
MILLWRIGHTS	10.26	6%	6%	25%	4%
PAINTERS:					
Zone 1					
Commercial					
Brush	9.45	.65	.40		.05
Spray	10.575	.65	.40		.05
Industrial					
Brush	9.95	.65	.40		.05
Spray	11.075	.65	.40		.05
Zone II					
Commercial					
Brush & roller	9.94	.75	.45		.02
Spray	9.99	.75	.45		.02
Industrial					
Brush	10.74	.75	.45		.02
Spray	11.24	.75	.45		.02

DECISION NO. PA78-3015

MODIFICATIONS P. 23

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$11.85	5.5%	10%		50%
PLUMBERS					
Zone I	12.05	.84	1.07		.24
Zone II	11.80	.92	1.26		.07
POWER EQUIPMENT OPERATORS:					
Zone I					
CLASS 1	11.975	.95	1.00		.09
CLASS 1-A	12.225	.95	1.00		.09
CLASS 1-B	12.475	.95	1.00		.09
CLASS 1-C	12.725	.95	1.00		.09
CLASS 2	11.825	.95	1.00		.09
CLASS 3	10.50	.95	1.00		.09
CLASS 3-A	11.00	.95	1.00		.09
CLASS 4	10.50	.95	1.00		.09
CLASS 5	9.75	.95	1.00		.09
CLASS 6	9.50	.95	1.00		.09
CLASS 6-A	9.60	.95	1.00		.09
CLASS 6-B	9.75	.95	1.00		.09
CLASS 6-C	10.50	.95	1.00		.09
Zone II					
CLASS 1	12.075	.95	1.00		.09
CLASS 1-A	12.325	.95	1.00		.09
CLASS 1-B	12.575	.95	1.00		.09
CLASS 1-C	12.825	.95	1.00		.09
CLASS 2	11.925	.95	1.00		.09
CLASS 3	10.05	.95	1.00		.09
CLASS 3-A	10.55	.95	1.00		.09
CLASS 4	9.40	.95	1.00		.09
CLASS 5	8.35	.95	1.00		.09
CLASS 6	8.65	.95	1.00		.09
CLASS 6-A	8.75	.95	1.00		.09
CLASS 6-B	8.90	.95	1.00		.09
CLASS 6-C	9.65	.95	1.00		.09
ROOFERS:					
Zone 1	12.26	.77	1.50		.06
STEAMFITTERS:					
Zone II	12.05	.84	1.07		.24
Zone III	10.56	.69	.50	.20	.05
TILE SETTERS:					
Zone I	11.50	.60	1.40		
TRUCK DRIVERS:					
Zone II					
CLASS 1	$ 9.10	6.5%	5.6%	a	
CLASS 2	9.15	6.5%	5.6%	a	
CLASS 3	9.17	6.5%	5.6%	a	
CLASS 4	9.26	6.5%	5.6%	a	
CLASS 5	9.19	6.5%	5.6%	a	
CLASS 6	9.46	6.5%	5.6%	a	
CLASS 7	9.28	6.5%	5.6%	a	
CLASS 8	9.44	6.5%	5.6%	a	

MODIFICATIONS P. 24

DECISION #PA78-3043 - Mod. #1
(43 FR 20707 - May 12, 1978)
Elk, Forest, McKean & Warren Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

Change:
DESCRIPTION OF WORK TO READ: Building Erection and Foundation Excavation (does not include single family homes and garden type apartments up to and including 4 stories).

BRICKLAYERS & STONEMASONS					
Zone 1 - Elk, McKean and Warren Cos.	$11.55	.60	.60		
CARPENTERS & SOFT FLOOR LAYERS					
Zone 2 - McKean County Townships of Kane, Bradford and Warren Co	9.38	6%	6%	2%	½%
ELECTRICIANS					
Zone 1 - Elk, Forest and Warren Counties	12.30	4.5%	3%+.39	.75	.065
IRONWORKERS					
Zone 2	11.685	.70	1.155		.07
LABORERS:					
Common laborer, carpenter, tender, scaffold builder for masons, window cleaner, form stripper and mover, scaffold and runways, building materials handlers (Loading and Unloading), concrete pitman, puddler, mason tender	9.15	8%	65.%		3.5%
Mechanical tampers (power) powered wheelbarrows and buggies & work-lifts, sweepers and similar, mortar mixer, bell bottom man on furnaces and stacks, jack-hammer man, concrete buster, wagon drill helper, concrete saw operator, blaster's helper, drill runner's helper (Includes drill mounted truck, track or similar) sheeters and shores, vibrator operators, power tamper operators, y-gun, burner cutting torch, carryable pumps, chain saw operator, pipe layers, all material conveyors and					

DECISION NO. PA78-3043

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: CONT'D					
elevators, signal man, walk behind fork lift or similar, whacker, sandblaster, maintenance man, west brick buggies or similar, scaffold builder for plaster applicating and/or pump machine operator, paving breaker, asphalt raker, lancer berfix cutting tool, gunnite potman, blacksmith, tool dresser (cable tools)	$ 9.40	8%	6.5%		3.5%
Blasters, wagon drill operator, drill runner, gunnite nozzle man, grout machine operator, walk behind power roller and tamper, welder, driller (cable tools)	9.95	8%	6.5%		3.5%
MILLWRIGHTS					
Zone 1 - Elk and Forest Cos.	10.26	6%	6%	25%	½%
PAINTERS:					
Zone 2 - Forest County, Township in Warren County, Spring Creek, Southwest Truimp and Elred, Township in McKean County, Wetmore, Hamlin, Hamilton, Sergent and Norwich					
Commercial					
Brush and roller	11.10	.55	.90		
Spray	12.10	.55	.90		
Industrial					
Brush and roller	11.60	.55	.90		
Spray	12.60	.55	.90		
Zone 4 - Remainder of McKean Co.					
Brush and roller	9.90				
Spray	11.05				
PILEDRIVERMEN	11.85	5.5%	10%		50%
PLUMBERS & STEAMFITTERS					
Zone 1 - Elk County	12.05	.84	1.07		.24

DECISION NO PA78-3043

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS 1	$12.075	.95	1.00		.09
CLASS 1-A	12.325	.95	1.00		.09
CLASS 1-B	12.575	.95	1.00		.09
CLASS 1-C	12.825	.95	1.00		.09
CLASS 2	11.925	.95	1.00		.09
CLASS 3	10.05	.95	1.00		.09
CLASS 3-A	10.55	.95	1.00		.09
CLASS 4	9.40	.95	1.00		.09
CLASS 5	8.35	.95	1.00		.09
CLASS 6	8.65	.95	1.00		.09
CLASS 6-A	8.75	.95	1.00		.09
CLASS 6-B	8.90	.95	1.00		.09
CLASS 6-C	9.65	.95	1.00		.09
ROOFERS					
Zone 1 - Elk, and Forest Counties	12.26	.77	1.50		.06

MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4028 - Mod. #3 (43 FR 16112 - April 14, 1978) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
Change:					
Line Construction:					
Zone 1 - Lineman; Operators	$10.50		3%		1/2%
Cable splicers	10.75		3%		1/2%
Groundmen, 1st 6 mos.	50%JR		3%		1/2%
Groundmen, 2nd 6 mos.	60%JR		3%		1/2%
Groundmen, 1 yr. & over	70%JR		3%		1/2%
DECISION #TX78-4030 - Mod. #4 (43 FR 16115 - April 14, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Glaziers (excluding Kleberg Co)	7.35		.20		
Ironworkers	8.22	.55	1.00		.07
DECISION #TX78-4033 - Mod. #2 (43 FR 16120 - April 14, 1978) Brazos County, Texas					
Change:					
Bricklayers	11.36	.63	.60		.06
Carpenters	9.75				
DECISION #TX78-4035 - Mod. #2 (43 FR 16122 - April 14, 1978) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
Change:					
Electricians:					
Zone 2 - Electricians	11.03	.60	7%		1%
Cable splicers	12.13	.60	7%		1%
DECISION #TX78-4037 - Mod. #3 (43 FR 16127 - April 14, 1978) Galveston & Harris Cos., Texas					
Change:					
Bricklayers & stonemasons	11.36	.63	.60		.06

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4040 - Mod. #5 (43 FR 16131 - April 14, 1978) Jefferson & Orange Cos., Texas					
Change:					
Ironworkers	$10.55	.55	1.15		.10
DECISION #TX78-4041 - Mod. #3 (43 FR 16133 - April 14, 1978) Lubbock County, Texas					
Change:					
Electricians: Electricians	10.35	.60	3%		1/10%
Cable splicers	10.60	.60	3%		1/10%
DECISION #TX78-4044 - Mod. #3 (43 FR 16136 - April 14, 1978) Wichita County, Texas					
Change:					
Line Construction:					
Lineman; Lineman Operator	10.50		3%		1/2%
Cable splicer	10.75		3%		1/2%
Groundman, 1st 6 mos.	50%JR		3%		1/2%
Groundman, 2nd 6 mos.	60%JR		3%		1/2%
Groundman, 1 yr. & over	70%JR		3%		1/2%

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Pulaski
DECISION NO.: AR78-4064 DATE: Date of Publication
Supersedes Decision No. AR77-4287 dated September 30, 1977 in 42 FR 52903
DESCRIPTION OF WORK: Building Construction (but does not include single family homes and garden type apartments up to and including four stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.70	.50	.70		.02
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS - STONEMASONS	9.00	.40	.35		.04
CARPENTERS:					
Carpenters	9.06	.45	.35		.05
Millwrights & Piledrivermen	9.56	.45	.35		.05
CEMENT MASONS	8.67	.25			.03
ELECTRICIANS:					
Electricians	10.75	.50	3%+.35		½%
Cable splicers	10.875	.50	3%+.35		½%
ELEVATOR CONSTRUCTORS:					
Journeymen	9.385	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers-probationary	50%JR				
GLAZIERS	8.20				
IRONWORKERS	9.50	.45	.40		.04
LABORERS:					
Group I	6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		

LABORERS CLASSIFICATION DEFINITIONS

Group I - Construction laborers, concrete labor, wrecking labor mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer.
Group II - Semi-skilled laborer; pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender
Group III - Steelform setters, curb and gutters, grout and cement muckers
Group IV - Swinging scaffold, Barco, 90 lb pavement breaker, and burners
Group V - Nozzleman (gunnite, grout and sand blasterer; concrete pump (nozzle placer)
Group VI - Powderman and blasterers
Group VII - Wagon drill

DECISION NO. AR78-4064

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.10				.02
LINE CONSTRUCTION:					
Linemen	11.60		3%		3/8%
Cable splicers	11.725		3%		3/8%
Operator	11.60		3%		3/8%
Groundmen (advanced)	65%JR		3%		3/8%
Groundmen (1st 6 months)	49%JR		3%		3/8%
Winch equipment	73%JR		3%		3/8%
MARBLE, TILE & TERRAZZO WORKERS	8.25		3%		3/8%
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall cover hangers	8.25		.40		.02
Spray gun operators and sand blasterers	8.85		.40		.02
All skelton steel and all work on stages, structural steel over 30 feet high	8.50		.40		.02
PLASTERERS	8.85				.02
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	10.85	.60	.75		.05
Over 10 miles from Pulaski County Courthouse	11.15	.60	.75		.05
Marble, tile & terrazzo finishers	6.25				
POWER EQUIPMENT OPERATORS:					
Group I	10.25	.35	.35		.05
Group II	9.31	.35	.35		.05
Group III	8.88	.35	.35		.05
Group IV	7.34	.35	.35		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 ft. or over from the ground, blacksmith, mechanics and/or welders
Group II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONT'D

Group III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, all central mixing plants, 10S and larger, finishing machines, all boiler fireman high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundatin drilling machines, regardless of size, regardless of motive power and dredge tender operator

Group IV - LIGHT EQUIPMENT OPERATORS: Oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers and all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system de-watering and portable pumps, space heaters, irrespective of size,aand motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	8.65		.10		
SHEET METALWORKERS	10.75	.45	.55		.05
SPRINKLER FITTERS	10.57	.75	1.05		.08

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos to 5 years - 6%; over 5 years - 8% of basic hourly rate.
b - Paid Holidays - A through F

PAID HOLIDAYS:
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Garland, Hot Springs & Clark
DECISION NO.: AR78-4067 DATE: Date of Publication
Supersedes Decision No. AR77-4285 dated September 30, 1978 in 42 FR 52898
DESCRIPTION OF WORK: Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.70	.50	.70		.02
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-Stonemasons	8.40	.40	.35		.04
CARPENTERS:					
Garland County and Northern 2/3 of Hot Springs County: (Carpenters contracts in excess of $1,000.000.)					
Carpenters	9.06	.45	.35		.05
Millwrights & Piledrivermen	9.56	.45	.35		.05
(Carpenters contracts under $1,000.000.)					
Carpenters	8.56	.45	.35		.05
Millwrights & Piledrivermen	8.86	.45	.35		.05
CARPENTERS:					
Clarke and Remainder of Hot Springs County					
Carpenters	9.06	.45	.35		.05
Millwrights & Piledrivermen	9.56	.45	.35		.05
CEMENT MASONS	8.67	.25			.03
ELECTRICIANS:					
Electricians	10.975		3%		½%
Cable splicers	11.10		3%		½%
ELEVATOR CONSTRUCTORS:					
Journeymen	9.385	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers-probationary	50%JR				
IRONWORKERS	9.50	.45	.40		.04
LABORERS:					
Group I	6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I
Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

GROUP II
Semi-skilled laborer; pipelayer, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers & shovelers, creosote wood handlers, chuck tenders

GROUP III
Steel form setters, curb and gutters, grout and cement muckers

GROUP IV
Swinging scaffold, Barco, 90 lb. pavement breaker, and burners

GROUP V
Nozzleman (Gunite, Grout and sand blaster; concrete pump (nozzle placer)

GROUP VI
Powderman and blasters

GROUP VII
Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.10				.02
PAINTERS:					
Brush and roller	6.75				
Paperhanging	7.25				
Sheet rock (tape & float only);, stage and steel	7.25				
Spray and sandblasting	7.75				
Painters operating any kind of taping or floating machine	9.25				
PLASTERERS	9.25				.02
PLUMBERS-PIPEFITTERS:					
ZONE A	9.70	.55	.50		.10
ZONE B	10.35	.55	.50		.10
ZONE C	10.90	.55	.50		.10

PLUMBERS AND PIPEFITTERS ZONE DEFINITIONS

ZONE A - 0 to 9 miles from Garland County Courthouse
ZONE B - 9 to 45 miles from Garland County Courthouse
ZONE C - 45 miles and over from Garland County Courthouse

POWER EQUIPMENT OPERATORS:					
GROUP I	10.25	.35	.35		.05
GROUP II	9.31	.35	.35		.05
GROUP III	8.88	.35	.35		.05
GROUP IV	7.34	.35	.35		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple trum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Linemen	10.975		3%		4%
Cable splicers	11.10		3%		4%
Groundman 1st 6 months	45%JR		3%		4%
Truck Drivers (with winch)	80%JR		3%		4%
Truck Driver (flat bed)	64%JR		3%		4%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	8.65		.10		
SHEET METAL WORKERS	10.25	.45	.44		.05
SPRINKLER FITTERS	10.57	.75	1.05		.08

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.

b. PAID HOLIDAYS - A through F

PAID HOLIDAYS:

A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Sebastian, Crawford and Washington

DECISION NO. AR78-4068 DATE: Date of Publication

Supersedes Decision No. AR77-4288 dated September 30, 1977 in 42 FR 52901

DESCRIPTION OF WORK: Building Construction (but not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS(Washington Co.)	$10.75	.25	.72		.02
ASBESTOS WORKERS(Sebastian and Crawford County)	11.50	.35	.75		.015
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-Stonemasons	9.00	.40	.35		.04
CARPENTERS(Sebastian & Crawford):					
Carpenters	8.52	.45	.35		.05
Millwrights & Piledrivermen	9.28	.45	.35		.05
CARPENTERS (WAshington County):					
Carpenters	8.61	.35	.35		.05
Millwrights & Piledrivermen	9.11	.35	.35		.05
CEMENT MASONS	8.67	.25			
ELECTRICIANS:					
Electricians	10.65	.35	3%+5.5%		1/4%
Cable splicers	10.90	.35	3%+5.5%		1/4%
ELEVATOR CONSTRUCTORS	9.385	.545	.35	4%+a+b	.02
" " helpers	70%JR	.545	.35	4%+a+b	.02
" " " (prob.)	50%JR				
GLAZIERS (Washington County)	6.60				
GLAZIERS (Sebastian & Crawford)	6.15				
IRONWORKERS	10.10	.45	.65		.12
LABORERS:					
Group I	6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

GROUP II - Semi-skilled laborer; pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Steelform setters, curb and gutters, grout and cement muckers

LABORERS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP IV - Swinging scaffold, Barco, 90 lb pavement breaker, and burners

GROUP V - Nozzleman (Gunnite, Grout, and sand blasterer; concrete pump (nozzle placer)

GROUP VI - Powderman and blasterers

GROUP VII - Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 9.10				.02
LINE CONSTRUCTION:					
Lineman; operator	9.65	.35	3%		1/4%
Cable splicers	9.80	.35	3%		1/4%
Powderman	90%JR	.35	3%		1/4%
Truck driver	75%JR	.35	3%		1/4%
Groundman	65%JR	.35	3%		1/4%
Groundman (1st 6 mos.)	59%JR	.35	3%		1/4%
PAINTERS(Sebastian & Crawford Co.)					
Brush painters	7.00				
Roller work, sheetwork, finishing by machinery	7.25				
Spray painting	8.00				
Swing stage work	7.25				
Sandblasting - steam cleaning	8.00				
All pipe and steel	7.75				
All mitten and glove painting	8.00				
PAINTERS (WASHINGTON COUNTY)					
Group I	8.10				
Group II	8.10				
Group III	9.10				
Group IV	9.10				
Group V	8.35				
Group VI	9.975				
Group VII	8.725				

PAINTERS CLASSIFICATION DEFINITIONS

GROUP I - Brush, mitt used on pipes, only; preparatory work before papering of canvassing roller with handler up to six feet long.
GROUP II - Hanging vinyl or wallpaper, drywall taping
GROUP III - Use of Bazooka, Banjo and Ames machine tools
GROUP IV - Spraying (except where listed below); sandblasting
GROUP V - Potman assisting sprayer (except where listed below)
GROUP VI - Spraying expoxies, polyesters or material where hood and extra safety features are required.
GROUP VII -Brush on structural steel, stacks, tanks, swinging stage, bosun chairs

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$ 9.25				.02
PLUMBERS & STEAMFITTERS	9.76				
POWER EQUIPMENT OPERATORS:					
Group I	10.25	.35	.35		.05
Group II	9.31	.35	.35		.05
Group III	8.88	.35	.35		.05
Group IV	7.34	.35	.35		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple trum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 8.65		.10		
SHEET METAL WORKERS	10.25	.45	.44		.05
SPRINKLER FITTERS	10.57	.75	1.05		.08

WELDERS -- receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a-1st 6 mos. - none; 6 months to 5 yrs. 6%; over 5 yrs. 8% of basic hourly rate

b-Paid Holidays A through F

PAID HOLIDAYS: A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Jefferson

DECISION NO.: AR78-4069 DATE: Date of Publicati

Supersedes Decision No. AR77-4173 dated August 19, 1977 in 42 FR 42063

DESCRIPTION OF WORK: Building Construction (but does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.70	.50	.70		.02
BOILERMAKERS	11.05	.80	1.00		.02
BRICKLAYERS	9.00	.40	.35		.04
CARPENTERS:					
Work in excess of $1,000,000.					
Carpenters	9.06	.45	.35		.05
Millwrights & Piledrivermen	9.56	.45	.35		.05
Work under $1,000,000.					
Carpenters	8.36	.45	.35		.05
Millwrights & Piledrivermen	8.86	.45	.35		.05
CEMENT MASONS	8.67	.35			.03
ELECTRICIANS:					
Electricians	10.75	.50	3%		½%
Cable splicers	10.875	.50	3%		½%
ELEVATOR CONSTRUCTORS:					
Journeymen	9.385	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers - Probationary	50%JR				
GLAZIERS	8.20		.25		
IRONWORKERS	9.50	.45	.40		.04
LABORERS:					
Group I	6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.70	.25	.52		

LABORERS CLASSIFICATION DEFINITIONS

Group I - Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumbers' labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

Group II - Semi-skilled laborer; pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tenders

Group III - Steelform setters, curb and gutters, grout and cement muckers

Group IV - Swing scaffold, barco 90 lb pavement breaker, and burners

Group V - Nozzleman (gunite, grout and sandblasting; concrete pump (nozzle placer

Group VI - Powderman and blasterers

Group VII - Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	9.10				.02
LINE CONSTRUCTION:					
Linemen & Operators	11.60		3%		3/8%
Cable splicers	11.725		3%		3/8%
Groundman (Advanced)	65%JR		3%		3/8%
Groundman (1st 6 months)	49%JR		3%		3/8%
Winch truck	73%JR		3%		3/8%
MARBLE, TERRAZZO & TILE WORKERS	8.25				
MARBLE, TERRAZZO & TILE FINISHERS	6.25				
PAINTERS:					
Painters, paperhangers & steam cleaners, sheetrock finishers & wall cover hangers	8.25		.40		.02
Spray gun operators and sand blasterers	8.85		.40		.02
All skeleton steel and all work on stages, structural steel over 30 feet high	8.50		.40		.02
PLASTERERS	9.25				
PLUMBERS:					
0 to 9 miles from Jefferson County Courthouse	9.70	.55	.30		.10
9 to 45 miles from Jefferson County Courthouse	10.35	.55	.30		.10
45 miles and over from Jefferson County Courthouse	10.90	.55	.30		.10
POWER EQUIPMENT OPERATORS:					
Group I	10.25	.35	.35		.05
Group II	9.31	.35	.35		.05
Group III	8.88	.35	.35		.05
Group IV	7.34	.35	.35		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 ft. or over from the ground, blacksmith, mechanics and/or welders

Group II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backh tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of motiv power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

Group III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor grade all trenching machines, regardless of size or motive power, all back fillers, a central mixing plants, 10S and larger, finishing machines, all boiler fireman high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundatin drilling machines, regardless of size, regardle of motive power and dredge tender operator

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

Group IV - LIGHT EQUIPMENT OPERATORS: Oiler driver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers and all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system de-watering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	8.65		.10		
SHEET METAL WORKERS	10.75	.45	.55		.02
SPRINKLER FITTERS	10.57	.75	1.05		.08

FOOTNOTES:

a. 6 paid holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who had worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacatin Pay Credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS: FOR ELEVATOR CONSTRUCTORS ONLY
A- New Years' Day; B-Memorial Dayl C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

[FR Doc. 78-17138 Filed 6-22-78; 8:45 am]

Federal Register

FRIDAY, JUNE 23, 1978
PART III



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

OCCUPATIONAL EXPOSURE TO COTTON DUST

Final Mandatory Occupational Safety and Health Standards

[4510-26]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Cotton Dust

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final Standard.

SUMMARY: This final standard establishes occupational safety and health requirements for occupational exposure to cotton dust. It reflects OSHA's determination, based on evidence that has been placed in the public record of this rulemaking proceeding, that exposure to cotton dust presents a significant health hazard to employees. The standard establishes permissible exposure limit of 200 $\mu g/m^3$ for yarn manufacturing, 750 $\mu g/m^3$ for slashing and weaving operations, and 500 $\mu g/m^3$ for all other processes in the cotton industry and for non-textile industries where there is exposure to cotton dust. Cotton ginning is the subject of a separate regulation, § 1910.1046, published today also in Part III of this FEDERAL REGISTER. The harvesting of cotton and the manufacture of garments from cotton fabrics are not covered by this standard. The cotton dust standard, which is promulgated as 29 CFR 1910.1043, also provides for employee exposure monitoring, engineering controls and work practices, respirators, employee training, medical surveillance, signs and recordkeeping.

EFFECTIVE DATE: This standard is effective September 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Gail Brinkerhoff, Office of Compliance Programs, OSHA, Third Street and Constitution Avenue, NW., Room N3112, Washington, D.C. 20210, telephone 202-523-8034.

For additional copies of this regulation contact: OSHA Office of Publications, U.S. Department of Labor, Room N3423, Washington, D.C. 20210, telephone 202-523-8677.

SUPPLEMENTARY INFORMATION: This permanent occupational safety and health standard is issued pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059) and Title 29, Code of Federal Regulations (CFR) Part 1911. It amends Part 1910 of 29 CFR by adding a new § 1910.1043 entitled "Cotton dust," and by adding a footnote to the reference to "cotton dust (law)" in Table Z-1 of § 1910.1000 stating "this standard applies in cotton yarn manufacturing until compliance with § 1910.1043 (d) and (e) is achieved." For reasons set forth below, the new standard does not apply to the growing and harvesting of cotton, the ginning of cotton, maritime operations, the handling or processing of woven or knitted materials, or the handling or processing of washed cotton. In order to assure that affected employers and employees will be informed of the existence of these provisions and that employers affected are given an opportunity to familiarize themselves and their employees with the existence of new requirements, the effective date of the new § 1910.1043 will be September 4, 1978. To provide continued protection for employees until the provisions of the new standard become effective, the requirements pertaining to cotton dust currently contained in § 1910.1000 Table Z-1 remain in full force and effect until § 1910.1043 becomes effective. In yarn manufacturing the requirements pertaining to cotton dust currently contained in § 1910.1000 Table Z-1 remain in full force and effect until compliance with § 1910.1043 is achieved.

I. BACKGROUND

A. GENERAL

Cotton is commercially grown in at least nineteen states and is a major crop in fourteen. The states generally considered to be the largest producers of cotton are Texas, California, Mississippi and Arkansas. Between ten and thirteen million bales (480 lbs net wet) of cotton lint are produced annually in the United States.

The cotton industry of the United States can be divided into eleven major processes: (1) harvesting; (2) ginning; (3) warehousing and compressing of cotton lint; (4) classing and marketing of cotton lint; (5) yarn manufacturing using cotton lint; (6) fabric manufacturing using cotton yarn; (7) reclaiming and marketing of textile manufacturing waste; (8) delintering of cottonseed; (9) marketing and converting of linters; (10) reclaiming and marketing of gin motes; and (11) batting, yarn and felt manufacturing using waste cotton fibers and byproducts. Within each of these major processes there are various stages, distinct work procedures and methods of operation.

Less than 15 percent of the cotton crop is grown in the southeastern states where the textile industry is concentrated. Thus, a large proportion of the crop is transported long distances to domestic mills or to ports for export. Most of the crop is harvested and ginned in the fall and early winter; it is processed by domestic and foreign mills on a year round basis. Hence, storage and transportation are major elements of the entire cotton industry.

The cottonseed is separated from the cotton lint at the gin. From the gin, most cottonseed moves into oilseed processing. Cotton linters, the short fibrous material adhering to cotton seed after ginning, are removed from the seed by machines before the seeds are crushed.

Gin motes are a byproduct of the cotton ginning process. They consist of lint cotton waste useable for its fiber content. Gin motes may be cleaned and baled at the gin, usually in a building separate from the gin plant, or sold in loose form to mote cleaning plants which pick up motes in bins or trailers at regular intervals. At the mote cleaning plant the loose gin motes and the unclean baled gin motes are cleaned or reclaimed, baled and stored pending sale to the spinning trade for use in yarn and to the felting trade for use in batting and felting.

After ginning most cotton lint moves into a warehouse for storage or a compress for hydraulic pressing to higher density pending shipment to cotton mills or ports for export. Bales are initially sampled at the gin or warehouse for classification by the United States Department of Agriculture under the United States Cotton Standard Act (7 U.S.C. 51-65). Bales are usually resampled by warehousemen and reclassed by merchants or shippers one or more additional times as they move through marketing channels. Transportation, storing and sampling of cotton all involve employee exposure to cotton dust primarily as a result of cotton dust being generated into the atmosphere by the handling of cotton.

Subsequent operations involve cleaning and refining of cotton lint into yarns for knitting or weaving; or processing of waste cotton fibers into byproducts such as upholstered furniture, batting and felting for bedding, furniture and thermal insulation.

The proportion of cotton to synthetic fiber in textile goods has generally decreased in recent years with the advent of newer texturizing processes for synthetic fibers. However, processed cotton has certain desirable properties which make it unlikely that complete substitution by synthetic fibers would ever occur. Among these are its properties of moisture absorbancy, coolness, softness, ready adaptability into leisure fabrics such as denim and corduroy, and economy of use. In addition, substitution of synthetic fibers results in increased use of petroleum products and other forms of energy.

B. HISTORY OF THE REGULATION

(1) Early developments. Substantial improvement in working conditions in

the cotton textile industry did not occur until well into the twentieth century. The most important early improvements came in England as a result of legislative acts requiring medical inspection of workplaces, compulsory reporting of industrial diseases and compensation of diseased and disabled workers. In 1942 a compensation scheme was introduced in England as a means of implementing the Factory Act of 1937 and associated legislation which for the first time recognized byssinosis as an occupational disease.

In 1964 the American Conference of Governmental Industrial Hygienists (ACGIH) placed cotton dust on its tentative list of threshold limit values (TLV), and in 1966 they adopted a 1000 $\mu g/m^3$ of total cotton dust as their recommended value for exposure. This TLV was based upon the work of Roach and Schilling in the Lancashire cotton mills. Exposure to cotton dust was not regulated in the United States until 1968, when the Secretary of Labor under the Walsh-Healey Act (41 U.S.C. 35 et seq.), promulgated the 1968 ACGIH list of Threshold Limit Values which included for "Cotton dust (raw)" the limit of 1000 $\mu g/m^3$. This standard was subsequently adopted as an established Federal standard under section 6(a) of the Occupational Safety and Health Act of 1970. In 1972, the British Occupational Hygiene Society (BOHS) published a report, largely based upon Molyneux and Berry's "Correlation of Cotton Dust Exposure with the Prevalence of Respiratory Symptoms," recommending a new standard of 500 $\mu g/m^3$ less "fly"; the term fly meaning dust particles removed by a 2-mm wire screen. In addition, in 1972, on the basis of BOHS and others, a revision of the ACGIH TLV was recommended that would measure respirable dust rather than "total dust". In 1974, a TLV of 200 $\mu g/m^3$ of cotton dust as measured by the vertical elutriator was adopted by ACGIH.

On September 26, 1974, pursuant to section 20(a)(3) of the Act, the Director of the National Institute for Occupational Safety and Health (NIOSH) submitted to the Secretary of Labor a criteria document which contained NIOSH's recommendations for a new cotton dust standard.

On December 27, 1974, OSHA published an Advance Notice of Proposed Rulemaking (39 FR 44769) requesting that interested persons submit their views on specific issues relating to cotton dust, particularly the NIOSH Criteria Document.

Thereafter, in January 1975, the Textile Worker's Union of America filed a petition with the Secretary urging the Secretary to propose a modified standard for occupational exposure to cotton dust, setting an exposure limit of 100 $\mu g/m^3$. They were joined in this petition by the North Carolina Public Interest Research Group.

(2) The Proposal. On December 28, 1976, OSHA published a proposal to revise the existing standard for occupational exposure to cotton dust (41 FR 56498). The proposal called for a permissible exposure limit of 200 $\mu g/m^3$ of vertical elutriated cotton dust for all segments of the cotton industry.

The proposal allowed 90 days for interested parties to submit written comments, views, and arguments and announced that an informal public hearing for the submission of oral testimony would begin on April 5, 1977. Additional hearing dates were set by notice published March 15, 1977 (42 FR 14134). There were 263 comments and 109 notices of intent to appear at the hearings.

(3) The Hearing. The OSHA rulemaking hearing was conducted in Washington, D.C. from April 5-8, May 2-6, and 16-17; in Greenville, Mississippi on April 12; and in Lubbock, Texas on May 10-12, 1977.

Numerous persons appeared at the hearings as witnesses. Among the witnesses were large corporate and small business employers, manufacturers, representatives from the affected workforce, experts in every relevant field including physicians, scientists, statisticians, economists, industrial hygienists, representatives from agriculture, and other interested parties. Public participation was representative of virtually the entire "cotton community." The written and oral testimony of all participants was made part of the rulemaking record. The hearing record was originally scheduled to close on July 17, 1977, but at the request of several parties it was kept open until September 2, 1977 (42 FR 39120).

(4) Environmental Impact Statement. In conjunction with the development of the proposed standard, OSHA prepared a draft environmental impact statement. The draft environmental impact statement was published in the FEDERAL REGISTER (41 FR 56498) on December 28, 1976, along with the proposal.

Prior to the promulgation of this final standard, OSHA prepared a final environmental impact statement (FEIS) in accordance with 29 CFR 1999.5. Notice of the availability of the FEIS was published by the Environmental Protection Agency on December 30, 1977 (42 FR 65263).

(5) The Record. This final cotton dust standard is based on careful consideration of the entire record in this proceeding, including materials relied on in the proposal and the record of the informal rulemaking hearing including the transcript, exhibits prehearing and post-hearing written comments and briefs. Copies of the official list of hearing exhibits, comments, and notices of intent to appear at the hearing can be obtained from the Docket Office, Docket No. H-052, Room 56212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

II. PERTINENT LEGAL AUTHORITY

The primary purpose of the Act is to assure so far as possible safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards. The standards setting process under section 6 of the Act is an integral part of an occupational safety and health program in that the process permits the participation of interested parties in consideration of medical data, industrial processes and other factors relevant to the identification of hazards. Occupational safety and health standards mandate the requisite conduct or exposure level and provide a basis for ensuring the existence of safe and healthful workplaces.

The Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.
>
> Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. (Section 6(b)(5)).

Sections 2(b) (5) and (6), 20, 21, 22, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence including causative factors, epidemiological studies or dose-response data may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, while final standards are to be based on the best available evidence, the legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Committee on Education and Labor, Report No. 91-1291, 91st Cong., 2d Session, p. 18 (1970). This Congressional judgment is

supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that "It remains the duty of the Secretary to act to protect the working man, and to act even in circumstances where existing methodology or research is deficient. *Society of the Plastics Industry, Inc.* v. *Occupational Safety and Health Administration*, 509 F. 2d 1301, 1308 (2nd Cir. 1975), cert. den., sub. nom., *Firestone Plastic Co.* v. *United States Department of Labor*, 95 S. Ct. 1998, 4 L. Ed. 2d 482 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia in reviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001). The Court stated that:

> Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual judgments.

Industrial Union Department, AFL-CIO v. *Hodgson*, 499 F. 2d 467, 474 (D.C. Cir. 1974).

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rep. No. 91-1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of Plastic Industry, Inc.* v. *Occupational Safety and Health Administration*, supra at 1309; *American Iron and Steel Institute* v. *Occupational Safety and Health Administration*, ——— F. 2d ——. (C.A.3, 1978) R., 3CCH ESHG Para 22637.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employee of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (section 8(c)). The permanent standard for cotton dust was developed on the basis of the above legal considerations.

III. Occupational Health Implications of Exposure to Cotton Dust

A. General

The preamble to the proposed standard for exposure to cotton dust, presented detailed scientific evidence demonstrating the health hazard to workers in the various cotton industries and the extent of that risk (41 FR 56498, Ex. 6 # 1, 2, 3, 7, 13, 14, 15, 16, 17, 18, 19, 20, 21, 42, 43, 44, 51, 54, 55). The provisions of the proposed standard were based on this evidence. Upon reviewing the complete body of data compiled in the record, including a thorough discussion of the underlying evidence, OSHA has determined that the basic conclusions advanced in the proposed regulations have withstood critical scrutiny by the public, the cotton industry and the scientific community. Accordingly, the evidence set forth in detail in the preamble to the proposal, will not be repeated here.

The overwhelming scientific evidence in the record supports the finding that cotton dust produces adverse health effects among cotton workers (Ex. 1, Ex. 11, Ex. 13, Ex. 19, Ex. 12, Ex. 38, d). The disorders range from an acute reaction manifested by a depression of pulmonary function indicators, or by subjective symptoms such as chest-tightness, shortness of breath, or cough, to a stage characteristic of chronic obstructive pulmonary disease which is often disabling (Ex. 48, P.1; Ex. 6. # 17, 20, 21, 42, 43, 57, 54, 56). The chronic stages of cotton dust induced respiratory disease are, as a clinical entity, similar to chronic bronchitis or emphysema (Ex. 41, p. 5). While gaps exist in the understanding of the etiology of respiratory disease caused by cotton dust and their progression from acute to chronic stages, the evidence in the record supports the fundamental connection between cotton dust and various respiratory disorders in both the textile and the non-textile industries (Ex. 1, Ex. 38d, Ex 11).

Byssinosis is the specific respiratory disease attributable to the action of cotton dust on the respiratory passages. The essential hallmark of byssinosis is the Monday phenomenon, the cyclic disorder characterized by cough, breathlessness or tightness of the chest experienced on the first day of the work week (Ex. 48, p. 1). The Schilling grading scheme for byssinosis discussed in the proposal inherently reflects the differences in duration and degree of the Monday morning symptoms (41 FR 56498).

In addition to the familiar subjective symptoms, objective measurements sometimes indicate the presence of airways obstruction (Ex. 41, pp. 8-10). Pulmonary function measurements such as Forced Expiratory Volume in one second (FEV_1) or Forced Vital Capacity (FVC) are frequently used to indicate deviation from normal breathing. As the NIOSH statement (Ex. 38, a) introduced at the hearing explains:

> Pooled data on groups of workers with byssinosis consistently show a strong association between byssinosis and drops in expiratory flow rates on Monday . . ., both also clearly attributable to cotton dust exposure. Among individuals, however, it has been observed repeatedly that those with Monday chest tightness do not necessarily show a drop in FEV_1, and conversely, individuals with clearcut drops in Monday FEV, will not necessarily have a history of byssinosis.

There is further testimony that, if large groups of workers are surveyed for subjective symptoms and for pulmonary function changes, approximately the same proportion exhibit both subjective symptoms and decrements of pulmonary function (Ex. 38d). OSHA also agrees with MIOSH that "characteristic respiratory symptoms and drops in flow rates are useful epidemiologic and clinical tools and are highly associated with cotton dust concentration (Ex. 38d)."

From the description of its manifestations, it is clear that byssinosis represents a constellation of respiratory effects (Ex. 38 d, Ex. 11, Ex. 6, Ex. 1, Ex. 12, Ex. 13). These effects range from acute to chronic and from reversible to disabling, and may be described by diverse terminology, such as reactor state or chronic bronchitis, but these respiratory diseases have been conclusively shown to be causally related to exposure to cotton dust (Ex. 1, Ex. 11, Ex. 38 a, b, d).

B. Chronic Obstructive Pulmonary Disease

It was the overwhelming opinion of the medical experts testifying at the hearings that byssinosis can develop into chronic obstructive pulmonary disease which is, in most cases, irreversible and disabling (Ex. 38d, Ex. 11, Ex. 41, Ex. 46). The preamble to the proposal describes Grade 3 byssinosis as follows:

> "In this advanced stage the clinical picture often becomes confused, as the chronic disease process is neither well understood nor well defined. Workers frequently manifest symptoms consistent with chronic bronchitis and emphysema. This stage is generally considered to be irreversible, with work in dusty atmospheres becoming extremely difficult or impossible. The rate at which a worker progresses to this stage, if at all, depends upon the amount of the causative agent contained in the dust inhaled, and the susceptibility of the individual."

In human terms, the affected worker frequently loses the ability to function normally on or off the job. Members of the Carolina Brown Lung Association (CBLA) testified at the hearing that the respiratory disease contracted in the textile mills typically resulted

in premature retirement often after futile and painful attempts to continue on the job (Ex. 51, Ex. 54).

Testimony pointed out that several terms were being used interchangeably to describe the final clinical stage of cotton dust induced respiratory disease. These include: grade 3 byssinosis, chronic or advanced byssinosis, chronic obstructive lung disease, or the specific names of chronic obstructive pulmonary diseases (i.e. chronic bronchitis and emphysema). Among textile workers "brown lung" appears to be a synonym for disabling respiratory disease. In that sense, Dr. Russell Harley's suggestion that the term chronic obstructive pulmonary disease (COPD) constituted a generally accepted clinical definition of chronic lung disease that described the clinical end product of cotton dust induced lung disease without becoming entangled in definitions of preceding stages of the disease has merit (Ex. 41, p. 2).

The record strongly indicates that chronic bronchitis, one form of COPD, is prevalent among byssinotics (Ex. 6, #8, 17, 19, 20). Data on groups of workers with byssinosis consistently demonstrate a strong association between byssinosis and drops in expiratory flow rates on Monday and chronic cough and phlegm (bronchitis), which are both also clearly related to cotton dust exposure (Ex. 6, #17, Ex. 38d, Ex. 6, #22, 23, 25; Ex. 11). Chronic bronchitis which is not specifically related to cotton dust exposure has also been found to be far more common among cotton textile workers than among workers in mills processing only synthetic fibers (Ex. 6, #17, 21, 22, 23, 24, 32).

Since exposure to environmental pollutants such as cigarette smoke has also been identified as a causative agent of COPD, parties to the hearings representing industry argued that COPD caused by cotton dust was a minor fraction of COPD prevalence among textile workers and that most was caused by smoking (Ex. 41, p. 6; Ex. 47, #18; Ex. 46, p. 1). Dr. Mario Battigelli, testifying on behalf of the American Textile Manufacturers Institute (ATMI), stated that the background level of chronic bronchitis among the general population, estimated by him at between 10 and 40%, easily explained the observed high prevalence of chronic bronchitis, 3-50%, among cotton textile workers (Ex. 48, p. 8). It should be noted that Dr. Battigelli's estimate of background chronic bronchitis, based as it is on autopsy studies, is not comparable with other studies of relatively healthy men and women (Ex. 6, #17).

OSHA recognizes that smoking is an influential variable in the production of COPD among cotton workers (Ex. 6). Indeed, the co-existence of exposure to cotton dust and exposure to cigarette smoke has been shown to result in increased risk of COPD (Ex. 41, p. 6; Ex. 47, Ref. #18; Ex. 46, p. 1; Ex. 38 d; Ex. 11). However, persuasive evidence demonstrates that the cigarette smoking variable, rather than overwhelming the cotton dust variable, is merely related to it. Indeed, there are no studies in the literature attributing the high prevalence of respiratory disease found among cotton workers primarily to smoking, or, in other words, there is no documentation for Dr. Battigelli's statement. Conversely, where the relationship between exposure to cotton dust and smoking has been explored scientifically, substantial evidence characterizes the increased risk from smoking to be additive or multiplicative to the risk due to exposure to cotton dust (Ex. 11). Dr. Arend Bouhuys of Yale University, a pre-eminent authority on pulmonary function, described the relationship as follows (Ex. 11, p. 16):

> . . . in our statistical analysis of symptom prevalence among large numbers of cotton textile workers and appropriate controls we found that, for all symptoms, work in textile mills was by far the largest factor in determining the prevalence of respiratory symptoms. For shortness of breath, mill work was the only significant variable. For chronic cough, sputum and wheezing, cigarette smoking was an additional important variable, but of lesser degree of significance than work in the mills. In other studies where similar analyses have been performed, cigarette smoking has also emerged as a contributing factor to chronic symptoms. But in these studies no control group was considered at the same time, so that the preponderant effect of exposure to dust in mills (in comparison with the absence of such exposure among persons not employed in textile mills) could not be assessed. It is also important to point out that shortness of breath is an important factor in disability among cotton textile workers, and that this symptom was not significantly affected by smoking. Although it should be considered an additional risk for cotton textile workers, the extent of the risk of smoking is not clearly different for cotton workers and for others not employed in the cotton textile industry. In fact, we found that the effects of cotton dust exposure and of smoking on chronic lung function loss were additive, and there is no indication in our data for any synergism between the two exposures with respect to long-term lung function.

Other evidence is consistent with Dr. Bouhuys' findings. One particularly striking feature is the high prevalence of respiratory disease among women textile workers who have never smoked (Ex. 6, #17, p. 427). Finally, it has generally been found that bronchitis prevalence is proportional to level of dust wherever this parameter has been studied.

Undoubtedly some COPD exists in the cotton worker population which is independent of exposure to cotton dust. Neither Dr. Battigelli's figures nor morbidity data from a study done in a Colorado community appear to shed light on the normal state of employee health. However, Merchant's control population consisting of textile workers in wool and synthetic industries provides a reasonable estimate of the prevalence of bronchitis among textile workers not exposed to cotton dust (Ex. 6, #17). These levels of chronic bronchitis varied from 2-3% to approximately 12% depending upon age, sex and smoking habit (Ex. 6, #17). As Merchant's work made clear, compared to these controls, workers exposed to cotton dust exhibit a significantly greater prevalence of chronic bronchitis, i.e. 24% (Ex. 6 #43, p. 173); in this study, not only cotton dust exposure but also smoking (Ex. 6, #43) and age (Ex. 6, #17 p. 427) were found to be determinants of chronic bronchitis frequency and severity.

One new study (Ex. 124) introduced into the record shed further light on the relationship of background respiratory disease to the prevalance of COPD among textile workers. In a community study of chronic impairment among active and retired textile mill workers 45 years and older in a South Carolina town, Bouhuys compared the local mill population with matched controls in another southern town and in two similar northern towns. Although the study did not attempt to establish a baseline for worker COPD morbidity, it was designed to exclude interference from non-cotton dust induced lung disease among the study population. Bouhuys found, on the basis of respiratory questionnaires, that textile workers of both sexes, irrespective of age, demonstrated significant excesses of chronic cough, wheezing, dyspnea and other symptoms, in comparison to controls. Work in textile mills was found to be the prime variable affecting symptom prevalence. The results of lung function testing showed that both male and female textile workers suffered significantly greater loss of pulmonary function than controls and, thus, were at greater risk of chronic lung disease. Based on a definition of disability as an FEV_1 level of 1.2 liters or less, textile workers suffered respiratory disability at triple the rate found in controls.

Dr. Bouhuys' criterion for disablement is a conservative one, since an FEV_1 of 1.2 liter or less even for a very old person is a small fraction of the pulmonary performance of a normal lung (Ex. 11, p. 18). Yet Dr. Bouhuys estimates that approximately 35,000 employed and retired textile workers are currently disabled (Ex. 11, p. 1). This projection assumes that 200,000 are currently at risk in the mills and approximately 235,000 retired textile workers are no longer employed in the industry. Although some estimates of the prevalence of chronic disease have been presented in various studies, the

Bouhuys estimate constitutes the only evaluation of chronic health effects for the entire active and retired textile worker population. While retired workers will not be protected by this standard their health status is relevant in evaluating the risk of cotton dust exposure. During the hearings, dozens of CBLA members, all post textile workers, gave personal accounts of the physical, social, and economic hardship resulting from COPD (Ex. 54).

When all degrees of chronic bronchitis are examined, not just the disabling form, Merchant found an overall prevalence for chronic bronchitis of 24% to 12% for employed textile workers. In both the Merchant (Ex. 6, #17, 43) studies and the Bouhuys study mentioned above, control populations were found to have significantly less chronic bronchitis. It is generally believed that this chronic bronchitis is irreversible. There was some testimony, particularly by Dr. Russell Harley on behalf of the ATMI, that early stages of advanced respiratory disease may be reversible usually upon removal from cotton dust exposure (Ex. 41). However, it appears from the evidence, that the usual course for most workers is to continue to suffer gradual deterioration which soon becomes irreversible.

Virtualy all medical witnesses, including those from industry, testified that prevention of chronic obstructive pulmonary disease should be pursued vigorously by the cotton industry (Ex. 11, 12, 13, 19, 38, 41, 42, 46, 47, 48). OSHA believes that the cotton dust standard, including provisions for engineering controls to limit dust exposures, respirators, and medical surveillance to indentify pulmonary deterioration, should accomplish this goal.

In addition to the evidence of COPD among textile workers, the record contains data identifying COPD generally among non-textile employees exposed to cotton dust including garnetters, (Ex. 38, Appendix F) waste utilization and gin employees (Ex. 19) (Ex. 38, Appendix E). The development of COPD has been less well defined for the various non-textile industries than it is for textiles. Several reasons may account for the difference. In the ginning industry employee exposure is seasonal for a major segment of the population. As Dr. M. A. El Batawi of the World Health Organization testified, based on his studies of Egyptian gin workers, the seasonal factor delays the onset of byssinosis by allowing recovery of workers' lungs during the time of removal from exposure (Ex. 19). Thus, fewer workers with lower grades of byssinosis proceed to the chronic stage than would be found in workplaces subjecting employees to continuous exposure. The significance of seasonality on the health effects in gin employees is discussed in the preamble to the separate standard for ginning. In addition, the development of COPD in even non-seasonal operations may be affected to some extent by varying compositions of dust.

C. ACUTE HEALTH EFFECTS

Since byssinosis represents a continuum of disease, it is axiomatic that the chronic, irreversible stage is preceeded, at the opposite end of the disease progression, by an acute, relatively mild, apparently reversible stage of disease. This earliest stage is characterized by varying subjective and/or objective symptoms that may not at first unduly alarm the victim or present a physician with clear-cut diagnosis. Nevertheless this early developmental stage of respiratory disease is a pathological state, and OSHA finds persuasive the arguments for adopting a cotton dust regulation which protects workers from the acute consequences of cotton dust exposure. Evidence in the record convinces OSHA that it is necessary to protect the many thousands of workers who exhibit grade 1/2 byssinosis or non-repeatable or relatively small declines (e.g. 50 ml or 5%) (Ex. 6, #1) in Forced Expiratory Volume or Forced Vital Capacity. Witnesses on behalf of ATMI testified that these acute symptoms were not cause for concern. However, industry testimony failed to disprove the significance of these acute effects as symptoms of respiratory disease which in many cases with further exposure progresses inevitably to the chronic irreversible respiratory diseases associated with cotton dust exposure (Ex. 11, p. 17). OSHA believes that grade 1/2 byssinosis and associated pulmonary function decrements are significant health effects in themselves and should be prevented in so far as possible.

Acute objective and subjective symptoms caused by inhalation of cotton dust often are precursors of chronic obstructive pulmonary disease (Ex. 6, #17, #43). Grade 1/2 byssinotics as a group exhibit lower FEV_1 values, greater pulmonary function decrement over the shift and higher prevalences of bronchitis than normal workers (Ex. 6, #1). It is not unreasonable to conclude that the diminished state of health of grade 1/2 byssinotics is a stage of the progressive development with prolonged exposure to cotton dust to an ultimate, irreversible respiratory disease. As Dr. Bouhuys explained: (Ex. 11, p. 17)

> "Cotton and other textile workers are at risk of acute as well as chronic respiratory symptoms and lung function loss. There is little or no doubt that both are caused by exposure to respirable dust in cotton textile factories. Although the progression from repeated acute insults to the chronic disease has not been traced with certainty, there is no good evidence against—and much evidence for—such a train of events. It seems most logical to define byssinosis as a dust-induced disease with initial acute responses followed by a stage of chronic lung disease characterized by chronic airway obstruction. This definition is implicit in the description of the clinical stages of byssinosis given by Schilling many years ago."

Since workers with occasional chest tightness often do not understand the connection between the work environment and the symptoms, they are likely to remain on the job in continuing dust exposure. (Ex. 6, #1, Ex. 11, Ex. 54). There is evidence that grade 1/2 byssinotics may revert to a normal state of health if exposure to cotton dust is discontinued; nevertheless, OSHA is convinced by the evidence in the record that those many workers who will grow progressively worse must be identified and protected.

IV. Permissible Exposure Limits

(A) General Considerations

OSHA believes that the causal relationship between exposure to cotton dust and the development of byssinosis and other respiratory diseases has been clearly established. It follows, then, that the most important step in reducing the risk of cotton dust induced respiratory disease is to reduce employee exposure to cotton dust (Ex. 6, #1, 19, 30, 51, 55, 57, 58; Ex. 124).

At the same time, OSHA recognizes that cotton dust is a heterogeneous mixture containing an as yet unidentified active agent or agents. Cotton dust is defined in this standard as "dust present during the handling or processing of cotton which may contain a mixture of substances including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, non-cotton plant matter and other contaminants which may have accumulated during the growing, harvesting and subsequent processing or storage periods." As the preamble to the proposal states, the relative proportion of these substances in "cotton dust" can vary depending upon the type of plant, harvesting and storage methods, and cleaning operations, both at the gin and in subsequent processing (41 FR 56503).

Some parties at the hearings argued that the standard should be delayed until an active agent was isolated (e.g. Ex. 65a). OSHA has concluded that the weight of evidence in the record requires the implementation of a standard based on "cotton dust," as broadly defined, to all the segments within the scope of the cotton industry in order to prevent further and widespread development of acute and chronic respiratory disease including irreversible and disabling chronic obstructive pulmonary disease. The continuing scientific debate over the identity of the specific agent does not de-

tract from the conclusion that "cotton dust," as defined and regulated by this standard, has been shown to cause a constellation of respiratory illnesses (Ex. 11, Ex. 38a, d; Ex. 124; Ex. 6, #1, 30, 17, 31, 32, 33, 34, 51, 55, 57, 58). Protection of employees cannot await resolution of all the points of scientific debate.

First, there are likely to be multiple agents involved in the acute response and there is no certainty that these agents are responsible for the long-term damage to the lungs after exposure. Several witnesses with long involvement in the search for the active agent expressed the belief that multiple agents and pathways were probably at work in the development of byssinosis.

Second, as witnesses who have been involved in early efforts in byssinosis research point out, claims that the causative agent has been identified have been periodically advanced over the years and, so far, is often cast aside. There is no assurance that the agent will be discovered in a reasonably short time period. On the other hand, numerous studies have correlated exposure to cotton dust to the prevalence of byssinosis. Thus, several witnesses conclude that, at the present time, there is no basis for any programs of prevention and control of byssinosis other than those based on prevention of exposure to respirable cotton dust. Indeed, removal of lint-free respirable dust from the air cotton workers breathe is both feasible and offers effective protection against any toxic agents present in the dust.

Detailed analyses of the physical and chemical composition of cotton dust from different sources and subjected to all the variables of processing, from harvest to recycling, were the basis for the testimony of numerous industry organizations attempting to justify establishing a standard on other than the lint-free respirable fraction of cotton dust as proposed.

OSHA recognizes that in the absence of detailed dose-response data, the risk to workers from cotton dust generated in many segments of the non-textile industry cannot be precisely defined. To the extent that evidence of the physical composition of the dust, such as that presented by Dr. Wakelyn, corroborates medical evidence that the nature of cotton dust generated by a certain process is less hazardous to worker health than that encountered in a textile mill, OSHA has accounted for the mitigation of risk by applying a higher exposure limit. However, the value of dust composition data alone is extremely limited in assigning risk to various concentrations of dust. Where medical research is available, physical and chemical data is less acceptable.

B. PARTICLE SIZE

In the proposal, cotton dust concentration was defined in terms of the vertical elutriator cotton dust sampler. The final standard has severed the description of cotton dust from the type of device or method of measurement employed for reasons which are more fully discussed in the section on monitoring. It should be noted that a critical feature of the vertical elutriator's design, the size cut-off at 15 microns, has been preserved in the final standard by setting the permissible exposure limits in terms of particles 15 microns or less in size. Although there is some debate in the record over the appropriate size designation for "respirable" particles that range from less than 5 to 20 microns, the most persuasive testimony supports continued reliance on particles sized 15 microns and less as the basis for estimating the risk of byssinosis. Thus, studies measuring lint-free respirable dust (15 μg and less) appear to more closely correlate dust concentration with physiological response than do studies measuring broader particle distributions (Ex. 6, #41, 51, 66). It could be argued that the studies by Roach and Schilling measuring "fine dust" (less than $=7\mu$) with the horizontal elutriator provide a good comparison in terms of correlations with studies made with the vertical elutriator (e.g. Ex. 1, pp. 53-60). The vertical elutriator, however, has generally replaced the horizontal elutriator as the instrument of choice for cotton dust epidemiology. One explanation for this may be the belief that deposition of larger particles than are normally considered to be respirable, in the strict sense (i.e. greater than approximately 7μ), in the trachea and upper respiratory regions may play some role in the acute response often characterized by constriction of these larger airways.

In summary, until the causative agents contained in cotton dust are isolated in the laboratory and their effects verified with rigorous epidemiological testing, the proven hazard to cotton workers from lint-free respirable cotton dust must be controlled, even without a complete understanding of the etiology of byssinosis. The risk of byssinosis has been correlated with exposure to cotton dust by numerous researchers. Consequently, OSHA maintains that worker protection from exposure to cotton dust can be assured by controlling lint-free respirable cotton dust and that this conclusion is overwhelmingly supported by the evidence in the record.

C. PERMISSIBLE EXPOSURE LIMITS

The standard provides that no employee in the textile industry shall be exposed to greater than 200 $\mu g/m^3$ of lint-free respirable cotton dust averaged over an eight-hour work shift, unless these employees are engaged in slashing or weaving, in which case they shall not be exposed to greater than 750 $\mu g/m^3$ of lint-free respirable cotton dust averaged over an eight-hour work shift. In all other industries where employees are exposed to cotton dust, no employee shall be exposed to greater than 500 $\mu g/m^3$ of lint-free respirable cotton dust averaged over an eight-hour work shift.

Whereas numerous foreign and American studies have provided a basis for determining the prevalence of byssinosis in the textile industry, the work by Merchant et al. (Ex. 6 #51) represents the most thorough and objective evaluation of byssinosis prevalence in the United States textile industry. The Merchant study covering approximately 3000 workers employed in 8 cotton and cotton-synthetic blend mills and control synthetic and wool mills found a strong linear association between the prevalence of byssinosis and the concentration of lint-free respirable dust as measured by a vertical elutriator. In cotton preparation and yarn areas, untreated cotton was shown to produce byssinosis prevalences of 7 percent (all grades) at 100 $\mu g/m^3$, 13 percent at 200 $\mu g/m^3$ and 26 percent at 500 $\mu g/m^3$. For blend mills, the prevalences were markedly lower, however, dust levels from blend mills were considerably lower than equivalent areas of pure cotton mills. In weaving, the dose-response curve was shifted downward. According to this data, there is essentially no byssinosis prevalence at 200 $\mu g/m^3$, 5 percent at 500 $\mu g/m^3$ and 15 percent at 1.0 $\mu g/m^3$. The lower prevalence of byssinosis is attributed to the inclusion of inert sizing in the dust measured.

Although the Merchant study (actually approximately 15 papers published over several years (Ex. 6 #17, 20, 43, 51, 61, 110; TR 241-2)) has been part of the scientific literature since the early 1970's, considerable critical comment was addressed to it at the hearings. Most adverse testimony either directly challenged the methods and the findings of the Merchant study, or indirectly questioned Merchant's prevalence finding by introducing independent evidence of lower prevalences in the textile industry.

Dr. Hans Weill presented a 1976 study (Ex. 13A) sponsored by ATMI of 486 cotton textile workers measuring prevalence of byssinosis, of lung fuction impairment, and post-shift function decline. The study design intended to examine the effects of past high, intermediate and no exposure on workers in three separate mills which were originally thought to be currently achieving low levels of dust (200-500 $\mu g/m^3$) or, in other words, mills with very low doses. Pooling of the data gathered for all mills indicated a sig-

nificant relationship between exposure and prevalence of byssinosis, with a prominent increase in risk associated with exposure at or above 500 $\mu g/m^3$. However, analysis of the data by mill, which showed most of the employees classified as byssinotics to be located in one mill, whereas the prevalence in the two remaining mills was barely above that found in the control mill, suggested the influence of a "mill factor" in the study. Statistical analysis indicated that the effect of employment in a given mill was present even beyond the effects of smoking rates, proportion of preparation workers per mill and, most importantly, level of current dust exposure. Thus, the term "mill factor" implies that byssinosis prevalence depends primarily on factors other than exposure to cotton dust itself, and, presumably, two mills with equal employee dust exposure could pose drastically different risks to employees.

Since the mill effect has not been a previously noticed or reported factor in assessing the risk of cotton dust exposure, the validity of the finding was contested by several parties. The authors of the Weill study themselves conceded that some more commonly understood effects may explain their findings.

Thus the authors stated:

> One may still be primarily detecting a dust level effect since the exposures in this mill were heavily weighted to the high group with no one falling into the low exposure category. It is possible, therefore, that the mill effect is masking the dose-response relationship. (Ex. 13A, p. 23)

In addition, unmeasured variables such as grade and blend of cotton processed, dust control equipment in place, or speed of processing could explain the results of the study (Ex. 13A, pp. 23-24).

Some testimony amplified the possibility of the mill effect being explicable in terms of the quantity of dust rather than the quality of dust. As Dr. John Peters of the Harvard School of Public Health pointed out in reference to the three exposure categories used, namely under 0.2 mg/m^3, 0.2 to 0.5 mg/m^3 and over 0.5 mg/m^3:

> The high exposure category (0.5 mg/m^3 and higher) is much higher in Plant II than the high exposure category in Plant I and Plant III. Inspection of Table 5 of the report reveals that for Mill I and Mill III there were several exposure measurements that exceeded 0.5 mg/m^3 only slightly, whereas, in Plant II, those exceeding 0.5 exceeded this level significantly. One of their points from the study was that there is a mill effect over and above the exposure effect. This might well have only reflected the fact that byssinotics largely occurred in Plant II, and the very heavy exposure occurred in Plant II. Had a fourth exposure category been chosen (say over 1.0 mg) several of the byssinotics in Plant II would have been in this category. This further gradation in byssinosis prevalence could explain the so-called mill effect. (Ex. 143, Appendix A.)

Dr. Peters, using raw data obtained from Dr. Weill, calculated that if 4 exposure categories are used the prevalence of byssinosis correlates well with dust level (Ex. 143, Appendix A).

There are other possible explanations for the mill factor which relates risk to exposure. Dr. Weill made it clear that his study was originally designed to study the effect of past exposure on current respiratory responses to low levels of cotton dust (Ex. 13A, p. 1). Dr. Weill had found that pulmonary function results indicated excessive annual decline in lung function related to length of cotton mill work and post-shift declines that were greater in cotton than in synthetic fiber workers, although the differences were only of marginal significance. However, there is testimony that length of exposure might also explain the mill effect "since a statistically significant relationship is seen between length of exposure and the FEV_1 and FVC percent of predicted in two of the mills which have had previous cotton dust exposure, one at a low level presumably around 0.2 and 0.5 mg and the other at a higher level (Ex. 143, App. A, p. 7)." The past exposure in the mill with high prevalence of byssinosis had been higher than in the other two mills which had processed cotton for only 4 and 10 years.

A second survey (Ex. 39) of the prevalence of byssinosis and respiratory symptoms was conducted in three mills by Dr. W. K. C. Morgan at the request of Burlington Industries. Morgan found only 3 employees out of a volunteer population of 720 in 2 mills (0.4%) admitting to byssinotic symptoms on a questionnaire. One worker among 240 in a control mill complained of similar symptoms. No difference between the prevalence and severity of shortness of breath was found to exist between the three mills, and only small differences were found in comparing maximal FEV_1 and FVC decrements (5% or greater) between cotton and synthetic fiber workers in the card room and other jobs. When FEV_1 and FVC readings of all workers were compared to predicted values, a significant number of subjects had reduced ventilatory capacity, with somewhat greater proportions of affected workers in the two cotton mills. The participation rate in the pulmonary function measurements, however, was 60-65%, an unusually low percentage. The results of the survey, in general, found no significant byssinosis hazard in these three mills.

Although Dr. Morgan did not have knowledge of dust levels at the time of his study, dust level data was supplied by Burlington Industries for the record at the request of the Agency (Ex. 43). Dust levels in the 3 plants surveyed ranged from below 200 $\mu g/m^3$ to 1040 $\mu g/m^3$ in the card rooms with mean redings of approximately 250 $\mu g/m^3$. As in the case of many mills selected for the Weill Study, the mills in the Morgan survey were characterized by relatively low dust exposure and a worker population which had been part of an ongoing medical surveillance program.

Empirical data based on the experience of industry's ongoing medical surveillance programs provided a second source of evidence at the hearings. Data gathered by industrial physicians from 3 of the major textile companies was presented separately and collectively in a compilation of statistics representing the medical surveillance programs of several member companies (Ex. 47). Collection and pooling of data was conducted by ATMI (TR 1917).

Dr. Harold Imbus of Burlington Industries compared results from an initial medical survey of employees in 19 company plants during 1970 and improved results collected in 1976 (Ex. 47). In the original screening, 460 out of 10,133 (4.5%) of all exposed employees complained of subjective symptoms of grades ½ to 2 byssinosis on a questionnaire compared to 136 out of 12,519 (1.0%) in 1976. The percentage of subjects demonstrating a 10% or greater post-shift decrement in FEV_1, also declined from 18% to 7.4% during the period. Dr. Imbus credited significant reduction in dust levels as one of the reasons for the improvement in medical statistics. Other factors included selective placement and transfer of employees, use of respirators by susceptible employees, and institution of counselling and the ongoing functioning of the medical surveillance program itself.

Among 5,458 Cone Mill employees surveyed in 1973, 199 provided questionnaire responses associated with grades ½ and 1 byssinosis (Ex. 46). However, among workers employed in opening through roving, 105 out of 655 or 16% exhibited symptoms of byssinosis. High levels of bronchitis were also reported. Dust measurement at the 14 plants were not taken at the time of the survey.

A 1973 report of West Point Pepperrell's initial survey (Ex. 42) indicated that 124 workers out of 9,181 responded positively to a questionnaire, and 11.8% of those tested for decrement in FEV_1 over the shift showed a 10% or greater decline. When only opening through roving was considered, a 5.3% prevalence of byssinosis was observed. Dr. Whitworth's testimony assigned a 5.4% prevalence rate to a worker population typically exposed to dust levels ranging from 500 to 750 $\mu g/m^3$.

The results of the initial surveys of the 3 companies detailed above were

pooled by ATMI with similar data collected from other textile manufacturing companies with medical programs (Ex. 47; TR 1849). The resulting pooled prevalence data purported to cover questionnaire surveys of 41,283 employees. Overall prevalence, all grades, was reported to be 1.79% with 4.3% prevalence reported for opening through roving. The highest prevalence in preparation, 11.3% was associated with areas with dust measurements known to be greater than 500 $\mu g/m^3$, whereas only a 4.41% prevalence was reported for dust levels equal to or below 500 $\mu g/m^3$. The prevalence of pulmonary function decrements (FEV_1 10%) equalled 8.5% overall and, in the case of preparation areas, 22.65% and 9.02% for areas assigned dust levels greater than 500 $\mu g/m^3$ or below respectively. Dr. Imbus used the ATMI findings of 737 cases of byssinosis among 41,283 employees to project the total number of byssinotic employees for a total population exposed to raw cotton dust estimated by ATMI to be 150,000 (Ex. 47). Approximately 2,700 employees would be expected to have subjective symptoms of byssinosis if the 1.79% prevalence rate were applied to the population figure given by industry.

Research Triangle Institute also calculated the number of workers who could be expected to exhibit classical byssinotic symptoms (Ex. 6, #76, pp. I-4 to I-5, pp. III-1 to III-23). Applying the dose-response relationships for yarn preparation and slashing-weaving workers developed by Merchant et al. to worker population figures published by the U.S. Department of Labor, RTI estimated that approximately 37,794 textile employees exhibited all grades of byssinosis at current dust levels. The divergence between the ATMI and RTI prevalence estimates is difficult to reconcile without examining the underlying data.

Questioning of Dr. Imbus by Dr. Merchant raised serious questions about the validity of the ATMI data (TR 1916-23). Dr. Merchant pointed out that the number of preparation workers gathered from published studies by Dr. Imbus and by Dr. Martin (340) and presented in testimony by Dr. Whitworth (approximately 90), equalled a greater number for the 3 companies involved (430) than the total number given by ATMI (369) for all the companies contributing to the pool (TR 1916-17). The number of Burlington, Cone and West Point Pepperrell employees in the worker pool constituted approximately two-thirds of the total 41,000 workers. Thus, according to the ATMI data, no other worker in opening through roving in any other mill which pooled data had byssinosis in any grade. In yarn preparation there are also unaccountable discrepancies between the prevalences of byssinosis published for 2 major companies, 26% for Burlington and 16% for Cone Mills, and that presented by ATMI for the pooled group, 4.3% (TR 1917-18). Comparison with byssinosis prevalences and percent pulmonary function decrement in preparation reported in outside studies indicated even greater disparities. In addition, Dr. Merchant pointed out an unexplained 15% excess of workers reported as showing a 10% decrement in pulmonary function over those reporting byssinosis (TR 1919). Many investigators have reported a rough equivalency between these figures. Finally, because the ATMI material was broken down roughly into two broad exposure categories, no dose-response relationships could be drawn from the data.

As no party responsible for assembling and pooling the industry data was available at the hearings to explain the ATMI survey, questions directed to the sources and validity of the survey went unanswered. An ATMI response to OSHA's request for fuller detail on its pooling resulted in the production of material (Addendum #6A), that by its nature prevented any further critical analysis and failed to dispel the doubt cast on the data by NIOSH cross-examination. Thus, the ATMI data could be accorded only limited significance in the analysis of the health risk at various levels of cotton dust exposure.

Some witnessess from industry disputed the validity of using the Merchant Study to any extent to represent the hazard in the textile industry from exposure to cotton dust.

Dr. Moon Suh of Burlington Industries reviewing the Merchant data from a statistical approach argued that what he characterized as methodological errors invalidated the study for the purpose of predicting byssinosis prevalence of the average textile population (Ex. 55). Dr. Suh argues that build-in biases in location and age of plants, length of exposure, and quality of cotton processed inflated prevalence data, that the use of a probit model to analyze the data is statistically unjustified, and that grouping of some data points, exclusion of others, use of median dust levels rather than mean, and "other irregularities" invalidate the study for predictive purposes. In comparison, Dr. Suh presented a dose-response study of a Burlington population sampled in 1971 and analyzed without the errors he attributed to the Merchant study, which projected 2.2% byssinosis prevalence at zero dust level (attributable to false-positive responses). Dr. Suh's study found a byssinosis prevalence of 2.8% at 100 $\mu g/m^3$, 3.5% at 200 $\mu g/m^3$, and 6.0% at 500 $\mu g/m^3$. Dr. Suh concluded that neither the Merchant study nor any other in the literature provided an adequate statistical basis for establishing a numerical exposure limit.

A review of the extensive testimony on the methodology and analysis employed in the Merchant study, its criticism by Dr. Suh, and rebuttal, convinces OSHA that the Merchant study provides a reliable assessment of health risk to cotton textile workers from cotton dust. OSHA notes that the Merchant data has been published and subject to peer review for several years without any major reported challenge to its basic soundness (TR 264-5). The only exception is Dr. Suh's categorical criticism of the study (Ex. 55).

There are admittedly some weaknesses in the Merchant data, for example, the small size of the populations in certain statistical cells and, consequently, the weakness of some correlation coefficients. Mr. Ken Busch of NIOSH who helped in the analysis admitted that he would have made some modification in the handling of the data (TR 1407, 1415-17). On the other hand, Dr. Merchant, Mr. Busch (TR 1376-9, 1381-5, 1408-9, 1411-14) and, also to some extent, Dr. Kaye Kilburn (TR 259-60, 288-9), responded convincingly to several charges of error by Dr. Suh with respect to use of probit analysis (TR 1378-80, 1382-84, 1404-5), the discarding of data points (TR 1411-14), and use of median and mean values for dust measurements (TR 1013-14, 1219, 1400-3).

Upon reviewing the testimony, OSHA believes much of the disagreement over the statistical propriety of Merchant's field study to represent extremely fine points in academic argument (e.g. TR 1417). In support of this point, OSHA refers to Dr. Suh's Tenet:

> To begin, I must point out that the entire byssinosis issue still remains to be only a statistical paradox in the complete absence of any definitive science on the diagnosis and pathogenesis or proven knowledge of the responsible chemical components. Indeed, we are still playing the game of numbers based strictly on isolated incidences or yet-to-be-found laws of probability at best (Ex. 55, p. 1).

Contrary to Dr. Suh's view, an evaluation of the methodology of this massive survey of thousands of textile workers shows the Merchant study to have been based on sound statistical ground. OSHA recognizes other evidence in the record to support in great measure the Merchant findings of health hazard in the cotton textile industry.

On the contrary, OSHA finds serious problems with the ATMI evidence contradicting the Merchant data. Dr. Suh's survey introduced with his testimony demonstrates remarkably low prevalences of byssinosis compared

with the findings of other studies or work done in Burlington Mills (e.g. Ex. 6, #18). The study contains neither objective pulmonary function data nor dust sampling which can be compared with typical vertical elutriator measurements.

Following up on one of Dr. Suh's points, Dr. Solomon Hersh testifying for ATMI (Ex. 58), claimed that the designers of the Merchant study failed to discount false-positive responses. Dr. Hersh used calculated values of natural response to readjust Merchant's probit analysis and thus explain the phenomenon of 2.2% response at zero dust concentrations as that attributable to false-positive responses. However, it is noted that the 2.2% byssinosis prevalence at zero dust level was not projected by the Merchant analysis in which the probit curve actually passed through the origin. The only false-positive value used in the Merchant study was derived from empirical rather than fabricated data (TR 1009). Merchant in his testimony, described false-positives as positive responses to the questionnaire by control workers in wool and synthetic mills, and quantified the level as 0.75%. In fact, according to testimony by Mr. Busch, when modification of the probit analysis suggested by Dr. Hersh is used with actual rather than assumed false-positive values, there is no significant differences in the result of the probit curves (TR 1412-15).

On the issue of the representativeness of data, OSHA shares the concern of parties to the hearing. The Agency is aware of the numerous factors advanced in the record which can influence the dose-response relationship and, therefore, the findings of a study. For example, it appears that several of the mills surveyed by Dr. Weill and Dr. Morgan reflect the improvements in health effects which could be achieved when low dust exposure is combined with a medical surveillance program. Indeed, the data from these studies centering on the low end of the dose-response curve support the feasibility of the basic requirements of the standard and the reduction in health hazard at low dust exposure. The Weill study in particular demonstrates the difficulties inherent in analyzing epidemiological data collected using a mixture of either very clean or very dusty mills.

OSHA concludes that the Merchant study has withstood challenge to its design and analysis. The study has been discussed in great length in the criteria document, the proposal and this final standard and by numerous experts in the medical and scientific field, and has been relied upon by the ACGIH in recommending an exposure limit. It has been shown to be a sound indicator of the response of U.S. textile workers to cotton dust. Even while cautioning against extrapolation of his data to industry-wide prevalence, Dr. Merchant stated, "In developing dose-response curves, however, we did get a good distribution of the dust over a large variety of dust measurements and we did find striking dose-response relationships (TR 1031-32)." OSHA concludes that the dose-response data of Merchant, supported by numerous other studies discussed in the preamble to the proposal, is the best available evidence and that it provides the Agency with sufficient evidence upon which to take action to protect the health of workers in the cotton industry. In reaching this conclusion, OSHA has given appropriately little weight to ATMI's pooled data which has been advanced as "representative" of the health situation in the textile industry. In this regard it is noted that the record contains no explanation for the dramatic inconsistencies between published industry data and the private calculations made by ATMI.

1. The Textile Industry

OSHA believes, based on its evaluation of all these studies and evidence analyzed in the preamble to the proposal, that strong justification supports the setting of a 200 $\mu g/m^3$ standard for the yarn preparation areas of the cotton textile industry. In reaching this decision, OSHA believes that the rationale for proposing a 200 $\mu g/m^3$ level for the textile industry is still valid. OSHA's reasoning as expressed in the proposal will therefore be briefly summarized.

After reviewing the scientific literature, OSHA stated that most cotton dust research demonstrated "a decrease in disease prevalence with decrease in dust levels." The evidence indicated that exposure to cotton dust was harmful over a wide range of exposures, and, in fact, recent studies showed a higher prevalence of byssinosis at even lower dust levels than evidenced by earlier studies.

The discussion in the proposal traced the advance in cotton dust research from the pioneering work of Roach and Schilling to the studies done in the U.S. by Merchant et al. and others using the vertical elutriator. It was clear from these studies that cotton dust produced significant health effects at low levels of exposure.

In setting a permissible exposure limit, the proposal evaluated the 200 $\mu g/m^3$ option as follows:

> The American Conference of Governmental Industrial Hygienists, while recognizing that there was no readily measurable limit that would eliminate byssinosis, in 1974 established a Threshold Limit Value for cotton dust of 200 $\mu g/m^3$ of dust composed of fibers less than 15 μm. According to the work of Merchant, there would be a predicted prevalence of byssinosis of 12.7 percent (all grades) and 3 percent (Grade two) at 200 $\mu g/m^3$; other investigators have found lower prevalence at these levels, but nevertheless conclude that some byssinosis will exist. (41 FR 56504)

The proposal went on to support the 200 $\mu g/m^3$ level as follows:

> In the criteria document NIOSH stated that there is "no environmental limit of cotton dust that will prevent all adverse effects on workers health." Merchant et al. found cases of byssinosis associated with dust levels as low as 50 $\mu g/m^3$. Statistical treatment of the data of Molyneux and Berry, and Imbus and Suh, indicates some prevalence of byssinosis at exposure levels so low as to be effectively zero. These data cannot be ignored. Accordingly, OSHA recognizes the absence of any known "safe level of exposure." When it proposes a permissible exposure limit of 200 $\mu g/m^3$ of respirable cotton dust, which it considers to be the "lowest feasible," OSHA feels that considerable reduction of work place exposure accompanied by a substantial decrease in byssinosis, particularly the chronic variety, can be achieved at this level.

After discussing the impact technological feasibility played in determining an appropriate level, OSHA concluded "on the basis of all the currently available evidence, 200 $\mu g/m^3$ of respirable cotton dust appears to represent the lowest feasible level, and to provide substantial protection for employees exposed to cotton dust."

During the course of the hearing, NIOSH articulated its support for the 200 $\mu g/m^3$ permissible exposure limit. The NIOSH testimony reasoned as follows:

> Byssinosis prevalence relative to respirable dust is reviewed in detail in the NIOSH criteria document (Appendix 1). Four investigators, Roach, Merchant, Lammers, and Imbus reported a total of 98 cases of byssinosis below 0.25 mg/m^3 fly-free dust. Extrapolation of dose-response curves suggests there is no clear threshold of response to cotton dust. Probit analysis of the dose-response data of Merchant et at. shows an associated byssinosis prevalence of 6.5% at a median dust level of 0.1 mg/m^3, 12.7% mg/m^3 at 0.2 mg/m^3, and 25% at 0.5 mg/m^3. These prevalence figures are compatible with those observed by Molyneaux and Berry in their extensive study of the British cotton yarn industry. Merchant et al. also observed increased bronchitis prevalence among preparation and yarn workers exposed at dust levels below 0.1 mg/m^3. Decrements in expiratory flow rates also followed a linear dose-response curve and objectively confirm the observations of respiratory symptoms. Thus, three parameters of adverse health effects—byssinosis prevalence, bronchitis prevalence, and decrement in expiratory flow rates—were observed at median dust levels below 0.2 mg/m^3 in preparation and yarn areas of cotton and cotton/blend mills (Ex. 38a).

NIOSH concluded that "an environmental standard not exceeding 0.2 $\mu g/m^3$ is required in these areas (preparation and yarn areas)." Other parties also testified in support of the 200 $\mu g/m^3$ exposure limit, including many scientific and medical experts. Upon ana-

lyzing the underlying evidence and the discussion presented during the hearing, OSHA believes that the proposed 200 $\mu g/m^3$ permissible exposure limit in the cotton textile industry is the appropriate level for this final standard.

Industry witnesses, however, have testified that a 500 $\mu g/m^3$ permissible exposure limit is equally protective. OSHA believes that the analysis advanced in the preamble to the proposed cotton dust standard rejecting an exposure limit above 200 $\mu g/m^3$ to be still valid. In discussing the 500 $\mu g/m^3$ option, the proposal recognized that:

> Some investigators have shown a "low" prevalence of byssinosis, generally less than 10 percent (all grades) and less than two percent grade 2, following exposure at estimated dust concentration levels of 500 $\mu g/m^3$ respirable dust (6, 54, 55). It appears, however, that 500 $\mu g/m^3$ respirable dust (as measured by the vertical elutriator) is roughly equivalent to the current 1,000 $\mu g/m^3$ total dust, a level viewed as inadequate in the above discussion.
>
> Merchant concludes that 500 $\mu g/m^3$ respirable dust would result in a prevalence of byssinosis of over 25 percent (all grades). Therefore, though 500 $\mu g/m^3$ may be somewhat protective in a number of cotton processing operations, OSHA considers the work of Merchant and others as indicating that it is not sufficiently protective in many operations. (41 FR 56504)

Admittedly other studies have found lower prevalences at 200 $\mu g/m^3$, but these studies have also shown that 200 $\mu g/m^3$ represents a significant reduction in the number of affected workers.

In addition, there are other factors that support the analysis and conclusion presented in the proposal. Initially, it is noteworthy that very little new scientific evidence was introduced at the hearings in support of a 500 $\mu g/m^3$ exposure level. None of the industry studies, except for the Weill study, correlate prevalence of byssinosis or pulmonary function reactivity with dust levels. The Weill study, which is discussed at length above, demonstrates another general difficulty in interpreting the findings of industry surveys: the mill population and often the mills selected have been the subject of dust control, health protection programs, and production changes which would all tend to mitigate the employee response to subjective and objective measurements. This trend toward improved work environments and medical surveillance has been particularly pronounced among the industry's largest companies that have conducted studies or make their mills available for study. Natural production trends, particularly the addition of new technology in opening, carding and to some extent, spinning, have been shown to reduce dust exposure. In addition, the blending of synthetic fibers with cotton has repeatedly been shown to reduce dust levels and, concomitantly, disease prevalence (e.g. Ex. 64, p. 2). Blending is increasingly common in modern manufacturing. For an industry leader, such as Burlington Industries, the combination of reduced dust levels from improved ventilation for reasons of health and production, medical surveillance, medical removal, counseling and respirator usage, have significantly reduced the prevalence of byssinosis and pulmonary effects (Ex. 47). It is notable that the dust levels in 66% of Burlington work areas measure below 500 $\mu g/m^3$ and 28% are below 200 $\mu g/m^3$ (Ex. 47, p. 3). It is not surprising, therefore, that data gathered from a worker population which has enjoyed conditions approaching those mandated for the entire industry by this final standard show a marked improvement in worker health.

Besides positive improvements in the environment, industry estimates of byssinosis prevalence appear to be understated due to other factors, particularly where worker responses are recorded. Some of the disparity between subjectively and objectively obtained health statistics has been attributed to employee reluctance or confusion when confronted with an employer-administered medical questionnaire. There is ample evidence that care must be taken to assure the employee that he will not be prejudiced by his responses. This is especially true when employees fear that forced transfer or early retirement might follow from their test results.

For all these reasons, the subjective health data provided by those few leading companies whose testimony can be documented has not been viewed by the Agency as adequate to rebut the objective health evidence in the record. On the contrary, the success of some of these companies in reducing exposure to levels approximating those in this final standard and concomitantly reducing adverse health effects supports the appropriateness of the level chosen. OSHA believes that the final standard should be especially feasible for those few exemplary companies who have acted to reduce the hazards to the respiratory health of their workers. However, for those many companies who have not succeeded in reducing exposures, the standard must be applied to assure adequate worker protection.

At the other end of the range of exposure limits, OSHA has also rejected a 100 $\mu g/m^3$ or lower limit advocated by the Amalgamated Clothing and Textile Workers Union and the Carolina Brown Lung Association. OSHA does not consider the prevalence of byssinosis predicted for the 200 μg level to be acceptable. On the contrary, OSHA recognizes that a 13% prevalence of byssinosis, including 3% grade 2 byssinosis could be expected at this level (Ex. 6, #51). However, the standard requires implementation of medical surveillance, employee training, work practices, and other protective provisions in textile mills which should provide additional protection beyond that afforded by the 200 $\mu g/m^3$ exposure limit. The record indicates that while medical surveillance is not fool-proof in detecting cotton dust induced health effects, a properly managed program should identify affected workers well before the onset of chronic obstructive pulmonary disease. In addition, the Merchant study predicts only a 3% prevalence of grade 2 byssinosis at 200 $\mu g/m^3$ which should be greatly reduced by medical screening.

Several large companies, notably Burlington Industries, have demonstrated the ability to operate reasonably efficient and effective medical surveillance programs in the mill environment. In addition, despite the absence of medical removal provisions from this standard, several industrial medical directors have testified to the existence of medical transfer practices in their companies. There is further evidence that the maximum number of workers effected at 200 $\mu g/m^3$ is not beyond the capacity of a typical plant to move those affected to a low exposure area. For all these reasons, OSHA believes that the prevalence of byssinosis should be significantly reduced and development of chronic obstructive pulmonary disease should be halted if cotton dust exposures are limited to 200 $\mu g/m^3$ in primary textile processing.

In the preamble to the proposed cotton dust standard, OSHA conceded that there was no known safe level of exposure. However, the other factors, particularly technological feasibility, which supported OSHA's decision to propose a 200 $\mu g/m^3$ exposure limit still pertain (41 FR 56505). In addition, a level much below 200 $\mu g/m^3$ would run into serious interference from background dust levels. Dr. Y. Y. Hammad of Tulane University, testifying on behalf of OSHA, stated:

> "The average concentration of particulate matter in urban and suburban areas varies between 58 $\mu g/m^3$ to 180 $\mu g/m^3$ depending on size and activity of the city. The majority of suspended particulate matter in ambient air is usually less than 200 um. Pasceri reported that respirable fraction in ambient air constitutes about 60% of the total suspended particulate matter. In other words, the background airborne particles are within the particle size range collected by the vertical elutriator in concentrations close to the proposed standard of 200 $\mu g/m^3$" (Ex. 14, pp. 9-10).

Implementation of 100 ug/m^3 or a lower level would appear to require efficient filtration in outside make-up air entering the ventilation system of many areas (Ex. 14, p. 10). The report

of the Research Triangle Institute (Ex. 16, #76), combined with the testimony of representatives of the ventilation industry (Ex. 69), indicate that achieving 100 $\mu g/m^3$ is not within the technological capabilities of the industry. The subject is discussed further in the section on technological feasibility. On the other hand, evidence in the record demonstrates the successful reduction in byssinosis prevalence under operating conditions at the 200 $\mu g/m^3$ level of exposure and in combination with proper medical and administrative controls (e.g. Ex. 40; Ex. 13A).

OSHA has determined that the evidence in the record does not support the application of separate exposure limits for each discrete operation within the cotton textile industry. Dose-response relationships in the record have included data on workers employed in all major departments of the textile mill. These dose-response data and prevalences reported in isolated studies indicate that significant risk exists for workers in job assignments well down the processing chain from yarn preparation. Nevertheless, industry witnesses have advocated a higher exposure level for "downstream" manufacturing processes, particularly spinning (Ex. 160). There is some evidence of low prevalence rates among spinners (Ex. 1, pp. 144-5), usually associated with low dust exposures or situations where the spinning room has been physically separated from the yarn preparation areas (Ex. 6, #17). On the other hand, in addition to the Merchant dose-response data, independent investigators have found high prevalences of byssinosis among spinners: 29%, Bouhuys et al. (Ex. 6, #24); 12%, Zuskin et al. (Ex. 6, #2); 25-29%, Molyneaux and Tombleson (Ex. 6, #2); 10%, Schrag and Gullett. Also, Bouhuys' data on the prevalence of chronic disablement among active and retired workers demonstrates that spinners are as likely as carders to experience excess risk of lung function loss (Ex. 124, p.7, 13). This evidence of a significant hazard to health of spinners and employees in contiguous departments outweighs the speculation that the unidentified active agent(s) are processed out or are not as toxic in operations past roving. Further, it appears that a mill configuration which allows cards and spinning frames to share space or air circulation systems could result in contamination of the spinning employees' environment (Ex. 6, #17). Accordingly OSHA does not find adequate evidence in the record to warrant raising the allowable dust concentrations to which spinners, winders, twisters, spoolers, et al. can be exposed.

In the special case of slashing and weaving, OSHA does believe adequate evidence exists in the record to permit a higher exposure limit without sacrificing employee safety. First, the Merchant study includes a separate dose-response relationship for weavers (Ex. 6, #51). According to a probit analysis of this data, the byssinosis prevalence is zero at 200 $\mu g/m^3$, 5% at 500 $\mu g/m^3$, 10% at 750 $\mu g/m^3$ and 14% at 1000 $\mu g/m^3$. Other independent studies have supported the Merchant findings of markedly reduced symptoms of byssinosis in the weaving areas (Ex. 6, #14; Ex. 6, #18).

Second, the dust in the atmosphere of a typical weaving room has been demonstrated to be composed primarily of sizing materials, usually starch or polyvinyl alcohol (Ex. 6, #51; Ex. 47). Dust measurements taken in prior processing stages and in weaving show a gradual decrease in dust levels up to slashing where the dust concentrations increase conspicuously (Ex. 38, Appendix 1, Fig. 1). The rise is generally attributed to the addition of sizing. Microscopic photography confirms the dominance of sizing particles in relation to lint and dust on a typical filter (Ex. 59, 59a). Several witnesses testifying at the request of OSHA (Ex., TR 460) and industry (Ex. 59, 108) have stated that the presence of sizing would tend to dilute the cotton dust in the environment and, therefore, allow for a greater permissible exposure. No evidence suggests any adverse relationship between inert sizing matter at the concentration permitted and adverse health effects.

Third, the evidence in the record supports the conclusion that engineering dust controls in weaving may not be feasible even with massive expenditures by the industry (Ex. 4168; TR 2393; Ex. 60, pp. 18-19). Unlike other textile equipment, looms have not been fitted with local exhaust ventilation equipment for improved production or health reasons (Ex. 60, p. 15). The nature of the loom requires access by the tender (Ex. 60) which makes the enclosure of the mechanism very difficult. Because of the need to exhaust large quantities of air across the loom and through the floor, an expert in dust control technology have predicted that massive reorientation of the mill would be required (Ex. 60, pp. 14-16). For these reasons, RTI estimated the capital costs to comply with the 200 $\mu g/m^3$ standard to be $1.3 billion.

Of course, the Agency does not view the economic and technological feasibility of reducing dust exposure in a vacuum. It is primarily concerned with the health of weavers, and the record supports the conclusion that a permissible exposure limit of 750 $\mu g/m^3$ will provide weavers as safe an environment as their co-workers in other textile operations exposed to 200 $\mu g/m^3$. In addition, OSHA agrees with the reasoning of the North Carolina Department of Labor (Ex. 108, p. 3) that optimal worker protection would be served by concentrating the textile industry's technical and economic resources on achieving 200 $\mu g/m^3$ in yarn manufacturing as rapidly as feasible, rather than diverting substantial resources to eliminating dust exposure in weaving.

The authors of the merchant study suggest that 750 $\mu g/m^3$ is a "reasonably safe level of cotton dust exposure in slashing and weaving areas (Ex. a6, #55, p. 229)." At that dust level prevalence of all grades of byssinosis is equal to approximately 10% compared to approximately 13% at 200 $\mu g/m^3$ in carding. However, dust measurements made in the Merchant study were expressed in terms of median values. While comparative data demonstrates the virtual identity of mean and median dust values at the 200 $\mu g/m^3$ level, the values diverge at higher dust concentrations. Thus, a median dust concentration of 750 $\mu g/m^3$ correlates with a higher prevalence of byssinosis than does a mean dust concentration of 750 $\mu g/m^3$. From this data OSHA concludes that a 750 $\mu g/m^3$ mean dust permissible exposure limit in weaving areas would correspond to a disease prevalence below 10%. Furthermore, the Merchant recommendation for a permissible exposure limit in weaving was contingent on provision for periodic medical testing of workers (e.g. Ex. 6, #51), a contingency which has been incorporated in the final cotton dust standard.

2. Non-Textile Industries

The approach taken in this final standard to regulating the various non-textile segments of the cotton industry is to apply a single 500 $\mu g/m^3$ permissible exposure limit. This level is applicable to all non-textile industries including but not limited to: warehousing, compressing of cotton lint, classing and marketing, using cotton yarn (i.e., knitting), reclaiming and marketing of textile manufacturing waste, delinting of cottonseed, marketing and converting of linters, reclaiming and marketing of gin motes and batting, yarn felt manufacturing using waste cotton fibers and by products.

In the section on scope and application, the evidence supporting OSHA's decision to include under the standard all workplaces where workers are exposed to cotton dust is compiled and analyzed. These numerous studies evidence the existence of health problems similar to those observed in the textile industry whenever cotton dust has been studied. The arguments advanced by industry representatives that no hazard has been demonstrated in their workplaces ignore the overwhelming evidence of a serious hazard to workers from exposure to cotton dust regardless of where exposure is

encountered. OSHA finds significant the industry's failure to bring forth medical evidence controverting the studies in the record. Indeed, the survey for the warehousing industry presented by Dr. Martin Burman on behalf of the Cotton Warehousemen Association (Ex. 56) suggests that cotton-induced respiratory effects may be occurring with high frequency and, presumably, at relatively low dust levels at the compress. OSHA has concluded that cotton dust is a hazard to workers in all phases of cotton processing and that worker protection requires the application of a permissible exposure limit.

Setting an adequately protective environmental limit for the broad-ranging non-textile operations, however, requires the Agency to draw conclusions from data which do not totally lend themselves to specifying a safe exposure for each operation. The difficulty with the studies in the record is their lack of dose-response data. Without adequate data relating worker response to specific dust levels, the selection of permissible exposure limit is of necessity based largely on other considerations. The choice becomes much more complex if an attempt were made to set different exposure limits for each non-textile industry. There has been much criticism of using the dose-response data collected in textile mills to establish an exposure limit in the diverse segments outside the textile industry. OSHA agrees that without a better understanding of the dose-response effects in non-textile areas, the dose-response data appropriate for establishing an exact permissible exposure limit in textile manufacturing is not readily transferable in setting a precise level in any other industry segment.

In order to protect the workers employed in these widely varying workplaces, OSHA has adopted the most reasonable exposure level from the view point of worker protection in the face of a lack of definitive data. This approach is consistent with OSHA's mandate to assure a safe working environment. The Courts have agreed, stating:

> "Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgements than upon purely factual judgments." IUD v. Hodgson, 499. F. 2d 467, 474 (C.A.D.C., 1973); Accord; Synthetic Organic Chem. Mfrs. Assn, v. Brennen. 506 F. 2d 385, 390 (C.A. 3, 1974)).

In determining what level is reasonable, the Agency has relied upon its interpretation of all the evidence bearing on the health effects of cotton dust. Thus, there is much evidence to the effect that cotton dust affects workers in a similar manner; in other words, the toxic agent or agents in cotton dust appears in varying degrees wherever cotton dust is generated. Where adequate study has been done, cotton dust, like all toxic substances, exhibits a dose-response effect (Ex. 1, pp. 47-50). There is no reason to believe that cotton dust found in cotton seed oil mills or garnetting operations will not show a greater health hazard at higher dust exposures than at lower exposures when adequte data is generated. These considerations were the basis for the setting of a permissible exposure limit in the proposed standard. OSHA concludes that the record does not provide a basis for departing from this regulatory posture. It was argued that the extraordinarily high dust levels and lower adverse health effect demonstrated a lessened degree of toxicity in dust generated in non-textile operations (Ex. 93b; Ex. 97; Ex. 99b). OSHA notes the possibility that a reduced incidence of disease could be attributable to shortened periods of exposure due to the high turnover in non-textile workforces (e.g. Ex. 93, p. 6; Ex. 99b, pp. 6-10). Further, no complete study of the dose-response effects has been made and data cannot be complete when dust levels are so uniformly high.

Further, although the relationship between the lint free respirable fraction to total dust is not fully defined, OSHA has reason to believe that 500 $\mu g/m^3$ is roughly equivalent to 1.0 mg/m^3 measured by an OSHA personal sampler or high volume sampler in the spectrum of non-textile workplaces. Thus, the new standard is about as protective of health as the old standard, and OSHA would require much more definitive data than has been presented to justify a relaxation of protection.

OSHA also notes that Dr. Merchant testified that in his opinion a 500 $\mu g/m^3$ level was an appropriate one for the non-textile industry (Tr. 1298) and that other witnesses stated that a low level was needed in non-textile operations (Ex. 11, pp. 2-3, Tr. 189-90; Ex. 38a, p. 10). In selecting a 500 $\mu g/m^3$ permissible exposure limit, OSHA has set a level which is expected to provide an appropriate measure of protection.

OSHA has rejected a level lower than 500 $\mu g/m^3$ for several reasons. First, the dust levels recorded in most studies containing dust measurements present a general picture of extraordinarily high dust exposures in many workplaces with much less adverse health effects than the textile data would predict (e.g. Ex. 128 A, B; Ex. 99-C; Ex. 6, #68). It appears that 500 $\mu g/m^3$ exposure would very likely constitute a remarkable reduction in many workplaces.

Second, as in the case of the textile industry, the standard mandates medical surveillance, work practice controls, use of respirators, employee education and other provisions to protect employee health. These provisions should safeguard employees who are extremely sensitive even to less toxic levels of cotton dust.

Thirdly, RTI was doubtful of the technological feasibility of a 200 $\mu g/m^3$ standard in any non-textile segment (Ex. 16, pp. 21-26). The testimony presented at the hearings was not any more optimistic about industry's capacity to engineer to such a low level (Ex. 88b; Ex. 93f, j; Ex. 99d, e). On the other hand, there is considerable evidence that a 500 $\mu g/m^3$ exposure limit is feasible in all operations. Feasibility is discussed further in the section devoted to technological feasibility. Finally, there is no evidence that 500 $\mu g/m^3$ does not represent the safest feasible level in any one segment of the industry.

Thus, since there is no quantitative data establishing the precise margins of safety at various dust levels, OSHA has chosen the 500 $\mu g/m^3$ level on the basis of all the factors set out above. As a matter of policy OSHA has determined that it would not flirt with employee protection by setting too high an environmental level on the basis of non-definitive dose-response evidence.

In taking the approach that only an exemption would be appropriate, the industry failed to bring in any health evidence which would aid the Agency in determining whether a higher level represents an acceptable risk to the workforce. It appears inappropriate to allow the industry the benefit of a high-exposure limit until research is done, when worker health is threatened. OSHA is aware of projected studies of these operations, particularly by NIOSH, which might provide the Agency with further data. When these data are available, OSHA may have scientific justification for raising or lowering the permissible exposure limit. Until such data are available, however, OSHA concludes that a 500 $\mu g/m^3$ limit is both justified and necessary to protect worker health in the non-textile cotton industry.

V. Feasibility

In setting standards for toxic substances, the Secretary is required to give due regard to the question of feasibility. Section 6(b)(5) of the Act mandates that the Secretary shall set the standard which most adequately assure employees safety and health "to the extent feasible, on the basis of the best available evidence." Additionally, in the development of occupational safety and health standards, "considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws."

Accordingly, OSHA analyzes both the economic and technological feasibility of proposed standards. OSHA makes such analyses available to affected parties for comment and subsequent hearing prior to issuance of final rules, and invites the submission of other information on the economic impact and feasibility of proposed standards. In developing a standard for exposure to cotton dust, OSHA evaluated both the economic and technological feasibility of the standard on the basis of the entire rulemaking record, including the information developed by its own studies of the proposal and submissions by the public. On the basis of the best available evidence, therefore, OSHA has determined, as explained in detail below, that the permanent standard is both economically and technologically feasible.

A number of studies were done of both economic and technological feasibility considerations resulting from the cotton dust standard. The Research Triangle Institute Study (Ex. 16) contracted for by OSHA considered economic and technological factors for the entire cotton industry. Other studies submitted concentrated on particular industrial sectors affected by a cotton dust standard. In addition, feasibility was specifically considered in testimony at the hearings.

A. TECHNOLOGICAL CONSIDERATIONS

Upon reviewing all the studies and testimony in the record, OSHA concludes that the achievement of the permissible exposure limits established in the final cotton dust standard is technologically feasible. There is significant evidence that the textile industry can use its broad experience in lint and dust control to develop adequate engineering controls in those operations where reductions in dust levels have not been attempted. While adaptation of existing technology should be adequate to achieve compliance, the evolution of new technology has and is expected to continue to provide additional means of achieving lower dust levels and increasing production. In the non-textile industries where experience with dust control is more limited, the change in environmental limit from the proposed 200 $\mu g/m^3$ to 500 $\mu g/m^3$ has given the industry a goal which should be within its capability. Evidence demonstrates that, in both textile and non-textile industries, modification and adaptation of existing dust control systems should bring the vast majority of workplaces into compliance.

Throughout the course of the hearings, various control strategies to comply with the proposed permissible exposure limits set forth by RTI were discussed. Much of this testimony centered on the feasibility of achieving 200 $\mu g/m^3$ in the broad spectrum of cotton operations. The final standard establishes a permissible exposure limit of 200 $\mu g/m^3$ for the textile industry, except for slashing and weaving which are subject to a 750 $\mu g/m^3$ exposure level. All non-textile operations are subject to a 500 $\mu g/m^3$ permissible exposure limit under the final standard. In replacing a single level with multiple levels, OSHA considered testimony concerning available control strategies, data indicating the effects of exposure noticed at these levels, and the variability of observed effects depending upon the operation or process where exposures occurred.

From the view point of feasibility, OSHA believes that the concept of a multiple exposure level strategy brings achievement of these levels within the technological reach of all sectors of the industry. In support of its conclusions on feasibility, OSHA notes industry's own testimony which, in attempting to demonstrate the infeasibility of a uniform 200 $\mu g/m^3$ level, often supported the feasibility of alternative levels approximating those specified by the final standard. (National Cottonseed Producers Association, Parnell).

The RTI and other participant parties discussed four general methods of obtaining compliance with various exposure levels. These were ventilation (both general and local), modification or isolation of a process, work practices, and substitution (Ex. 1, Ex. 16, Ex. 17, Ex. 60). In certain non-textile segments of the industry and in parts of the textile process the adaptation of general methods of control appears to be needed to achieve compliance, and discussions of specific control techniques are not available. On the other hand, for some of the industry, notably early phases of textile processing, specific control techniques are not only feasible but are available and in place in several known facilities. This sophistication in textiles is understandable, since ventilation equipment has been designed over the decades to remove lint and visible particles in order to improve product quality or speed up production. While this equipment has been remarkably effective at removing a significant fraction of the respirable dust, only recently has emphasis been placed on removing respirable particulates from the workplace. This impetus, especially directed at improved filtration, has been successful in refining specific dust control techniques.

Upon evaluating the effects of cotton dust exposure, OSHA concluded that yarn preparation areas of the textile industry represent the most hazardous exposure and require implementation of a 200 $\mu g/m^3$ permissible exposure limit. OSHA also believes this is a technologically feasible level to obtain because of the textile industry's experience with dust control technology as evidenced by specific control measures described in the record.

A combination of specific control measures such as those described below, the adaptation and modification of general dust controls, and further utilization of technological developments which are already underway, should achieve compliance for the textile industry. However, whereas numerous commenters have stated that a 200 $\mu g/m^3$ level is feasible in all yarn preparation areas without requiring complete enclosure of equipment (Tr. 442), others maintain that it is only feasible to obtain a 200 $\mu g/m^3$ level in opening through roving (Ex. 160, p. 58). This narrower view of what is feasible is based on the industry's estimate of the difficulties involved in working with existing building structures, the configuration and positioning of equipment, and other factors peculiar to individual mills (Ex. 1, Ex. 16, Ex. 60). In general, industry has had less experience with specific controls past roving. OSHA recognizes these difficulties and further recognizes that increased effort may be necessary in some instances to achieve compliance with the exposure limit prescribed for the textile operation. Yet, the evidence in the record demonstrates the feasibility of adopting dust control principles, proven successful in other operations, to new stages of the process.

OSHA believes that achievement of a 500 $\mu g/m^3$ permissible exposure limit is technologically feasible for all non-textile segments of the cotton industry. Certain segments (e.g. warehousing and much of classing) are believed to be substantially in compliance. In other parts of the industry, however, OSHA recognizes that application of control technology has not advanced to the stage demonstrated for the textile industry. To some extent, the design of specific dust control equipment has lagged behind the growth of epidemiological and scientific knowledge of the diseases induced by cotton dust. In non-textile operations in general, little attention has been paid to health problems. The failure to apply ventilation controls for health related reasons combined with the general inapplicability of sophisticated ventilation as a means to improved production leave parts of this industry with scanty experience regarding specific ventilation controls. In many instances, even general ventilation equipment has not been used and respirators have been regarded as the primary means for reducing employee exposure to cotton dust.

Despite these difficulties, OSHA has several reasons for its confidence that technology is well within the reach of

the entire industry. First, OSHA has established different exposure limits than proposed for broad sectors of the industry, including textile operations (e.g. weaving) and non-textile segments (e.g. cotton seed oil mills). In some cases, compliance can be achieved without the need for additional engineering controls; in others, industry studies confirmed feasibility if levels above 200 $\mu g/m^3$ were imposed.

Based upon its review of all the evidence in the record, OSHA concludes that achievement of the permissible exposure limits promulgated under this standard is technologically feasible for all operations, not just textiles. In reaching that conclusion, OSHA perceives the need for sectors of the industry to adapt available general dust control principles. OSHA would emphasize that compliance with the cotton dust standard by all segments of the industry depends upon the implementation of general principles of control and should not require "technology forcing" to achieve compliance.

OSHA, however, does recognize that implementation of the standard in certain operations, such as spinning, where the appplication of ventilation controls may involve unusual difficulties, significant innovation or indeed necessitate more than improvement in existing technology to achieve compliance, may be difficult. OSHA notes, however, industry's ability to seek alternative solutions to technological problems beyond those inherent in the adaptation of general control techniques.

This factor along with industry's experience with dust control systems leads OSHA to conclude that the permissible exposure limits are feasible. Testimony by the ACTWU maintains that technological advances based on automating and improving the manufacturing process have been preferred by employers to applying ventilation controls (ACTWU, p. 35). There is evidence that the textile industry has abated hazards due to cotton dust through process modification or machinery design changes in many cases where it has alleged environmental control techniques to be infeasible (ACTWU, p. 28).

As Dr. Parker Reist representing the Union stated (79c), production machinery now in use is old and was not designed with consideration for dust emission control. On the other hand, present dust emission controls, when considered with available modern machinery designs, incorporating higher production rates, labor savings, and improved product quality, will often result in lowering dust levels to within the range of the permissible exposure limit herein prescribed, while at the same time offering economic advantages. (79c). This is due in part to modern equipment being designed with built-in local exhaust ventilation controls as part of the equipment configuration. (open-end spinning, TR 2724). The impact of new technology in opening and carding is amply demonstrated. New technology may also become a significant factor in spinning, cotton seed delinting and wherever new equipment is explored. OSHA concludes that much can be done in the area of ventilation design on new equipment to achieve the permissible exposure limits.

1. General Methods of Dust Control. In assessing the evidence on technological feasibility, OSHA identified four general methods of control whose application should bring the vast majority of cotton workplaces into compliance with the permissible exposure established in this standard.

In the compliance scenarios developed below, a discussion of the general methods of control and the application of the basic methodolgy as presented by RTI, and other hearing participants is presented. The primary purpose for presenting the testimony in this manner is to demonstrate that control of cotton dust relies primarily upon general principles of dust control, and that where such principles have been applied, specific control strategies have evolved which have significantly reduced exposure to cotton dust.

(a) *Ventilation.* The primary method suggested by RTI for reducing exposure to cotton dust was installation of either general or local ventilation systems. Both new automatic equipment and older conventional machines require general room ventilation and local exhaust ventilation (TR 541). Thus, numerous commenters used these principles of environmental control (Ex. 60, Ex. 17), in projecting what can be done in some segments of the industry to bring exposures to within those levels herein prescribed. Indeed, this is what industry has done (Ex. 1, #127, Ex. 60, Ex. 37, 7), as is later discussed.

A. *General.* Testimony in the record indicates that with proper adjustment the central air-conditioning system found in many cotton processing facilities could constitute an effective dust control system. As Dr. David LeSourd of RTI stated, although air-conditioning systems were not designed to maintain low dust levels, with the installation of multi-stage filtration systems, they can become part of the cotton dust control strategy (Tr. 541). Both RTI and representatives of the Pneumafil Company agree that with two-stage filtration and air-washing built into the system, dust levels can be reduced to 500 $\mu g/m^3$ and with third stage filtration and washing, reduced to 200 $\mu g/m^3$ (Ex. 17). However, Robert Soule of Clayton Environmental consultants pointed out that, even when using supplementary filtration units within the air-conditioning system, a prudent approach to achievement of the levels herein prescribed would involve either decreasing the amount of air recirculated to the workroom or incorporating a more efficient dust collection system. (Ex. 17, p. 5). The recycling of air is an integral functioning of any air-conditioning system and as such, part of general ventilation system (Ex. 1, p. 72). In fact, a general principle to be applied is that the concentration of dusts within the work environment will equal the cleaned air dust concentration plus the ratio of the dust production rate divided by the recirculated air flow rate. With good dust capture or a large recirculating air flow rate the concentration of dust in the air which is returned to the workroom will eventually determine the concentration of dust in that space (Ex. 1, p. 72).

Implementation of this general control strategy should be facilitated by the fact that the cotton industry generally uses central air-conditioning systems as part of the ventilation system, not as dust control devices (Tr. 541), but because production requirements often demand both humidity and air-conditioning control (Ex. 16). Air is recirculated and supplemented by limited amounts of make-up air and discharged back into the workplace (Tr. 540). It also appears that if central air-conditioning systems are not utilized properly for dust control several dust problems can develop. Since large central air-conditioning systems tend to even out dust concentrations over the entire mill, increased levels may result from movement of dust from areas of high levels to those of lower levels or even by movement of dusts to areas of reduced air flow where they become trapped and concentrations build-up. One example of this phenomenon has been seen in classing areas (National Cotton Council Special Session on Cotton Dust, p. 31). Further, when air-conditioning systems by themselves are used as dust control devices, increased maintenance costs and impediment of performance often result. Reliance on the air conditioner for dust control means that dust must travel through the work area and into the breathing zones of the workers to reach the air-conditioner inlet usually located on one wall of the room. The fact that dust must be carried back through the breathing paths of workers makes it an inefficient method for dust reduction or removal. When the filtration stages mentioned above are added on and the system is adjusted, these problems should be eliminated.

The impact of various types of air cleaning equipment can be demon-

strated through measurements of dust levels in the work environment. Barr et al. surveyed several work environments and found that measurements ranged from 1000 to 260 $\mu g/m^3$ depending upon the type of air cleaning equipment used (Ex. 1, p. 73). This study clearly demonstrates that with high efficiency dust collection and removal, it is possible to achieve dust levels as low as 200 $\mu g/m^3$ in mills where complete recirculation of the interior air is required. The Barr study emphasized more than just the achievement of a particular level, it also denoted a "common sense" approach to reducing dust exposure in the workplace. Many times, installing a hood over a piece of machinery which is discharging dust throughout the workplace, or strategically collecting trash being discharged from operating machinery may be sufficient to reduce levels to the same extent provided by elaborate ventilation schemes. In fact, numerous commenters (Ex. 1, Ex. 17) maintained that significant reductions could be achieved simply by implementation of a program to maximize the effectiveness of existing dust control equipment.

B. *Local Exhaust Ventilation (LEV).* The capture and removal of dust from the air at its point of generation represents the most widespread and efficient method of dust control at the present time. It can be used in many circumstances where it is not now used to control exposure to cotton dust.

Local exhaust ventilation (LEV) is a control technique employing the following principles: capture of the contaminant as closely as possible to the point of generation; application of adequate air volumes for capture and transport of the contaminant; and selection of efficient filtration devices for collection of the contaminant (Ex. 16). Exhaust ventilation, as used for dust control, relies on providing a sufficiently high flow of air past a particle so that it abandons its state of rest for one of motion (Ex. 79c). In fact, both large materials (lint) and small materials (e.g. respirable dust) can be handled by local exhaust ventilation. Further, quantities of air required for ventilation would not be expected to depend on the concentration of dust in the air being removed, but rather on the dynamic properties of these particles in the air, (Ex. 16).

As the dust is collected by the appropriate capture devices it is transported to the filter media. As pointed out by Soule, some units which have coarse fabric bags which permit re-entry and are not effective against particulates 15 microns or smaller and therefore must incorporate a more efficient dust collection system (Ex. 17, p. 5). Hovan Hocutt of Pneumafil presented testimony on behalf of ATMI (Ex. 1, p. 127) and further elaborated on the "state of the art" which exists for air filtration systems. He concluded that coarse dust filters need additional refinement to obtain optimum filter efficiency, and a determination must be made of best design configuration and arrangement of coarse dust filters to achieve the most practical and economical addition of fine dust filters (Ex. 1, 127, p. 10). Like Soule, Hocutt also recommended that fine dust filters which are most practical for control of particulate sizes of 15 microns or less must be utilized and that the design and application of the filters to achieve dust control objectives may need further refinement (Ex. 17, Ex. 1, 127).

Newer production equipment is often designed with installation of additional dust collecting devices in mind (open end spinning frame), whereas some older equipment (traditional ring spinning) has made no allowance in design for installation of dust equipment. In general, while it appears that there exist standardized physical characteristics of dust collecting equipment, modification or alteration of certain equipment may be necessary for installation in some plants.

The dust-laden air is transported via ductwork to a filtration system. Three stages of filtration are currently employed: a primary, a secondary, and a tertiary filter system. The level of dust control effected is generally related to the number of filter stages through which the contaminated air passes. Both RTI and Pneumafil representatives maintain that by employing adequate dust capture devices, sufficient air volumes, and efficient single-stage filtration, dust levels in the range of 1000 $\mu g/m^3$ can generally be achieved; with two-stage filtration (and air washing), levels not exceeding 500 $\mu g/m^3$ may be expected; if efficient third stage filtration is added (assuming appropriate collection devices and air volume), workroom dust concentrations will generally not exceed 200 $\mu g/m^3$ for an eight hour time-weighted-average (TWA). Dr. Affify of North Carolina State University expressed the belief that dust levels of 200 $\mu g/m^3$ could be achieved in the textile industry simply by use of primary and secondary filtration systems without requiring the tertiary system recommended by Pneumafil and RTI.

In view of the foregoing evidence, OSHA concludes that application of LEV should achieve significant reductions in cotton dust concentrations. Use of LEV has been demonstrated to be successful in past applications and should continue to constitute an effective dust control strategy when applied to new processes.

(b) *Modification or isolation of a process.* Isolation consists of providing enclosures for equipment or complete separation of one work area from another (Ex. 93f). Commenters recommended more complete enclosure or containment of processing equipment and transfer conveyors to minimize dispersal of dust into the air as a result of air movement within the workroom (Ex. 17, p. 6). Further, total isolation of dusty operations such as card rooms and even isolation or separation of filtration systems is recognized as a practical approach to achieving compliance with permissible exposure limits herein prescribed and, indeed, this approach has been adopted in industrial settings (Ex. 1, #127).

Modification of production equipment consists of designing automatic opening systems and automated feedsystems, the utilization of high-speed cards (Ex. 78, Ex. 16), or the addition of oil to the cotton before processing (Tr. 542). In fact, current industrial practices are employing this prrinciple more and more as evidenced by examples given in the RTI report (Ex. 16, A-9). Some operations have already been converted from manual to mechanical handling of cotton. For instance, in the opening/cleaning operations, automatic Karousel-type openers are used and transfer is automatically accomplished (Ex. 16, A-9). Cottonseed processors estimate that a single cottonseed mill handles approximately 8,000 lbs. of dust per day by pneumatic and mechanical conveying equipment (Ex. 93f, p. 6). In all these cases where automation has been utilized reduced dust levels have resulted.

OSHA notes that in many instances, isolation and modification of production equipment have been used in combination in an attempt to reduce dust exposures in the workplace. The use of two control techniques is not only reasonable but, in fact, total compliance often involves utilization of multiple control strategies.

(c) *Work practices.* Generally, it is accepted as "good industrial hygiene practice" to provide adequate maintenance for control and ventilation equipment. Testimony presented during the hearings indicated that significant reductions of cotton dust levels in the cotton industry could be achieved by simply maximizing the effectiveness of the existing control devices (Ex. 17, p. 4). Maintenance of local exhaust hoods, ductwork, dust collection equipment, and fans in optimum condition; programs of total system maintenance and good work practices must be utilized, or the most highly sophisticated engineering control systems will not be effective in reducing dust levels (Ex. 17, p. 6). OSHA realizes that even after exposures have been reduced below the permissible exposure limits, good work practices must be continued if such limits are to be maintained.

(d) Substitution is the practice of using a substance of less toxicity in place of one of greater toxicity. In the case of cotton dust control, this refers to using synthetic fibers as a substitute for cotton. There are constraints which may make utilization of substitution as a control measure infeasible, such as product design and consumer acceptability (Ex. 16, p. 27). Where blends of synthetic and cotton fibers have been used, lower byssinosis-producing dust levels have resulted (Ex. 1, Merchant).

In the foregoing discussion, OSHA has reviewed the general control principles entered into the record in support of the technological feasibility of the cotton dust standard. OSHA believes that application of these principles will bring the cotton industry into compliance with the environmental levels required by the standard. The general discussion also included examples of the successful implementation of these general principles to reduce concentrations of cotton dust.

In the following sections, examples of specific control technology are presented from the record for each distinct operation in the industry. It is clear from the evidence that the evolution of specific technology has resulted in major reductions in cotton dust levels in a wide range of processes. OSHA believes that employment of the technology listed in the following sections and continued experience in applying general principles to specific problems will bring most of the industry within reach of compliance with the standard.

TEXTILES (EXCEPT WEAVING)

The general principles of ventilation control have been utilized to a greater extent and over a longer period of time in the textile industry than in any other sector of the cotton industry.

OSHA recognizes that with the general knowledge possessed by the industry, in most cases only refinement is necessary to adapt dust control systems to the capture of respirable particulates instead of lint and large waste materials.

Cotton lint arrives at the textile mill in hydraulically compressed packaged bales. At the mill the bale covering is removed and the contents are passed through the opening machinery which exposes it to successive processes of intense decompression, beating, cleaning, and mixing. During these operations, dirt and other heavy impurities are removed by gravity or by centrifugal force through grids or screens. Cotton from the opening equipment is usually conveyed pneumatically to the picker room where it is fed evenly to the pickers which further open and clean the cotton and deliver either a picker lap, a flat thick batt of randomly oriented fibers, or pneumatically conveyed loose cotton lint to the carding machinery. Carding machines comb the fiber so that it lies straight and parallel and some cleaning is also effected. Large quantities of dust can be produced by this process and the card room has traditionally been one of the dustiest workrooms in a mill. The main processes in a spinning mill after carding are: drawing to obtain thorough fiber mixing and weight uniformity, roving to draw the sliver down to one fourth to one-eighth its original size and slightly twist it, and spinning to give considerable fine draft to the soft roving and twist it into yarn. Processes subsequent to spinning are only amalgamation of yarn units or changes in the form of the package and result in the production of a yarn in a form suitable for dispatch to the fabric manufacturing mill.

With this overview, the testimony compiled on existing technology pertaining to each operation becomes more relevant. Clearly, it appears that the effect each operation has on preceding or following operations greatly influences the total dust levels in the general workplace.

OPENING AND CLEANING

The purpose of this process is to open, separate, and remove trash from the cotton fiber. Common sources of cotton dust exposure are manual feeding of blending feeders, the blending hoppers, exposed feed tables or conveyors, pressure points in openers, and the condenser (Ex. 16, A-6: Ex. 1 #127, p. 11). Although the machines are usually fairly well enclosed and are equipped with a type of exhaust system effective in removing larger diameter particles, respirable dust levels are still high (Ex. 16, A-6). ACTWU illustrated, in some recent surveys which they compiled, that, the modernized plants e.g., Flint Plant, have automated opening and switched to chute-fed cards with effective built in ventilation, and now have reduced dust levels significantly to ranges of 100 and 210 $\mu g/m^3$, with only 2 of the operating areas recording more than 200 $\mu g/m^3$ levels. Union representatives also discussed additional systems instrumental in significantly reducing dust levels in this process, such as systems to eliminate feeding of stock into hoppers by hand, automatic bale plucking systems and improved cleaning equipment (ACTWU, p. 21).

In the feasibility study done for NIOSH by Pneumafil, evidence was presented indicating the feasibility of achieving a permissible esposure limit of 200 $\mu g/m^3$ in operations from opening through roving. In fact, in one plant surveyed in 1972 by Hocutt, suction hoods had been installed with direct connections to specific machines, condensers had been installed in transport lines from blenders to cleaning equipment, condensers had been installed in transport lines from cleaning equipment to cards (Ex. 1, #127, p. 20) and hoods were installed over feed tables and blending hopper lines. The efficiency of the system was tested and vertical elutriator samples found a median dust level of 360 $\mu g/m^3$. However, as Hocutt pointed out, the primary purpose of this system was to control lint and visible dust (Ex. 1, #127, p. 21). Upgrading the ventilation system is expected to bring levels into compliance with the required 200 $\mu g/m^3$ permissible exposure limit (Ex. 17, Ex. 37, Ex. 60, Ex. 85).

Picking. The main purpose of picking is to continue with opening the fiber, and removing trash and short fibers, for the purpose of mixing the process cotton and forming a uniform lap (Ex. 16, A-9). Dust generation results from internal mechanical action, inadequate filtration devices located on the pressure side of the condensor fan, manual doffing and handling of the picker lap (Ex. 16, A-9).

Hocutt, in a survey, examined the dust handling capacity of a picking operation where the entire lint and dust capture system was ducted to a single filtration system. The results of this 1973 installation were dust levels which dropped from a median of 1006 to 300 $\mu g/m^3$. Once again, this system was designed to control visible lint and dust only (Ex. 1, #127, p. 23), so that further reductions can be anticipated when the system is adapted for removal of respirable particulates.

Union personnel suggest that very few improvements will be made on pickers and in fact existing pickers will only be maintained until they can be replaced with automatic opening and chute-fed cards. This replacement would eliminate the picking operation (ACTWU, Appendix G).

Carding. Studies indicate that the cotton card may be the greatest source of dust production in the cotton textile mill. Several commenters recommeded certain control techniques for reducing the emissions in this area of operation. For example, most of the undercard waste can be collected by the dust control system simply by adding a plenum to the system. In addition, on high speed plates, undercard suction is necessary to prevent excessive blow out of fine dust.

Union personnel pointed out that replacement of conventional cards with high speed cards tends to reduce dust levels (Appendix K, ACTWU). Further, the chute-fed system for carding keeps dust and lint confined within the chutes, therefore maintaining a much cleaner environment (ACTWU, Appendix G). Of the 20,000 high speed cards operating, 5,000 or 25% are chute-fed. (ACTWU, p. 21). Chute-fed

high-speed cards have reduced dust levels from 300 $\mu g/m^3$ to 70 $\mu g/m^3$ in card rooms (this represents a 200–500 $\mu g/m^3$ TWA) processing low grade cotton (low grade cotton generates more trash) (p. 32 ACTWU). Neefus noted reductions from 440 to 190 $\mu g/m^3$ and Imbus measured levels of 2000–725 (range of 200–500 $\mu g/m^3$ TWA) after installation of chute-fed cards in the carding area (Ex. 37, 7). It should, however, be emphasized that chute feeding was not designed to reduce dust levels but instead to increase productivity.

Alternatives other than card replacement have been used successfully to reduce dust levels. Hocutt reported on one alternative approach. The plant had installed a lint and dust capture system consisting of suction tubing at both ends of the plenum for maximum air quality, an undercard suction plenum which collected the trash and fly falling out beneath the lickering device (Ex. 1, #127, p. 36) and finally a suction nozzle at the trumpet on the coiler completed the capture system.

Vertical elutriated dust samples taken at three strategic locations were 750 $\mu g/m^3$, 300 $\mu g/m^3$, and 430 $\mu g/m^3$. The undercard system had contributed 82% to the air quality per card and 100% to the dust control system, totally.

Hocutt maintained that dust levels could be reduced even to lesser levels by the addition of more filtration consisting of adding a two-stage rotary drum filter between the secondary preseparator and the air-conditioning system.

It was generally agreed that a 200 $\mu g/m^3$ level could be obtained with installation of ventilation equipment designed to efficiently collect respirable particulates (Ex. 60, Ex. 37, Ex. 69, Ex. 17, Ex. 114).

Drawing. Slivers from the cards pass through drawing frames where several slivers are pulled together between rollers. The purpose is to straighten the fibers and reduce the size of the strand which they compose. Draw frames are enclosed and controlled by a type of dust control system. Draw frames are not believed to contribute seriously to dust loads in the room. Further, the desired level of control may be affected relatively easily by capturing and filtering the output from the internal dust control system.

Hocutt testified during the hearings (Ex. 60, p. 7) that the technology to reduce respirable dust levels is relevant and when applied should achieve a 200 $\mu g/m^3$ permissible exposures limit. His conclusion was based on a long-time familiarity with these machines. Further, NIOSH reports a 180 $\mu g/m^3$ dust level for a drawing operation in one plant which lacked any control equipment other than that provided by general room ventilation (Ex. 37, 7).

Combing. The primary purpose of this operation is to remove short fibers, neps, and waste particles in order to make the fibers parallel, make the fiber strands uniform, and blend the fibers. Most dust and fly generated come from the aspirator fan which discharges directly into the room environment at each comber. A small quantity of dust can be expected to be generated at the coiler and the draw box. Since combing is done only on long staple, high grade cottons which are relatively dust free, combing is unlikely to be a significant source of air contamination (Ex. 16).

While it appears that combing operations, for the most part, will not require significant ventilation improvements, Hocutt expressed his view that in some cases installation of ventilation equipment may be necessary to reduce exposure limits to 200 $\mu g/m^3$. OSHA realizes that some plants may experience difficulty in installing ventilation equipment, however, as more experience is gained in controlling these difficult areas, implementation will become easier.

Roving. The sliver from the draw frame may also proceed to the roving frame which reduces the size of the sliver by roller drawing, imparts a slight twist, and winds the product on bobbins for spinning. Exposure measurements taken in these areas indicate that levels are low, and in fact generally are below the permissible exposure limits. In fact, vendors of ventilation systems did not suggest that any control was necessary when queried (Ex. 16).

Hocutt did suggest that in some instances roving may need additional controls to achieve the 200 $\mu g/m^3$ permissible exposure level. For example, in roving areas of some mills producing medium to fine counts, the discharge from the collector unit on each roving frame and conventional filters might have to be collected (Ex. 60, p. 9); whereas in coarse count mills using relatively low grade stock, a rectangular plenum must be mounted inside or behind the Samson with suction slots on the flyer side.

OSHA realizes that isolated cases such as those discussed by Hocutt will be a recurring problem and that some added efforts may always be necessary to achieve compliance with the prescribed standard in some operations.

ACTWU (p. 21) emphasized that with the advent of the open-end spinning system, a question mark can be placed on the future of the roving frame. In fact, ACTWU expects no substantial developments in dust control technology in this area. However, OSHA requires that where developments in the technology are necessary they be made. The anticipation that new technology will ultimately replace existing technology can not be used as a substitute for applying available control remedies to existing operations.

Spinning. There are basically two types of spinning processes, traditional ring and open-end, with traditional ring spinning frames comprising 95% of total spinning production equipment (Ex. 16). The combination of reduction in yarn diameter and high air speeds across the yarn create the opportunity for release of a portion of fine trash remaining at the spinning operations.

To eliminate waste, all spinning frames are equipped with "loose ends" collection systems for cotton yarn that breaks in processing. This collection system alone is sufficient to prevent airborne dust concentrations from exceeding 1000 $\mu g/m^3$. In order to reduce levels even lower, the exhaust from the ends collection system which is normally recirculated back into the room, must be captured by an external dust collection device (RTI, Ex. 16).

Hocutt maintained that it would not be feasible to reduce dust levels in all spinning operations to levels lower than 500 $\mu g/m^3$. His position was based on the difficulty in working with some equipment, and the configuration or the lack of space needed to install ventilation equipment. OSHA is aware that confounding factors exist in some mills which make installation of ventilation equipment difficult. However, when more attention has been given to general principles of ventilation control, this has in many instances sufficed to reduce levels to within those herein prescribed. Further, when the entire process is viewed rather than each operation independently, it becomes clear that reduction in dust levels in beginning operations may affect the levels in final operations. Further, in some instances isolation of spinning from dustier operations could be utilized along with additional general ventilation improvements to bring levels to within those herein prescribed. In the past, application of principles described above have been used successfully to reduce dust levels in the workplace, and it is reasonable to anticipate that this is what will be done now.

Open-end Spinning/Traditional Ring Spinning. Open-end spinning differs from traditional ring spinning in that it is enclosed and under negative pressure. Neefus reports a reduction in dust levels from 780 to 170 $\mu g/m^3$ in one plant (Ex. 37, 7) which converted to open end spinning. Industry reports level reductions ranging from 690 to 210 $\mu g/m^3$ when open end spinning replaced ring-spinning. Further, if operations would switch from ring spinning to open end spinning the cost is reduced (Tr. 2593). However, open end spinning (Tr. 2724) still requires local exhaust ventilation over frame filters to achieve compliance with 200 $\mu g/m^3$

permissible exposure limit. Basically, open end spinning is more adaptable to the installation of local exhaust ventilation than is traditional ring spinning and because of this provides reduced dust levels in the work environment.

ACTWU (p. 19) discussed the advent of the open or rotor spinning frames and the impact it is having on ring spinning. These new frames eliminate the need for roving and winding. Spinning is performed in enclosed rotors with build-in suction to minimize dust emission. However, this process has not been found suitable for all types of cotton yarns at present. Based on past experience open end spinning may not be adaptable for use with yarn counts beyond twenty (not for fine counts just for coarser counts). However, where adaptable, open end spinning has several important advantages over ring spinning, in addition to the reduction of cotton dust. One advantage of using open end spinning is that cotton of a far lower grade can be processed than with ring spinning. In addition, the open end spinning frame in combination with the chute fed card would replace eight conventional processes with two, so there appears to be an economic advantage in continued perfection of the open end spinning frame. Union witnesses also pointed out that there are 168,792 spindles of open end spinning in place currently. Further, ACTWU also projected that a long staple open end spinning frame will be developed with major influence in replacing the ring spinning frame.

OSHA realizes the uncertainty involved in awaiting the development of a long staple open end spinning frame, and it is for this reason that OSHA concludes that control strategies must be implemented which rely upon what can be done with existing equipment. OSHA encourages technology innovation as a future strategy for eliminating dust. However, for the present general principles of ventilation control coupled with proven and applied control strategies must be relied upon and will, in OSHA's judgment, be sucessful in bringing dust levels to within those herein prescribed.

OSHA considered the arguments presented by both industry and union representatives in ascertaining which permissible exposure limits are feasible for the spinning operation. It is OSHA's belief that spinning will require some effort to comply with the 200 $\mu g/m^3$ level set for the textile industry. When each operation in the textile process is examined with regard to its relationship to subsequent operations, it is clear that reducing dust levels in operations from opening to roving would aid in the reduction of dust levels in areas of final processing such as spinning. Further, general practicies such as ventilation installation, process isolation, and equipment modification are recommended as strategies for controlling dust levels to the limits required. These strategies have proven successful in many instances. However, little work has been done as yet to adapt these principles to dust control in spinning, particularly with a goal of reducing respirable particulates. Without underestimating the difficulties in achieving the limit required, OSHA believes that a major effort to solve the dust control problem in spinning using the strategies enumerated and relying on experience gained in other textile operations will produce successful results. OSHA notes that, with the application of a higher permissible exposure level in weaving, the industry can focus more resources on spinning operations.

Therefore, OSHA concludes, based on knowledge of sound environmental control provisions, that with the utilization of these techniques in addition to specific controls which have been implemented in the past, permissible exposure limits can be reduced to within those limits herein prescribed.

Winding, Spooling, Twisting, and Warping. These are processes by which yarn is either transferred from one package to another, defects are removed, twisted or wound into a ball for later processing. Levels in all these operations are currently very low and are not expected to present a compliance problem (Ex. 16, A-40; Ex. 38, NIOSH, Ex. 16). OSHA realizes that inherent operational difficulties found in some operations may require increased effort to reduce dust levels to 200 $\mu g/m^3$; however, OSHA agrees with RTI's assessments and concludes that the vast majority of workplaces will be able to comply with little difficulty.

Weaving and Slashing. Weaving is the process of interlacing two sets of yarn, one running lengthwise on a loom, the other crosswise, by means of a shuttle. This results in a woven fabric, ready for finishing processes such as dyeing.

The permissible exposure limit for weaving and slashing was set at 750 $\mu g/m^3$. OSHA's decision was based solely on epidemiological evidence indicating a lower prevalence of byssinosis among workers involved in this operation than in yarn preparation. Evidence clearly demonstrated that the airborne materials released during this process are not totally cotton dust but consist, in part, of starch materials. OSHA concludes, based on the evidence in the record, that the 750 $\mu g/m^3$ level for weaving and slashing is both economically and technologically feasible. In fact, industry's expert witness estimates that existing levels in 72% of the weaving operations are already in compliance with a 750 $\mu g/m^3$ permissible exposure limit (Tr. 2419).

Some industry spokespersons indicated that weaving operations peculiar to their own mills may not be able to comply with a 750 $\mu g/m^3$. They maintain that controlling exposures in some weave rooms to less than 1000 $\mu g/m^3$ would be difficult (Tr. 2532). OSHA is aware that particular plants or equipment configurations may make compliance in some weaving operations more difficult. However, based on the experience acquired, it is believed that the application of general principles of ventilation control can be used to reduce exposure limits in these situations. In fact, this is what has been done in the past (Tr. 2552, Ex. 37, 7, Tr. 2419).

Numerous hearing participants presented evidence on specific methods which have been used to achieve reduced dust levels in weaving operations. One method recommended increasing the air flow under the looms which normally are exhausting air away for purposes of moisture control (Tr. 2725). Where air flow has been increased to 20,000 cfm per loom, readings of dust levels in the work place were 750 $\mu g/m^3$ (Tr. 2552). Finally, exposure readings taken by NIOSH representatives recorded exposure limits as low as 370 $\mu g/m^3$ in weave rooms where only room ventilation was being used (Ex. 37, 7).

RTI suggested three basic approaches to compliance. First, isolating weave rooms from dusty processes; secondly, using separate room ventalation equipment, so that dust is not introduced through recirculation, and thirdly, installing local exhaust ventilation.

Evidence was presented which clearly demonstrates the feasibility of compliance with a 750 $\mu g/m^3$ level in slashing/weaving operations. Several commenters presented evidence on exposure measurements taken at various weaving operations demonstrating current exposure levels considerably less than the 750 $\mu g/m^3$ permissible exposure limit (Tr. 2552: Tr. 2583; Ex. 37-7). Further, reduction of dust levels in other areas of the textile plant will often aid compliance in areas where specific engineering controls may not be as readily applicable.

Non-textiles. As discussed in detail above, the permissible exposure limit for non-textile operations is 500 $\mu g/m^3$. Based on a thorough evaluation of the record, this level is considered both technologically and economically feasible for the non-textile operations. It should be emphasized that the non-textile sector does not have a history of using dust control equipment comparable to the textile industry. In many instances, even general ventilation equipment has not been used, and in fact primary reliance has been

placed on respirators for reducing employee exposure to cotton dust. In addition to the lack of experience with dust control techniques, compliance in the non-textile industries is complicated by a lack of uniformity in operations. However, where some application of the general methods of engineering control have been employed, achievement of a 500 $\mu g/m^3$ permissible exposure limit has become feasible. OSHA is of the view on the basis of the evidence and examples discussed more fully below, that further application of these general engineering control principles to the various non-textile operations will successfully reduce exposure to the 500 $\mu g/m^3$ permissable limit. The application of these principles is discussed below.

Warehousing. Exposure data collected in five warehouses indicate that many warehousing operations are already in compliance with a 500 $\mu g/m^3$ permissible exposure limit. Specifically, exposure measurements taken in the receiving and sampling areas ranged from 140-410 $\mu g/m^3$ (97 f, p. 14). Industry representatives estimate that depending upon the geographic conditions, dust levels in these areas will generally be 200 $\mu g/m^3$. Storage area samples taken were approximately 235 $\mu g/m^3$ and industry spokesperson estimate that compliance would be facilitated simply by house cleaning. Further, levels as low as 30 and 40 $\mu g/m^3$ were found in dead storage. In the dinky press area levels ranging from 160-410 $\mu g/m^3$ were recorded; warehousing representatives estimate that exposure levels in this area will not exceed 500 $\mu g/m^3$. Finally, in the loose room average levels of 300-580 $\mu g/m^3$ were measured. Industry spokespersons commented that this area represented the highest exposure patterns and that compliance would require some installation of ventilation improvements. Warehousing spokespersons estimate that housekeeping alone would maintain dust levels to within the 200 $\mu g/m^3$ standard contained in the proposal (97 f).

The compress is a major exposure point in those warehouses which compress cotton bales. (Ex. 95) Approximately half of all warehouses perform compressing, which represents mostly those facilities with the greatest storage capacity (Ex. 95 b,c). While the limited testimony on compressing indicates that engineering controls for the massive compress would be difficult because of the rapid displacement of air caused by the compression of the bale no data representative of dust levels at the compress in excess of 500 $\mu g/m^3$ were offered by industry. Furthermore, engineering testimony presented by warehousing representatives generally supported feasibilty of the 500 $\mu g/m^3$ limit.

Classing Offices. Classing offices have reported dust levels as high as 2400 $\mu g/m^3$ in some southern regional offices. These levels were found in offices where no ventilation controls had been provided. As a result of this information on exposure limits, some classing offices began to install minor ventilation systems. Systems of fans and filters designed to capture dust at the table top level, filter the dust out of the air, and exhaust the cleaned air back to the workplace were installed (air was not exhausted to the outside because temperature and humidity control are required in classing offices.) The result of these first attempts at improvements was a reduction in exposure limits to levels as low as 120 $\mu g/m^3$. Further, investigators noted that reduction in dust level depends a great deal upon the rate of air exchange in the work area. In one particular office, variations of 1.5-11.0 minute differences in air flow rates were responsible for higher dust levels.

Based on the information presented during the hearing regarding exposure in classing offices, OSHA concludes that compliance will be readily achievable with the installation of ventilation equipment. Indeed, it appears that only minor changes should be necessary to produce required levels.

Knitting. Initially, the discussion of technological feasibility for knitting manufacturers' was omitted from the RTI study. This was due in part to the lack of data pertaining to existing dust levels resulting from this operation (Ex. 16). However, during the hearings, Mr. R. L. Thistlewaite of the National Knitwear Industry presented testimony on dust levels which were common to this operation. In a three month study which he conducted in a knitwear plant, he measured dust levels of 40-90 $\mu g/m^3$ (Ex. 149). These levels substantiated his hearing testimony in which he stated that the industry, in general, was in compliance with the then proposed 200 $\mu g/m^3$ permissible exposure limit (TR 4218).

Since the final regulation provides for a higher permissible exposure limit (500 μg/cu m), OSHA concludes that compliance in this portion of the industry is clearly feasible.

Waste Processing. In preparation for the hearings, cotton waste processors jointly developed an economic and technological analysis of their industry. The results indicated (Booker, p. 2, Cotton Waste Recyclers) that a permissible exposure limit of 500 $\mu g/m^3$ could be achieved by using specially designed dust capture devices at emission points, exhaust fans for drawing dust laden air out of the work place, and high efficiency filtering systems for removing dusts. There is no suggestion that these controls cannot be adapted and applied to achieve the 500 $\mu g/m^3$ exposure limit. A discussion of some of the processes included in waste processing and the application of control techniques considered suitable for these processes is presented below.

Garnetting. NIOSH conducted a survey of garnetting operations to ascertain what dust exposures were present in these operations. Dust control equipment consisted of a series of round ducts extending vertically down from large ducts on each side of the machine. Average air flow rate of 4600 cfm was supplied through this ducting system. The filtration system consisted of a pre-separator, a rotating drum, a secondary filter and a tertiary vee cell filter. Air was discharged into a different room and recycled through an air conditioning system. Vertical elutriator dust measurements showed dust levels of 650 $\mu g/m^3$.

NIOSH recommended redesign of the dust capture equipment as a method of improving control in this operation. Side ducts are inefficient in directing captured air and hooding should be used over emission points instead. Filter efficiency should be checked since return air recycled back into the work place contained levels of 190 $\mu g/m^3$. Improvement in the controls, along the line suggested by NIOSH or others should readily reduce exposures below 500 $\mu g/m^3$.

Since the garnetting operation is similar to some textile operations, control techniques recommended for textile operations such as hooding over the picker feeder hopper, capture of the air from the picker beater fans, specially designed removable covers placed over garnetts, and hoods installed over lappers are expected to reduce dust levels in garnetting operations. (Ex. 16, IV-17). Further, increased air flows and improved filtration should reduce levels (Ex. 16, IV-17). Vendors of dust control equipment presented evidence at the cotton dust hearings which supported the feasibility of the suggestions made by RTI for reducing exposures, and agreed that exposures can be reduced to levels of 500 $\mu g/m^3$.

Nonwoven Fabric and Surgical Dressings. Limited evidence was presented during the hearings regarding exposures in this process. RTI estimated that exposures could be controlled by implementing controls recommended for the yarn production industry. Cards and pickers used in processing of woven fabric and surgical dressings are very similar in physical configuration and emission rates, so that it can be anticipated that local exhaust ventilation used in yarn production can be adapted here also. (Ex. 16, IV-18).

Mattresses and Bedsprings. Major exposure to cotton dust arises in the manual handling of the cotton batting and through operation of the quilting machines. One solution suggested is to eliminate, whenever possible, manual

handling of cotton in order to assure that employee exposures are maintained at or below 500 $\mu g/m^3$. While RTI suggested hooding of the quilting machines as a method for reducing employee exposure, they indicated that work practices alone may provide the most satisfactory means of achieving and maintaining a 500 $\mu g/m^3$ standard. Vendors generally agreed with RTI's assessment and believed that compliance with a 500 $\mu g/m^3$ standard is obtainable by utilizing control techniques similar to those generally recommended for controlling waste processing. The National Association of Bedding Manufacturers (NABM) conferred with vendors (p. 50) and feels that compliance with a 500 $\mu g/m^3$ limit is possible if capture hoods, ducts, filters and waste handling equipment are utilized. Limited data collected by NIOSH indicates that some operations are already well below the permissible exposure level. With the proper application of available dust control technology, no difficulty is expected in reaching the permissible exposure limit.

Spun Yarn. Much of the equipment utilized in the manufacture of yarn from cotton waste is similar to the equipment used in the manufacture of yarn from raw cotton. It is expected that ventilation equipment suggested for controlling dust exposures in the manufacture of yarn from raw cotton would be adaptable to operations which make yarn from cotton waste. Further, vendors of ventilation equipment (National Cotton Council of America, EIS) estimated that compliance with a 500 $\mu g/m^3$ standard was achievable in this operation.

Cottonseed Oil Production. The cottonseed oil production process consists of taking cottonseed which has been stored in the open air or in large warehouses, transporting it to the mill by screw conveyors which are fed by hand, and then passing it through one or more cleaning (delinting) stages. At the delinting stage, fuzz is removed by one or two passes through the machinery. Linters are baled and sold for use in the waste processing and seeds are transferred to areas for crushing and oil extraction. Potential sources of exposure are the seed storage house, and the cleaning, delinting, and baling operations.

Data on dust levels in cotton seed mills is scanty. It appears that levels, where reported, are high in relation to the prescribed level. However, dust measurements reported by Dr. Hans Weill were as low as 300 $\mu g/m^3$ at major exposure points in one mill. According to Dr. Weill, the reduced levels at this plant were probably explained by the cleaner variety of seed processed, by the installation of 1972 of newly designed machines, and by the effects of improvements resulting from vigorous local enforcement of air pollution control (Ex. 125). While these explanations were presented merely as speculation, they generally coincide with the methods offered by hearing participants as those general approaches most likely to result in reductions in dust levels.

The cotton seed receiving area generally has high dust levels which result from the dumping of cotton seed and the vacuum unloader. Industry reports indicate that dusts levels in this area can successfully be controlled by partially or completely enclosing the seed dump and exhausting dust laden air from the dump area (Ex. 128L).

Cleaning rooms have very high dust levels and would require extensive removal of dust to come into compliance. Newer equipment such as enclosed sand and boll reel cleaners or air classification equipment should reduce dust levels. One mill passes seed first through a zig-zag separator before passing through an air classifier. This has proven very successful in cleaning the seed while at the same time reducing dust levels (Ex. 128L).

The feasibility study completed by the National Cottonseed Producers Assoc. recommended that dust generating areas of the cleaner be enclosed to insure dust entrapment by placing hoods directly on the top of the cleaner rack. A box would also be constructed to catch bolls and trash at the rear of the cleaner. In general, the study recommends isolating the cleaning room from other processes, and using a baghouse to prefilter all incoming process and exhaust air (primarily due to the heavy loading of particulates in the outside air). Further, a make-up air system would have to be installed to supply prefiltered air for replenishing process stream air and hood air. Several techniques, in addition to ventilation control, have proven effective in reducing exposure limits in the linter rooms. Basically, there are three methods presently used for delinting: saw delinting, abrasive delinting, and acid delinting with sulfuric acid. All three methods have significantly resulted in reduced dust levels in the delinting area, although abrasive and acid delinting may create elevated dust levels in the hulling areas (128 J).

Abrasive delinters, however, can be completely sealed to prevent leakage. Further, an advantage exists with an abrasive delinter in that it is possible to use fabric filters to control emissions from the delinting operations. This requires that the total air handled is less with the abrasive linters therefore, less air need be cleaned, thereby significantly reducing the amount of air returned to the workplace environment.

Acid gas delinters not only provide improved dust control but also decrease labor and energy requirements, and decrease equipment and maintenance costs.

Parnell recommended a system of hooding in saw delinters in order to achieve low dust levels in linter rooms. Parnell referred to work done by Leonard in designing the linter hood systems. Addition of this hooding system should reduce levels to the permissible exposure limit of 500 $\mu g/m^3$ set in the final standard (pp. 30-39). Other industry representatives suggested the use of high efficiency cyclones in separation systems along with secondary air filtration equipment as a method of achieving compliance.

OSHA realizes that achieving 500 $\mu g/m^3$ in most cotton seed oil mills will require considerable effort on the part of the industry. However, this effort will involve only an application of existing controls and is not likely to necessitate technological innovation. There appears to be no reason for concluding that a reasonable effort at implementing general dust control principles such as those suggested above, along with the adoption of "common sense" work practices will not bring the majority of cotton seed oil mills into compliance with the permissible exposure limit.

V. Economic Considerations

To assess the economic feasibility of the proposed standard for cotton dust, OSHA undertook a study of the proposal's economic impact on the affected industry. This study was conducted for OSHA by the Research Triangle Institute (RTI) (IIS). Additional information was obtained through OSHA's analysis and consideration of all other economic data, comments, arguments and testimony submitted at the hearings, in pre-hearing comments and in post-hearing comments and briefs. On the basis of the best available evidence, therefore, OSHA has determined, as explained in detail below, that the permanent cotton dust standard is economically feasible.

COMPLIANCE COSTS

Estimates of the total costs of compliance with the permanent cotton dust standard for the major affected industries are as follows: Capital costs of $656.5 million, and annualized costs of $206.1 million. The textile and nontextile estimates of costs of compliance are separately analyzed below. As that analysis indicates, estimated costs are within the financial capability of the affected industries. Thus OSHA has concluded that the cotton dust standard is economically feasible and that the regulated industries are able to bear the costs of compliance with this standard.

OSHA's estimates of total costs for compliance with the final standard are

significantly lower than estimates of the proposal's compliance costs, in part because the standard in its final form differs from the proposal in areas which significantly impact on the cost of compliance. A primary difference is that the proposal would have required all textile and non-textile employers to reduce employee exposure to cotton dust to 200 $\mu g/m^3$, whereas the final standard requires the reduction of employee exposure to 200 $\mu g/m^3$ only in yarn manufacturing processes from opening up to, but not including, slashing and weaving. Thus, estimates of capital costs for engineering controls have been reduced for those processes or industries for which higher permissible exposure limits have been set in the final standard. In addition, total compliance costs for the proposed cotton dust standard included costs of compliance for cotton gins which are excluded from the scope of this final standard and are covered by a separate regulation (29 CFR 1910.1046). Estimates of costs of compliance for the principal industry sectors and the major cost-related provisions of the regulation are summarized below. In most cases, OSHA has reviewed and accepted the bases of the cost estimates presented in industry testimony, though these have sometimes been adjusted.

Costs were separately estimated for the required compliance activities of monitoring, engineering controls, work practices, medical surveillance, respirators, training, signs and recordkeeping. Costs for each of these activities, other than engineering controls, have primarily been based on RTI's cost estimates. The primary focus of the participants to the cotton dust rulemaking was on costs for engineering controls and work practices, and in the absence of substantially contradictory testimony and alternative methods from affected industries, the approach of RTI has been largely adopted by OSHA in estimating the cost of compliance with the monitoring, medical surveillance, respirator, training, signs and recordkeeping requirements of the final standard.

TEXTILE INDUSTRY

The cotton textile industry was described in detail by RTI (IIS, Appendix A). As noted, data for the sectors examined indicate only moderate industrial concentration, with about 25 percent of the largest firms in weaving sectors accounting for about 70 percent of sales and with seven percent of the yarn firms accounting for 30 percent of sales.

The profits in textiles have historically been cyclical and low, compared to those in other manufacturing industries, in terms of the dollar values in relation to sales or as returns on investment. However, between 1969 to 1974 the textile industry's rate of return on investment improved relative to other manufacturing industries, and has been about four percent since 1971. Competition from synthetic fibers reduced the cotton share of the total domestic fiber market to less than 30 percent in 1974. Studies of interfiber competition have not yet fully taken into account changes in oil prices in recent years. Such changes, along with others in foreign trade levels, may have important effects on the textile industry. However, RTI estimated the inflationary impact of the regulation on the basis that costs of compliance will be passed on in output prices and that general industry profit rates would be maintained.

A. *Cost of Engineering Controls.* The principal component of the estimated costs of compliance will be in cotton textile industry, and the level of total annualized costs will be largely determined by the requirements for capital spending for engineering controls.

During the cotton dust rulemaking, differing cost estimates for engineering controls in textile operations were submitted by various participants. The differences in the cost estimates were the result of differences in assumptions as to current exposure levels, data available, methods for determining and annualizing capital costs and methods and periods for depreciation.

1. Capital Costs. Table 1 shows the various estimates of costs of engineering controls for the textile industry. Industry—wide costs were based on the application of controls to all production equipment in mills processing cotton and cotton blends, regardless of the fiber processed by particular equipment and even if part of the production were pure synthetics. Although cotton dust is not generated by equipment used to process synthetics (and, consequently mills processing only man-made fiber are exempt from the final standard), RTI included such equipment in its cost estimates because in a plant processing cotton blends, which would be covered by the standard, this equipment is substitutable for cotton processing machines. RTI said that exclusion of equipment used to process synthetics in cotton blend mills could reduce yarn production control costs by as much as 30 percent (IIS, pp. V-13, V-14).

RTI made an assumption of compliance with the previous cotton dust standard (29 CFR 1910.1000 Table Z-1) thus assessing only the incremental costs of moving into compliance with the proposal. While assumption of compliance with the previous regulation underestimates the actual costs in processes that are not in compliance with that regulation, RTI may have over-estimated compliance costs since some operations are already in compliance with the permissible exposure limit of the new standard. Dr. David LeSourd of RTI explained that RTI did not have data on the degree of compliance in the industry as a whole, but instead only had data for some specific mills (TR 617-622). Dr. LeSourd also said RTI did not take into account recent or projected changes in textile production technology (noted in a 1974 ATMI report) because he felt they would not affect the way the industry would achieve compliance or the costs of compliance with the proposed regulation. Milton Wright, also of RTI, said costs of controlling dust on new and old machines were generally found to be the same for each machine. There was some cost reduction with use of high speed cards, and costs for them were separately estimated. He said 80 percent of the industry already use high speed cards, and some cotton cannot be processsed with that equipment. He also foresaw some saving in the use of open end spinning instead of ring spinning, but the products differ (TR 623, 624). RTI estimates of engineering control costs include purchase of equipment and costs of site preparation, installation and design engineering (IIS, p. VI-17).

L. K. Fitzgerald said ATMI found the conclusion in the IIS completely objective viewed from the persepective of the data available to RTI, but the RTI estimate of the costs of achieving 200 $\mu g/m^3$ were understated because of the assumption that the industry is in compliance with the current regulation, whereas in actuality such costs would still have to be incurred by the industry. He developed new estimates of capital and annual costs based on adding to the RTI estimate the sum of $143.3 million for the capital costs of compliance for yarn production. The basic reason that RTI excluded such costs was that they were related to complying with the previous regulation rather than with the proposed regulation; the $143.3 million in 1974 dollars was estimated as the cost of "going from zero dust control of compliance with the existing 1.0 mg/m^3 standard" (IIS, p. V-8). Moreover, RTI said the "actual level of controls in the cotton industry could not be determined," from data available to RTI, though they were aware of the investment and of the success in dust control in certain plants and firms.

In addition, testimony (e.g., in statements by Harold Imbus and Hovan Hocutt) made clear that substantial amounts of such controls are, in fact, in operation. Therefore, adding this amount to the incremental costs estimated by RTI would result in a substantial overstatment of the control expenditures the industry could reasonably anticipate. Further, Dr. Parker C. Reist provided some test data showing that, for some new machines, cfm (cubic feet per minute) re-

quirements per pound of cotton per hour declines as the number of pounds per hour rises with the installation of new machines (PH 3, App. K). This means that the essential cost of control goes down the more productive the machine is because the cost of the control is the same whether the machine is old or new. Thus Fitzgerald's addition of the $143.3 million to the RTI costs estimates would overstate costs of compliance by failing to recognize the value of existing efforts of the industry to control dust by retrofit of existing machines and by ignoring alternative control methods.

Mr. Fitzgerald also testified on the efforts of Mr. Hocutt to estimate industry costs for engineering controls. Mr. Hocutt used data of a recent ATMI survey which were not available to RTI and estimated industry costs in terms of current equipment prices for the permissible exposure levels advocated by ATMI (i.e. 500 $\mu g/m^3$ for opening through warping, and 1.0 $\mu g/m^3$ for slashing and weaving) (Ex. 69). It is not possible to compare all of the cost data for these yarn production estimates as reported by Mr. Fitzgerald directly with those offered by RTI or other sources because of these differences in exposure levels, in data bases and assumptions, and in grouping of production processes.

2. Annualized Cost of Capital. RTI calculated annualized costs of capital on the basis of several assumptions: depreciation was assumed to occur over a period of 14 years, in accordance with an earlier limit for textile equipment tax write-off periods established by the Internal Revenue Service; and assumed market interest rate of 10 percent; administrative overhead, equipment taxes and insurance at 2.5 percent a year, and, in the absence of a basis for estimation, zero salvage value for control equipment (IIS, pgs. VI-25, VI-16).

Industry agreed with this approach. However, Mr. Fitzgerald proposed changing the estimates of annualized costs calculated by RTI to reflect the reduction by the I.R.S. in the depreciation period from 14 to 9 years thus raising annualized costs of capital by about 23.5 percent. This might be appropriate if, in fact, the life of engineering controls were 9 years. However, no testimony was presented on the operating life period of such controls, nor was there recognition of the lower amounts of total interest charges that would occur if the controls were to be amortized over fewer years. Mr. Fitzgerald testified that decreasing the depreciation life increased the "paper cost" of the industries since length of borrowing time is keyed to depreciation period but permitted increased funds for internal financing because of accelerated recapture of capital making it easier for firms to buy equipment (Tr. 2735-2737).

He cited these among other factors to indicate that the textile industry would find it difficult to compete with other basic industries for external capital funds to finance the costs estimated by RTI (Tr. 2555-2556). RTI had also noted the financing problems associated with the costs of compliance in its analysis of industry market structure and profitability, especially for smaller firms (IIS, pp. VI-127-128). These effects are discussed below. However, in using a 10 percent interest rate in their calculations, RTI appears to have recognized some of the problems in external financing. It should be noted that lower rates have been used by other industries to annualize capital costs of compliance with other occupational health regulations. (Coke Ovens Emissions) Moreover, neither RTI nor ATMI used the investment tax credit in their calculations of capital costs. This would have reduced estimates of annualized costs.

The annualized capital charges estimated by RTI were calculated on a conservatively high basis. In the absence of evidence that the life of controls is substantially different from that of textile machinery, there is an argument for reducing the depreciation period for controls to that allowed for other equipment. However, the calculation of attendant cost effects should also reflect the lower number of years in which interest would be payable, the benefits of increased cash flow, any increase in salvage value after the shorter time period, and the cost effects of more frequent replacement of equipment with newer, more modern and more productive textile machines and technology.

Annualized capital costs represented about two-thirds of the RTI estimates of total annual costs for the 200 $\mu g/m^3$ level of control. RTI estimated separately the annual costs of manpower and supplies for operation and maintenance. These were often about 3 percent of the capital cost of control, though there was some variation among processes and sectors. The direct operating expenses accounted for about 6 percent of total annual cost for the 200 $\mu g/m^3$ level.

The Hocutt-Thomas estimates of engineering control costs for ATMI did not deal with annualized capital charges, but they did include separate estimates of annual operating, maintenance, and energy costs for controls. The only estimates clearly comparable to those of RTI, are the Hocutt-Thomas estimates of $3.7 million for maintenance of controls to achieve 500 $\mu g/m^3$ for the processes from opening through spinning. This is the same amount estimated by RTI. For energy, however, the Hocutt-Thomas estimate was $14.6 million a year (in 1977 prices), while the RTI estimate was $18.5 to $20.9 million (in 1975 prices) (Ex. 60 and Ex. 62, and IIS, pp. VI-16, V-17). Most of the changes from the proposal in this final regulation have cost reducing effects. The principal cost reducing change is the increase in the permissible exposure level from 200 to 750 $\mu g/m^3$ for slashing and weaving. In some cases of control costs this difference in cost as a result of the higher PEL is not assessed. However, in other cases of control costs, such as slashing and weaving, because the need for certain engineering controls and/or amounts of air and filtration would be changed costs were shown to be reduced significantly. For this reason OSHA has adopted the Hocutt-Thomas estimate for slashing and weaving which predicted a level of 1,000 $\mu g/m^3$ instead of the RTI estimate for slashing and weaving at 200 $\mu g/m^3$. Another provision with a cost reducing effect is the allowance of single use respirators. For all covered sectors the final regulation will be less costly than the proposed regulation.

For the textile industry, OSHA has set forth three alternate cost estimates. Table 1 shows the sums of the estimates presented for ATMI by Hocutt and Thomas, those presented by RTI, and the RTI estimates as adjusted by OSHA. RTI estimates for yarn production were higher than those provided by ATMI, even though RTI excluded twisting, winding, spooling and warping from their yarn preparation estimates. The initial RTI estimate, RTI-I on Table 1, was $984.4 million in capital costs for yarn production controls. The initial RTI estimate of annualized capital costs, reflecting the assumption of a 14-year depreciation period, was recalculated for Table 1 to reflect the shorter IRS depreciation period of 9 years; the estimate of annualized capital costs thus rose to a level to be compared with the Hocutt-Thomas estimate.

RTI noted that, if controls were not required for yarn production equipment used only to process synthetic fibers, the estimates for capital and associated costs would be reduced by 30 percent. That adjustment was made by OSHA to the RTI-I estimates to derive RTI-II estimates shown on Table 1. Even after that reduction, RTI-II capital costs were substantially higher than the Hocutt-Thomas estimate.

However, the RTI estimate of control costs for yarn processing, principally weaving, were much lower than the Hocutt-Thomas figure, which was not adjusted for non-cotton use. The difference between the $75.7 million Hocutt-Thomas estimate of capital costs and the $7.7 million estimate of RTI is largely attributable to the RTI assumption of compliance with the current regulation (IIS Table V-12, p. V-29).

For total industry control costs, both RTI-I and RTI-II, the initial and adjusted RTI estimates, are substantially higher than the Hocutt-Thomas figures prepared for ATMI. For the combined yarn preparation and processing costs, the Hocutt-Thomas estimate was $543 million in capital costs, compared to the $986.5 and $692.9 million estimates in RTI data. Because annualized capital costs dominate annual costs, the costs based on Hocutt-Thomas data, at $165.3 million, was also lower than either of those based on RTI data, $274.7 and $192.8 million. This was the case despite the increase in RTI estimates of annualized capital costs associated with the use of a shorter depreciation period, and reduction of energy and other costs in RTI-II.

B. *Costs for Other Provisions.* The regulation includes requirements on monitoring, medical surveillance, respirators, and work practices that affect costs. However, costs for these provisions are minimal compared to the costs entailed in engineering controls. Further some of the changes from the proposed regulation (e.g., use of disposable respirators) have cost reducing effects.

Except as indicated below, very little evidence on these provisions was given by industry. Therefore OSHA has relied primarily on RTI's estimates.

1. *Monitoring.* The final regulation permits use of alternative equipment for monitoring which is equivalent in accuracy to the vertical elutriator. While the development of such alternatives may be expected to lead to faster and easier delivery of monitoring devices and to easier and less expensive monitoring, such cost reductions were not calculated.

Figures developed by Dr. John Neefus of Burlington, indicates the industry cost would be $7.5 million a year for sampling using the vertical elutriator (Ex. 49).

RTI used the vertical elutriator to estimate costs in the IIS (IIS, p. IV-6). Total monitoring costs for yarn production and processing would be $5.63 million for capital and $.56 million for annual costs.

2. *Medical Surveillance.* RTI calculated separately the costs of each major provision of the medical surveillance program in the proposed regulation. Detailed estimates were presented for yarn production workers. These figures are set forth in the IIS Table B-Z page B-10. Costs were estimated at $22,421 a year for pre-employment testing; $13,835 for counseling, $48,925 for retest, $1,008,271 for periodic medical exams, $1,058,513 for equipment and $130,977 for training and total costs of medical surveillance for yarn preparation workers were $2,282,942 the first year and $1,093,452 annually. In some sectors there was testimony that RTI had used a monthly rather than an annual accession rate. Where this may have been the case, the result would be an underestimate of costs of pre-employment testing. Moreover, this would also mean that fewer employees would receive semi-annual retesting, so that the understatement of pre-employment test costs may be offset by an overstatement of retest costs as part of the medical program. However, the inclusion of the wage cost for the tested worker, which comprised one third of the cost per test, would not be applicable in pre-employment testing, and costs may be overstated on this account. Costs of informing certain applicants about their occupational exposure were calculated on the same basis, at $13,835 per year for yarn production companies. The same comments on accession rates, wages for tested workers and wage rates for those conducting the tests also apply to costs of informing the worker. Estimates of retest costs were $36,354 a year for yarn firms. costs of periodic reexaminations for continuing employees were estimated at $1 million a year if performed by a company nurse. Use of an outside contractor would cost $1.1 to $1.23 million a year for the yarn industry.

In addition, RTI estimated that each plant would buy a spirometer for $727.50, for a yarn industry capital cost of $1 million, and that nurses would be offered training courses in the use of the equipment for $131,000. These were included in RTI's estimate of $2.3 million in first year costs, in yarn production firms, and annual costs estimated at $1.2 million (IIS, pp. B-2 B-10).

Costs for the textile industry as a whole would include the yarn costs above and $.3 million for capital and $1.0 million for annual costs in weaving or a total of $2.6 million and $2.2 million, respectively, for the textile industry.

3. *Respirators.* Respirator costs calculated by RTI reflect allowance for the single use respirator. For Yarn production processes, annual costs were estimated for each level of permissible dust concentration for the periods before and after the installation of engineering controls for disposable respirators or for maintenance and materials for reuseable (half mask) respirators where they would be required. Costs of training in respirator use were also calculated. For yarn production, in a program using disposable respirators, these initial year costs were estimated at $18.5 million for 200 $\mu g/m^3$ exposure level. After controls are installed, yarn industry annual costs of disposable respirators would fall to $.91 million. For reuseable respirators, yarn industry costs would have been about 50 percent higher.

4. *Other Provisions.* RTI reviewed the cost of other provisions of the standard. RTI noted that informing the employee is required as part of the medical surveillance program and that training is required as part of the respirator program. Since those costs were estimated for those efforts, RTI said the additional costs of providing employee information and training and of filing reports on such programs would not be significant (IIS, p. B-48).

RTI estimates of posting (at $4 a sign) were, for the yarn producers, $79,668, $136,088 (IIS, pp. B-15-B-19). RTI also estimated the costs of specifying work practices for the yarn producing industries at $3.3 million in the first year and $14,774 in annual costs for ensuing years.

C. *Total Textile Costs—Conclusions.* There was no testimony that offered independent estimates for the textile industry of costs of compliance with the non-engineering provisions in the regulation. In order to compare estimates of total costs for the industry RTI estimates noted above for other provisions were added to the capital and annual cost estimates for engineering controls noted in Table 1. The results are in Table 2. The only costs excluded are initial year, non-capital costs for respirators and work practices.

For the industry as a whole, the Hocutt-Thomas estimates for all types of costs are lower than those of RTI, even after adjustment of RTI estimates by 30 percent for equipment related costs to exclude machines processing synthetic fibers only. Yet OSHA believes that the Hocutt-Thomas estimates of $550 million in capital and $171 million in total annualized costs are overstatements for several reasons:

(1) Compliance with the final regulation will be less costly than it would have been for the proposed regulation; (2) While OSHA did not have the data from the 1976 survey by ATMI, the equipment reported and estimated for retrofit control may have included some equipment which is used exclusively for synthetics; (3) While OSHA recognizes the validity of estimating compliance costs for retrofit controls, OSHA also recognizes the existing trend toward replacement of conventional machines with newer equipment which is more productive and produces less dust and which would lead to the predicition of fewer machines to be retrofitted or to be controlled; (4) While the costs to retrofit are based on currently and commercially available technology of controls, the estimates fail to reflect improvements in technology that are likely to continue during the period for compliance; and (5) RTI estimates of non-engineering provisions, such as for respirators and medical programs, did not account for

current spending toward compliance in existing programs in the industry.

For these reasons, though the ATMI estimates of compliance costs are lower than those offered by RTI, OSHA believes the ATMI estimates are on the high side. Since ATMI estimates are based on the most recent data, OSHA believes them to be more realistic than those offered by the IIS on the information available to RTI. However, since the ATMI estimates include some costs of compliance with the current regulation OSHA finds them to be overstatements of the incremental costs of this regulation. This is true to some extent for yarn preparation, and it is almost wholly true for the weaving costs shown because the exposure limit of this regulation, though stated in terms of respirable as opposed to total dust, is very similar if not higher than that of the previous regulation. Despite these qualifications however, OSHA recognizes that, in the absence of the ATMI survey data, OSHA cannot develop more accurate estimates of compliance costs. Therefore, OSHA's estimated costs of compliance, as stated in Table 3, are the Hocutt-Thomas estimates for capital costs and annualized costs plus the RTI estimates for costs of other provisions. Moreover, as noted below, OSHA finds that such costs can be borne by the industry.

OTHER COVERED SECTORS

In this section, the record evidence is examined separately for each of the other covered sectors, primarily the non-textile industries. Primary attention is given to engineering controls since the cost of other compliance provisions per employee in non-textiles industries approximate the cost of these activities for textile workers examined in the preceding section. For some of these industries, RTI did not have industry-specific data to assess costs, and for others only partial costs were reported (IIS, p. I-2).

A. *Waste Processing.* Several types of industries are engaged in the processing of by-products, including production of padding and upholstery fillings, garnetting of batting, production of nonwoven fabrics and surgical dressings, waste spinning, and bedding manufacture. Total costs for these waste processing industries were reported by RTI. The breakdown by industry classification reflected principal products of firms that may be involved in processes normally associated with other groups; for example, many bedding makers do the garnetting of their batting. As a result, while in other cases RTI assessments of economic costs may be related directly to industry testimony, in some cases RTI cost estimates may not be readily comparable with those offered in testimony.

Mr. Booker of NCCA said 19 plants in SIC 2294 (processed textile wastes mills) are processors of soft waste (Ex. 99E, pp. 16-18). NCCA then estimated installation costs of control at $13.6 million, at current prices, for the 19 plants, with costs of operation and maintenance (exclusive of power) at 2 percent of such costs, $273,000 a year, and energy costs of $237,000 a year. The report also noted that a number of workers would need respirators to comply with the proposed regulation after the installation of controls, and costs of that and other provisions were estimated on the basis of RTI methods, current wages or costs and survey results. As a result, the report indicated total capital costs of $13.648 million to achieve 500 $\mu g/m^3$, total direct costs of $.435 million for the first year and $.406 million for ensuing years. Annualized capital costs were $2.2 million at 500 $\mu g/m^3$ on the basis of the interest, depreciation and other cost assumptions used by RTI, and total annualized costs for the 19 plants were estimated at $2.8 million (Ex. 99E, pp. 18, 19, 25).

RTI used different methods for assessing costs of controls as stated in the IIS. RTI estimated installed costs at $3.8, $6.7 and $11.8 million for 500, 200 and 100 $\mu g/m^3$ levels, respectively (IIS, p. I-14). Thus, even the highest of these estimates, and consequently of estimates for annualized capital costs, was lower than that of NCCA, to achieve a higher predicted level of dust concentration. RTI estimated operating and maintenance costs at 3 percent of capital costs, while NCCA estimated them at 2 percent. NCCA also assumed reusable respirators would be required and current wage rates instead of the 1972 levels used by RTI. RTI's estimates of energy costs, from $.596 to $1.4 million a year, exceeded the $237,000 estimate of NCCA.

As a result of all of the differences noted above, the NCCA estimate of $2.8 million projected to attain 500 $\mu g/m^3$, for total annualized costs exceeded the $2.1 million RTI estimate to achieve 200 $\mu g/m^3$. Differences in control strategies and estimating methods played a major role in these differences, as did other differences in assumptions of price levels, in data available to NCCA but not to RTI, and the RTI inclusions of some costs of nonwoven fabric and spun yarn production. OSHA recognizes some reasons for costs higher than those estimated by RTI, such as estimating costs of reuseable respirators and price level differences, and feels that RTI estimates may then be on the low side. However, RTI did not exclude costs of compliance with the current standard from these estimates and did not assume such compliance for the waste processing industries, since there was some question on the part of RTI as to the applicability of the previous standard to these industries (IIS, p. V-8). Moreover, NCCA itself noted that estimates of costs of compliance with the proposed regulation might be overstated because they included control of equipment used exclusively on synthetic materials. In addition costs of compliance with the proposed OSHA regulation were commingled by NCCA with costs of meeting EPA requirements. Therefore while OSHA has accepted the NCCA estimates for the waste processing sectors, OSHA views the NCCA estimate as conservatively high, even for the high side of a possible range of estimates of compliance costs to retrofit currently used equipment, and recognizes that, with some technological adaptation, some machinery may be replaced by similar machinery used in the textile processes that generates less dust.

It is possible that firms listed as being in one SIC may be involved in several processes, some of which are likely to be in other classifications. While this was not likely to affect estimates for SIC 2294 (Processed textile wastes mills), it could affect some of the other waste processing and user industries. Garnetting, which may be done by certain waste processors for resale or by bedding manufacturers for use in mattresses and box springs included, although not exclusively, in SIC 2293 (paddings and upholstery fillings mills), and 2515 (mattress and bedspring mills). The RTI discussion of compliance feasibility for garnetting was included as part of the description for waste processing-batting, (IIS, pp. IV-16), IV-17), and the general conclusions noted above apply to this process, as well.

However, industry witnesses treated garnetting as a process separate from the other work of waste recyclers, in a separate section of the NCCA report (Ex. 99E) and with separate testimony.

Mr. Booker said there are 64 commercial and 120 bedding garnetters whose 1974-1975 output was 337.8 million pounds valued at $60.8 million. Engineering controls may achieve a dust level of 500 $\mu g/m^3$ in some areas, he said, but there is no knowledge of how to reduce concentrations to 200 $\mu g/m^3$ (Tr. 3508-3510, 3533). Installed costs for engineering controls were estimated by NCCA at $17.7 million, operating and maintenance costs for controls at 2 percent of capital, or $354,000 a year, and energy costs at $539,000 a year.

Costs of other provisions were also estimated as outlined in the NCCA report. The NCCA report estimated cost for these provisions for garnetting with assumptions and methods similar to those used for waste recycling. Capital costs of these provisions were estimated at $138,000 for medical equipment and respirators, so that the total

capital cost, including controls, was $17.8 million. Operating and maintenance costs for these provisions were estimated at $472,000 for the first year and $294,000 a year for ensuing years. The annualized capital charge was $2.8 million; direct operating costs for all provisions $648,000 and energy costs, $539,000, so that total annualized costs were $4 million.

RTI had estimated costs for SIC 2293 and 2515 equipment controls jointly. However, in the absence of survey data available to NCCA, assumptions on machine productivity were related to output data for the RTI estimates of the equipment, and RTI estimated the number of garnetts as 481 instead of the 608 estimated by NCCA. RTI also calculated separately the costs of and estimated 240 pickers (not included by NCCA), used with the garnetts.

There was no industry testimony on the costs of compliance in for bedding manufacturing processes beyond garnetting. This is part due to garnetting existing outside SIC 2293 and 2515. RTI estimates for SIC 2293 and 2515 combined may be expected to be comparble to the industry estimates for garnetting. RTI estimated capital costs for the firms in these two classifications at $13.4, $26 and $44.3 million for 500, 200 and 100 $\mu g/m^3$ dust levels, respectively. Annualized capital costs estimated for these levels were $2.2, $4.0 and $7.1 million; annual operating costs were $2.5, $2.8 and $3.1 million; energy costs were $1.9, $2.9 and $6.8 million so that total annualized costs were $6.6, $10.7 and $17 million (IIS. p. 1-14).

These SIC 2293 and 2515 combined estimates of RTI, were substantially higher than those of NCCA for garnetting. NCCA indicated that they could not predict dust levels below 500 $\mu g/m^3$. The NCCA estimate of $17.8 million for capital costs was substantially higher than the RTI capital costs estimate of $13.4 million for a level of 500 $\mu g/m^3$. The NCCA estimates of operating, energy and total annualized costs were lower than RTI's for that dust concentration. Both estimates were presented as reflecting orders of magnitude, and since there were differences in price levels and underlying data as well as in control strategies it is difficult to compare them.

Because of these differences in the nature of the NCCA and RTI estimates, it may be possible to view them as alternatives in an range of possible total costs of compliance for the waste processing industries. RTI reports such a total for SIC 2293, 2294 and 2515 as $32 million to achieve 200 $\mu g/m^3$ (IIS. pp. 1-14, 1-15, V-39). This total may be comparable to the sum of costs for waste recycling and garnetting estimated by NCCA (Ex. 99E, pp. 25, 54, 55). The NCCA estimate of total capital costs was $31.5 million, primarily for engineering controls that NCCA said could achieve 500 $\mu g/m^3$, but could not achieve 200 $\mu g/m^3$. This estimate was almost the same as the $32 million RTI estimate to achieve 200 $\mu g/m^3$. Since the goal of the NCCA control strategy was to comply with the 200 $\mu g/m^3$ level of the proposed standard, these estimated can be viewed as being the same costs with major difference being the assessments of NCCA and RTI of the technological feasibility of such control costs to achieving the 200 $\mu g/m^3$ exposure limit of the proposed standard. OSHA has accepted NCCA's estimate of 31.5 million. Variations in methods, data available assumptions made by NCCA and RTI did not lead to substantial differences in estimates of capital spending. RTI included some additional areas of control (nonwoven fabric and waste spinning). However, the RTI estimate was in 1974 dollars, while the NCCA estimates were in current prices for controls. This difference might be about 7.5 percent. Such differences were probably offsetting ones.

RTI and NCCA used the same assumptions in determining annualized capital charges. Therefore, differences in total annualized costs stem from differing estimates of energy requirements and costs and direct operating costs. Where RTI assumed that these costs for controls are 3 percent of capital spending, NCCA estimated them at 2 percent. These differences lead RTI to estimate total annualized costs at $7.9 and $12.8 million for 500 and 200 $\mu g/m^3$ respectively, while NCCA estimated total annualized costs at $6.9 million (for 500 $\mu g/m^3$). Since the greatest difference was in energy costs, and since NCCA based its finding on current surveys of producers that included data on costs and locations, OSHA views the NCCA estimates of energy costs as more likely to represent the actual costs to these firms and industries. Since the energy rates used were cited by NCCA as likely to be low for only some locations, OSHA feels that NCCA may not have underestimated such costs by very much, and that total annualized costs for the waste industry are about $7 million.

The NCCA report (99E pgs. 32-34, 58-9) notes that internal cash flow would be inadequate to finance control costs and that external financing may be difficult for some waste recyclers such as small firms. This would be true to some extent for the garnetters as well, though NCCA indicated that there were less financial data for garnetting to justify that conclusion and that some garnetters, as divisions of larger firms, could obtain financing. However, NCCA's conclusion on the problems of capital financing are based on the assumption that costs for compliance would be absorbed by the firms and that profits would be reduced to that extent. RTI, on the other hand, assumed that profit rates would remain at current levels and that costs would be shifted. While some, especially the smaller independent firms, may have greater problems in obtaining financing it should be noted that the capital charges were based on a 10% interest rate (a higher rate than used in some other OSHA regulatory cost estimates), with additional costs for overhead, taxes and insurance at 2.5%. These rates are comparable to those cited by the U.S. Small Business Administration for debt costs of 7 year term loans at 10% and 5 year term loans at 12% for small firms. (Addendum No. 2).

B. *Cottonseed Processing.* Much of the testimony on cottonseed processing questioned the feasibility of the proposed standard and predicted dire economic effects including a substantial number of plant closings. Two reports were submitted by the National Cottonseed Products Association, Inc. (NCPA); a report of the Texas Agricultural Experiment Station of Texas A & M University, "Design and Cost of Lowering Dust Levels in the Working Environment of a Typical Cottonseed Oil Mill Processing 200-225 Tons per Day," (Ex. 93i), and a report by Development Planning and Research Associates, Inc., "The Economic Impact of Proposed Cotton Dust Standard on the Cottonseed Processing Industry."

Fred Husbands, executive vice-president of NCPA, said 83 mills were in operation in 1976, and most of the firms would be characterized as small businesses. He said four products are made: seed linters, kernel meal, hulls, and edible oils. All are freely substitutable with other products, such as soybean oils, in competitive domestic and world markets.

RTI reported that they did not view the industry as being subject to the previous standard and therefore did not assume industry compliance with it (IIS). Dr. Calvin Parnell of Texas A & M University was principal author of the design report on technological feasibility. The design goal was reported to be to obtain the lowest feasible dust level using the best available technology with attempts to minimize costs where possible (Ex. 93i, pp. 305). The design study estimated the total costs for required equipment and its installation at $612,125 and annual costs of controls at $357,826 for the four processing areas of a mill processing 200 to 255 tons per day. Excluded were costs for controls in the seed house (Ex. 93i, p. 62).

The economic impact report developed an estimate for industry-wide cost of compliance by extrapolating

Parnell's cost to the four size categories of plants drawn in the economic impact study: small, medium, large and extra-large. "Retrofit costs," identified as costs of building modification, rearrangement of production facilities and electrical modifications, were added to the costs associated with Parnell's engineering design.

Total investment costs were estimated at $75 million, including $46.3 and $28.5 million for equipment and retrofit installation respectively, and $130,000 for capital costs of other provisions of the proposed regulation not related directly to engineering controls (Ex. 93i, pp. 11-3—11-5, VII-1—9).

Costs of control were initially estimated in terms of 1976 prices and were then deflated by 8.5 percent to be in terms of 1974 dollars, the terms of estimate used by RTI.

RTI estimated costs for some specific controls or steps, but was unable to obtain data on equipment or equipment capacity from published literature or industry sources. As a result, RTI could not estimate costs of engineering controls or of associated operating, maintenance or energy requirements. RTI did estimate the costs of other provisions of the proposed standard at $.31 million in capital, $.5 million for first year operating costs and $.44 million for annual costs in ensuing years (IISs pp. AA-46, IV-21, V-38, V-39, and V-41). RTI estimates for these costs were the ones used by industry sources, in their presentations (Ex. 93i, p. VII-9).

Other elements of the industry calculation of annual costs included an estimate of the value of production loss, attributed generally to loss of efficiency, as a result of controls at $8.6 million a year. Other elements of annual costs included operating, maintenance and energy costs of $7.7 million, average interest on investment of about 6 percent of capital, or $4.5 million, and depreciation for about 15 years, at $5.35 million. Total annual costs for the industry were estimated at $26.7 million (Ex. 93i, p. VII-9).

Donald Wiseman, vice president of the firm which prepared the economic impact study for NCPA, said the estimates of cost were on the "conservative side" because, in the absence of estimates for engineering controls for the seed house, such costs were excluded. The predicted impact included the potential closing of 62 of the 83 mills, principally the smaller and medium sized older plants, representing 52 percent of the capacity of the industry. This estimate was based on cost estimates and financial profiles of the model plants which indicated that the $75 million estimate of capital costs represented about 8.5 times the average annual investment of the industry. Mr. Wiseman said average annual profit of small and medium size firms was less than 2 percent of sales, but these firms would need price increases of 3.1 to 3.5 percent to retain present profit margins.

The costs could not be passed forward, he said, because industry shipments of cottonseed products represent a small proportion of the principal products (edible oils and animal feed) which are sold in competitive markets. Passback of costs through gins to farmers is not feasible either he said, because farmers, with competitive pressures from other crops and with other impacts from the proposed regulation, would contract supply. If some plants leave the industry, he said, others may have excess capacity, but there would be a rise in distribution and hauling costs to the more distant, remaining firms. Thus the estimate of shutdown was based on the ability of the 83 firms to absorb and finance projected compliance costs (TR 3420-3427, 3347-3351).

OSHA agrees that it is unlikely that cottonseed processors will be able to pass added costs forward to buyers of their output. In competitive markets, with substitutes from other sources, demand is very elastic and changes in the industry's output or product supply are not likely to effect significant changes in product prices. However, since seed is a fiber byproduct, input supply for the industry is likely to be very price inelastic (amount of seed available generally remains the same regardless of price). Seed prices are subject to modification and costs as reflected in reduction of seed prices can be shifted forward by the fiber producers to the buyers of their main product, raw cotton. Indeed, the working assumption of the industry was that there would be such cost shifts (Tr. 3609-10, 3620-23). However, the magnitude of such an impact will depend in large part on the actual costs of compliance incurred by the industry.

Though the RTI cost estimates for non-engineering provisions were accepted for use in the industry study, Dr. E. D. McMurrain said the Buckeye division already had a medical surveillance program involving physical examinations and pulmonary function tests (Tr. 3396, 3397, 3410). Other members of the industry panel said they did not know how many mills had surveillance programs. To the extent that firms do already have programs related to provisions of the proposed regulation, this would reduce estimates of incremental costs of compliance.

Further, the engineering costs of the model plants reported in the economic study were higher that those reported in the design study. Total investment costs for the design study's model plant producing 200 to 255 tons per day were estimated at $612,125, including installation, in 1976 prices (Ex. 93i, p. 62). The economic study's medium size model plant, producing 216 tons per day, was estimated to have $520,306 in equipment costs and $284,000 in retrofit installation costs, or a total of $804,306 in capital costs of controls, in terms of 1974 dollars (Ex. 93i, p. VII-9). After adjustment for price level differences, the estimate of control costs for the medium sized plant in the economic study was more than 40 percent higher than the estimate of such costs in the design study, though both excluded costs related to dust control in the seed house. The difference in these estimates is the additional cost attributed by the economic study to "retrofit costs," identified as building modification and other costs. While Parnell said at the hearing tht he disregarded costs associated with the implementation of his theoretical engineering design to existing oil mills (Tr. 3400-01, 3415-16), and his cost tables do not appear to reflect any such costs except possibly in the costs estimated for installation of equipment, the specifications for his design study clearly include such measures as enclosing the mill and sealing and isolating areas such as the cleaning room (Ex. 93J, ppl. 12, 13, 14, 15, 20, 22, 26, 44, 59). To the extent Parnell's cost projections do in fact include elements costed again in Wiseman's figures, the latter figures are overstatements, but in the absence of further justification and breakdown of these costs by the industry, OSHA is unable to discount this estimate by any percentage.

Moreover, while Parnell declined to predict the dust levels achievable under his design, its aim was compliance with the proposed standard whose ultimate goal was the 200 $\mu g/m^3$ level. As such, OSHA expects that costs for achieving the 500 $\mu g/m^3$ level would not be as great.

The projected production losses, of $8.7 million, accounted for nearly a third of the industry's estimate of $26.7 million in total annual costs. Production losses was only generally identified as reduced efficiency with the installation of controls such as oil and lint loss and cellulose yield reduction (Ex. 93i, p. VII-3) and Mr. Wiseman could not supply any further breakdown at the hearing (Tr. 3421). It should be noted that Parnell's design study did include instances where the choice of controls and their design was based on the need to maintain efficiency (Ex. 93J, pp. 14, 30, 44, 50). To the extent that production loss has already been considered in the design study, the estimates in the economic impact study would be overstated. Further, industry testimony reflected an existing secular decline in the number of oil mills and projected

that a new regulation would accelerate shutdowns in the industry. However, these industry estimates of compliance costs were based on the assumption that compliance costs would apply to all 83 firms. If a large percentage of mills are expected to cease operations, then compliance costs must be reduced by that percentage.

For these reasons, though there are no other estimates of industry-wide costs, it appears to OSHA that the estimates of $75 million for investment and $26.7 million for annual costs are high, even for the best available technology and even as a highside estimate. Given time for development and implementation, lower cost technology may be developed to permit control costs under those of the industry's design study and to reduce any projected production losses.

OSHA also believes that a figure of 75 percent as the number of mills which would close rather than incur the costs of compliance is very high. However, to the extent that the existing secular decline in the number of mills continues and is accelerated by the costs of complying with the 500 $\mu g/m^3$ regulation, the industry estimate overstates the prediction of the capital costs of compliance by including the costs of all 83 firms presently in operation.

The economic impact study concluded that 62 of the 83 mills are likely to close as a result of the added costs of cotton dust regulation. However this conclusion is based on two assumptions that do not appear to be realistic: (1) that none of these costs can be shifted and (2) that costs and revenues will be constant over the next 20 years (Tr. 3421-22). As noted above, even if competitive pressures will prevent product price increases, some shift in the form of reduced imput prices is likely to occur. As long as fiber is ginned and byproducts such as seed are produced, fiber producers will sell byproducts for any price they can get. To the extent seed prices decline, the amounts would be absorbed in fiber prices rather than in seed mills. The industry assumption was based largely on the anticipated effects of the proposed regulation on ginning. However the final regulation differs substantially from the proposed regulation and compliance costs for gins are now calculated to be on the average of $659 per gin in the first year and $612 annually thereafter, costs which will not result in the economic disarray the economic impact study for cottonseed processors had anticipated. Moreover, the industry as a whole clearly anticipates cost shifts through the fiber producer from the cotton seed processors (Tr. 3609-10, 3620-23).

As a result it is not reasonable to project continued costs and revenue patterns over 20 years as a basis for predicting shutdown of firms. To the extent that compliance costs are offset by reduction in costs of raw materials, the firms would remain sufficiently profitable to warrant investment of internal funds where available or from external sources by borrowing. The industry report indicates a number of reasons why such closures might not occur despite economic pressure (Ex. 93i, pp. II-6, II-7) and also notes that the primary reason for past closings has been a shortage of cottonseed for processing (Ex. 93i, p. III-1). The large number of predicted shutdowns appears unlikely as long as there is a supply of seed which, as a byproduct, must be considered as being inelastic in supply.

Some firms which may experience losses or may apparently be marginal in their profit position may decide to close. OSHA does not view such closings necessarily as a result of regulation in view of secular decline in the number of oil mills over the decade.

C. *Knitting.* While RTI estimated about 168,000 production and maintenance workers in knitting firms may have some exposure to cotton dust in their normal activities, this industry, covered by the proposed regulation, was omitted from the RTI study for lack of adequate data (IIS, p. 1-2). Testimony for the knitting industry was presented, but costs of compliance were not estimated, either in that testimony or by RTI, for the knitting process. R. L. Thistlewaite of the National Knitwear Manufacturers Association said that some firms in the knitting industry make yarn but testimony on yarn production processes had been presented by ATMI and AYSA (American Yarn Spinners Association) Association members knit, cut and sew apparel.

Mr. Thistlewaite said the effects of very large compliance costs could depress sales at the retail level, which are subject to foreign competition. If cotton costs are too high, knitters will have to switch to synthetics or to foreign sources where regulatory costs are lower.

Since the final regulation provides for a higher permissible exposure limit (500 $\mu g/m^3$) for knitting and there is evidence in the record of existing low levels in knitting, OSHA does not feel that the costs of engineering controls will be significant for the knitting processes. However, these firms would be likely to encounter the minimum costs of medical surveillance, monitoring and other requirements of this regulation.

D. *Classing and Warehousing.* Warehouses, classers and shippers are not expected to require significant engineering controls as a result of the increase in the maximum exposure level to 500 $\mu g/m^3$ in this regulation. A sample of existing exposure levels indicates most facilities meet 200 $\mu g/m^3$, and few readings were in excess of 500 $\mu g/m^3$. The capital and other expenditure requirements can be met because of the present low levels, and few significant costs, other than those for medical programs are anticipated under this regulation.

RTI did not estimate compliance costs for classing or warehousing. Industry sources used methods similar to those developed by RTI for yarn production. However, industry estimates included $1.27 million for development of written programs for work practices for each of 31 positions in each of 377 warehouses, for a total of 11,687 positions analyzed for a total of 14,500 workers. The 11,687 positions were multiplied by the cost per hour to develop these programs for a total of $1.2 million. To this NCCA added $67,041 in first year training costs. OSHA does not accept that every worker function in every warehouse has to be analyzed separately. Work practices for warehouses can be developed according to the same models used by NCCA in their economic report. This would mean 186 positions for a total of $19,358 to which OSHA has added the NCCA training cost of $67,041 to get $86,399. In addition, NCCA estimated $6.8 million a year in recurring costs, or more than two-thirds of the estimate of annual costs, for monitoring. This estimate assumed sampling stations for each 1,000 square feet, or 233 stations per warehouse times 377 warehouses. However, this regulation requires sampling for each major work area. The $6.8 million for monitoring estimated by NCCA has been adjusted by OSHA to relect the actual number of sampling sites (12,161) and total cost $851,271. The annual costs to the industry are a total of $1.4 million: NCCA's estimate for recurring workpractice costs of $28,000, OSHA's monitoring estimate, $851,000, OSHA's estimate for single use respirators, $222,000 and OSHA's estimate of workpractice and training costs, $86,399.

E. *Total compliance Costs.* Estimates of costs of compliance for the principal industry sectors and the major cost-related provisions of the regulation are summarized in Table 3. In most cases, OSHA has reviewed and accepted the bases of the cost estimates presented in industry testimony, though these have sometimes been adjusted. OSHA's final estimates are conservatively high. However, they are sometimes lower than those presented by RTI.

A. *Capital Costs for all covered industries.* OSHA has estimated capital costs for all affected industries at $656.5 million, with the bulk of these costs, $543 million, for engineering controls in yarn production and processing in the textile industry. OSHA

adopted industry's estimate for capital cost in the textile industry. OSHA's estimate of $31.5 million in capital costs for waste processing is the sum of the estimates of NCCA for the recycling and garnetting processes. The industry estimate for seed processing capital requirements was $75 million.

OSHA anticipates that no engineering controls will be required in warehouses. Capital may be required for monitoring, or medical programs, but only to the extent that such programs do not already exist or are not provided by contracting services. It is OSHA's view that this will be true also for the knitting operations and other industrial sectors for which estimates were not presented.

OSHA recognizes that this estimate of total capital costs may be viewed as a substantial one. However, as is indicated below, it is within the financial capability of these industries to bear these costs.

B. *Total Annualized Costs.* Total annualized costs as noted above, include the maintenance, operating and energy costs of all provisions as well as the interest, depreciation and other charges associated with the installation of engineering controls. The total annualized costs for the textile industry ($171 million) as for other industries, are dominated by the annualized capital cost ($109 million). These total annualized cost of $171 million a year for all provisions, were based on industry estimates of capital required and industry assumptions on annualizing capital charges, but on RTI calculations of the costs of other provisions.

The estimate of $6.9 million in total annualized costs of waste processing was taken from industry testimony, as noted above. For the seed mills, however, the industry estimate of annualized costs was $26.7 million.

Although for warehouses it is anticipated that there will be little need for engineering controls, there will remain costs of other provisions such as medical and monitoring programs. Such costs it is anticipated will not exceed the $1.5 million reported in Table 3. Thus the sum of total annualized costs is estimated at $206.1 million for the principal industries covered by the regulation.

OSHA believes this to be a conservatively high estimate of the current costs of compliance with the final regulation. OSHA estimates do not assume, for either the textile or nontextile industries, compliance with the current standard. Although record evidence established that some operations are in compliance with the permissible exposure limit of the previous regulation, and indeed that some operations have already achieved or are close to achieving the permissible exposure limit of this standard, it could not be determined to what degree particular permissible exposure limits had been met and by what proportion of the various industry sectors. Moreover, except in the case of textile industry investment in controls, OSHA's estimate of total annualized costs does not account for current industry spending for programs that will achieve compliance. The record indicates that some employers are already conducting medical surveillance programs and furnish employees with respirators.

OTHER ECONOMIC IMPACTS

The estimate of total annualized costs is important in assessing the economic impacts of the regulation. These costs are assumed to be the passed through to those who consume fiber products. As a result, changes in price levels and other impacts are directly related. Less directly related are effects on industry structure, production and employment.

In the IIS (Section VI of Volume I) RTI analyzes in some detail the economic effects of the proposed cotton dust standard for different exposure limits. The analyses are done separately and in greater detail for the yarn producing industries, and they are then reported for other covered cotton processing industries before they are summarized for the total industry effect.

A. *Additional Manpower.* The regulation will require the employment of additional manpower in order to provide for the maintenance and operation of engineering controls and for the implementation of non-engineering provisions, such as the medical surveillance, respirator and monitoring programs, and to offset any changes in labor productivity.

RTI projected that the 200 $\mu g/m^3$ standard of the proposed regulation manpower requirements could easily be provided by internal or regional labor supplies except for the very highly skilled. The impact on wage rates was termed negligible since the change was less than 1 percent of current employment and since there are continuing additions to the labor force (IIS, pp. VI-122-123).

On the basis of the conclusion by RTI, it is clear that the final regulation will have less of an effect than the "minimal" and "negligible" ones associated with proposed 200 $\mu g/m^3$ standard for several reasons one of which is that the amounts of controls requiring maintenance will be less.

B. *Energy.* There are two types of effects on energy consumption that could result from the regulation. One, noted by G. C. Cortwright of the Industry-wide Byssinosis Committee, would occur in the substitution of other fibers, principally synthetics derived from petroleum, for cotton which is an annually renewable fiber which uses much less energy than any other source per unit of fiber (Tr. 2617-2622). RTI did not analyze this type of energy effect, but instead concentrated on the increased use of energy for providing power for the engineering controls required by the regulation.

The estimated energy costs of the final regulation are less than a third of the estimates of RTI for the 200 $\mu g/m^3$ level. On that basis, the impact on the national energy situation would be even less than the estimate of RTI; it would affect about 0.018 percent of national energy consumption, by application of that percentage to the RTI estimates. It still would be significant for the industries involved, especially the textile industry. RTI estimated energy costs for yarn production and weaving at $154.2 million a year for the 200 $\mu g/m^3$ level (IIS, p. I-15). The estimate in industry testimony related to the final regulation for textile industry was $49.0 million. Thus the estimated effect on the textile industry, the principal user of added energy, would be much less under this final regulation. Since a much smaller proportion of the total extra energy use is in other sectors, it is reasonable to conclude that there would be no appreciable impact on energy use as a result of the final regulation.

C. *Capital requirements, Financing.* RTI noted that, even if it is assumed that there will be no impact on profits because costs are passed on and the rate of return in investment is maintained for the same profitability, the availability of capital financing could be a problem in compliance with the cotton dust regulation. There might be capital shortages, and the need for funds could, RTI said, have impacts on regional and national growth since less capital might be available for replacement of obsolete equipment and expansion of capacity to the extent that capital is invested in controls. However, it was noted that the existence of excess capacity in the industry indicates that there would be no severe shortages of capacity as a result of the capital requirements for compliance. The extent of the impact of capital requirements and availability, RTI said, would depend on how they are financed, the time permitted for compliance and the interest rate.

Over the past 10 years, Fitzgerald said, the industry has tended to finance capital spending through internally generated funds, since it has been difficult to raise funds externally (TR 2746). Arthur Figh, vice president of Chase Manhattan Bank agreed. He equated the RTI control costs estimate with four years of after-tax profits. He said the control investment costs would be passed on to consumers ultimately, but textile industry earn-

ings are likely to remain at about half of the profit level of industry generally, so that there was a question of viability of some firms with greater burdens, especially older and smaller ones competing with newer plants with lower costs. While the investment in the industry has exceeded depreciation, a situation that is not unusual, some of the firms have higher profits (TR. 2566-2517).

RTI noted that industry analyses of issues on capital availability were less valuable because the financing issues related to individual companies, and each industry was a heterogenous group of firms. The rate of return on investment varies with the size of firms, as does the level of profits after taxes, RTI said, with some, especially among the smaller firms, having losses. (RTI assumed that there was no significant variation in capital and compliance costs per unit of output and therefore expected none in profit levels before and after compliance that would be attributable to firm size. This was reasonable under the RTI assumption overall that there was compliance with the current standard; it may not be true if, as in the regulatory cost estimates which do not assume current compliance, the smaller firms have invested less in controls than the larger firms have.)

Ratios of capital requirements to after-tax profits were used by RTI as guides to the availability of capital financing. After-tax profits were used only as an indicator, since the capital expenditures will themselves affect tax levels; through any investment tax credit and cost recognition, such expenditure would reduce tax levels for firms with profits. However, after-tax profits may serve as guides to the availability of funds for internal financing of capital requirements and determine eligibility for borrowing, as evidence of ability to repay funds obtained from external sources. RTI found these capital-profits ratios higher in each industry for the smaller firms. (The implications of this finding on market competition are discussed in the next section). RTI examined a number of firms and found that, for capital requirements of the proposed 200 $\mu g/m^3$ standard, capital expenditures were three times the annual after-tax profits for all firms in the weaving sector, with more than $500,000 a year in sales. For the same 200 $\mu g/m^3$ level for yarn firms the range was from 2.19 to 5.51 of the capital after-tax profit ratios for companies with sales in excess of $500,000 a year. There was great variability in the ratios of the smaller firms with sales under $500,000 a year.

RTI provided an anlaysis in detail for 35 publicly owned firms. RTI noted that, while the financial impact was high for the 200 $\mu g/m^3$ level, it was much less for the 500 $\mu g/m^3$, level, which would be "manageable" for all but the smallest firms (This analysis is reported in IIS, pp. VI-41-54, 95-99 and 127). In testifying on these effects, however, Dr. LeSourd of RTI noted that implementation of the proposed standard would require adjustments within the cotton textile industry and might be difficult for many firms but that in time there would be rising prices and market adjustments so that revenues would cover costs. Although the impact on any one firm cannot be predicted, he said, nothing in the RTI study showed that the cotton industry as a whole would be threatened by the impact of the proposed 200 $\mu g/m^3$ standard (TR 561-563).

For several reasons, the impact of the final of the final standard will be much less severe than the effects described by RTI for the 200 $\mu g/m^3$ standard. Estimates of capital costs are less than half of the estimate of RTI for the 200 $\mu g/m^3$ level. As a result, on the average, the captial-profit ratios estimated by RTI would be expected to decline dramatically.

RTI notes that the severity of the financing problem would be relieved with additional time for achieving compliance. That may be the case, but only if firms are not inclined to wait until the end of the period allowed to arrange the financing of controls.

It is OSHA's conclusion that although some marginal employers may shut down rather than comply, the industry as a whole will not be threatened by the capital requirements of the regulation, which are far less severe than the proposed 200 $\mu g/m^3$ standard. As noted above, concentration into larger firms is a trend which currently exists in the cotton industry and which is not attributable to OSHA regulation. OSHA is confident that the productive capacity of the surviving firms in the affected industries will be able to meet the demands for production of cotton products.

Difficulties of financing capital costs in non-textile sectors would be limited to the waste recyclers and cotton seed processors since those sectors are the ones that will be required to make major investment in engineering controls. While OSHA recognizes that the expected capital costs are major and will present more difficult problems than in the textile sectors, OSHA concludes that industry assessments of the effects of such problems have been adjusted when allowance is made for the predicted ability of these firms to pass increased costs back through the fiber producers and for the negligible economic impact which the final standard, as opposed to the proposal, will have on the ginning industry. With these important factors is mind, OSHA believes that the capacity of these sectors to bear the costs of compliance is far greater than the industry's assessments would indicate. This is not to say that OSHA expects every firm to survive; indeed the clear trend of secular decline of the number of firms establishes that not all closings will be attributable to this regulation. However, OSHA's statutory mandate does not guarantee that the costs of regulation will never lead to the shutdown of marginal firms. In light of all these considerations, OSHA concludes that the standard as applied to these sectors as a whole will not threaten their economic viability and thus is generally feasible.

I. *Benefits.* The legislative history and language of the Occupational Safety and Health Act, as distinguished from some other environmental and safety legislation, clearly indicate that Congress has already arrived at a judgment concerning the balancing of cost and benefit, with the result that worker safety and health are to be heavily favored over the economic burdens of compliance. Specifically, Section 6(b)(5) of the Act provides that:

> "The Secretary in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiment and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws".

Thus, while feasibility is an appropriate consideration, the Secretary is directed to set standards which attain the "highest degree of health and safety protection for the employee * * *".

This does not mean, however, that a systematic evaluation of costs and benefits is not to be encouraged within the limits of the estimation techniques. In considering the issue of feasibility in this rulemaking, as in others, OSHA has carefully evaluated the cost of compliance which may be incurred by the directly affected employers and their ability to comply. Additionally, OSHA believes that a standard for a substance which has been found to pose a risk of chronic obstructive pulmonary disease to workers must assure maximum benefit (i.e. prevention of serious illness or death), constrained only by the limits of feasibility.

There is overwhelming scientific evidence that cotton dust produces adverse health effects among cotton workers. The disorders range from an acute reaction manifested by a depression of pulmonary function indicators, or by subjective symptoms such as chest-tightness, shortness of breath, or cough, chronic obstructive pulmonary disease.

The epidemiologic studies discussed in the proposal, and in this preamble (see Health Effects and Permissible Exposure Limits sections) give an indication of the adverse health effects which will be significantly reduced by this standard. The work by Merchant et. al. represents the most thorough and objective evaluation of byssinosis prevalence in the United States textile industry. The Merchant study of approximately 3,000 workers employed in 8 cotton and cotton-synthetic blend mills found a strong linear association between the prevalence of byssinosis and the concentration of lint-free respirable dust as measured by vertical elutriator. In cotton preparation areas Merchant found a byssinosis prevalence 1 of 7 percent (all grades) at 100 $\mu g/m^3$, 13 percent at 200 $\mu g/m^3$, 26 percent at 500 $\mu g/m^3$ and 50 percent at 1700 $\mu g/m^3$.

Research Triangle Institute (RTI), OSHA's contractor for the inflationary impact statement, estimated the number of cases of byssinosis (all grades) that might be expected currently among yarn production workers by job classification. The number of cases that would be expected to occur if current exposure levels were reduced to 500 $\mu g/m^3$ and 200 $\mu g/m^3$ TWA were then estimated to provide an approximation of the direct benefits that would result from compliance with these alternative exposure limits. RTI estimated that compliance with 500 $\mu g/m^3$ and 200 $\mu g/m^3$ would lead to the avoidance of 103 and 388 cases of byssinosis (all grades) per year in the yarn preparation areas.

The RTI estimates of byssinosis cases avoided per year suffer from serious methodological problems.

The annual rate of new cases is derived through a formula which seeks to translate point prevalence estimates into an annual incidence rate estimate. A relatively simplistic formula which uses the new hire accession rate in the textile industry is used as the translating mechanism.

There is no epidemiological study of incidence of byssinosis and any attempt to translate point prevalence estimates into annual incidence estimates is fraught with numerous methodological problems.

The population estimates of the yarn industry used in the study, 126,423 is an underestimate. A more accurate estimate would be in the area of 200,000.

The point prevalence estimates themselves understate the problem in that there is a natural exodus of workers afflicted by acute respiratory symptoms.

Perhaps most damaging is the incorrect use of turnover data, the key translating mechanism to annual rate incidence. The RTI study used 5% as the annual turnout rate whereas, in fact, it is a monthly figure. Were all new hire accessions to be new entrants into the industry, the yearly turnover rate would actually be 60%. This, however, would be an overstatement as there is considerable turnover of workers within the industry. A reasonable though conservative estimate would be in the neighborhood of 20% per year.

(3) Using the RTI methodology, the following estimates were generated:

$$Ca = wA\,(Pc - Ps)$$

where Ca = cases byssinosis avoided per year

w = number of workers
A = labor accession rate
Pc = current prevalence rate of byssinosis
Ps = prevalence rate of compliance with specific dust standard

For a 500 $\mu g/m^3$ standard in yarn preparation

$$Ca = (200{,}000)\,(0.20)\,(0.25 - 0.1655) = 3380 \text{ cases/yr.}$$

For a 200 $\mu g/m^3$ standard

$$Ca = (200{,}000)\,(0.20)\,(0.25 - 0.1274) = 4904$$

Grover Wrenn of OSHA noted at the outset of the hearings on the proposed regulation that decisions on standards are not based primarily on benefit-cost analysis. In their post-hearing statement, however, the council on Wage and Price Stability advocated cost-benefit analysis as the basis for determining the exposure limit for each sector and provided examples of reasoning in a theoretical model. That model assumed a ceiling amount, as the most the industry could afford, to be spent for compliance costs and indicated the marginal basis for allocation of such expenditure. However, OSHA has no desire to be punitive or to impose on industry all that it could afford; OSHA's goal is to protect worker health and to determine the technological and economic feasibility of the measures required to effect that purpose.

OSHA cannot place a specific value on a case of byssinosis of any grade. OSHA is confident that industry will find more efficient, less costly controls than those estimeted over the period for compliance partly as the result development of new technology in controls and in production processes. OSHA believes as indicated by the RTI studies, that the industry would not be threatened by such costs, while the health of the worker would be threatened by the failure to incur them.

Based upon the foregoing and the record as a whole, OSHA finds that compliance with the standard is well within the financial capability of the covered industries. Moreover, although the benefits of the standard cannot rationally be quantified in dollars, OSHA has given careful consideration to the question of whether these substantial costs are justified in light of the hazards of exposure to cotton dust. OSHA concludes that these costs are necessary in order to effectuate the statutory purpose of the Act and to adequately protect employees from the hazards of exposure to cotton dust.

In making judgments about specific hazards, OSHA is given discretion which is essentially legislative in nature. In setting an exposure limit for a substance like cotton dust, OSHA has concluded that it is inappropriate to substitute cost benefit criteria for the legislatively determined directive of protecting all exposed employees against material impairment of health or bodily function. Where the health effectiveness of alternative approaches are extremely uncertain and likely to vary from situation to situation, OSHA believes it is appropriate to adopt the compliance strategy which provides the greatest certainty of worker protection even if the approach carries with it greater economic burdens for the affected employers.

In the case of the cotton dust standard, the evidence in the record indicates that the costs of compliance are not overly burdensome to industry. Having determined that the benefits of the proposed standard are likely to be appreciable, OSHA is not obligated to carry out further exercises toward more precise calculations of benefit which would not significantly clarify the ultimate decision. Previous attempts to quantify benefits as an aid to decision making in setting health standards have not proved fruitful (41 FR 46742).

TABLE 1.—*Estimates of costs of engineering controls for the textile industry* [1]

	Yarn preparation			Yarn processing		Total textile costs		
	Hocutt-Thomas [2]	RTI I [3]	RTI II [4]	Hocutt-Thomas [5]	RTI [6]	Hocutt-Thomas	RTI I	RTI II
Capital costs of equipment	467.3	978.8	685.2	75.7	7.7	543.0	986.5	692.9
Annual:								
Maintenance	7.6	10.1	7.0	.9	.1	8.5	10.2	7.1
Energy	40.8	67.9	47.5	8.2	.6	49.0	68.5	48.1
Equipment, annualized [7]	92.8	194.4	136.1	15.0	1.5	107.8	196.0	137.6
Total	141.2	272.4	190.6	24.1	2.2	165.3	274.7	192.8

[1] In millions of dollars.
[2] Assumes achievement of 0.2 mg/m³ (VE) for opening through roving, 0.5 mg/m³ (VE) for spinning-warping. In 1977 prices. Does not assume compliance with current cotton dust standard, but allows for $44.3 million in controls already installed.
[3] Assumes achievement of 0.2 mg/m³ (VE) for opening through spinning, compliance with current standard but without allowance for other installed controls, and controls installed on all production equipment, regardless of fiber processed. In 1974 prices.
[4] Adjusts RTI-I estimate by 30 pct reduction to eliminate controls on equipment to process only synthetics.
[5] Assumes achievement of 1.0 mg/m³ (VE) for yarn processing. In 1977 prices. Does not assume compliance with current standard.
[6] Assumes achievement of 0.5 mg/m³ (VE) for yarn processing, compliance with current standard but without allowance for any other installed controls. In 1974 prices.
[7] Capital costs annualized by factor of 0.19864 to reflect 9-yr depreciation period, 10 pct rate and allowances for equipment taxes and other costs. RTI estimates, initially estimated on the basis of a factor of 0.16075 to reflect an assumption of a 14-yr depreciation period, have been recalculated with the 0.19864 factor.

Sources: Ex. 60, Hocutt statement, for engineering control costs; Ex. 62, Thomas statement, for costs of temperature, humidity controls associated with Hocutt equipment costs; IIS, pp. I-15, V-17, V-29.

TABLE 2.—*Estimates of total compliance costs for the textile industry* [1]

	Hocutt-Thomas [2]	RTI I [3]	RTI II [4]
Capital costs:			
Engineering controls	543.0	986.5	692.9
Other provisions [5]	7.0	7.0	7.0
Total	550.0	993.5	699.9
Annualized costs:			
Capital, total	109.2	197.3	139.0
Operating, maintenance, and engineering controls	8.5	10.1	7.0
Other provisions [5]	4.3	4.3	4.3
Energy	49.0	67.9	47.5
Total	171.0	279.6	197.8

[1] See Table 1, note (1).
[2] See Table 1, notes (2), (5)
[3] See Table 1, notes (3), (6).
[4] See Table 1, note (4).
[5] Includes costs for medical, monitoring and other provisions as estimated by RTI.

Sources: Table 1, supra, and IIS, pp. I-15, V-17, V-29.

TABLE 3. ESTIMATED COSTS OF COMPLIANCE BY INDUSTRY SECTOR, IN MILLIONS OF DOLLARS

	Capital	Total annualized
Textiles [1]	550.0	171.0
Waste processing [2]	31.5	6.9
Seed processing [3]	75.0	26.7
Warehousing [4]		1.5
Total	656.5	206.1

[1] See notes on assumptions in Table 1, supra.
[2] The sum of estimates for waste recyclers and garnetting in Ex. 99e.
[3] Estimates from Ex. 93i.
[4] Estimates of Ex. 95i adjusted to exclude capital costs because of .5 μg/m³ permissible exposure limit of final regulation and to reduce monitoring and other costs in accordance with final provisions.

Sources: Table 2, supra, and Ex. 93i, 95i and 99e.

I. SUMMARY AND EXPLANATION OF THE STANDARD

The following sections discuss the individual requirements of the standard. Each section includes an analysis of the record evidence and the policy considerations underlying the decisions adopted pertaining to specific provisions of the standard. Based on consideration of all the evidence in the record, the final standard sets different limits of exposure to the lint-free respirable fraction of cotton dust for different segments of the cotton industry. To the extent appropriate, the requirements in this standard are similar to requirements in other OSHA health standards and reflect OSHA's regulatory policy for protection of the health of workers.

CONTINUATION OF STANDARD UNDER 1910.1000 TABLE Z-1

During the time period provided for instituting engineering controls to comply with the permissible exposure limit promulgated in this rulemaking, the current standard for cotton dust contained in 29 CFR 1910.1000 will continue in effect for yarn manufacturing. The current standard, which includes a requirement to implement engineering controls whenever feasible, was adopted in 1971 under section 6(a) of the Occupational Safety and Health Act. Since that time, employers have been under an obligation to comply with the 1.0 μg/m³ level for "cotton dust (raw)" provided under the standard. Although the current standard contains an exposure limit for total dust, whereas the new standard establishes a limit for respirable dust, efforts to comply with the standard importantly contribute to the employer's ability to comply with the new standard. The proposal envisioned that the new standard would generally build upon the protection provided under the current standard and would provide employees with greater protection consistent with new data concerning cotton dust exposure. No lessening of protection or hiatus of coverage was intended as a result of the proposal and promulgation of a new standard.

For employers who have complied with the current standard, compliance with the new standard will involve development of a compliance program to reduce exposures to the new 200 μg/m³ level and implementation of those new engineering controls over the time period provided. For employers, however, we have not yet complied with the current standard through engineering controls, the promulgation of the new standard is not intended to terminate the obligations to protect employees under the current standard. OSHA does not intend the 4-year compliance period under the new standard to reward employers who have not met their burdens under the current standard. By continuing to enforce the current standard until the employer complies with the new standard, OSHA will ensure that all yarn workers are accorded the protection provided by the current standard, while their employers work toward compliance with the new standard.

The requirements that employers who have not yet satisfied the current standard comply with as well as develop a compliance plan to meet the new standard are neither inconsistent nor inequitable. There is evidence that installation of engineering controls will be required to meet the current stand-

ard, and that these controls will be instrumental in bringing the employer into compliance with the new 200 μg/m³ level. (Ex. 16, pp. 19–21; Ex. 6, #109). Abatement under the current standard will involve implementation of controls which will help the employer reach the new standard. Further, it must be noted that employers have been under an obligation to comply with the current standard since 1971. Good faith efforts to comply with the 1 mg/m³ standard, where made have generally been successful in significantly reducing exposure to total dust as well as to respirable dust.

The current standard, however, will not continue in effect in weaving or in the non-textile segment of the industry after the new cotton dust standard becomes effective. As to non-textiles, case law developed from efforts to enforce the current standard has generally been adverse. OSHA has concluded therefore, that the continued application of the current standard to these employers would serve no useful purpose.

In the case of weaving, OSHA has concluded that enforcement of the current standard would impose a greater burden on the employer than meeting the provisions of the new standard. Evidence presented in the rulemaking demonstrated the introduced of considerable amount of biologically inert sizing materials during the slashing and weaving operations. On the basis of dose-response (Ex. 6, #51) and other data (Ex. 59, 59a; Ex. 108; Tr. 447), OSHA concluded that a higher exposure limit could be permitted in weaving without sacrificing worker protection. As a result, it does not appear that enforcement of the current more stringent level in weaving is appropriate while compliance with the new standard is being achieved.

A. *Scope and application.* This standard applies to all industries with exposure to cotton dust, with the exception, as noted below, of the maritime and agriculture industries. Thus, the standard applies to both textile and non-textile industries including yarn manufacturing, slashing and weaving, knitting, cotton seed mills, waste processing, classing and warehousing. This standard applies to mills processing cotton and synthetic blends as well as pure cotton, but does not apply to mills processing wholly synthetics.

The standard does not apply to dust generated solely from the handling of woven and knitted materials, such as dust generated during the manufacturing of garments from finished textile fabrics. Nor does the standard apply to processing of washed cotton.

The standard, as the proposal, does not cover harvesting because, as stated in the proposal, "it is a distinctively farming operation and presents different exposure environments and possibilities of control" (41 FR 56503). Cotton ginning is covered by a separate standard (29 CFR 1910.1046). This standard does not apply to agricultural operations.

The standard does not apply to the handling of cotton in the maritime industry. The weight of the evidence in the record shows the working conditions peculiar to the maritime environment render application of the cotton dust standard unnecessary. While some of the mitigating factors considered by OSHA in exempting the maritime handling of cotton overlap conditions sometimes found in other nonexempt industries it is the sum of the variables and their particular interaction which has led OSHA to except the maritime operation from the scope of this standard.

Testimony in the record supports the finding that maritime workers loading cargo on ships, are exposed to cotton dust for only brief periods. In Galveston, Texas, a cotton port, workers handle cotton bales for an average of 122 hours per year. Since Galveston is a major port for cotton shipments, the incidental cotton dust exposure in Galveston would appear to be of greater duration than that encountered in other U.S. ports. This limited duration of exposure makes it unlikely that cotton dust exposure is significant for any appreciable number of the workers handling water borne shipments of cotton.

Aside from the limited duration of exposure, the nature of the shipping operation mitigates the amounts of exposure for the typical cotton bale handler. Initially, cotton for shipment is pre-packaged into high density bales and covered with bagging on three-fourths of its area. The cargo men only handle the cotton when transferring the bales from warehouse to hold. Work in the enclosed ships' holds is rotated with work in the open air which is done with automatic equipment such as lifts and winches. In West Coast ports, the cotton is fully containerized and there is no worker exposure.

The West Gulf Maritime Association testified that it was unlikely engineering controls could be installed because of the structure of the industry. The maritime associations are merely labor brokers who rarely own the ships or barges. Ship owners, who handle cotton as a fraction of their cargo, are more likely to refuse cotton shipments than to install exhaust ventilation in their holds. The economic structure of the maritime industry would render apportioning of cost of engineering controls and even costs of other control programs problematical. These feasibility problems, however, are secondary to protection of the health of the workers. The primary evidence requiring exclusion of the maritime industry is the pattern of incidental exposure, the indications that levels of exposure, even under the worst possible conditions, are minimal on a time-weighted exposure basis, and the lack of any data showing that the level and extent of exposure presents a hazard to cargo loaders.

In the preamble to the proposed cotton dust standard, OSHA recognized that health problems similar to those observed in the textile industry do exist in non-textile industries which process cotton. Thus the Agency did not limit the scope of the proposed standard to the textile industry. Upon reviewing the entire rulemaking record, OSHA has concluded that the epidemiological evidence described below provides additional support to the decision to include all exposures to cotton dust within the scope of this final standard.

Dr. David Barman, a private physician, conducted a survey of employees in one California warehouse—compress facility. Neither the 14 workers registering respiratory complaints during pre-screening nor the 6 asymptomatic workers reported byssinosis on a self-administered questionnaire. However, pulmonary function testing revealed tht 5 of these 20 workers would have required periodic retesting according to the criteria established in the proposed standard. Furthermore, 12 of the 14 workers complaining of respiratory symptoms during the prescreening worked around the compress which has been shown to be a major exposure point to cotton dust in warehouse operations.

In a 1976 study of English willowers, Chinn et al. reported 8 of 32 workers showing a significant (greater than 10%) drop in pulmonary function. Over half of the 60 workers studied expressed symptoms of chronic bronchitis although only 5% reported byssinosis on a questionnaire.

A NIOSH survey of a garnetting facility showed an 11% prevalance of byssinosis among 34 workers exposed to dust levels ranging from 3.6–10.9 μg/m³ (vertical elutriated) in the garnetting department and from 0.24–0.43 μg/m³ in the mattress-making areas. Twenty had symptoms consistent with chronic bronchitis. Moderate pulmonary function changes were reported in 6 workers. NIOSH cautioned that use of respirators on the day of the testing could have suppressed noticeable dust effects, thereby underestimating the prevalance of both objective and subjective symptoms.

In Australia, Barnes and Simpson found an averge post-shift fall in FEV_1 of 0.12 liters (0.28 liters in dusty areas) among 26 garnetters. Preliminary results of Noweir's research in Egypt in-

dicated byssinosis prevalance on the order of 15% and FEV_1 decrements (greater than 10%) in 10% of cotton waste workers exposed to dust levels as low as 1.0 $\mu g/m^3$ respirable dust.

An Australian study of one cottonseed delinting plant demonstrated significant pulmonary function changes in more than half of the workers. Similarly, Noweir et al. noted that 30 percent of the work force exposed to cotton dust in two Egyptian cottonseed oil mills complained of byssinotic symptoms.

Although these studies of non-textile industries do not provide precise dose-response data, this data clearly establishes that exposure to cotton dust in these industries, regardless of the stage of processing in which the dust is generated, results in byssinosis and other respiratory diseases qualitatively indistinguishable from those arising in the cotton textile industry. OSHA has concluded that the record conclusively establishes that exposure to cotton dusts of the composition regulated by this standard poses a health hazard to employees in non-textile industries.

The standard does not apply to the handling or processing of cotton which has been "thoroughly washed in hot water." In exempting washed cotton, OSHA recognizes the effectiveness of the washing process in significantly reducing or eliminating the biological effects of cotton dust. Testimony by Dr. Merchant indicated that the reduced biological effects observed in washed cotton may be the result of reduced dust levels or because the active agents in the dust are eliminated by washing. The resulting dust levels upon washing were below 100 $\mu g/m^3$ so it is impossible to determine the absolute basis for the reduced activity (Tr. 1035). Exemption of washed cotton is consistent with the recommendation of NIOSH and other parties that washed cotton be considered processed cotton.

The washing process can be as simple as the water washing of baled cotton with a wetting agent described by Merchant, or as elaborate as the bleaching and purifying processes commonly practiced in the health products industry (Tr. 1016, Ex. 96). Washed cotton, however, does not include cotton which is steamed or autoclaved. While both steaming and autoclaving cotton prior to manufacturing have been used as means of reducing the health hazard from cotton dust and have resulted, in certain processes, in some reductions in dust levels and improvement in pulmonary function there is no evidence that either method is as effective as washing in controlling the problem. In fact, a study in a Burlington mill, although noting an improvement in FEV_1 decrement in preparation during which cotton fibers are steamed, established that dust levels and pulmonary effects increased in post-preparation areas, due possibly to adherence of the dust to cotton fibers because of the steaming. Although Imbus and Suh suggested that steaming might serve as an adjunct to exhaust ventilation in dust control, it does not appear that steaming alone is as effective as washing. Nor is there evidence in the record that washing with solvents is as effective as water. Therefore, in the absence of more persuasive evidence on the effectiveness of steaming or washing with solvents in reducing employee exposure to cotton dust, only cotton washed in water is exempted.

This final standard establishes mandatory requirements for the control of employee exposure to cotton dust. These requirements are reasonable and appropriate for achieving the health protection considered necessary and are based on the entire record of this proceeding, including the extensive evidence concerning the types of controls and procedures currently utilized by many covered employers. OSHA recognizes, however, that changing technology, new equipment and procedures, as well as experience gained by industry in the implementation of this standard may lead to the development of alternative means of protecting employees which are as effective as, or indeed more effective than, those set out in this standard.

It is not OSHA's intention by promulgating this standard to discourage or inhibit this kind of innovative development. On the contrary, to the extent that new and more effective methods will make the goal of employees health more readily achievable, adoption of these methods will better effectuate the purposes of the Act. It is for this reason, in part, that section 6(b)(5) of the Act expresses a preference for the issuance of performance standards to the extent practicable.

We note, therefore (and have included a reference in the standard), the provisions of section 6(d) of the Act which provide for the grant of variances to employers who can show that they have developed alternative means of providing employment and places of employment which are as safe and healthful as those required by the standard. As implemented by the procedural regulations in Part 1905 of this Title, the variance provisions of the Act permit the flexibility which contributes to efficient compliance with the standard. To aid in the expeditious processing of variance applications, the procedures allow, where appropriate, for the grant of interim orders pending a decision on the merits of the variance as well as for the consideration of variances applicable to groups of employers. OSHA encourages interested employers to utilize the variance provisions of the Act where equally safe and healthful protective means are available.

B. *Definitions.* The final standard contains eight definitions some of which are changed from the proposal. The definition of cotton dust is discussed in detail in section IV, Permissible Exposure Limit (general). The definition of washed cotton has been expanded to make it clear that the exemption does not apply to washing with solvents. A definition of yarn manufacturing has been added to make clear what textile processes are subject to the 200 $\mu g/m^3$ permissible exposure level. A definition of lint free respirable cotton dust has been added to make clear what fraction of cotton dust is sampled, since the permissible exposure limits are now expressed in terms of lint free particles.

C. *Permissible exposure limits.* The standard prescribes three separate permissible exposure limits. The permissible exposure limit for yarn manufacturing processes in the textile industry is 200 $\mu g/m^3$ of lint-free respirable cotton dust averaged over an eight-hour work shift. The permissible exposure limit in the textile processes known as slashing and weaving is 750 $\mu g/m^3$ of lint-free respirable cotton dust averaged over an eight-hour work shift. In all other industries where employees are exposed to cotton dust, including knitting, the permissible exposure limit is 500 $\mu g/m^3$ of lint-free respirable cotton dust averaged over an eight-hour work shift. The evidence and rationale supporting these environmental levels are discussed in detail in the preamble under section IV, Permissible Exposure Levels.

D. *Exposure Monitoring and Measurements.* The final standard, like the proposal, requires that the employer monitor employee exposure to cotton dust. OSHA discussed methods of exposure measurement in detail in its proposal and in particular, significant attention was devoted to sampling devices and personal versus area sampling. In enforcing the then existing regulation (29 CFR 1910.1000) OSHA was required to measure total airborne particulates. In that context OSHA believes that the personal sampler, a measuring device worn by an employee while at work, most closely reflects the total airborne particulates in the breathing zone. The preamble to the Secretary's proposed cotton dust standard recognizes the advantage of the personal sampler:

> "There are definite advantages (sic) in relating a dust concentrator measurement to a particular employee's exposure. Thus, wherever possible, OSHA has considered the use of personal sampling devices that can be worn by an employee through the working day to be superior to area samplers, even though OSHA is using personal sampler

consisting of a portable pump to which an open face filter is attached by means of flexible tubing. The filter is then attached to the employee's lapel or collar . . ." (41 FR 56505, December 28, 1976.)

In addition, personal samplers constitute a basic sampling methodology for measuring employee exposure to many toxic substances, such as lead, asbestos, coke oven emissions, etc. In sum, personal sampling is recognized by OSHA and the scientific community as an established method of monitoring employee exposure to airborne toxic substances.

Second, the currently enforceable cotton dust standard, which establishes a permissible exposure limit for "cotton dust raw" reflects the correlation between exposure to cotton dust in general and adverse health effects. However, OSHA has determined there is a more consistent correlation between lint-free respirable particulates and adverse health consequences. Accordingly, under the proposal OSHA has examined the appropriateness of a permissible exposure limit based upon a size-selective dust measurement, i.e., lint-free respirable particulates. The studies which establish this correlation are based upon area dust sampling using the vertical elutriator. However, by considering the use of different sampling techniques and devices, which are the products of developing research, the Secretary is not repudiating the previous cotton dust standard or the techniques for determining compliance therewith. The required sample remains a lint-free respirable dust sample, but the sampling device to be used can be either the vertical elutriator (VE) or a method of equivalent accuracy and precision. This represents a major change from the proposal, as explained more fully below. The procedures specified for collection and analysis of environmental samples when using the vertical elutriator, as provided in Appendix A, are now advisory in nature, which is intended to allow for flexibility.

Medical and environmental evidence presented in the preamble to the proposed cotton dust standard demonstrating the preferability of a respirable dust sampling to depict employee exposure, was not disputed. Most investigators (Ex. 41, 51, 66; Tr. 530) agreed that the correlation existing between a respirable dust sample and observed health effects mandates the use of a sampling device which enables measurement of respirable dust particles. In fact, permissible exposure limits first formulated in the proposal were based on data obtained through the use of the vertical elutriator.

One major change adopted required redefinition of the cotton dust fraction to be measured, from a vertical elutriated sample to a lint free-respirable dust sample. The term "vertical elutriated" refers to the method of precollection or separation of the respirable and non-respirable fraction, and not the type of dust sample, whereas respirable refers to particles which are capable of deposition in the respiratory tract.

OSHA recognizes the many problems associated with the use of the vertical elutriator. (42 FR 56505). However, representatives from Burlington Industries, ACTWU (Tr. 996), NIOSH (Tr. 996) and the North Carolina Department of Labor agree with OSHA that the vertical elutriator is currently the best sampling device available for separating particles with aerodynamic diameters above 15 microns from the respirable portion of cotton dust. This consensus was based on an evaluation of data collected by the vertical elutriator which demonstrated conformity with precision and accuracy requirements prescribed in the final standard (Tr. 1052).

In requiring the vertical elutriator as the approved sampling device for cotton dust, OSHA is not eliminating the use of other sampling devices where equivalency can be demonstrated. OSHA has provided in the standard that devices equivalent to the vertical elutriator may be used for cotton dust.

While equivalency criteria must be established independently for each proposed device, minimum equivalency must be determined either theoretically or experimentally by demonstrating that the device uses standard statistical principles to classify aerosols aerodynamically according to size as does the vertical elutriator (effective cut-off of 15 microns) and side-by-side equivalency in field situations with the standard vertical elutriator must be demonstrated to be within an accuracy and precision of plus or minus 25 percent or 95 percent of the samples over the range of 0.5 to 2 times the permissible exposure limit.

One device for which equivalency was claimed during the hearings was the GCA-RDM 101, which is one type of sampling device. Pedro Lilienfield of GCA Corporation presented evidence that the portable direct readout dust monitor, model RDM-101 is equivalent to gravimetric techniques for measuring respirable dust concentrations.

NIOSH representatives argued against acceptance of the GCA RDM 101 because equivalency had not been adequately demonstrated. Above 700 ug/m^3 there is deviation from equivalency for the RDM 101 (TR. 2032). Mr. Lilienfild admitted on cross examination that the data collected by the GCA on levels above 700 ug/m^3 "is somewhat insufficient" (Tr. 3653).

Also, Mr. Lilienfild admitted that equivalency had not been demonstrated for all processes beyond opening, picking and carding in the textile mill nor in the nontextile industry (TR. 3656). Consequently, the utility of the GCA RDM 101 monitoring device in situations where side-by-side equivalency has not been demonstrated is questionable.

While there are definite advantages in using a sampling device similar to the GCA monitor, the rulemaking record raises significant questions which must be addressed before OSHA will accept that device as equivalent to the vertical elutriator. OSHA re-emphasizes that only devices which positively demonstrate equivalency with the standard vertical elutriator (equivalency as described above) will be accepted as alternative sampling devices. The burden of proving equivalency of alternative methods rests with the employer utilizing an alternative device. While OSHA insists on the demonstration of equivalency for any proposed alternative sampling devices, OSHA continues to encourage the development of alternatives, especially size selective personal samplers.

The sampling procedures proposed by OSHA in Appendix A received extensive criticism during the hearings. Representatives from the North Carolina Department of Labor and Mr. Frank Mackison from NIOSH testified that Appendix A should be changed from a required strategy to a recommended method. This would assure flexibility and enable industrial hygienists to exercise professional judgment in establishing optional sampling protocols (Tr. 4152). Dr. Neefus supported this position and agreed that the workplace must be properly assessed before appropriate sampling protocol can be determined.

On the other hand, ACTWU urged that Appendix A be mandatory as initially proposed by OSHA (PH #36), because or its value to non-professionals. Dr. Y.Y. Hammad of Tulane University also agreed that Appendix A should be required because "requiring this particular protocol forces consistency in measurements between different people who are performing the measurements".

OSHA agrees that Appendix A may not be flexible enough to cover all situations in which samples need to be collected. For example, Neefus argued that greater flexibility was required with respect to duration, sequence, location and number of samplers (2000-2003). Accordingly, Appendix A is only advisory in nature.

The final standard requires that monitoring of all employees exposed to cotton dust must be completed as soon as possible but not later than 12 months of the effective data of the standard. The North Carolina Department of Labor testified that one year was necessary to implement a sampling program due to current produc-

tion schedules and delivery dates. (Tr. 4154). OSHA believes that monitoring must be completed at the earliest date in order that employers can take appropriate steps to protect the health of their workers. Taking into consideration production rates of monitoring equipment and anticipated delivery dates, OSHA believes that the North Carolina recommendation of one year allows sufficient time for completion of the monitoring.

The standard also requires remeasurement of employee exposure at least every 6 months. This requirement was included in the proposed standard to ensure that the employees exposure measurement represents current exposure conditions. Periodic monitoring enables the employer to take appropriate measures for the protection of his employees. As already pointed out, adverse health effects from cotton dust exposure may occur at levels below the permissible exposure limit. Therefore, regardless of the airborne concentration of cotton dust, exposure measurements when coupled with the required medical data will enable both the employer and OSHA to evaluate the effectiveness of the permissible exposure level in the reduction of the prevalence of byssinosis.

The standard also requires that whenever there has been a production, process, or control change which may result in new or additional exposures to cotton dust, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the required monitoring for those employees affected by the change or increase. Neefus agreed that it is basically a good industrial hygiene practice to sample an area after major equipment, ventilation, or process control changes. However, he pointed out that minor process changes takes place daily in many textile mills, such as changes in blends, cotton mix, counts and yarn, or temporary slow downs which, under strict interpretation of the proposal, would require daily sampling (Tr. 2003). To resolve this problem, Neefus recommended that there be re-determination of exposure only when a "major change" occurs and that a "major change" be defined as a blend ratio changing from 65-35%, 50-50%, or an engineering or humidification change (Tr. 2016, 2017).

The record demonstrates the difficulties in attempting to distinguish between major and minor changes. Therefore, the final standard does not incorporate Neefus' suggestion. However, OSHA believes that, with the development of a sampling protocol specifically for each operation, persons responsible for taking samples will be able to determine which operational changes will result in elevated dust levels, requiring additional monitoring.

The standard requires employers to collect at least one sample during each shift for each work area. This differs from the proposal insofar as the sample is now for each work area where before it was for each job classification. All of these requirements are intended to ensure that the monitoring is truly representative of the employee's exposure over an eight hour period. Since exposure conditions vary throughout the day, at least one sample is to be taken during each shift in order to ensure that exposure measurements represent exposure of employees on all shifts. Full-shift samples give more accurate indication of an employee's average exposure during a work shift than would sampling for less than full shift. Short term samples would tend to be affected by the variability of cotton dust emissions. Full-shift samples tend to average out these variations. It should be emphasized that Appendix A specifies that six-hour samples be collected and not 8-hour samples. this is partly due to the time required to set-up sampling equipment, calibrate, and finally to remove sampling equipment, or in other words sufficient time must be allowed in any sampling strategy for such mechanical functions to be performed. In addition, a sufficient number of samples and locations in each work area must be sampled to ensure that the monitoring is truly representative of an employee's exposure.

(E) *Methods of Compliance.* This final standard requires employers to institute engineering and work practice controls, and respiratory protection, to reduce employee exposure to cotton dust to or below the permissible exposure limits according to a specific schedule. This requirement is in accord with OSHA's policy that feasible engineering and work practice controls must be used as the primary methods of reducing employee exposure. This policy is based upon the view that the most effective means of controlling employee exposures is to reduce emissions of toxic substances at their source through the use of mechanical means combined with work practices rather than through reliance on the variability of human behavior so critical to the successful use of respirators.

This standard also provides that, in situations where feasible engineering controls and work practices are insufficient to reduce exposure to the permissible exposure limits, the controls must nonetheless be used to reduce exposures to the lowest achievable level and then be supplemented by the use of respiratory protection. While respirators are not the preferred means of controlling employee exposure, respiratory protection must be utilized to reduce employee exposure during the period required for installation of engineering controls, where engineering controls may be inappropriate, such as during some maintenance operations, or in those cases when both engineering controls and work practices do not succeed in reducing exposures below the permissible exposure limit.

Some hearing participants recommended a control strategy involving principal reliance on respiratory protection, to reduce the cost of compliance. However, respirators have many disadvantages which preclude primary reliance or co-reliance on respiratory protection on an equal basis with engineering and work practice controls. The many difficulties with respiratory protection were enumerated at the hearing by respirator expert Bruce Held (Tr. 483): because of difficulties in face fit, it is difficult to know whether the respirator actually provides adequate protection; respirators, by interferring with vision, hearing, and mobility, can cause safety problems; some employees cannot wear respirators because of breathing difficulties. Finally, it is not appropriate to place the burden of compliance principally on the employee, as would be the case if respiratory protection were the principal means of reducing employee exposure. Therefore, OSHA retains in the standard the policy of principal reliance on engineering controls and work practices, except in circumstances where there is no feasible alternative to reliance on respiratory protection.

Even in situations in which engineering controls will not succeed in reducing exposure levels below the permissible exposure limit, it is still appropriate to require all feasible engineering controls to be installed, even though they would have to be supplemented by the use of respiratory protection. The engineering controls, by reducing the exposure, will minimize the potential for over exposure resulting from poorly fitting respirators, and may reduce the number of employees who need to wear respirators.

The assessment of the feasibility of engineering controls in reducing exposure to cotton dust is discussed earlier in this preamble. Since it has been established that the standard is generally feasible, the burden of proving infeasibility in any particular case clearly rests on the employer. The employer is in the best position to gather evidence on feasibility in his workplace. The employer is most familiar with production processes and the engineering modifications which are applicable. Further, it is OSHA's policy that employers be required to take steps to investigate the feasibility of controls and install them as necessary.

The Proposed Cotton Dust Standard provided for the phasing-in of control technology over a period of seven

years from the effective date of the standard. This phase-in program was based upon RTI's assessment of problems with the implementation of engineering controls to achieve a 200 $\mu g/m^3$ level in all industries with cotton dust exposure. The phase-in program involved a three tiered approach to compliance in which employers were required to achieve 500 $\mu g/m^3$ immediately, 350 $\mu g/m^3$ in four years, and finally 200 $\mu g/m^3$ in seven years. This final standard differs from the proposal in several important respects.

The record of this proceeding demonstrates that the permissible exposure limits established are feasible, and that compliance with these limits can be achieved in a much shorter time than proposed. The final standard is based on voluminous evidence offered by numerous parties during the hearing. That evidence shows significant advancement in dust control especially by the major yarn manufacturing companies, which include efforts to install new production equipment which is both cleaner and more adaptable to ventilation equipment. As described below there was conflicting evidence regarding the time period required for implementation of engineering controls. Although controls have been instituted in some parts of the industry compliance has not been achieved in the vast majority of affected industries, and therefore any determination of the time required for complete implementation of controls throughout industry must be seen as a best estimate rather than established fact. Based upon these considerations and the record evidence OSHA has determined that compliance can be achieved throughout industry in four years from the effective date of the standard.

The Research Triangle Institute (RTI) suggested, based on conversations with control equipment vendors, that compliance with the 200 $\mu g/m^3$ limit in yarn processing could take "perhaps 8 years or more," and compliance by other sectors might require 2-3 years more than yarn producers. The primary determinant was the ability of the control industry to design, produce, and install equipment that will reliably produce the required levels.

RTI's assessment was based on the most laggard mills rather than the typical. Most significant, however, was OSHA's modification of the exposure limits in weaving and in non-textiles, which is likely to replace the need for expensive and difficult dust control requirements with clearly achievable or already achieved measures.

For example, H. Hocutt estimated that 72 percent of the weaving operations are currently in compliance with 750 $\mu g/m^3$ (Tr. 2419). Similarly compliance with the 500 $\mu g/m^3$ permissible exposure limit for non-textiles should be accomplished with less difficulty than anticipated in the proposal; in fact much of the industry is already in compliance with this level.

The North Carolina Department of Labor testified that five years would be required for implementation of controls (Tr. 4156) and there was some industry testimony which indicated at least three years was to be anticipated for controls. In answer to the following inquiry addressed by NIOSH to extramural consultants in 1972, Dr. Imbus responded:

> "*Question:* If you feel that they (the textile industry) can not meet these requirements at the present time what length of time would you allow to meet these requirements?
>
> "*Answer:* I believe it would be necessary to allow at least three years to meet a dust standard of .2 milligrams per cubic meter. I believe medical controls could be achieved in most instances with one year."

The record does indicate that installation of dust control systems may occur in significantly shorter times than already described.

Dr. R. Soule testified:

> "it is recognized that many cotton processing operations have little or no provisions for local exhaust or general ventilation. The time period from design of a system to implementation in the plant in such situations easily could extend to six months or more. In other plants, the basic components of controls systems are present, but in need of repair and general upgrading. In these situations significant improvement in dust control capability could be achieved in a matter of four to six weeks."

Installation of dust control systems in less than six months was described in the NIOSH document "Cotton Dust Controls in Yarn Manufacturing." This publication outlined in detail the efforts at dust control by Pneumafil Corporation during the early seventies and documents the fact that controls could be installed in six months or less (Ex. Ref 109).

OSHA does not believe however that implementation of engineering controls is attainable in these brief periods throughout industry. It is obvious that design, manufacture and installation of controls within a short period throughout industry would place an unrealistic burden on the manufacturers of control technology especially when one considers the large number of textile plants affected by the standard.

Based on this extensive testimony OSHA has concluded that implementation of engineering controls both in brief periods of less than a year or extended periods of 7 to 8 years are unrealistic for the reasons cited. A period of 3 to 4 years for implementation throughout industry is eminently reasonable and achievable. OSHA will therefore require complete implementation of engineering controls no later than 4 years from the effective date of the standard.

OSHA recognizes that some time will be required for implementation of engineering controls. First, each employer must monitor employee exposure and determine the level of employee exposure. This monitoring must be completed no later than March 4, 1979. Using this monitoring data, the employer must take steps to develop a written compliance program. These steps include identifying the source of emissions for which controls must then be designed, purchased, manufactured, delivered and installed. It is contemplated that to develop this program most employers will need to rely on professional experts. The standard requires that this written compliance program be completed no later than 12 months after the standard's effective date, (i.e., by September 4, 1979).

Having completed this compliance plan, employers are then given a period of 36 months (until September 4, 1982) in which to complete installation of engineering and work practice controls which reduce employee exposure to or below the P.E.L. OSHA finds that such a period of time for completion of engineering controls will be needed by a large number of employers within the covered industries. Accordingly, taking into account the requirements of the statute that OSHA consider "the feasibility of standard", OSHA has determined that employers are required to complete implementation of engineering and work practice controls by September 4, 1982. As discussed below, employers who have developed an adequate compliance plan and are implementing the plan on schedule will not be subject to citation during this period for failure to have completed installation of engineering controls.

Initially, all employers will be required, by October 4, 1978, to provide any dust respirator, including single use respirators, to every employee, except where the employer can demonstrate that employee exposure is below the permissible exposure level.

As explained in the respirator section *supra*, as soon as an employer completes monitoring, but no later than March 4, 1979, he is required to provide the respirator which is appropriate for the measured levels, in accordance with the respirator selection table requirement.

This final standard specifies the contents of the compliance plan. OSHA views the written compliance plan as an essential part of the compliance program since it will encourage employers to actually achieve the controls and also provide the necessary documentation to OSHA, employers and employees of the compliance methods chosen, the extent to which

controls have been instituted and plans to institute further controls to achieve safe and healthful workplaces.

The standard requires that the employer establish the written plan no later than September 4, 1979. This plan must set forth a schedule whereby the employer will reduce exposures, solely by means of engineering and work practices controls, to or below the permissible exposure limit no later than September 4, 1982.

Upon examining the employer's compliance plan, the Secretary will determine whether the schedule for development and implementation of engineering and work practice controls is designed to and will achieve compliance with the P.E.L., by these means, by September 4, 1982. OSHA will take enforcement action in cases where the compliance program does not project the implementation of these controls by that date, or where it appears that the schedule for implementation is extended such as to render completion by September 4, 1982 unlikely. In addition, the employer who has developed an adequate plan for reducing employee exposure below the P.E.L. but does not meet the scheduled implementation dates, in the plan, will be subject to citation.

These written plans must be furnished upon request for examination and copying to representatives of the Assistant Secretary and the Director and to affected employees and their designated representatives. They must be reviewed and updated periodically to reflect the current status of exposure control. OSHA views the requirement for written plans as an essential part of the compliance program since it will form the basis for determining the employer's ability to achieve the controls and provide the necessary documentation to OSHA of the compliance methods chosen, the extent to which controls have been instituted, and of the plans to institute further controls.

F. *Respiratory Protection.* The standard requires that respirators be used only in limited circumstances: during the time necessary to complete initial monitoring any dust approved respirator including single use respirators shall be required except where the employer can demonstrate through previous monitoring results that the permissible exposure limit is not exceeded: during the time period necessary to install or implement feasible engineering and work practice controls, in operations where engineering control are not feasible such as some maintenance operations, in work operations in which controls are not feasible or are not yet sufficient to reduce exposure to the permissible exposure limit, and whenever an employee requests a respirator. This last requirement is to provided protection for those employees who are sensitive to cotton dust exposure even below the P.E.L.

OSHA's decision to require single use respirators during the period of time required for completion of initial monitoring is based on the knowledge that given current production and delivery rates for monitoring equipment initial monitoring may not be completed throughout industry for six months. The agency has concluded that employees should be protected from exposure to cotton dust throughout this period rather than waiting for the results of initial monitoring. In those situations where the employer has already performed exposure monitoring respirators will only be required for employees exposed to cotton dust in excess of the permissible exposure limit. Since in most cases the employer will not have knowledge of the airborne concentration of cotton dust use of the respirator table will not be relevant and therefore OSHA will require use of any approved dust respirator. Where the employer has knowledge of the airborne levels then he must use the respirator table to determine which respirator is appropriate.

Where the permissible exposure limit is exceeded and engineering controls and work practices do not succeed in reducing exposure below the permissible exposure limit, it becomes necessary to utilize respirators to give health protection to employees. Under these circumstances, therefore, the employers must provide the employee with the appropriate respirator and assure that the employee uses the respirator.

The standard also requires that respirators be worn during "blow downs". The need to protect employees from the elevated exposures encountered during the cleaning of equipment and surfaces with compressed air is discussed in detail in the section on work-practices.

The standard further requires that the employer select respirators from among those approved by NIOSH under 30 CFR Part 11. The standard includes a selection table for the employer to use which will provide for the selection of respirators which will afford the employee the proper degree of protection. This table is based on protection factors which are primarily a measure of face fit and OSHA's standardized decision logic for respirator selection (Tr. 485). The respirator table in the final standard reflects changes from Table I of the cotton dust proposal (41 FR 56516-7) which are based on an analysis of the record evidence.

There are two major changes in respirators from the proposal to the final standard. Other proposed requirements for respirators were substantially uncontroverted. One major change from the proposal is the inclusion of the single-use respirator in the selection table. Single-use respirators were excluded from the selection table section of the proposal because they could not achieve a protection factor of 10. The protection factor of single-use respirators has been disputed. OSHA's decision to include single-use respirators was based on testimony by NIOSH that single-use respirators can achieve a protection factor of 5 and are approved by NIOSH for protection against pneumoconiosis and fibrosis producing dusts (Tr. 487; Tr. 4240; Ex. 38 Appendix 10).

OSHA is well aware of the problems associated with the use of a single-use respirator, and recognizes that there are no fit tests available for individual employees to determine proper fit. OSHA, however, agrees with respiratory experts that an employee should be able to achieve leakage of about 20% or less with careful fitting which a protection factor of 5 would allow (Tr. 487).

There are other considerations favoring use of the single-use respirators. Because they are light weight and create lesser breathing resistance and communication interference, single-use respirators have received wider acceptance among workers than have other respiratory devices. Retired and active workers have echoed this acceptance (Ex. 54a, p. 12; Ex. 82, p. 9-10), and the North Carolina Department of Labor (Ex. 108) recommended single-use respirators, characterizing them as "the most comfortable, economically feasible, and sanitary in many environments." Wearer acceptance and training are critical to the success of any respirator program. Given the compelling testimony describing wearer acceptance of the single use respirator OSHA has added a provision to this section which will require the employer to comply with an employees's preference for a single use respirator, whenever respirators are required by this section for concentrations not greater than 5X the applicable permissible exposure limit.

The second major change in the respirator selection table is the establishment of a protection factor of 100 for full facepieces under negative pressure instead of the factor of 50 in the proposal. Hearing participants presented studies conducted at the Energy Research and Development Administration facility at Rocky Flats and at Lawrence Livermore laboratory which showed that 100% of the employees could get a protection factor of at least 100 on at least one make of full facepiece (Tr. 486). After reviewing this data, OSHA has concluded that a protection factor of 100 for full facepiece respirators under negative pressure is appropriate.

To assure that employees receive the maximum protection from exposure to

cotton dust, OSHA has required the use of respirators which exhibit minimum facepiece leakage. For single-use respirators, for which no really objective test exists, employees are cautioned to report respirators which have obvious leakage. Usually, this leakage can be assumed when the employee feels large amounts of air penetrating the seal of the facepiece. For non-powered, particulate filter respirators, semi-quantitative fit tests were required annually in the proposal. Since there was no testimony describing the specifics of semi-quantitative fit test OSHA has reconsidered this requirement and does not require semi-quantitative fit tests in the final standard.

The standard also requires that employees wearing filter respirators be permitted to replace the respirator filter whenever they detect an increase in breathing resistance. When the filter becomes loaded, the movement of air through the filter becomes restricted forcing the employee to breathe harder to overcome this resistance. The wearing of a respirator becomes increasingly uncomfortable and discontinued use may result. To aid in minimizing the discomfort of wearing a respirator and to keep the respirator working efficiently, the employee must be allowed to change filters as the need arises.

The wearing of a respirator in a dusty environment can result in skin irritation, as the dust may accumulate around the facepiece seal. To prevent this irritation and to minimize the discomfort of respirator use, employees must be allowed to periodically wash their faces and respirator facepieces, in order to remove any accumulation of dust.

While it is known that worker resistance to wearing respirators can be great, much can also be done to eliminate this problem (Tr. 3042; 4180-1). The employee must be properly trained to wear the respirator, to know why the respirator is needed, and to understand the limitations of the respirator. An understanding of the hazard involved in necessary to enable employees to take steps necessary for their own protection.

The standard further requires that the employer institute a respiratory protection program in accordance with 29 CFR 1910.134. That standard contains basic requirements for proper selection, use, cleaning, and maintenance of respirators.

The standard requires the employer to provide respirators for protection from exposure to cotton dust "at no cost to the employee". OSHA has allocated the costs of respirators required for protection from exposure to the employer in order to effectuate the purposes of the Act. The employer will be in the best position to provide the correct type of equipment and keep it in repair. The employers' costs in providing respirators and protective equipment and clothing were considered in the economic assessment. This language in the standard makes explicit the position which has long been implicit in all OSHA health standard proceedings under section 6(b) of the Act.

The final standard contains a limited employee transfer option for those employees incapable of wearing any form of respirator. The final standard recognizes that engineering controls are the preferred method of controlling cotton dust hazards; that it will take up to four years for employers to implement engineering controls to reach the permissible exposure limit; and, to afford employee protection during this interim period, the final standard permits the use of respirators instead of engineering controls. In light of these provisions, OSHA anticipates that it will be necessary for many employers to place reliance upon respirators as a principal means of worker protection during much of this 4 year period.

Due to the high incidence of diminished pulmonary function among existing cotton dust workers, OSHA expects that some employees will be found to be incapable of wearing a single use or other form of negative pressure respirator. As a result, the medical surveillance provisions of the standard include a requirement that an examining physician determine an employee's ability to wear respirators. In situations where a negative pressure respirator cannot be worn, the examining physician must determine the employee's ability to wear a powered air purifying respirator (PAPR).

OSHA expects that in a limited set of circumstances, certain employees will be incapable of even wearing a PAPR. An employee under such circumstances, in the absence of some opportunity to transfer to a position where a respirator need not be worn, might very well be discharged, or otherwise sustain economic loss, due to his or her inability to wear a respirator. OSHA views such a result as exceedingly harsh. It is manifestly unfair that employees who are unable to wear respirators suffer loss of jobs or other economic detriment because their employers have not yet achieved compliance with the engineering control requirements of the standard, but are relying instead on the interim and less effective device of respirators. During the multi-year period prior to the full implementation of engineering controls, this risk of adverse ecomomic impact on employees is a real one. Accordingly, we conclude that where the employer is relying upon respirators as the means of limiting worker exposure, his or her compliance obligation must include the obligation to assure that employees who are unable to wear respirators not suffer any economic detriment. More specifically, a provision is included in the final standard which offers employees incapable of wearing any form of respirator, including a PAPR, the option to transfer to another position which is available or later becomes available having a dust level at or below the PEL. In concert with this transfer option, the standards requires that employer assure that an employee who is transferred due to an inability to wear a respirator does not suffer loss of earnings or other employment rights or benefits as a result of the transfer. The goal of this provision is to minimize any adverse economic impact on the employee by virtue of the inability to wear a respirator. The "available position" aspect of the provision recognizes that a suitable position may not always be immediately available, but the standard contemplates that the employee be given the opportunity to transfer to an appropriate position if an when such a position arises.

It is OSHA's judgment that this restricted form of job transfer without loss of earnings or other employment rights or benefits should only have to be invoked in the most unusual of circumstances, but, the protection it affords should greatly increase the success of the standard's respiratory protection provisions. As noted elsewhere in the preamble, the broad questions of mandatory medical removal of cotton dust workers, and medical protection, are not addressed by this final cotton dust standard, but will be discussed in the forthcoming inorganic lead standard. It is appropriate to note that the limited transfer option contained in this final cotton dust standard is adopted solely in response to the special role of respiratory protection in this standard, and is not meant to reflect the agency's evolving perception of the overall problem of medical removal protection.

G. *Work practices.* The preamble to the proposed cotton dust standard states that "in most processes in which cotton dust is present, even exposures below the permissible exposure level may be harmful, as there is no safe level of exposure. Therefore, definite work practices and procedures must be instituted to control employee exposure" (41 FR 5606). Virtually no testimony was presented during the hearings to contradict this statement, and in fact, there was testimony to the effect that many textile employers have established work practices. While no direct evidence as to work practices in non-textile industries was submitted, neither was there any questioning of the need for and the feasibility of work practice controls in any of the non-textile operations.

The standard specifies the work practices which the employer must institute. For example, the standard requires the employer to inspect, clean, maintain and repair all engineering control equipment and ventilation systems, including power sources, ducts and filtration units of the equipment. It is generally accepted as good industrial hygiene practice to provide maintenance of control and ventilation equipment. Testimony presented during the hearings (Ex. 17, p. 4) indicated that significant improvements in reduction of cotton dust levels in the cotton industry could be achieved by simply maximizing the effectiveness of the existing control mechanisms. Maintenance of local exhaust hoods, duct work, dust colletion equipment and fans in optimum condition programs of total systems maintenance, and good work practices must be used or the most highly-sophisticated engineering control systems will not be effective in controlling dust levels (Ex. 17, p. 6). This provision received general acceptance by NIOSH, industry, union witnesses, and dust control equipment vendors (Ex. 16, p. IV-30; Ex. 1, p. 98; Ex. 17, pp. 5-7; and Tr. 2369). Further, good maintenance is fully within the reach of any firm and may contribute to improved productivity as well as reduction in dust levels (Ex. 16, p. IV-26; Ex. 17, pp. 7-8).

In addition to the specified work practices, the final standard also generally requires the employer to establish and implement a written program of work practices to include procedures which shall minimize cotton dust exposure for each specific job. The need for workpractice programs is well documented (Ex. 1, p. 98; Ex. 16, pp. IV-30-31). RTI referenced a work practice program for opening room operations developed by ATMI and elaborated on the importance of specific work practice programs for controlling employee exposure to cotton dust (Ex. 16, p. IV-30). The protocol utilized by ATMI in developing work practices for specific jobs consists of making a detailed analysis of the sequence of actions followed by an individual worker or work team at a work station and developing a specific work practice program from this information (Ex. 16, p. IV-31). The method employed by ATMI is reasonable, straight-forward, and provides a template for assignment of work practices at all similar work stations. Therefore, this method is recommended by OSHA for use in both the textile and nontextile industries.

The National Cotton Council of America (NCCA) expressed concern that in operations such as cotton compress warehousing where some 31 different job functions exist, formulating specific work practices for each job category could become disruptive to productivity, and could result in greater expenditures than implementation of engineering controls (Ex. 97f, pp. 24-25). NCC offered no evidence to document productivity losses, nor was any such evidence offered by any other witnesses. OSHA is, therefore, not persuaded that significant losses in productivity are an inevitable consequence of the work practice provisions of this standard. Nor does OSHA believe that work practice controls are as costly as engineering controls. Often by simply altering a ritual or unnecessary routine or correcting sloppy practices significant reduction can be acheived in dust levels to which employees are exposed.

It was argued by the Amalgated Clothing and Textile Workers Union, (Ex. 85, p. 2) that OSHA should require employers to consult with their employees or the employees' representative about the content of the written work practice program. OSHA believes that primary responsibility for implementation of the requirement that employee exposure to cotton dust be reduced below the permissible exposure limit, must be placed upon the employer, and that it is the employer's responsibility to select the appropriate work practices. Although appropriate work practice programs will likely rely in part upon information supplied by the worker to the employer, OSHA does not consider it necessary to require employers to consult in the development of the work practices.

At noted above, the final standard does specify that certain work practices be included as part of every work practice program of each covered employer. One such practice prohibits the employer from using compressed air cleaning in "blow down" operations except where alternative means are not available. Considerable comment was addressed to this requirement. Industry objected to any restriction on "blow down", arguing that no feasible alternative existed. RTI agreed that "blow down" to remove lint and dust from equipment was accomplished much more effectively with an air jet than through vacuuming, because an air jet created by a blowing nozzle maintains at least 10% of its discharge velocity at a distance equal to 30 times the diameter of the nozzle opening, whereas a vacuum pick-up requires close contact with the lint or dust to be effective (Ex. 16, p. IV-27).

Dr. John Neefus of Burlington Industries commented on vacuuming:

> Vacuum cleaning does not solve the problem. In a survey of ten plants on work practices, all had tried vacuum cleaning at one time or another. It should be noted that vacuuming does not work well in humid textile plant situations; its effectiveness is only 1/30th that of the compressed air; and from an industrial hygiene standpoint the respirable dust comes through the vacuum bag into the operational area (Ex. 49, p. 15).

Yet failure to remove lint and dust can have serious consequences for production equipment, such as breakdown or reduced efficiency (e.g. in knitting), and for the product in textile mills, such as diminished cloth quality. The failure to remove lint build ups has been shown to cause lint fires (Tr. 2005). Furthermore, industry described situations where locations were not accessible to vacuuming (Ex. 16, p. IV-27; knitting), and where the cleaning of inaccessible rafters and duct work could present a serious hazard to a worker using a vacuum cleaner (Ex. 95d, p. 6).

On the other hand, union representatives (Ex. 78 p. 2) expressed concern over the use of compressed air even when feasible alternatives are not available. They contended that the cotton industry will interpret this provision as always enabling employers to use compressed air during "blow down". Further, they maintained that blow down with compressed air results in elevated dust concentrations in the work area and, consequently, increases worker exposure.

Some parties recommended alternative approaches to vacuuming for the use of compressed air in "blow down". For instance, one alternative suggested involves blow down with compressed air being done only between shifts when production workers are not in the immediate area (Ex. 16, IV-28). Industry personnel insisted that, for some operations, "blow down" cannot be done between shifts and in fact, often must be done more than once per shift (Ex. 16, IV-28). Thus, although it may be technically feasible to perform "blow down" when production workers are not in the area, it may be disruptive to the normal production patterns (Tr. 545). In the case of knitting, "blow down" to prevent clogging of banks of knitting needles is an almost continuous necessity.

OSHA has extensively reviewed all comments and arguments presented concerning this requirement. Based on OSHA's conclusions, the final standard continues to prohibit "blow down" with compressed air except where feasible alternatives are not available. We are persuaded that in some operations where extensive enclosure of equipment has been done that vacuuming would be impractical, and yet failure to remove lint and dust from the equipment could result in a fire and consequently confront the worker with yet another hazard (Tr. 2005).

OSHA does not believe that this provision is tantamount to "blow down as usual". The ritual use of compressed air by employers is prohibited. Employers are required to limit use of "blow down" strictly to maintenance. Thus, common practices such as clean-

ing of clothes or floors with compressed air is forbidden.

OSHA is also convinced that achievement of the environmental dust limits provided in this standard will reduce the need and frequency of "blow down" in all workplaces. Neefus testified that in the cleaner textile mills he surveyed, blow down is an infrequent occurrence and, when it is used, dust levels are elevated in the immediate area for only approximately one hour (Tr. 2019).

While blow down with compressed air is permitted in some limited instances by the standard, OSHA is still concerned with the exposure of workers to elevated concentrations of cotton dust during these blow down operations. For this reason, OSHA deems it appropriate to require workers performing these operations to wear respirators and those not involved in the process to leave the area. While respirators are not the preferred method of reducing worker exposure to toxic materials, it is generally acknowledged that maintenance operations may require respirator use to provide adequate protection for the workers involved.

In addition to the provision for blow down operations, the final standard requires that all work practice programs include floor sweeping with a vacuum or a method designed to minimize dispersal of dust. Some participants suggested that an effective total ventilation system incorporated in cotton processing areas should include, as a minimum, a central vacuum system. This would allow for equipment cleaning and could serve as an integral part of an effective general housekeeping program (Ex. 17, p. 6; Ex. 1, p. 7). Industry witnesses, although not in favor of the free use of compressed air for cleaning operations (Tr. 2005) expressed concern with the position in the cotton dust proposal (Ex. 2) that vacuum cleaning solves the problem. They suggested that dust collected through vacuuming often passes through the vacuum collection bag and is forced back into the operational area. OSHA accepts industry's recommendation that lint and other materials could be successfully removed with plows and push-brooms without overtly increasing exposure to the individual (Ex. 49; Ex. 69), and therefore permits alternatives to vacuuming if they are designed to minimize dispersal of dust.

Finally, the standard requires that cotton and cotton wastes shall be stacked, sorted, baled, dumped, removed, or otherwise handled by mechanical means, except where the employer can show that it is infeasible to do so. Industry witnesses encouraged this practice where possible (Ex. 49, Tr. 2006). Current practices employ this principle as evidenced by examples given in the RTI report. Some industries have already converted from manual to mechanical handling of cotton. For instance, in the opening/cleaning operations automatic carousel type openers are used and transfer is automatically accomplished (Ex. 16, A-6); in picking operations, the tufts are fed pneumatically to the card via a chute (Ex. 16, A-9). The RTI report discussed situations where manual handling of cotton and cotton wastes currently results in excessive employee exposures. Some examples are the processing of nonwoven fabrics and surgical dressings operations requires manual handling of the cotton stock in feeding pickers, baling, and transportation of bales and laps (Ex. 16, A-44), and cottonseed oil processing excessively involving manual feeding of cottonseed to the mill and manual handling in the baling operations (Ex. 16, A-46). Union representatives indicated a preference for mechanical methods of moving cotton or cotton wastes (Ex. 78, p. 19) and advocated greater use where applicable. It is OSHA's view, reflected in the standard that employee handling of cotton or cotton waste products must be eliminated where feasible.

H. *Medical Surveillance.* The standard requires each employer to institute a medical surveillance program for all employees exposed to cotton dust. The evidence in the record amply demonstrates that a few relatively basic and easily administered screening devices can detect the development of respiratory disease in exposed employees.

The need for a medical surveillance program such as that discussed in the proposal and essentially adopted in the final standard, as well as the appropriateness of the requirements of the program, have been persuasively demonstrated by the existence of medical programs of similar scope in the textile industry (Ex. 47). The record also indicates the need for medical surveillance and its feasibility in all segments of the cotton industry (e.g. Ex. 47, pp. 1-2; Ex. 42; Ex. 46).

The standard requires the medical surveillance program be completed no later than 12 months. During the hearings representatives of the textile industry described medical programs similar to those required by this standard which were already in existence. (Ex. 47, Ex. 46, Ex. 41, Ex. 42) While many of the larger industries have developed medical surveillance programs, OSHA recognizes that in both the textile and non-textile industries many firms have not yet initiated programs. In some geographical areas a shortage of medical personnel may exist which would delay initiation of the program. Small firms may decide to pool resources and develop mobile programs which will service a number of firms in a particular area. Industry may require more time to initiate a mobile program than would be required for any single business. In general, purchase, delivery, calibration of equipment, training of medical personnel and actually initiating the program will require a start-up period especially for the large number of small businesses effected by the standard. Given these time constraints OSHA has concluded that 12 months will be required for development and implementation of medical surveillance programs.

New provisions have been added where the record indicates a need for greater standardization of the medical surveillance program, e.g. accuracy of spirometers and standardized procedures for technicians. (Ex. 38; Ex. 13, pp. 34; Ex. 40) Medical directors of several large textile companies testified that rigid requirements would cut down on flexibility. (Ex. 41, 42, 46, 47) However, as is discussed below, more persuasive considerations require some sacrifice of flexibility to insure uniform medical surveillance in all workplaces.

The final standard requires that the medical surveillance program provide each affected employee with an opportunity for medical surveillance. All examinations and procedures are required to be performed by or under the supervision of a licensed physician and provided without cost to the employee. The administration of the questionnaire and pulmonary function tests can be conducted by persons under the supervision of the physician. The record evidence supports this conclusion. (Ex. 13, p. 4; Ex. 11, pp. 8-10; Tr. 1574; Tr. 1463; Tr. 1852; Tr. 1726).

The standard provides for the administration of a standardized respiratory questionnaire at the time of initial assignment or upon institution of the medical surveillance program. Whereas the proposal mandated a version of the questionnaire designed for and used in the textile industry, the final standard also includes versions appropriate to non-textile operations. These are contained in Appendix B to the standard. Pulmonary function measurements including FVC and FEV_1 are to be performed at the same time. This initial assessment determines the fitness of each employee to be exposed to cotton dust and establishes a baseline health condition.

All employees must be provided with an opportunity for medical surveillance on an annual basis, but employees meeting criteria which demonstrate increased respiratory sensitivity must be monitored with greater frequency, i.e. after 6 months. Since these provisions appear to provide more frequent opportunity for surveillance than do the most advanced in-

dustry programs, OSHA has been criticized by industry for unduly increasing its burden (Tr. 1768). However, there was general endorsement for the proposed medical surveillance program by NIOSH (Ex. 38) and other expert medical witnesses (Ex. 11; Ex. 137), and no evidence demonstrating that less frequent medical screening will identify cotton dust induced changes in objective and subjective symptomatology with adequate thoroughness. Where no sacrifice in protection is entailed, OSHA has reduced the burden on industry, for example, by allowing use of an abbreviated questionnaire on the retest (Appendix B-III).

The preamble to the proposed cotton dust standard and the Health Effects section of this final standard amply document the need to measure both subjective and objective respiratory changes in workers exposed to cotton dust. The record demonstrates widespread reliance upon the medical questionnaire as a measure of the worker's subjective symptoms of chest tightness, dyspnea, phlegm production and cough, both in the workplace and in field studies. Despite the endorsement of the questionnaire as a mass diagnostic tool by witnesses on behalf of the cotton industry, some witnesses raised specific concerns arising out of their experience with these techniques.

A threshold question was raised as to which questionnaire is the best one for eliciting reliable symptoms (Ex. 48, pp. 4-5). NIOSH recommended a standard questionnaire based upon the British Medical Research Council questionnaire used by Schilling, Merchant, and numerous others (e.g. Tr. 1005; Tr. 1802). Medical directors testifying on behalf of ATMI, criticized specific questions on this form as "inflating" the numbers of positive responses and, therefore, the prevalence of byssinosis (Tr. 1643, 1665-7; Tr. 1851). The variability observed in the prevalence of grade 1/2 byssinosis, in which the symptoms are intermittent, Dr. Mario Battigelli believed, also may tend to increase with the use of specific questions regarding return to mill work (Ex. 48, pp. 6-7). Based on his field work, however, Merchant has responded that the reliability of the questionnaire has been corroborated by individual diagnoses performed by several physicians associated with the Duke-North Carolina Department of Health team, and that sensitivity was important (Tr. 1005). Nevertheless, even if detection of grade 1/2 byssinosis results in inflation of byssinosis prevalence, OSHA does not believe this factor impairs the function of the recommended questionnaire in the medical surveillance program, that is, the detection of employee respiratory complaints. It is preferable from a health viewpoint for the questionnaire, which is clearly put forward as a mass screening device, to be sensitive and, if necessary, to err in favor of recording symptoms which may later disappear rather than to be insufficiently sensitive and to fail to elicit subjective manifestations of lung dysfunction which may accompany progressive deterioration.

The use of other questionnaires, including some adopted by the textile industry, was also suggested (Tr. 1686). OSHA notes that all questionnaires are progeny of the BMRC questionnaire, and that there is no evidence that any of these forms is superior to the one required for textile mills by this standard. The required questionnaire has been modified by additions and deletions suggested during the hearings. Furthermore, NIOSH provided variations of the standard questionnaire to more adequately monitor populations in non-textile operations, and an abbreviated questionnaire where appropriate.

Some parties were concerned that employee familiarity with the standard questionnaire would lead to manipulation by workers once the consequences of certain responses were understood (Ex. 108, pp. 15-16). Beyond these general concerns, there was no indication as to whether workers would be more likely to suppress or to overreport symptoms. Whatever the ramifications of employee familiarity, OSHA's adoption of the abbreviated form of the standard questionnaire for retesting should reduce the problem. The scheme relies on specific respiratory system complaints (e.g., cough and chest tightness) after an initial administration of the full questionnaire. Further, the use of the abbreviated questionnaire has obvious timesaving advantages during re-examination. Most importantly, the results of the abbreviated questionnaire correlate well with the standard questionnaire (Tr. 1005).

Some of the criticism of subjective criteria presented by medical witnesses testifying on behalf of ATMI represent a preference for objective measurements of lung dysfunction. The record indicates that even the severest critics of the standard questionnaire admit this method's utility and use some form of the questionnaire (e.g., Tr. 1961-3). OSHA sees, on the one hand, little substantiated evidence detracting from the successful record compiled by use of the questionnaire. On the other hand, OSHA is convinced that subjective determinations are an integral part of any medical screening for the manifestations of cotton dust induced disease.

In addition to the use of the questionnaire, the standard requires that pulmonary function measurements be performed before the employee enters the workplace on the first day of the working week, following a period of at least 35 hours away from work. The test must be repeated following exposure of no less than 4 hours and no more than 10 hours, but in any event no more than 1 hour after cessation of exposure. An opportunity for spirometry must be provided for each employee on an annual basis thereafter, and semi-annually for those who exhibit deterioration of lung functions, as stated in the proposal. These tests can be performed quickly, simply and without discomfort to the employee.

In general, the pulmonary function testing program was well received during the hearings. Some physicians testifying for the textile industry debated the significance of the criteria used in the standard to indicate substantial pulmonary changes. On the other hand, other expert witnesses supported the pulmonary function testing criteria as required. Dr. Bouhuys suggested that a decrement of 0.2 liters in FEV_1 over a shift was a significant change (Tr. 170), whereas, for the ATMI, Drs. Harley (Tr. 1516), Imbus (Ex. 47), Martin (Tr. 1798-9), Morgan (Tr. 1354) and Whitworth (Tr. 1644) argued that only a 10 percent drop on Monday is a cause for concern. Dr. Bouhuys said that expressing the FEV_1 decrement as a percentage of the initial FEV_1 would result in unequal application of the standard. Persons with large FEV_1 would have to sustain larger absolute decrements than persons with small initial FEV_1 before they become classified as reactors. Therefore, he proposed the use of 0.20 liter drop in FEV_1 as the indicator of broncho-constrictor effect (Tr. 170). This is a slightly less stringent cut-off level for those employees whose initial FEV_1 is less than 4 liters. However, 0.20 liters decrement is a more sensitive parameter than 5 percent drop for detecting broncho-constrictor effect in workers with a larger initial FEV_1 than 4 liters.

Medical experts who testified on behalf of ATMI, argued that the proposed 5 percent decrement in FEV_1 over the shift as the indicator of acute response is too stringent because of inherent variability associated with current spirometry testing (Tr. 1516, Ex. 47 p. 11; Tr. 1798-9; Tr. 1354; Tr. 1644). They recommended that the level of significant change in FEV_1 be set at 10 percent. The testimony of several independent physicians argued, to the contrary, the need for sensitivity in any diagnostic test designed to identify a response. For example, Dr. Hans Weill has stated:

> I feel that it is too lenient to draw attention to an acute broncho-constrictor effect only if the post-shift FEV_1 has declined by 10 percent or more. For young or middle aged men, this means a drop in the FEV_1 of 350 to 400 ml, which is too large a change as a minimum. Individuals with 150 ml or 200

ml decline in ventilatory function, particularly during the morning shift, may very well be exhibiting a specific response to cotton dust. I recommend that the magnitude of FEV_1 decline be specified as either 200 ml or 5 percent or the initial FEV_1, whichever is less" (Ex. 27, p. 5).

OSHA is persuaded by the testimony of Dr. Weill and industry physicians that objective measurements are perhaps the most effective tool of the medical surveillance program and their importance could be wasted if insensitive gradations are employed.

There was some evidence supporting a requirement to monitor annual declines in pulmonary functions. Unfortunately, at the present time too little is known about general pulmonary function decline in the general population, and furthermore, the fluctuations of an individual's pulmonary function indicators may be too variable for any diagnostic purpose in the context of cotton dust exposure. Therefore, the standard does not require monitoring of annual declines in pulmonary functions.

The need for greater latitude in the percentage drop in FEV_1 and its interpretation advocated by ATMI witnesses was partly attributable to poor accuracy of pulmonary function testing in the past. Factors which contribute to variability of spirometry results are lack of uniform specification or requirement for spirometry apparatus, techniques required for calibration of equipment, and procedures for performing the tests. Further, there have been no training requirements for the technicians and other personnel performing the spirometric testing. These shortcomings of spirometry have been recognized. For example, Dr. Weill characterized spirometry as a "more objective and more sensitive" method of detecting broncho-constrictor effect than responses to a questionnaire. Yet he testified that governing spirometry equipment, personnel training and procedures for performing tests used "contribute heavily to the variability between centers, within a center and within an industrial medical department" (Tr. 312-13).

In response to this obvious need, over the last several years NIOSH has conducted extensive research in pulmonary function equipment and testing in cooperation with the American Thoracic Society (ATS), the National Heart, Lung, and Blood Institute, Food and Drug Administration, to establish recommendations. This effort has resulted in uniform spirometry standards which OSHA has included in Appendix B, as mandatory minimum standards for spirometric measurements under the cotton dust standard. These NIOSH and ATS standards include specifications for apparatus, techniques for measurements of FVC maneuver, instruction for interpretation of the spirogram, and qualifications of personnel administering the test (Appendix D). For example, the standards require that the instrument shall be accurate to within ±50 ml or within ±3% of reading, and should be capable of measuring vital capacity from 0 to 7 liters. The instrument must provide a tracing or display of either flow versus volume or volume versus time during the entire forced expiration. A tracing or display is necessary to determine whether the patient has performed the test properly. The procedure should be explained in simple terms to the patient and at least three forced expirations must be carried out. Another important specification related to interpretation of the spirogram is that "the largest observed FVC and largest observed FEV_1 shall be used in the analysis regardless of the curve(s) on which they occur".

The key to reliable pulmonary function testing is the technician's way of guiding the employee through a series of respiratory maneuvers. The most important quality of a pulmonary function technician is the motivation to do the very best test on every employee. The technician must also be able to judge the degree of effort and cooperation of the subject. The test results obtained by a technician who lacks these skills are not only useless, but also convey false information which could be harmful to the employee.

During the hearings it was generally agreed that pulmonary function tests may be performed by non-physicians, but the physician ought to make final judgments as to whether the person needs to be followed, retested or seen by another physician (Tr. p. 1574; Tr. 1803; Tr. 3410; Ex. 38). It was also established that it is common for nurses and administrative personnel to conduct testing Burlington Industries. OSHA acknowledges such programs; however, OSHA feels any person who performs medical examinations and procedures must do so under the supervision of a licensed physician and must complete a NIOSH approved training course in spirometry. The standard, therefore, contains these requirements.

Spirometry nomograms for normal subjects appearing in Appendix C of the proposal were replaced with the tables derived from Knudson et al. (Am. Rev. Resp. Dis., vol. 113, 1976). The nomograms in the proposed standard were based on Kory et al.; (Am. J. Med. 30, 243-258, 1961) data, which used male subjects only. Knudson studied randomly selected, representative populations of both sexes. NIOSH recommended the prediction formulas developed by Knudson because their testing and analysis procedures most closely matched the recent NIOSH and ATS Pulmonary Function Standards. Knudson also gives equations for both male and female "normal" non-smokers, whereas Kory included ex-smokers and smokers in his study population. The only problem with the Knudson method was their use of the average of the best two of five values; whereas, the NIOSH and ATS standard recommends the use of the largest value. Knudson did perform a comparison using both methods and found no difference in the mean FVC and FEV_1. Kory's prediction equations were not derived from methods recommended by NIOSH and ATS standards. Therefore, OSHA is of the opinion that the tables of the predicted normal values for FVC and FEV_1 developed by Knudson et al. are the most representative standards available, and these are included in Appendix C.

The standard specifies that the predicted FEV_1 and FVC for blacks should be multiplied by 0.85 to adjust for ethnic differences. Comparatives studies in general show the vital capacity of black workers to be about 15 percent less than that of white workers (Ex. 1, pp. 131-3). In the proposal, OSHA requested information on formulas which should be used for evaluating results of pulmonary function among ethnic groups in order to provide proper interpretation of spirometry measurements for blacks without inadvertently fostering discrimination in hiring practices. NIOSH addressed the issues of ethnic differences in pulmonary function measurements by introducing the use of an FEV_1 ratio as a guideline, suggesting that "ethnic differences in lung volumes, which are not well defined, may be removed from consideration in the rules by the use of the FEV_1/FVC ratio which is not affected by race" (Ex. 38, pp. 15-16). However, Dr. Bouhuys contested the validity of the ratio as a possible solution for racial difference in lung functions, stating "our own studies of some 1,800 whites and 1,200 blacks suggests that the FEV_1/FVC ratio is not necessarily the same for blacks and whites. In other words, we do not find that you can use simple scaling factors in order to correct for the racial differences in lung function" (Tr. 238). Dr. Weill also rejected the FEV_1/FVC ratio in favor of 15 percent correction (Tr. 382-2). Drs. Harley (Tr. 1587), Morgan (Tr. 1447) and Whitworth (Tr. 1644) agreed with the proposed 15 percent correction for black employees, although Dr. Martin found an 8 percent correction to describe the population (Tr. 1807-8). Since the testimony provided insufficient support for an FEV_1/FVC ratio, the 15 percent correction originally proposed by the NIOSH Ad Hoc Committee on Pulmonary Function Evaluation was adopted (Ex. 1, pp. 131-3). However, OSHA recognizes, as Dr.

Martin has testified, that this correction may not be precisely correct. Unfortunately, there is not sufficient research data to adequately guide the Agency in determining a better correction for black employees. Hence, OSHA will rely on the current state of the art in establishing the stated provision dealing with ethnic differences.

The standard provides that the employer is required to obtain a written opinion from the examining physician containing: The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to cotton dust; the results of the medical examination; recommended limitations upon the employee's exposure to cotton dust and upon the use of respirators; and a statement that the employee had been informed by the physician of any medical conditions which require further examination or treatment.

The provision was of great concern to Dr. Martin (Tr. 1768-9; p. 1573) who argued that physicians cannot always detect on the initial exam "medical conditions which would place the employee at increased risk," and that there are no specific tests which physicians could rely on in giving such an opinion. It was the view of ATMI that this requirement will fail to achieve any objective other than "to tie the hands of the examining physician," and recommended greater freedom for physicians to exercise a common sense and clinical judgment. The standard does not prevent the physicians from exercising their clinical judgment, in fact, paragraphs (h)(3)(c) and (h)(5) of the standard encourage this exercise. But OSHA believes that an assessment of increased risk by the examining physician is an integral part of the medical surveillance program, and accordingly has not altered this requirement, which is common to virtually all OSHA health standards. This provision was not extensively treated at the hearings other than by ATMI and little additional evidence was adduced.

There was some concern expressed at the hearing as to the confidentiality of the workers' medical records. NIOSH specifically recommended safeguards in its prepared statement, (Ex. 39(a), p. 16), and during the hearing Merchant stated:

"* * * Care must be taken to assure the workers that this information, personal medical information, is to be kept confidential. And this is, I think, part of the doctor-patient relationship which cannot be violated. And I think this ought to be spelled out very clearly in the provisions of the medical surveillance program which would be a part of, any part of, a standard" (Tr. 1306).

The general thrust of the comments on confidentiality was that medical findings should be kept strictly confidential between the worker and the examining physician.

The purpose of requiring the examining physician to supply a written opinion is to provide the employer with a medical basis to aid in the determination of initial placement and to provide information on a continuing basis as to whether or not the worker is at an increased risk as a result of cotton dust exposure. Requiring that the opinion be in written form will serve as an objective check that the employer has actually had the benefit of the information in making these determinations. Since the employer has the ultimate responsibility to protect the health of his employees, the standard requires that a written opinion be furnished to the employer by the examining physician. To ensure that employers are not given information about the employee's physical condition that has no relation to occupational exposure, the standard requires that the written opinion shall not reveal specific findings or diagnoses unrelated to occupational exposure.

In order to insure a confidential medical surveillance program, ACTWU (Ex. 82, pp. 11-14) suggested requiring the use of independent examining physicians. Support for this concept was offered by Merchant based upon his experiences both as an epidemiological investigator of the textile industry and the administrator of the Federal surveillance program of underground coal mines. OSHA recognizes the desirability of implementing the medical provisions of this program through an independent medical staff. One way this could be accomplished would be through the use of clinics established by the government. However, the record also identifies the existence of thousands of workplaces using cotton scattered throughout the nation. Therefore, it is not possible to provide centralized, government-sponsored clinics for all these workplaces. OSHA therefore is relying on the professional conduct of industry physicians and the patient-physician relationship to assure the appropriate level of confidentiality.

Among the issues in the cotton dust rulemaking were whether OSHA should include a mandatory removal requirement—that is, a provision prohibiting the exposure of an employee to cotton dust if the employee would be placed at increased risk of material impairment of health because of such exposure, and whether OSHA should include a medical removal protection provision—that is, a provision requiring the transfer of such employee to another job, or providing that removal for medical reasons should not result in loss of earnings to the affected employee. These issues, as OSHA has previously stated (41 FR 56507), are related and should be addressed together. Both employee (Ex. 82, pp. 14-15) and industry (Tr. 1861-3; 1882-5; Tr. 1677-80) participants expressed their views as to several aspects of these issues in testimony during the hearing. However, the final standard does not include any mandatory medical removal provision. Subsequent to the close of the hearing record in this proceeding, OSHA conducted an informal public hearing on mandatory removal and medical removal protection for workers exposed to lead, as part of the rulemaking proceeding in lead. Consideration of the critical issue of medical removal protection is being undertaken in that proceeding. Once this analysis is completed, OSHA will consider the extent to which the conclusions on medical removal protection are appropriate for cotton dust and will propose the inclusion of appropriate provisions in the cotton dust standard. The final standard published today therefore, does not address the issue of mandatory removal and medical removal protection.

I. *Employee Education and Training.* This final standard requires the employer to provide a training program for all employees exposed to cotton dust. As agreed upon by virtually all of the participants in the rulemaking proceeding, information and training are essential for the protection of employees (Ex. 38, p. 18; Ex. 54a; Ex. 82). Employees can do much to protect themselves if they are made aware of the hazards in the workplace. This is especially true in the case of occupational exposure to cotton dust where byssionsis is seen at levels approaching zero.

The proposed standard would have required employers to provide employees with access to this regulation and to inform employees of the specific nature of operations which could result in exposure at or above the permissible exposure limit. The employer was also responsible for developing and implementing employee training programs which would include information on mandated dust control measures, work practices, respirators, medical surveillance, the symptoms of respiratory diseases, and a review of the entire standard.

The content of the training program required by this final standard is intended to apprise the employees of (1) the hazards to which they are exposed, (2) the necessary steps to protect themselves, including minimizing exposure, respiratory protection and medical surveillance; (3) their role in controlling and reducing dust emissions; and (4) their rights under this standard.

The training program is required to be completed within 90 days of the effective date of this standard for employees initially covered by the stand-

ard, and for other employees at the time of initial assignment to areas where there is possibility of exposure to cotton dust. OSHA believes that it is important to train employees as soon as possible in order to maximize the benefits of the training program.

The standard requires that the training program be provided annually. OSHA believes that an annual training program is both necessary and sufficient to re-inform the employee of the hazards.

Under the provisions of this standard the employer is required to make a copy of the standard and its appendices available to affected employees. This requirement, in combination with the review provided for as part of the training program, is intended to ensure that employees understand their right and duties under this standard.

OSHA has changed the proposal which would only have required employers to make a copy of this regulation readily available, to require in addition that the employer post the regulation and its appendices in the workplace at a location which is readily accessible to the employees. David McAteer, a former United Mine Workers of America attorney, related experiences under the Federal Coal Mine Health and Safety Act which suggested that some workers are reluctant to request materials such as this from a company supervisor (Tr. 2118-19). The posting requirement resolves worker concerns, without adding any burden to the employer. Therefore, OSHA is requiring employers to post the regulation and appendices.

Several parties (Tr. 3051-2; Tr. 3100; Tr. 2102-3; Ex. 54a, pp. 16-17) testified in support of OSHA providing materials and a uniform format for employee education and training. This testimony recommended distributing written materials to employees, providing audio-visual materials, and mandating minimum time and frequency requirements for employee presentations. As a result, OSHA intends to develop, in the future, specific safety and health training and educational materials on cotton dust for distribution and presentation to employees by employers, in addition to the training requirements specified in this regulation. These materials will inform employees of the hazards of exposure to cotton dust and appropriate protective measures as discussed in this preamble and final regulation. Where these materials are designated by the Assistant Secretary, the employer will be required to include them as part of his education and training program.

The employer is also required to provide, upon request, all materials relating to the training program to the Assistant Secretary and the Director. This is intended to provide an objective check of compliance with the requirements of the standards.

J. *Signs.* The final standard requires that a warning sign be posted. The standard specifies the legend for these signs. The employer is required to post the warning signs in any work area where the permissible exposure limit for cotton dust is exceeded.

The proposal required the employer to post signs wherever respirators were required to be used. A sign warning of cotton dust exposures was not required in the proposal. However, evidence presented during the hearing clearly demonstrated the need for these additional posting provisions (Ex. 54a, pp. 18-19; Tr. 3052.) For example, Mr. Frumin, representinmg the ACTWU, argued that OSHA must adopt a provision for warning signs in order to apprise unwitting workers of hazards in their workplace. He pointed out that the lack of any warning sign requirements was a serious omission (Tr. 3052). Indeed, testimony by members of the Carolina Brown Lung Association (e.g.; Ex. 54), which represents afflicted retirees and current mill employees, demonstrated that workers often attribute occupational health problems to the wrong sources. This testimony also supports the need for the signs.

OSHA believes that it is important, and indeed section 6(b)(7) of the Act requires, that appropriate forms of warning be used to apprise employees of the hazards to which they are exposed during the course of their employment. OSHA believes as a matter of policy that employees should be given the opportunity to make informed decisions on whether to work at a job under the particular existing working conditions. Furthermore, OSHA believes that, since the control of potential safety and health problems involves the cooperation of employees, the success of such a program is highly dependent upon the worker's understanding of the hazards attendant to that job.

In light of the serious nature of the hazard of exposure to cotton dust, OSHA does not believe that periodic training alone will adequately apprise employees of the hazards. However, OSHA believes that the training coupled with requirements, the requirement to post a sign, will adequately do so.

The word "warning" is used on the sign in order to attract the attention of workers and to alert workers to the fact that they are in a potentially hazardous area.

K. *Recordkeeping.* Section 8(c)(3) of the Act (29 U.S.C. 657) mandates the inclusion of provisions requiring employers to maintain accurate records of employee exposure to potentially toxic materials and to harmful physical agents which are required to be monitored or measured. It also provides that employees or their representatives must have access to such records.

The final standard requires records of exposure measurements. The required record includes name and job classification of employees measured, details of the sampling analytic techniques, results, and type of respiratory protection worn. The standard also requires records of medical surveillance. These include names of employees, the physician's written opinion, a copy of the results of the examination, and the information furnished by the employer to the examining physician.

Participants at the hearing generally agreed with the necessity for keeping such records, but objected to the length of the record retention period.

OSHA deems it necessary that monitoring and medical surveillance data be retained for the same period because the data has to be considered together. This is consistent with OSHA's policy in other health standards (e.g. 41 FR 46782, 43 FR 5961).

OSHA has carefully considered that various suggested retention periods and has concluded that records of exposure monitoring and medical surveillance must be retained for periods of twenty years. OSHA is aware of the burden of keeping these records for this period of time. However, OSHA feels that this retention period is necessary in order to develop sufficient longitudinal dose-response data and to determine the effectiveness of the selected permissible exposure limits in reducing the prevelance of respiratory diseases, particularly irreversible chronic obstructive pulmonary diseases, in each of the covered industries.

There were participants at the hearing who argued that burden of extended recordkeeping be placed upon a government agency. However, section 8(c)(3) of the Act mandates the inclusion in occupational safety and health standards of provisions requiring employers to maintain exposure records, and section 8(c)(1) authorizes the Secretary to require employers to maintain records for research purposes. These statutory provisions indicate a congressional intent that an employer, who exposes his employees to toxic substances, must maintain records which assist in the diagnosis of disease developing from such exposure and, indeed, that such an employer has an obligation to provide the information available to him which is needed for research on the results of these exposures.

The recordkeeping provisions of this final standard reflect some changes from the proposal. This standard provides employees or their designated representatives access to the employee's medical records. This requirement

is consistent with OSHA's policy of requiring employee access, reflected in other health standards.

OSHA has also determined that retention of the regulation and appendices in each employee's file is unnecessary and, accordingly, permits retaining a master copy of these documents and reference to them in each employee's file.

This final standard, in conformity with other OSHA standards, requires that all records required to be maintained shall be made available to the Director and Assistant Secretary, that exposure records be available to the employees and their designated representatives, that exposure records which will indicate a former employee's own exposure be made available to the former employee or his designated representative, and that medical records be available to the affected employee, former employee, physician or other individial designated by an employee or former employee. These provisions, carry out the statutory requirements of section 8(c) of the Act and OSHA's policy on employee access to records enunciated in other standards (43 FR 5960-2). Briefly, it is necessary for the Assistant Secretary and Director to have access to records for enforcement and research purposes. Employees or their representatives need access to exposure records because they help the employee determine the effectiveness of the employer's exposure compliance program. The physician needs access to medical records for diagnostic purposes.

The transfer provisions are unchanged, except that records for research are no longer to be mailed by registered mail to NIOSH at the expiration of the retention period or when the employer ceases to do business. Rather, NIOSH is to be notified at the expiration of the retention period so it can determine if the records are still needed for research purposes.

L. *Observation of Monitoring.* Section 8(c)(3) if the Act requires that employers provide employees or their representatives with the opportunity to observe monitoring of employee exposure to toxic materials or harmful physical agents. In accordance with this section and consistent with the proposal and other OSHA standards, the standard contains provisions for such observation. To ensure that this right is meaningful, observers are entitled to an explanation of the measurement procedure, and to record the result obtained. The observer, whether an employee or designated representative, must be provided with, and is required to use, any personal protective devices required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

M. *Effective date.* In order to ensure that affected employers and employees will be informed of the existence of the provisions of its standard, and that employers are given an opportunity to familiarize themselves and their employees with the existence of the new requirements, pursuant to section 6(b)(4) of the Act, the effective date of this standard will be September 4, 1978. As noted above, several of the provisions of standard allow additional periods of time for completion of the tasks, where such additional time is necessary. The standard sets out these dates for the various provisions.

N. *Appendices.* Appendices B,C, and D, included with this standard are incorporated as a part of this standard and impose mandatory requirements on covered employers.

Appendix A contains recommendations on methods of sampling and analysis, and, therefore, is only advisory in nature and does not by itself impose any additional obligations on covered employers.

IX. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Ave., NW., Washington, D.C. 20210.

For all the reasons set out above, OSHA has determined, pursuant to section 6(b)(8) of the Act (84 Stat. 1594: 29 U.S.C. 655), that when compliance is achieved this new standard in § 1910.1043 will better effectuate the purposes of the Act than the existing national consensus standard reflected in 29 CFR 1910.1000, Table Z-1.

Accordingly, pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Part 1910 of Title 29, Code of Federal Regulations is hereby amended by adding a new § 1910.1043, cotton dust, and by adding a footnote to the reference to "cotton dust (raw)" in Table Z-1 of § 1910.1000 stating: "This standard applies in cotton yarn manufacturing until compliance with § 1910.1043(c) and (e) is achieved."

In addition, pursuant to the above authority, section 4(b)(2) of the Act (84 Stat. 1592, 29 U.S.C. 653) and the specific statutes referred to in section 4(b)(2), OSHA has determined that this new standard is more effective than the corresponding standards now in subpart B of Part 1910, and in Part 1926 of Title 29, Code of Federal Regulations. Therefore, these corresponding standards are superseded by § 1910.1043. This determination and the application of the new standard to the construction industries are implemented by adding a new paragraph (f) to § 1910.19.

Signed at Washington, D.C., this 16th day of June 1978.

Eula Bingham,
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as follows:

1. A new paragraph (f) is added to § 1910.19 to read as follows:

§ 1910.19 Special provisions for air contaminants.

* * * * *

(f) Section 1910.1043 shall apply to the exposure of every employee to cotton dust in every employment covered by § 1910.12, in lieu of any different standard on exposure to cotton dust which would otherwise be applicable by virtue of that section.

§ 1910.1000 [Amended]

2. Table Z-1 of § 1910.1000 is amended by adding the following footnote to "Cotton dust (raw) . . . 1 mg/m³":

"This standard applies in cotton yarn manufacturing until compliance with § 1910.1043 (c) and (e) is achieved.

3. A new § 1910.1043 and appendices A, B, C and D are added to Part 1910, to read as follows:

§ 1910.1043 Cotton dust.

(a) *Scope and application.* (1) This section applies to the control of employee exposure to cotton dust in all workplaces, except as provided in paragraph (a)(2).

(2) This section does not apply to: (i) The harvesting of cotton; (ii) The ginning of cotton (Exposure to cotton dust in cotton ginning is covered by § 1910.1046); (iii) Maritime operations covered by 29 CFR Parts 1915, 1916, 1917, 1918; (iv) The handling or processing of woven or knitted materials; and (v) The handling or processing of washed cotton.

(3) This section provides mandatory requirements for the control of employee exposure to cotton dust. The mandatory nature of these requirements is not intended, however, to discourage or inhibit the development of different, equally effective means of providing the required protection. The variance provisions of section 6(d) of the Act, and the implementing regulations in Part 1905 of this Title, provide a mechanism for employers to obtain variances from the provisions of this section where the employers has developed alternative procedures which are "safe and healthful as" those required by this section. As implemented by the procedural regulations in Part 1905 of this Title, the variance provisions of the Act permit the flexibility which contributes to efficient compli-

ance with the standard. To aid in the expeditious processing of variance applications, the procedures allow, where appropriate, for the grant of interim orders pending a decision on the merits of the variance as well as for the consideration of variances applicable to groups of employers. OSHA encourages interested employers to utilize the variance provisions of the Act where equally safe and healthful protective means are available.

(b) *Definitions.* For the purpose of this section:

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor or designee;

"Blow down" means the cleaning of equipment and surfaces with compressed air.

"Cotton dust" means dust present in the air during the handling or processing of cotton, which may contain a mixture of many substances including ground up plant matter, fiber, bacteria, fungi, soil, pesticides, non-cotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabrics, and dust present in other operations or manufacturing processes using new or waste cotton fibers or cotton fiber by-products from textile mills are considered cotton dust.

"Director" means the Director of the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare, or designee;

"Lint-free respirable cotton dust" means particles of cotton dust of approximately 15 microns or less aerodynamic equivalent diameter;

"Vertical elutriator cotton dust sampler" means a dust sampler which has a particle size cut-off at approximately 15 microns aerodynamic equivalent diameter when operating at the flow rate of 7.4±0.2 liters per minute;

"Yarn manufacturing" means all textile mill operations from opening to, but not including, slashing and weaving;

"Washed cotton" means cotton which has been thoroughly washed in hot water and is known in the cotton textile trade as purified or dyed. Washed cotton does not include steamed, autoclaved cotton or cotton washed solely in solvents.

(c) *Permissible exposure limits.* (1) The employer shall assure that no employee who is exposed to cotton dust in yarn manufacturing is exposed to airborne concentrations of lint-free respirable cotton dust greater than 200 ug/m³ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or a method of equivalent accuracy and precision.

(2) The employer shall assure that no employee who is exposed to cotton dust in the textile processes known as slashing and weaving is exposed to airborne concentrations of lint-free respirable cotton dust greater than 750 ug/m³ mean concentration, averaged over any eight hour period, as measured by a vertical elutriator or a method of equivalent accuracy and precision.

(3) The employer shall assure that no employee who is exposed to cotton dust (except for exposures in yarn manufacturing and slashing and weaving covered by paragraphs (c)(1) and (c)(2)) is exposed to airborne concentrations of lint-free respirable cotton dust greater than 500 ug/m³ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or a method of equivalent accuracy and precision.

(d) *Exposure monitoring and measurement.*—(1) *General.* (i) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) The sampling device to be used shall be either the vertical elutriator cotton dust sampler or a method of equivalent accuracy and precision.

(iii) If an alternative to the vertical elutriator cotton dust sampler is used, the employer shall establish equivalency by demonstrating that the alternative sampling devices;

(*a*) collect respirable particulates in the same range as the vertical elutriator (approximately 15 um);

(*b*) Replicates exposure data in side-by-side field comparisons; and

(*c*) Is equivalent within an accuracy and precision range of plus or minus 25 percent for 95 percent of the samples over the range of 0.5 to 2 times the permissible exposure limit.

(2) *Initial monitoring.* Each employer who has a place of employment in which cotton dust is present, shall conduct monitoring by obtaining measurements which are representative of the exposure of all employees to airborne concentrations of lint-free respirable cotton dust over an eight-hour period. The sampling program shall include at least one determination during each shift for each work area.

(3) *Periodic monitoring.* (i) The employer shall repeat the measurements required by paragraph (d)(2) at least every six months.

(ii) Whenever there has been a production, process, or control change which may result in new or additional exposure to cotton dust, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the monitoring and measurements required by paragraph (d)(2) for those employees affected by the change or increase.

(4) *Employee notification.* (i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Whenever the results indicate that the employee's exposure exceeds the applicable permissible exposure limit specified in paragraph (c), the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken to reduce exposure below the permissible exposure limit.

(e) *Methods of compliance (1) engineering and work practice controls.* The employer shall institute engineering and work practice controls to reduce and maintain employee exposure to cotton dust at or below the permissible exposure limit specified in paragraph (c), except to the extent that the employer establishes that such controls are not feasible.

(2) Whenever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless institute these controls to immediately reduce exposure to the lowest feasible level, and shall supplement these controls with the use of respirators which shall comply with the provisions of paragraph (f).

(3) *Compliance program.* (i) Each employer shall establish and implement a written program sufficient to reduce exposures as soon as possible to or below the permissible exposure limit solely by means of engineering controls and work practices as required by paragraph (e)(1) of this section.

(ii) The written program shall include at least the following:

(*a*) A description of each operation or process resulting in employee exposure to cotton dust;

(*b*) Engineering plans and other studies used to determine the controls for each process;

(*c*) A report of the technology considered in meeting the permissible exposure limit;

(*d*) Monitoring data obtained in accordance with paragraph (d) of this section;

(*e*) A detailed schedule for development and implementation of engineering and work practice controls, including exposure levels projected to be achieved by such controls;

(*f*) Work practice program; and

(*g*) Other relevant information.

(iii) The employer's schedule as set forth in the compliance program, shall project completion no later than September 4, 1982,

(iv) The employer shall complete the steps set forth in his program by the dates in the schedule.

(v) Written programs shall be submitted, upon request, to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, and any affected employee or their designated representatives.

(vi) The written programs required under paragraph (e)(3) of this section shall be revised and updated at least every six months to reflect the current status of the program and current exposure levels.

(4) *Mechanical ventilation.* When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every six months. Measurements of the system's effectiveness to control exposures shall also be made within five days of any change in production, process or control which may result in any increase in airborne concentrations of cotton dust.

(f) *Use of respirators.*—(1) *General.* Where the use of respirators is required under this section, the employer shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this paragraph (f). Respirators shall be used in the following circumstances:

(i) During the time periods necessary to install or implement feasible engineering controls and work practice controls;

(ii) During maintenance and repair activities in which engineering and work practice controls are not feasible;

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limit; and

(iv) In operations specified under paragraph (g)(1)(i).

(v) Whenever an employee requests a respirator.

(2) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select the appropriate respirator from Table 1 below and shall assure that the employee uses the respirator provided.

TABLE I

Cotton dust concentration	Required respirator
Not greater than—	
(a) 5 × the applicable permissible exposure limit.	1. Any dust respirator, including single use
(b) 10 × the applicable permissible exposure limit.	1. Any dust respirator, except single use or quarter mask; or 2. Any supplied air respirator; or 3. Any self-contained breathing apparatus.

TABLE I—Continued

Cotton dust concentration	Required respirator
(c) 50 × the applicable permissible exposure limit.	1. High efficiency particulate filter respirator with a full facepiece; or 2. Any supplied air respirator with full-facepiece, helmet or hood; or 3. Any self-contained breathing apparatus with full-facepiece.
(d) Greater than 50 × the applicable permissible exposure limit.	1. A powered air-purifying respirator with high efficiency particulate filter; or 2. A self-contained breathing apparatus with a full facepiece operated in pressure demand or other positive pressure mode; or 3. A type "C" supplied air respirator operated in pressure demand or other positive pressure mode; or 4. A combination respirator which includes a type C supplied-air respirator which a full facepiece operated in pressure or continuous-flow mode and an auxiliary self-contained breathing apparatus operated in pressure demand or other positive pressure mode.

(ii) The employer shall select respirators from those tested and approved for protection against dust by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(iii) Whenever respirators are required by this section for concentrations not greater than 5 x the applicable permissible exposure limit, the employer shall, permit the employee to use, at the employee's option, single use dust respirator in preference to any respirator specified in paragraph (a) of Table 1.

(iv) Whenever respirators are required by this section for concentrations not greater than 50 x the applicable permissible exposure limit, the employer shall, upon the request of the employee, provide a powered air purifying respirator with a high efficiency particulate filter in lieu of the respirator specified in paragraphs (a), (b), or (c) of Table I.

(v) Whenever a physician determines that an employee is unable to wear any form of respirator, including a power air purifying respirator, the employee shall be given the opportunity to transfer to another position which is available or which later becomes available having a dust level at or below the PEL. The employer shall assure than an employee who is transferred due to an inability to wear a respirator suffers no loss of earnings or other employment rights or benefits as a result of the transfer.

(vi) Until March 4, 1979, the employer shall provide any dust respirator, including single use, to all employees exposed to cotton dust, unless the employer has conducted the monitoring required by paragraph (d)(2) of this section or otherwise has monitored employee exposure. As soon as monitoring has been conducted, the employer shall select the appropriate respirator from Table I.

(3) *Respirator program.* The employer shall institute a respirator program in accordance with § 1910.134 (b), (d), (e), and (f) of this part.

(4) *Respirator usage.* (i) The employer shall assure that the respirator used by each employee exhibits minimum facepiece leakage and that the respirator is fitted properly.

(ii) The employer shall allow each employee who uses a filter respirator, to change the filter elements whenever an increase in breathing resistance is detected by the employee. The employer shall maintain an adequate supply of filter elements for this purpose.

(iii) The employer shall allow employees who wear respirators to wash their faces and respirator face pieces to prevent skin irritation associated with respirator use.

(g) *Work practices.* Each employer shall, regardless of the level of employee exposure, immediately establish and implement a written program of work practices, which shall minimize cotton dust exposure for each specific job. Where applicable, the following work practices shall be included in the work practices program:

(1) Compressed air "blow down" cleaning shall be prohibited, where alternative means are feasible. Where compressed air "blow down" is done, respirators shall be worn by the employees performing the "blow down", and employees in the area whose presence is not required to perform the "blow down" shall be required to leave the area during this cleaning operation.

(2) Cleaning of clothing or floors with compressed air shall be prohibited.

(3) Floor sweeping shall be performed with a vacuum or with methods designed to minimize dispersal of dust.

(4) Cotton and cotton waste shall be stacked, sorted, baled, dumped, removed or otherwise handled by mechanical means, except where the employer can show that it is infeasible to do so. Where infeasible, the method used for handling cotton and cotton waste shall be the method which reduces exposure to the lowest level feasible.

(5) The employer shall inspect, clean maintain, and repair, all engineering control equipment and ventilation systems including power sources, ducts, and filtration units of the equipment.

(h) *Medical surveillance.* (1) *General.* (i) Each employer who has a place

of employment in which cotton dust is present shall institute a program of medical surveillance for all employees exposed to cotton dust.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician and are provided without cost to the employee.

(iii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section shall complete a NIOSH approved training course in spirometry.

(2) *Initial examinations.* The employer shall provide each employee who is or may be exposed to cotton dust with an opportunity for medical surveillance for new employees, this examination shall be provided prior to initial assignment. The medical surveillance shall include at least the following:

(i) A medical history;

(ii) The standardized questionnaire contained in Appendix B; and

(iii) A pulmonary function measurement, including a determination of forced vital capacity (FVC) and forced expiratory volume in 1 second (FEV_1), and the percentage that the measured values of FEV and FVC differ from the predicted values, using the standard tables in Appendix C.

These determinations shall be made for each employee before the employee enters the workplace on the first day of the work week, following at least 35 hours after previous exposure to cotton dust. The tests shall be repeated during the shift, no sooner than 4 and no more than 10 hours after the beginning of the work shift; and, in any event, no more than one hour after cessation of exposure.

(iv) Based upon the questionnaire results, each employee shall be graded according to Schilling's byssinosis classification system.

(3) *Periodic examinations.* (i) The employer shall provide annual medical surveillance for all employees exposed to cotton dust which shall include at least an update of the medical history and standardized questionnaire and the pulmonary function measurements in paragraph (h)(2).

(ii) Medical surveillance as required in paragraph (h)(3)(i) shall be provided every six months for all employees in the following categories:

(*a*) An FEV_1 of greater than 80 percent of predicted, but with an FEV_1 decrement of 5 percent or 200 ml. on a first working day;

(*b*) An FEV_1 of less than 80 percent of the predicted value; or

(*c*) Where, in the opinion of the physician, any significant change in questionnaire findings, pulmonary function results, or other diagnostic tests has occured.

(iii) An employee whose FEV_1 is less than 60 percent of the predicted value shall be referred to a physician for a detailed pulmonary examination.

(iv) A comparison shall be made between the current examination results and those of previous examinations and a determination made by the physician as to whether there has been a significant change.

(4) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its Appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(5) *Physician's written opinion.*

(i) The employer shall obtain and furnish the employee with a copy of a written opinion from the examining physician containing the following:

(*a*) The results of the medical examination and tests;

(*b*) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to cotton dust;

(*c*) The physician's recommended limitations upon the employee's exposure to cotton dust or upon the employee's use of respirators including a determination of whether an employee can wear a negative pressure respirator, and he cannot, a determination of the employee's ability to wear a powered air purifying respirator; and,

(*d*) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposure.

(i) *Employee education and training.*

(1) *Training program.* (i) The employer shall provide a training program for all employees in all workplaces where cotton dust is present, and shall assure that each employee in these workplaces is informed of the following:

(*a*) The specific nature of the operations which could result in exposure to cotton dust at or above the permissible exposure limit;

(*b*) The measures, including work practices required by paragraph (g) of this section, necessary to protect the employee from exposures in excess of the permissible exposure limit;

(*c*) The purpose, proper use and limitations of respirators required by paragraph (f) of this section;

(*d*) The purpose for and a description of the medical surveillance program required by paragraph (h) of this section and other information which will aid exposed employees in understanding the hazards of cotton dust exposure; and

(*e*) The contents of this standard and its appendices.

(i) The training program shall be provided prior to initial assignment and shall be reported and shall be repeated at least annually.

(2) *Access to training materials.* (i) Each employer shall post a copy of this section with its appendices in a public location at the workplace, and shall, upon request, make copies available to employees.

(ii) The employer shall provide all materials relating to the employee training and information program to the Assistant Secretary and the Director upon request.

(iii) In addition to the information required by paragraph (i)(1), the employer shall include as part of the training program, and shall distribute to employees, any materials, pertaining to the Occupational Safety and Health Act, the regulations issued pursuant to that Act, and this cotton dust standard, which are made available to the employer by the Assistant Secretary.

(j) *Signs.* The employer shall post the following warning signs in each work area where the permissible exposure limit for cotton dust is exceeded:

WARNING

COTTON DUST WORK AREA

May Cause Acute or Delayed Lung Injury

(Byssinosis)

RESPIRATORS

REQUIRED IN THIS AREA

(k) *Recordkeeping.* (1) *Exposure measurements.* (i) The employer shall establish and maintain an accurate record of all measurements required by paragraph (d) of this section.

(ii) The record shall include: (*a*) A log containing the items listed in paragraph IV (a) of Appendix A, and the dates, number, duration, and results of each of the samples taken, including a description of the procedure used to determine representative employee exposures;

(*b*) The type of protective devices worn, if any, and length of time worn; and

(*c*) The name, social security numbers, job classification, and exposure levels of employees whose exposure

the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 20 years.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate medical record for each employee subject to medical surveillance required by paragraph (h) of this section.

(ii) The record shall include:

(*a*) The name and social security number and description of the duties of the employee;

(*b*) A copy of the medical examination results including the medical history, questionnaire responses, results of all tests, and the physician's recommendation;

(*c*) A copy of the physician's written opinion;

(*d*) Any employee medical complaints related to exposure to cotton dust;

(*e*) A copy of this standard and its appendices, except that the employer may keep one copy of the standard and the appendices for all employees, provided that he references the standard and appendices in the medical surveillance record of each employee; and

(*f*) A copy of the information provided to the physician as required by paragraphs (h)(4) of this section.

(iii) The employer shall maintain this record for at least 20 years.

(3) *Availability.* (i) The employer shall make all records required to be maintained by paragraph (k) of this section available to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall make employee exposure measurement records required by this section available to affected employees or their designated representatives for examination and copying.

(iii) The employer shall make all records as will indicate a former employee's own exposure to cotton dust available to the former employee or his designated representative for examination and copying.

(iv) The employer shall make an employee's medical records required to be maintained by this section, available to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employees, for examination and copying.

(4) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by paragraph (k) of this section.

(ii) Whenever the employer ceases to do business, and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the Director at least 3 months prior to the disposal of such records and shall transmit those records to the Director if he requests them within that period.

(l) *Observation of monitoring.* (1) The employer shall provide affected employees or their designated representatives an opportunity to observe any measuring or monitoring of employee exposure to cotton dust conducted pursuant to paragraph (d) of this section.

(2) Whenever observation of the measuring or monitoring of employee exposure to cotton dust requires entry into an area where the use of personal protective equipment is required, the employer shall provide the observer with and assure the use of such equipment and shall require the observer to comply with all other applicable safety and health procedures.

(3) Without interfering with the measurement, observers shall be entitled to:

(i) An explanation of the measurement procedures;

(ii) An opportunity to observe all steps related to the measurement of airborne concentrations of cotton dust performed at the place of exposure; and

(iii) An opportunity to record the results obtained.

(m) *Effective date.*—(1) *General.* This section is effective September 4, 1978, except as otherwise provided below.

(2) *Startup dates.* (i) *Initial monitoring.* The initial monitoring required by paragraph (d)(2) of this section shall be completed as soon as possible but no later than March 4, 1979.

(ii) *Methods of compliance: engineering and work practice controls.* The engineering and work practice controls required by paragraph (e) of this section shall be implemented no later than September 4, 1982.

(iii) *Compliance program.* The compliance program required by paragraph (e)(3) of this section shall be established no later than September 4, 1979.

(iv) *Respirators.* The respirators required by paragraph (f) of this section shall be provided no later than October 4, 1978. Until September 4, 1979, the provisions of paragraph (f)(2)(iv) apply.

(v) *Work practices.* The work practices required by paragraph (g) of this section shall be implemented no later than December 4, 1978.

(vi) *Medical surveillance.* This initial medical surveillance required by paragraph (h) of this section shall be completed no later than September 4, 1979.

(vii) *Employee education and training.* The initial education and training required by paragraph (i) of this section shall be completed as soon as possible but no later than December 4, 1978.

(n) *Appendices.* (i) Appendices B, C, and D to this section are incorporated as part of this section and the contents of these appendices are mandatory.

(ii) Appendix A contains information which is not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

APPENDIX A—AIR SAMPLING AND ANALYTICAL PROCEDURES FOR DETERMINING CONCENTRATIONS OF COTTON DUST

I. SAMPLING LOCATIONS

The sampling procedures must be designed so that samples of the actual dust concentrations are collected accurately and consistently and reflect the concentrations of dust at the place and time of sampling. Sufficient number of 6-hour area samples in each distinct work area of the plant should be collected at locations which provide representative samples of air to which the worker is exposed. In order to avoid filter overloading, sampling time may be shortened when sampling in dusty areas. Samples in each work area should be gathered simultaneously or sequentially during a normal operating period. The daily time-weighted average (TWA) exposure of each worker can then be determined by using the following formula:

$$\frac{\text{Summation of hours spent in each location and the dust concentration in that location.}}{\text{Total hours exposed}}$$

A time-weighted average concentration should be computed for each worker and properly logged and maintained on file for review.

II. SAMPLING EQUIPMENT

(a) Sampler. The instrument selected for monitoring is the Lumsden-Lynch vertical elutriator. It should operate at a flow rate of 7.4±0.2 liters/minute.

The samplers should be cleaned prior to sampling. The pumps should be monitored during sampling.

(b) Filter Holder. A three-piece cassette constructed of polystyrene designed to hold a 37-mm diameter filter should be used. Care must be exercised to insure that an adequate seal exists between elements of the cassette.

(c) Filers and Support Pads. The membrane filters used should be polyvinyl chloride with a 5-um pore size and 37-mm diameter. A support pad, commonly called a backup pad, should be used under the filter membrane in the field monitor cassette.

(d) Balance. A balance sensitive to 10 micrograms should be used.

III. INSTRUMENT CALIBRATION PROCEDURE

Samplers shall be calibrated when first received from the factory, after repair, and after receiving any abuse. The samplers should be calibrated in the laboratory both before they are used in the field and after they have been used to collect a large

number of field samples. The primary standard, such as a spirometer or other standard calibrating instruments such as a wet test meter or a large bubble meter or dry gas meter, should be used. Instructions for calibration with the wet test meter follow. If another calibration device is selected, equivalent procedures should be used:

(a) Level wet test meter. Check the water level which should just touch the calibration point at the left side of the meter. If water level is low, add water 1-2° F. warmer than room temperature of till point. Run the meter for 30 minutes before calibration;

(b) Place the polyvinyl chloride membrane filter in the filter cassette;

(c) Assemble the calibration sampling train;

(d) Connect the wet test meter to the train.

The pointer on the meter should run clockwise and a pressure drop of not more than 1.0 inch of water indicated. If the pressure drop is greater than 1.0, disconnect and check the system;

(e) Operate the system for ten minutes before starting the calibration;

(f) Check the vacuum gauge on the pump to insure that the pressure drop across the orifice exceeds 16 inches of mercury;

(g) Record the following on calibration data sheets:

(1) Wet test meter reading, start and finish;

(2) Elapsed time, start and finish (at least two minutes);

(3) Pressure drop at manometer;

(4) Air temperature;

(5) Barometric pressure; and

(6) Limiting orifice number;

(h) Calculate the flow rate and compare against the flow of 7.4±0.2 liters/minute. If flow is between these limits, perform calibration again, average results, and record orifice number and flow rate. If flow is not within these limits, discard or modify orifice and repeat procedure;

(i) Record the name of the person performing the calibration, the date, serial number of the wet test meter, and the number of the critical orifices being calibrated.

IV. SAMPLING PROCEDURE

(a) Sampling data sheets should include a log of:

(1) The date of the sample collection;

(2) The time of sampling;

(3) The location of the sampler;

(4) The sampler serial number;

(5) The cassette number;

(6) The time of starting and stopping the sampling and the duration of sampling;

(7) The weight of the filter before and after sampling;

(8) The weight of dust collected (corrected for controls);

(9) The dust concentration measured;

(10) Other pertinent information; and

(11) Name of person taking sample

(b) Assembly of filter cassette should be as follows:

(1) Loosely assemble 3-piece cassette;

(2) Number cassette;

(3) Place absorbant pad in cassette;

(4) Weigh filter to an accuracy of 10 μg;

(5) Place filter in cassette;

(6) Record weight of filter in log, using cassette number for identification;

(7) Fully assemble cassette, using pressure to force parts tightly together;

(8) Install plugs top and bottom;

(9) Put shrink band on cassette, covering joint between center and bottom parts of cassette; and

(10) Set cassette aside until shrink band dries thoroughly.

(c) Sampling collection should be performed as follows:

(1) Clean lint out of the motor and elutriator;

(2) Install vertical elutriator in sampling locations specified above with inlet 4½ to 5½ feet from floor (breathing zone height);

(3) Remove top section of cassette;

(4) Install cassette in ferrule of elutriator;

(5) Tape cassette to ferrule with masking tape or similar material for air-tight seal;

(6) Remove bottom plug of cassette and attach hose containing critical orifice;

(7) Start elutriator pump and check to see if gauge reads above 14 in. of Hg vacuum;

(8) Record starting time, cassette number, and sampler number;

(9) At end of sampling period stop pump and record time; and

(10) Controls with each batch of samples collected, two additional filter cassettes should be subjected to exactly the same handling as the samples, except that they are not opened. These control filters should be weighed in the same manner as the sample filters.

Any difference in weight in the control filters would indicate that the procedure for handling sample filters may not be adequate and should be evaluated to ascertain the cause of the difference, whether and what necessary corrections must be made, and whether additional samples must be collected.

(d) Shipping. The cassette with samples should be collected, along with the appropriate number of blanks, and shipped to the analytical laboratory in a suitable container to prevent damage in transit.

(e) Weighing of the sample should be achieved as follows:

(1) Remove shrink band;

(2) Remove top and middle sections of cassette and botton plug;

(3) Remove filter from cassette and weigh to an accuracy of 10 μg; and

(4) Record weight in log against original weight

(f) Calculation of volume of air sampled should be determined as follows:

(1) From starting and stopping times of sampling period, determine length of time in minutes of sampling period; and

(2) Multiply sampling time in minutes by flow rate of critical orifice in liters per minute and divide by 1000 to find air quantity in cubic meters.

(g) Calculation of Dust Concentrations should be made as follows:

(1) Substract weight of clean filter from dirty filter and apply control correction to find actual weight of sample. Record this weight (in μg) in log; and

(2) Divide mass of sample in μg by air volume in cubic meters to find dust concentration in μg/m. Record in log.

APPENDIX B-I
RESPIRATORY QUESTIONNAIRE

A. IDENTIFICATION DATA

PLANT _____ SOCIAL SECURITY NO. _____ DAY (figures) MONTH YEAR (last 2 digits)

NAME _____ DATE OF INTERVIEW _____
(Surname)

_____ _____ DATE OF BIRTH _____
(First Names) M F

ADDRESS _____ AGE _____ (8,9) SEX _____ (10)

RACE W N IND. OTHER (11)

INTERVIEWER: 1 2 3 4 5 6 7 8 (12)

WORK SHIFT: 1st _____ 2nd _____ 3rd _____ (13) STANDING HEIGHT _____ (14,15)

WEIGHT _____ (16,18)

PRESENT WORK AREA

If working in more than one specified work area, X area where most of the work shift is spent. If "other," but spending 25% of the work shift in one of the specified work areas, classify in that work area. If carding department employee, check area within that department where most of the work shift is spent (if in doubt, check "throughout"). For work areas such as spinning and weaving where many work rooms may be involved, be sure to check the specific work room to which employee is assigned — if he works in more than one work room within a department classify as 7 (all) for that department.

	Workroom Number	(19) Open	(20) Pick	Area	(21) Card #1	(22) #2	(23) Spin	(24) Wind	(25) Twist	(26) Spool	(27) Warp	(28) Slash	(29) Weave	(30) Other
AT RISK (cotton & cotton blend)	1			Cards										
	2			Draw										
	3			Comb										
	4			Rove										
	5 —			Thru Out										
	6													
	7 — (all)													
Control (synthetic & wool)	8													
Ex-Worker (cotton)	9													

Use actual wording of each question. Put X in appropriate square after each question. When in doubt record 'No'. When no square, circle appropriate answer.

B. COUGH

Do you usually cough first thing in the morning? (on getting up)† ____ Yes ____ No ____ (31)
(Count a cough with first smoke or on "first going out of doors." Exclude clearing throat or a single cough.)

Do you usually cough during the day or at night? ____ Yes ____ No ____ (32)
(Ignore an occasional cough.)

If 'Yes' to either question (31-32):

Do you cough like this on most days for as much as three months a year? ____ Yes ____ No ____ (33)

Do you cough on any particular day of the week? ____ Yes ____ No ____ (34)

(1) (2) (3) (4) (5) (6) (7)

If 'Yes': Which day? Mon. Tues. Wed. Thur. Fri. Sat Sun. (35)

C. PHLEGM or alternative word to suit local custom.

Do you usually bring up any phlegm from your chest first thing in the morning? (Count phlegm with the first smoke or on "first going out of doors." Exclude phlegm from the nose. Count swallowed phlegm.) (on getting up)† ____ Yes ____ No ____ (36)

Do you usually bring up any phlegm from your chest during the day or at night? (Accept twice or more.) ____ Yes ____ No ____ (37)

If 'Yes' to either question (36) or (37):

Do you bring up phlegm like this on most days for as much as three months each year? ____ Yes ____ No ____ (38)

If 'Yes' to question (33) or (38):

How long have you had this (cough) phlegm? (Write in number of years)

(1) ☐ 2 years or less
(2) ☐ More than 2 years-9 years
(3) ☐ 10-19 years
(4) ☐ 20+ years

†These words are for subjects who work at night

D. CHEST ILLNESSES

In the past three years, have you had a period of (increased) †cough and phlegm lasting for 3 weeks or more? ____ (40)

(1) ☐ No
(2) ☐ Yes, only one period
(3) ☐ Yes, two or more periods

†For subjects who usually have phlegm

During the past 3 years have you had any chest illness which has kept you off work, indoors at home or in bed? (For as long as one week, flu?) ____ Yes ____ No ____ (41)

If 'Yes' to (41): Did you bring up (more) phlegm than usual in any of these illnesses? ____ Yes ____ No ____ (42)

If 'Yes' to (42): During the past three years have you had:

Only one such illness with increased phlegm? (1) ☐ (43)

More than one such illness: (2) ☐ (44)

Br. Grade ____

E. TIGHTNESS

Does your chest ever feel tight or your breathing become difficult? _____ Yes _____ No _____ (45)

Is your chest tight or your breathing difficult on any particular day of the week? (after a week or 10 days away from the mill) _____ Yes _____ No _____ (46)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (47)

(1) Sometimes (2) Always

If 'Yes' Monday: At what time on Monday does your chest feel tight or your breathing difficult? 1 ☐ Before entering the mill (48)

2 ☐ After entering the mill

(Ask only if NO to Question (45))

In the past, has your chest ever been tight or your breathing difficult on any particular day of the week? _____ Yes _____ No _____ (49)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (50)

(1) Sometimes (2) Always

F. BREATHLESSNESS

If disabled from walking by any condition other than heart or lung disease put "X" here and leave questions (52-60) unasked. ☐ (51)

Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? _____ Yes _____ No _____ (52)

If 'No', grade is 1. If 'Yes' proceed to next question

Do you get short of breath walking with other people at an ordinary pace on the level? _____ Yes _____ No _____ (53)

If 'No', grade is 2. If 'Yes', proceed to next question

Do you have to stop for breath when walking at your own pace on the level? _____ Yes _____ No _____ (54)

If 'No', grade is 3. If 'Yes', proceed to next question

Are you short of breath on washing or dressing? _____ Yes _____ No _____ (55)

If 'No', grade is 4. If 'Yes', grade is 5.

Dyspnea Grd. _____ (56)

ON MONDAYS:

Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? _____ Yes _____ No _____ (57)

If 'No', grade is 1. If 'Yes', proceed to next question

Do you get short of breath walking with other people at an ordinary pace on the level? _____ Yes _____ No _____ (58)

If 'No', grade is 2. If 'Yes', proceed to next question

Do you have to stop for breath when walking at your own pace on the level? _____ Yes _____ No _____ (59)

If 'No', grade is 3. If 'Yes', proceed to next question

Are you short of breath on washing or dressing? _____ Yes _____ No _____ (60)

If 'No', grade is 4. If 'Yes', grade is 5

B. Grd. _____ (61)

G. OTHER ILLNESSES AND ALLERGY HISTORY

Do you have a heart condition for which you are under a doctor's care? ____Yes ____No ____(62)

Have you ever had asthma? Yes No (63)

If 'Yes', did it begin: (1) ☐ Before age 30
(2) ☐ After age 30

If 'Yes' before 30: did you have asthma before ever going to work in a textile mill? ____Yes ____No ____(64)

Have you ever had hay fever or other allergies (other than above)? ____Yes ____No ____(65)

H. TOBACCO SMOKING*

Do you smoke?

Record 'Yes' if regular smoker up to one month ago. (Cigarettes, cigar or pipe) ____Yes ____No ____(66)

If 'No' to (63),

Have you ever smoked? (Cigarettes, cigars, pipe. Record 'No' if subject has never smoked as much as one cigarette a day, or 1 oz. of tobacco a month, for as long as one year.) ____Yes ____No ____(67)

If 'Yes' to (63) or (64); what have you smoked and for how many years?
(Write in specific number of years in the appropriate square)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	
Years	(<5)	(5-9)	(10-14)	(15-19)	(20-24)	(25-29)	(30-34)	(35-39)	(>40)	
Cigarettes										(68)
Pipe										(69)
Cigars										(70)

If cigarettes, how many packs per day? (Write in number of cigarettes)

(1) ☐ less than 1/2 pack (71)
(2) ☐ 1/2 pack, but less than 1 pack
(3) ☐ 1 pack, but less than 1-1/2 packs
(4) ☐ 1-1/2 packs or more

Number of pack years: ____(72,73)

If an ex-smoker (cigarettes, cigar or pipe), how long since you stopped? (Write in number of years) ____(74)

(1) ☐ 0-1 year
(2) ☐ 1-4 years
(3) ☐ 5-9 years
(4) ☐ 10+ years

*Have you changed your smoking habits since last interview? If yes, specify what changes.

I. OCCUPATIONAL HISTORY**

Have you ever worked in: A foundry? (As long as one year) ____Yes ____No ____(75)

Stone or mineral mining, quarrying or processing? (As long as one year) ____Yes ____No ____(76)

Asbestos milling or processing? (Ever) ____Yes ____No ____(77)

Other dusts, fumes or smoke? If yes, specify: ____Yes ____No ____(78)

Type of exposure ____

Length of exposure ____

**Ask only on first interview.

At what age did you first go to work in a textile mill? (Write in specific age in appropriate square).

(1)	(2)	(3)	(4)	(5)	(6)	
<20	20-24	25-29	30-34	35-39	40+	(79)

When you first worked in a textile mill, did you work with (1) ☐ Cotton or cotton blend (80)
(2) ☐ Synthetic or wool

APPENDIX B-II

Respiratory Questionnaire
for
Non-Textile Workers for the
Cotton Industry

Identification No.	Interviewer Code
Location	Date of Interview

A. IDENTIFICATION

1. NAME (Last) (First) (Middle Initial)	3. PHONE NUMBER AREA CODE ( ) NO.	4. SOCIAL SECURITY # (optional see below)
2. CURRENT ADDRESS (Number, Street, or Rural Route, City or Town, County, State, Zip Code)	5. BIRTHDATE (Mo., Day, Yr.)	6. AGE LAST BIRTHDAY
	7. SEX 1 ☐ Male 2 ☐ Female	
	8. ETHNIC GROUP OR ANCESTRY 1. ☐ White, not of Hispanic Origin 2. ☐ Black, not of Hispanic Origin 3. ☐ Hispanic 4. ☐ American Indian or Alaskan Native 5. ☐ Asian or Pacific Islander 6. ☐ Other: _____	

9. STANDING HEIGHT	10. WEIGHT	11. WORK SHIFT
_____ (cm)	_____	1st ☐ 2nd ☐ 3rd ☐

12. PRESENT WORK AREA

Please indicate primary assigned work area and percent of time spent at that site. If at other locations, please indicate and note percent of time for each.

PRIMARY WORK AREA	
SPECIFIC JOB	

13. APPROPRIATE INDUSTRY

1 ☐ Garnetting
2 ☐ Cottonseed Oil Mill
3 ☐ Cotton Warehouse
4 ☐ Utilization
5 ☐ Cotton Classification
6 ☐ Cotton Ginning

(Furnishing your Social Security number is voluntary. Your refusal to provide this number will not affect any right, benefit, or privilege to which you would be entitled if you did provide your Social Security number. Your Social Security number is being requested since it will permit use in future determinations in statistical research studies.)

B. OCCUPATIONAL HISTORY TABLE

Complete the following table showing the entire work history of the individual from present to initial employment. Sporadic, part-time periods of employment, each of no significant duration, should be grouped if possible.

INDUSTRY AND LOCATION	TENURE OF EMPLOYMENT		SPECIFIC OCCUPATION	AVERAGE NO. DAYS WORKED PER WEEK	HAZARDOUS HEALTH EXPOSURE ASSOCIATED WITH WORK		
	FROM 19__	TO 19__			YES	NO	IF YES, DESCRIBE

C. SYMPTOMS

Use actual wording of each question. Put X in appropriate square after each question. When in doubt record "No".

COUGH

1. Do you usually cough first thing in the morning? (on getting up)* (Count a cough with first smoke or on "first going out of doors". Exclude clearing throat or a single cough.) 1 ☐ Yes 2 ☐ No

2. Do you usually cough during the day or at night? (Ignore an occasional cough.) 1 ☐ Yes 2 ☐ No

If YES to either question 1 or 2:

3. Do you cough like this on most days for as much as three months a year? 1 ☐ Yes 2 ☐ No 9 ☐ NA

4. Do you cough on any particular day of the week? 1 ☐ Yes 2 ☐ No

If YES:

5. Which day? Mon. Tue. Wed. Thur. Fri. Sat. Sun. _____

PHLEGM

6. Do you usually bring up any phlegm from your chest first thing in the morning? (on getting up)* (Count phlegm with the first smoke or on "first going out of doors." Exclude phlegm from the nose. Count swallowed phlegm.) 1 ☐ Yes 2 ☐ No

7. Do you usually bring up any phlegm from your chest during the day or at night? (Accept twice or more.) 1 ☐ Yes 2 ☐ No

If YES to either question 6 or 7:

8. Do you bring up phlegm like this on most days for as much as three months each year? 1 ☐ Yes 2 ☐ No

If YES to question 3 or 8:

9. How long have you had this phlegm? (cough) (Write in number of years)

(1) ☐ 2 years or less
(2) ☐ More than 2 years - 9 years
(3) ☐ 10-19 years
(4) ☐ 20+ years

*These words are for subjects who work at night

CHEST ILLNESS

10. In the past three years, have you had a period of (increased) cough and phlegm lasting for 3 weeks or more?
(1) ☐ No
(2) ☐ Yes, only one period
(3) ☐ Yes, two or more periods

For subjects who usually have phlegm:

11. During the past 3 years have you had any chest illness which has kept you off work, indoors at home or in bed? (For as long as one week, flu?) 1 ☐ Yes 2 ☐ No

If YES to 11:

12. Did you bring up (more) phelgm than usual in any of these illnesses? 1 ☐ Yes 2 ☐ No

If YES to 12: During the past three years have you had:

13. Only one such illness with increased phelgm? 1 ☐ Yes 2 ☐ No

14. More than one such illness: 1 ☐ Yes 2 ☐ No

Br. Brade _____

TIGHTNESS

15. Does your chest ever feel tight or your breathing become difficult? 1 ☐ Yes 2 ☐ No

16. Is your chest tight or your breathing difficult on any particular day of the week? (after a week or 10 days away from the mill) 1 ☐ Yes 2 ☐ No

17. If YES, Which day? Mon. (1) Sometimes / (2) Always Tues. (3) Wed. (4) Thur. (5) Fri. (6) Sat. (7) Sun. (8)

18. If YES Monday: At what time on Monday does your chest feel tight or your breathing difficult?
☐ Before entering mill
☐ After entering mill

(ASK ONLY IF NO TO QUESTION 15)

19. In the past, has your chest ever been tight or your breathing difficult on any particular day of the week? 1 ☐ Yes 2 ☐ No

20. If YES, Which day? Mon. (1) Sometimes / (2) Always Tues. (3) Wed. (4) Thur. (5) Fri. (6) Sat. (7) Sun. (8)

BREATHLESSNESS

21. If disabled from walking by any condition other than heart or lung disease put "X" in the space and leave questions (22-30) unasked. ☐

22. Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? 1 ☐ Yes 2 ☐ No

If NO, grade is 1. If YES, proceed to next question

23. Do you get short of breath walking with other people at an ordinary pace on the level? 1 ☐ Yes 2 ☐ No

If NO, grade is 2. If YES, proceed to next question

24. Do you have to stop for breath when walking at your own pace on the level? 1 ☐ Yes 2 ☐ No

If NO, grade is 3. If YES, proceed to next question

25. Are you short of breath on washing or dressing? 1 ☐ Yes 2 ☐ No

If NO, grade is 4. If YES, grade is 5.

26. Dyspnea Grd. _____

ON MONDAYS:

27. Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? 1 ☐ Yes 2 ☐ No

If NO, grade is 1. If YES, proceed to next question

28. Do you get short of breath walking with other people at an ordinary pace on the level? 1 ☐ Yes 2 ☐ No

If NO, grade is 2, If YES, proceed to next question

29. Do you have to stop for breath when walking at your own pace on the level? 1 ☐ Yes 2 ☐ No

If NO, grade is 3. If YES, proceed to next question

30. Are you short of breath on washing or dressing? 1 ☐ Yes 2 ☐ No

If NO, grade is 4. If YES, grade is 5

31. B. Grd. _____

OTHER ILLNESSES AND ALLERGY HISTORY

32. Do you have a heart condition for which you are under a doctor's care? 1 ☐ Yes 2 ☐ No

OTHER ILLNESSES AND ALLERGY HISTORY CONTINUED:

33. Have you ever had asthma? 1 ☐ Yes 2 ☐ No

If yes, did it begin: (1) Before age 30 ☐

(2) After age 30 ☐

34. If yes before 30: did you have asthma before ever going to work in a textile mill? 1 ☐ Yes 2 ☐ No

35. Have you ever had hay fever or other allergies (other than above)? 1 ☐ Yes 2 ☐ No

TOBACCO SMOKING

36. Do you smoke? 1 ☐ Yes 2 ☐ No
Record Yes if regular smoker up to one month ago. (Cigarettes, cigar or pipe)

If NO to (33).

37. Have you ever smoked? (Cigarettes, cigars, pipe. Record NO if subject has never smoked as much as one cigarette a day, or 1 oz. of tobacco a month, for as long as one year.) 1 ☐ Yes 2 ☐ No

If Yes to (33) or (34); what have you smoked for how many years? (Write in specific number of years in the appropriate square)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Years	(<5)	(5-9)	(10-14)	(15-19)	(20-24)	(25-29)	(30-34)	(35-39)	(>40)
38. Cigarettes									
39. Pipe									
40. Cigars									

41. If cigarettes, how many packs per day? Write in number of cigarettes _____

☐ Less than 1/2 pack
☐ 1/2 pack, but less than 1 pack
☐ 1 pack, but less than 1 1/2 packs
☐ 1-1/2 packs or more

42. Number of pack years: _____

43. If an ex-smoker (cigarettes, cigar or pipe), how long since you stopped? (Write in number of years.) _____

☐ 0-1 year
☐ 1-4 years
☐ 5-9 years
☐ 10+ years

OCCUPATIONAL HISTORY

Have you ever worked in:

44. A foundry? (As long as one year) 1 ☐ Yes 2 ☐ No

45. Stone or mineral mining, quarrying or processing? (As long as one year) 1 ☐ Yes 2 ☐ No

46. Asbestos milling or processing? (Ever) 1 ☐ Yes 2 ☐ No

47. Cotton or cotton blend mill? (For controls only) 1 ☐ Yes 2 ☐ No

48. Other dusts, fumes or smoke? If yes, specify. 1 ☐ Yes 2 ☐ No

Type of exposure _____

Length of exposure _____

APPENDIX B -III

ABBREVIATED RESPIRATORY QUESTIONNAIRE

A. IDENTIFICATION DATA

PLANT _____ SOCIAL SECURITY NO. _____

DAY MONTH (figures) YEAR (last 2 digits)

NAME _____ DATE OF INTERVIEW _____

(Surname)

_____ _____ DATE OF BIRTH _____

(First Names) M F

ADDRESS _____ AGE _____ (8,9) SEX _____ (10)

RACE W N IND. OTHER (11)

INTERVIEWER: 1 2 3 4 5 6 7 8 (12)

WORK SHIFT: 1st _____ 2nd _____ 3rd _____ (13) STANDING HEIGHT _____ (14,15)

PRESENT WORK AREA WEIGHT _____ (16,18)

If working in more than one specified work area, X area where most of the work shift is spent. If "other," but spending 25% of the work shift in one of the specified work areas, classify in that work area. If carding department employee, check area within that department where most of the work shift is spent (if in doubt, check "throughout"). For work areas such as spinning and weaving where many work rooms may be involved, be sure to check the specific work room to which employee is assigned — if he works in more than one work room within a department classify as 7 (all) for that department.

	Workroom Number	(19) Open	(20) Pick	Area	(21) Card #1	(22) #2	(23) Spin	(24) Wind	(25) Twist	(26) Spool	(27) Warp	(28) Slash	(29) Weave	(30) Other
AT RISK (cotton & cotton blend)	1			Cards										
	2			Draw										
	3			Comb										
	4			Rove										
	5 —			Thru Out										
	6													
	7 (all)													
Control (synthetic & wool)	8													
Ex-Worker (cotton)	9													

Use actual wording of each question. Put X in appropriate square after each question. When in doubt record 'No'. When no square, circle appropriate answer.

B. COUGH

(on getting up)†

Do you usually cough first thing in the morning? (Count a cough with first smoke or on "first going out of doors." Exclude clearing throat or a single cough.) ____ Yes ____ No ____ (31)

Do you usually cough during the day or at night? (Ignore an occasional cough.) ____ Yes ____ No ____ (32)

If 'Yes' to either question (31-32):

Do you cough like this on most days for as much as three months a year? ____ Yes ____ No ____ (33)

Do you cough on any particular day of the week? ____ Yes ____ No ____ (34)

(1) (2) (3) (4) (5) (6) (7)

If 'Yes': Which day? Mon. Tues. Wed. Thur. Fri. Sat Sun. (35)

C. PHLEGM or alternative word to suit local custom.

(on getting up)†

Do you usually bring up any phlegm from your chest first thing in the morning? (Count phlegm with the first smoke or on "first going out of doors." Exclude phlegm from the nose. Count swallowed phlegm.) ____ Yes ____ No ____ (36)

Do you usually bring up any phlegm from your chest during the day or at night? (Accept twice or more.) ____ Yes ____ No ____ (37)

If 'Yes' to either question (36) or (37):

Do you bring up phlegm like this on most days for as much as three months each year? ____ Yes ____ No ____ (38)

If 'Yes' to question (33) or (38):

How long have you had this phlegm? (cough) (Write in number of years

(1) ☐ 2 years or less
(2) ☐ More than 2 years-9 years
(3) ☐ 10-19 years
(4) ☐ 20+ years

†These words are for subjects who work at night

D. TIGHTNESS

Does your chest ever feel tight or your breathing become difficult? ____ Yes ____ No ____ (39)

Is your chest tight or your breathing difficult on any particular day of the week? (after a week or 10 days away from the mill) ____ Yes ____ No ____ (40)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (41)

(1) Sometimes (2) Always

If 'Yes' Monday: At what time on Monday does your chest feel tight or your breathing difficult? 1 ☐ Before entering the mill 2 ☐ After entering the mill (42)

(Ask only if NO to Question (45)*

In the past, has your chest ever been tight or your breathing difficult on any particular day of the week? ____ Yes ____ No ____ (43)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (44)

(1) Sometimes (2) Always

E. TOBACCO SMOKING*

*Have you changed your smoking habits since last interview? If yes specify what changes.

TABLE 1. PREDICTED FVC FOR MALES (KNUDSON, ET AL: AM REV RESPIR DIS. 1976, 113, 587.)

HT \ AGE	17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	47	49	51	53	55	57	59	61	63	65
60.0	3.44	3.59	3.75	3.91	3.72	3.66	3.61	3.55	3.49	3.43	3.37	3.32	3.26	3.20	3.14	3.08	3.03	2.97	2.91	2.85	2.79	2.74	2.68	2.62	2.56
60.5	3.50	3.66	3.81	3.97	3.80	3.75	3.69	3.63	3.57	3.51	3.46	3.40	3.34	3.28	3.22	3.17	3.11	3.05	2.99	2.93	2.88	2.82	2.76	2.70	2.64
61.0	3.56	3.72	3.88	4.03	3.89	3.83	3.77	3.71	3.66	3.60	3.54	3.48	3.42	3.37	3.31	3.25	3.19	3.13	3.08	3.02	2.96	2.90	2.84	2.79	2.73
61.5	3.63	3.78	3.94	4.10	3.97	3.91	3.85	3.80	3.74	3.68	3.62	3.56	3.51	3.45	3.39	3.33	3.27	3.22	3.16	3.10	3.04	2.98	2.93	2.87	2.81
62.0	3.69	3.85	4.00	4.16	4.05	3.99	3.94	3.88	3.82	3.76	3.70	3.65	3.59	3.53	3.47	3.41	3.36	3.30	3.24	3.18	3.12	3.07	3.01	2.95	2.89
62.5	3.76	3.91	4.07	4.22	4.13	4.08	4.02	3.96	3.90	3.84	3.79	3.73	3.67	3.61	3.55	3.50	3.44	3.38	3.32	3.26	3.21	3.15	3.09	3.03	2.97
63.0	3.82	3.97	4.13	4.29	4.22	4.16	4.10	4.04	3.99	3.93	3.87	3.81	3.75	3.70	3.64	3.58	3.52	3.46	3.41	3.35	3.29	3.23	3.17	3.12	3.06
63.5	3.88	4.04	4.19	4.35	4.30	4.24	4.18	4.13	4.07	4.01	3.95	3.89	3.84	3.78	3.72	3.66	3.60	3.55	3.49	3.43	3.37	3.31	3.26	3.20	3.14
64.0	3.95	4.10	4.26	4.41	4.30	4.32	4.27	4.21	4.15	4.09	4.03	3.98	3.92	3.86	3.80	3.74	3.69	3.63	3.57	3.51	3.45	3.40	3.34	3.28	3.22
64.5	4.01	4.17	4.32	4.48	4.46	4.41	4.35	4.29	4.23	4.17	4.12	4.06	4.00	3.94	3.88	3.83	3.77	3.71	3.65	3.59	3.54	3.48	3.42	3.36	3.30
65.0	4.07	4.23	4.39	4.54	4.55	4.49	4.43	4.37	4.32	4.26	4.20	4.14	4.08	4.03	3.97	3.91	3.85	3.79	3.74	3.68	3.62	3.56	3.50	3.45	3.39
65.5	4.14	4.29	4.45	4.60	4.63	4.57	4.51	4.46	4.40	4.34	4.28	4.22	4.17	4.11	4.05	3.99	3.93	3.88	3.82	3.76	3.70	3.64	3.59	3.53	3.47
66.0	4.20	4.36	4.51	4.67	4.71	4.65	4.60	4.54	4.48	4.42	4.36	4.31	4.25	4.19	4.13	4.07	4.02	3.96	3.90	3.84	3.78	3.73	3.67	3.61	3.55
66.5	4.26	4.42	4.58	4.73	4.80	4.74	4.68	4.62	4.56	4.51	4.45	4.39	4.33	4.27	4.22	4.16	4.10	4.04	3.98	3.93	3.87	3.81	3.75	3.69	3.64
67.0	4.33	4.48	4.64	4.80	4.88	4.82	4.76	4.70	4.65	4.59	4.53	4.47	4.41	4.36	4.30	4.24	4.18	4.12	4.07	4.01	3.95	3.89	3.83	3.78	3.72
67.5	4.39	4.55	4.70	4.86	4.96	4.90	4.84	4.79	4.73	4.67	4.61	4.55	4.50	4.44	4.38	4.32	4.26	4.21	4.15	4.09	4.03	3.97	3.92	3.86	3.80
68.0	4.45	4.61	4.77	4.92	5.04	4.98	4.93	4.87	4.81	4.75	4.69	4.64	4.58	4.52	4.46	4.40	4.35	4.29	4.23	4.17	4.11	4.06	4.00	3.94	3.88
68.5	4.52	4.67	4.83	4.99	5.13	5.07	5.01	4.95	4.89	4.84	4.78	4.72	4.66	4.60	4.55	4.49	4.43	4.37	4.31	4.26	4.20	4.14	4.08	4.02	3.97
69.0	4.58	4.74	4.89	5.05	5.21	5.15	5.09	5.03	4.98	4.92	4.86	4.80	4.74	4.69	4.63	4.57	4.51	4.45	4.40	4.34	4.28	4.22	4.16	4.11	4.05
69.5	4.64	4.80	4.96	5.11	5.29	5.23	5.17	5.12	5.06	5.00	4.94	4.88	4.83	4.77	4.71	4.65	4.59	4.54	4.48	4.42	4.36	4.30	4.25	4.19	4.13
70.0	4.71	4.86	5.02	5.18	5.37	5.32	5.26	5.20	5.14	5.08	5.02	4.97	4.91	4.85	4.79	4.74	4.68	4.62	4.56	4.50	4.44	4.39	4.33	4.27	4.21
70.5	4.77	4.93	5.08	5.24	5.46	5.40	5.34	5.28	5.22	5.17	5.11	5.05	4.99	4.93	4.88	4.82	4.76	4.70	4.64	4.59	4.53	4.47	4.41	4.35	4.30
71.0	4.83	4.99	5.15	5.30	5.54	5.48	5.42	5.36	5.31	5.25	5.19	5.13	5.07	5.02	4.96	4.90	4.84	4.78	4.73	4.67	4.61	4.55	4.49	4.44	4.38
71.5	4.90	5.05	5.21	5.37	5.62	5.56	5.50	5.45	5.39	5.33	5.27	5.21	5.16	5.10	5.04	4.98	4.92	4.87	4.81	4.75	4.69	4.63	4.58	4.52	4.46
72.0	4.96	5.12	5.27	5.43	5.70	5.65	5.59	5.53	5.47	5.41	5.36	5.30	5.24	5.18	5.12	5.07	5.01	4.95	4.89	4.83	4.78	4.72	4.66	4.60	4.54
72.5	5.03	5.18	5.34	5.49	5.79	5.73	5.67	5.61	5.55	5.50	5.44	5.38	5.32	5.26	5.21	5.15	5.09	5.03	4.97	4.92	4.86	4.80	4.74	4.68	4.63
73.0	5.09	5.24	5.40	5.56	5.87	5.81	5.75	5.69	5.64	5.58	5.52	5.46	5.40	5.35	5.29	5.23	5.17	5.11	5.06	5.00	4.94	4.88	4.82	4.77	4.71
73.5	5.15	5.31	5.46	5.62	5.95	5.89	5.83	5.78	5.72	5.66	5.60	5.54	5.49	5.43	5.37	5.31	5.25	5.20	5.14	5.08	5.02	4.96	4.91	4.85	4.79
74.0	5.22	5.37	5.53	5.68	6.03	5.98	5.92	5.86	5.80	5.74	5.69	5.63	5.57	5.51	5.45	5.40	5.34	5.28	5.22	5.16	5.11	5.05	4.99	4.93	4.87
74.5	5.28	5.44	5.59	5.75	6.12	6.06	6.00	5.94	5.88	5.83	5.77	5.71	5.65	5.59	5.54	5.48	5.42	5.36	5.30	5.25	5.19	5.13	5.07	5.01	4.96
75.0	5.34	5.50	5.65	5.81	6.20	6.14	6.08	6.02	5.97	5.91	5.85	5.79	5.73	5.68	5.62	5.56	5.50	5.44	5.39	5.33	5.27	5.21	5.15	5.10	5.04
75.5	5.41	5.56	5.72	5.87	6.28	6.22	6.17	6.11	6.05	5.99	5.93	5.88	5.82	5.76	5.70	5.64	5.59	5.53	5.47	5.41	5.35	5.30	5.24	5.18	5.12
76.0	5.47	5.63	5.78	5.94	6.36	6.31	6.25	6.19	6.13	6.07	6.02	5.96	5.90	5.84	5.78	5.73	5.67	5.61	5.55	5.49	5.44	5.38	5.32	5.26	5.20
76.5	5.53	5.69	5.85	6.00	6.45	6.39	6.33	6.27	6.21	6.16	6.10	6.04	5.98	5.92	5.87	5.81	5.75	5.69	5.63	5.58	5.52	5.46	5.40	5.34	5.29
77.0	5.60	5.75	5.91	6.06	6.53	6.47	6.41	6.35	6.30	6.24	6.18	6.12	6.06	6.01	5.95	5.89	5.83	5.77	5.72	5.66	5.60	5.54	5.48	5.43	5.37
77.5	5.66	5.82	5.97	6.13	6.61	6.55	6.50	6.44	6.38	6.32	6.26	6.21	6.15	6.09	6.03	5.97	5.92	5.86	5.80	5.74	5.68	5.63	5.57	5.51	5.45
78.0	5.72	5.88	6.04	6.19	6.69	6.64	6.58	6.52	6.46	6.40	6.35	6.29	6.23	6.17	6.11	6.06	6.00	5.94	5.88	5.82	5.77	5.71	5.65	5.59	5.53
78.5	5.79	5.94	6.10	6.26	6.78	6.72	6.66	6.60	6.54	6.49	6.43	6.37	6.31	6.25	6.20	6.14	6.08	6.02	5.96	5.91	5.85	5.79	5.73	5.67	5.62
79.0	5.85	6.01	6.16	6.32	6.86	6.80	6.74	6.68	6.63	6.57	6.51	6.45	6.39	6.34	6.28	6.22	6.16	6.10	6.05	5.99	5.93	5.87	5.81	5.76	5.70
79.5	5.91	6.07	6.23	6.38	6.94	6.88	6.83	6.77	6.71	6.65	6.59	6.54	6.48	6.42	6.36	6.30	6.25	6.19	6.13	6.07	6.01	5.96	5.90	5.84	5.78
80.0	5.98	6.13	6.29	6.45	7.02	6.97	6.91	6.85	6.79	6.73	6.68	6.62	6.56	6.50	6.44	6.39	6.33	6.27	6.21	6.15	6.10	6.04	5.98	5.92	5.86
80.5	6.04	6.20	6.35	6.51	7.11	7.05	6.99	6.93	6.87	6.82	6.76	6.70	6.64	6.58	6.53	6.47	6.41	6.35	6.29	6.24	6.18	6.12	6.06	6.00	5.95
81.0	6.10	6.26	6.42	6.57	7.19	7.13	7.07	7.02	6.96	6.90	6.84	6.78	6.73	6.67	6.61	6.55	6.49	6.44	6.38	6.32	6.26	6.20	6.15	6.09	6.03
81.5	6.17	6.32	6.48	6.64	7.27	7.21	7.16	7.10	7.04	6.98	6.92	6.87	6.81	6.75	6.69	6.63	6.58	6.52	6.46	6.40	6.34	6.29	6.23	6.17	6.11
82.0	6.23	6.39	6.54	6.70	7.35	7.30	7.24	7.18	7.12	7.06	7.01	6.95	6.89	6.83	6.77	6.72	6.66	6.60	6.54	6.48	6.43	6.37	6.31	6.25	6.19
82.5	6.30	6.45	6.61	6.76	7.44	7.38	7.32	7.26	7.20	7.15	7.09	7.03	6.97	6.91	6.86	6.80	6.74	6.68	6.62	6.57	6.51	6.45	6.39	6.33	6.28
83.0	6.36	6.51	6.67	6.83	7.52	7.46	7.40	7.35	7.29	7.23	7.17	7.11	7.06	7.00	6.94	6.88	6.82	6.77	6.71	6.65	6.59	6.53	6.48	6.42	6.36
83.5	6.42	6.58	6.73	6.89	7.60	7.54	7.49	7.43	7.37	7.31	7.25	7.20	7.14	7.08	7.02	6.96	6.91	6.85	6.79	6.73	6.67	6.62	6.56	6.50	6.44
84.0	6.49	6.64	6.80	6.95	7.68	7.63	7.57	7.51	7.45	7.39	7.34	7.28	7.22	7.16	7.10	7.05	6.99	6.93	6.87	6.81	6.76	6.70	6.64	6.58	6.52
84.5	6.55	6.71	6.86	7.02	7.77	7.71	7.65	7.59	7.53	7.48	7.42	7.36	7.30	7.24	7.19	7.13	7.07	7.01	6.95	6.90	6.84	6.78	6.72	6.66	6.61
85.0	6.61	6.77	6.92	7.08	7.85	7.79	7.73	7.68	7.62	7.56	7.50	7.44	7.39	7.33	7.27	7.21	7.15	7.10	7.04	6.98	6.92	6.86	6.81	6.75	6.69

TABLE 2. PREDICTED FEV1 FOR MALES (KNUDSON, ET AL: AM REV RESPIR DIS, 1976, 113, 587.)

HT \ AGE	17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	47	49	51	53	55	57	59	61	63	65
60.0	2.97	3.06	3.15	3.24	3.05	2.99	2.94	2.88	2.83	2.78	2.72	2.67	2.61	2.56	2.51	2.45	2.40	2.34	2.29	2.24	2.18	2.13	2.07	2.02	1.97
60.5	3.03	3.12	3.21	3.30	3.11	3.06	3.00	2.95	2.90	2.84	2.79	2.73	2.68	2.63	2.57	2.52	2.46	2.41	2.36	2.30	2.25	2.19	2.14	2.09	2.03
61.0	3.08	3.17	3.26	3.35	3.18	3.12	3.07	3.02	2.96	2.91	2.85	2.80	2.75	2.69	2.64	2.58	2.53	2.48	2.42	2.37	2.31	2.26	2.21	2.15	2.10
61.5	3.14	3.23	3.32	3.41	3.24	3.19	3.14	3.08	3.03	2.97	2.92	2.87	2.81	2.76	2.70	2.65	2.60	2.54	2.49	2.43	2.38	2.33	2.27	2.22	2.16
62.0	3.20	3.29	3.38	3.47	3.31	3.26	3.20	3.15	3.09	3.04	2.99	2.93	2.88	2.82	2.77	2.72	2.66	2.61	2.55	2.50	2.45	2.39	2.34	2.28	2.23
62.5	3.26	3.35	3.44	3.53	3.38	3.32	3.27	3.22	3.16	3.11	3.05	3.00	2.95	2.89	2.84	2.78	2.73	2.68	2.62	2.57	2.51	2.46	2.41	2.35	2.30
63.0	3.32	3.41	3.50	3.59	3.44	3.39	3.34	3.28	3.23	3.17	3.12	3.07	3.01	2.96	2.90	2.85	2.80	2.74	2.69	2.63	2.58	2.53	2.47	2.42	2.36
63.5	3.38	3.47	3.56	3.65	3.51	3.46	3.40	3.35	3.29	3.24	3.19	3.13	3.08	3.02	2.97	2.92	2.86	2.81	2.75	2.70	2.65	2.59	2.54	2.48	2.43
64.0	3.43	3.52	3.61	3.70	3.58	3.52	3.47	3.41	3.36	3.31	3.25	3.20	3.14	3.09	3.04	2.98	2.93	2.87	2.82	2.77	2.71	2.66	2.60	2.55	2.50
64.5	3.49	3.58	3.67	3.76	3.64	3.59	3.53	3.48	3.43	3.37	3.32	3.26	3.21	3.16	3.10	3.05	2.99	2.94	2.89	2.83	2.78	2.72	2.67	2.62	2.56
65.0	3.55	3.64	3.73	3.82	3.71	3.65	3.60	3.55	3.49	3.44	3.38	3.33	3.28	3.22	3.17	3.11	3.06	3.01	2.95	2.90	2.84	2.79	2.74	2.68	2.63
65.5	3.61	3.70	3.79	3.88	3.77	3.72	3.67	3.61	3.56	3.50	3.45	3.40	3.34	3.29	3.23	3.18	3.13	3.07	3.02	2.96	2.91	2.86	2.80	2.75	2.69
66.0	3.67	3.76	3.85	3.94	3.84	3.79	3.73	3.68	3.62	3.57	3.52	3.46	3.41	3.35	3.30	3.25	3.19	3.14	3.08	3.03	2.98	2.92	2.87	2.81	2.76
66.5	3.73	3.82	3.91	4.00	3.91	3.85	3.80	3.74	3.69	3.64	3.58	3.53	3.47	3.42	3.37	3.31	3.26	3.20	3.15	3.10	3.04	2.99	2.93	2.88	2.83
67.0	3.79	3.88	3.97	4.06	3.97	3.92	3.86	3.81	3.76	3.70	3.65	3.59	3.54	3.49	3.43	3.38	3.32	3.27	3.22	3.16	3.11	3.05	3.00	2.95	2.89
67.5	3.84	3.93	4.02	4.11	4.04	3.98	3.93	3.88	3.82	3.77	3.71	3.66	3.61	3.55	3.50	3.44	3.39	3.34	3.28	3.23	3.17	3.12	3.07	3.01	2.96
68.0	3.90	3.99	4.08	4.17	4.10	4.05	4.00	3.94	3.89	3.83	3.78	3.73	3.67	3.62	3.56	3.51	3.46	3.40	3.35	3.29	3.24	3.19	3.13	3.08	3.02
68.5	3.96	4.05	4.14	4.23	4.17	4.12	4.06	4.01	3.95	3.90	3.85	3.79	3.74	3.68	3.63	3.58	3.52	3.47	3.41	3.36	3.31	3.25	3.20	3.14	3.09
69.0	4.02	4.11	4.20	4.29	4.24	4.18	4.13	4.07	4.02	3.97	3.91	3.86	3.80	3.75	3.70	3.64	3.59	3.53	3.48	3.43	3.37	3.32	3.26	3.21	3.16
69.5	4.08	4.17	4.26	4.35	4.30	4.25	4.19	4.14	4.09	4.03	3.98	3.92	3.87	3.82	3.76	3.71	3.65	3.60	3.55	3.49	3.44	3.38	3.33	3.28	3.22
70.0	4.14	4.23	4.32	4.41	4.37	4.31	4.26	4.21	4.15	4.10	4.04	3.99	3.94	3.88	3.83	3.77	3.72	3.67	3.61	3.56	3.50	3.45	3.40	3.34	3.29
70.5	4.19	4.28	4.37	4.46	4.43	4.38	4.33	4.27	4.22	4.16	4.11	4.06	4.00	3.95	3.89	3.84	3.79	3.73	3.68	3.62	3.57	3.52	3.46	3.41	3.35
71.0	4.25	4.34	4.43	4.52	4.50	4.45	4.39	4.34	4.28	4.23	4.18	4.12	4.07	4.01	3.96	3.91	3.85	3.80	3.74	3.69	3.64	3.58	3.53	3.47	3.42
71.5	4.31	4.40	4.49	4.58	4.57	4.51	4.46	4.40	4.35	4.30	4.24	4.19	4.13	4.08	4.03	3.97	3.92	3.86	3.81	3.76	3.70	3.65	3.59	3.54	3.49
72.0	4.37	4.46	4.55	4.64	4.63	4.58	4.52	4.47	4.42	4.36	4.31	4.25	4.20	4.15	4.09	4.04	3.98	3.93	3.88	3.82	3.77	3.71	3.66	3.61	3.55
72.5	4.43	4.52	4.61	4.70	4.70	4.64	4.59	4.54	4.48	4.43	4.37	4.32	4.27	4.21	4.16	4.10	4.05	4.00	3.94	3.89	3.83	3.78	3.73	3.67	3.62
73.0	4.49	4.58	4.67	4.76	4.76	4.71	4.66	4.60	4.55	4.49	4.44	4.39	4.33	4.28	4.22	4.17	4.12	4.06	4.01	3.95	3.90	3.85	3.79	3.74	3.68
73.5	4.54	4.63	4.72	4.81	4.83	4.78	4.72	4.67	4.61	4.56	4.51	4.45	4.40	4.34	4.29	4.24	4.18	4.13	4.07	4.02	3.97	3.91	3.86	3.80	3.75
74.0	4.60	4.69	4.78	4.87	4.90	4.84	4.79	4.73	4.68	4.63	4.57	4.52	4.46	4.41	4.36	4.30	4.25	4.19	4.14	4.09	4.03	3.98	3.92	3.87	3.82
74.5	4.66	4.75	4.84	4.93	4.96	4.91	4.85	4.80	4.75	4.69	4.64	4.58	4.53	4.48	4.42	4.37	4.31	4.26	4.21	4.15	4.10	4.04	3.99	3.94	3.88
75.0	4.72	4.81	4.90	4.99	5.03	4.97	4.92	4.87	4.81	4.76	4.70	4.65	4.60	4.54	4.49	4.43	4.38	4.33	4.27	4.22	4.16	4.11	4.06	4.00	3.95
75.5	4.78	4.87	4.96	5.05	5.09	5.04	4.99	4.93	4.88	4.82	4.77	4.72	4.66	4.61	4.55	4.50	4.45	4.39	4.34	4.28	4.23	4.18	4.12	4.07	4.01
76.0	4.84	4.93	5.02	5.11	5.16	5.11	5.05	5.00	4.94	4.89	4.84	4.78	4.73	4.67	4.62	4.57	4.51	4.46	4.40	4.35	4.30	4.24	4.19	4.13	4.08
76.5	4.90	4.99	5.08	5.17	5.23	5.17	5.12	5.06	5.01	4.96	4.90	4.85	4.79	4.74	4.69	4.63	4.58	4.52	4.47	4.42	4.36	4.31	4.25	4.20	4.15
77.0	4.95	5.04	5.13	5.22	5.29	5.24	5.18	5.13	5.08	5.02	4.97	4.91	4.86	4.81	4.75	4.70	4.64	4.59	4.54	4.48	4.43	4.37	4.32	4.27	4.21
77.5	5.01	5.10	5.19	5.28	5.36	5.30	5.25	5.20	5.14	5.09	5.03	4.98	4.93	4.87	4.82	4.76	4.71	4.66	4.60	4.55	4.49	4.44	4.39	4.33	4.28
78.0	5.07	5.16	5.25	5.34	5.42	5.37	5.32	5.26	5.21	5.15	5.10	5.05	4.99	4.94	4.88	4.83	4.78	4.72	4.67	4.61	4.56	4.51	4.45	4.40	4.34
78.5	5.13	5.22	5.31	5.40	5.49	5.44	5.38	5.33	5.27	5.22	5.17	5.11	5.06	5.00	4.95	4.90	4.84	4.79	4.73	4.68	4.63	4.57	4.52	4.46	4.41
79.0	5.19	5.28	5.37	5.46	5.56	5.50	5.45	5.39	5.34	5.29	5.23	5.18	5.12	5.07	5.02	4.96	4.91	4.85	4.80	4.75	4.69	4.64	4.58	4.53	4.48
79.5	5.25	5.34	5.43	5.52	5.62	5.57	5.51	5.46	5.41	5.35	5.30	5.24	5.19	5.14	5.08	5.03	4.97	4.92	4.87	4.81	4.76	4.70	4.65	4.60	4.54
80.0	5.30	5.39	5.48	5.57	5.69	5.63	5.58	5.53	5.47	5.42	5.36	5.31	5.26	5.20	5.15	5.09	5.04	4.99	4.93	4.88	4.82	4.77	4.72	4.66	4.61
80.5	5.36	5.45	5.54	5.63	5.75	5.70	5.65	5.59	5.54	5.48	5.43	5.38	5.32	5.27	5.21	5.16	5.11	5.05	5.00	4.94	4.89	4.84	4.78	4.73	4.67
81.0	5.42	5.51	5.60	5.69	5.82	5.77	5.71	5.66	5.60	5.55	5.50	5.44	5.39	5.33	5.28	5.23	5.17	5.12	5.06	5.01	4.96	4.90	4.85	4.79	4.74
81.5	5.48	5.57	5.66	5.75	5.89	5.83	5.78	5.72	5.67	5.62	5.56	5.51	5.45	5.40	5.35	5.29	5.24	5.18	5.13	5.08	5.02	4.97	4.91	4.86	4.81
82.0	5.54	5.63	5.72	5.81	5.95	5.90	5.84	5.79	5.74	5.68	5.63	5.57	5.52	5.47	5.41	5.36	5.30	5.25	5.20	5.14	5.09	5.03	4.98	4.93	4.87
82.5	5.60	5.69	5.78	5.87	6.02	5.96	5.91	5.86	5.80	5.75	5.69	5.64	5.59	5.53	5.48	5.42	5.37	5.32	5.26	5.21	5.15	5.10	5.05	4.99	4.94
83.0	5.65	5.74	5.83	5.92	6.08	6.03	5.98	5.92	5.87	5.81	5.76	5.71	5.65	5.60	5.54	5.49	5.44	5.38	5.33	5.27	5.22	5.17	5.11	5.06	5.00
83.5	5.71	5.80	5.89	5.98	6.15	6.10	6.04	5.99	5.93	5.88	5.83	5.77	5.72	5.66	5.61	5.56	5.50	5.45	5.39	5.34	5.29	5.23	5.18	5.12	5.07
84.0	5.77	5.86	5.95	6.04	6.22	6.16	6.11	6.05	6.00	5.95	5.89	5.84	5.78	5.73	5.68	5.62	5.57	5.51	5.46	5.41	5.35	5.30	5.24	5.19	5.14
84.5	5.83	5.92	6.01	6.10	6.28	6.23	6.17	6.12	6.07	6.01	5.96	5.90	5.85	5.80	5.74	5.69	5.63	5.58	5.53	5.47	5.42	5.36	5.31	5.26	5.20
85.0	5.89	5.98	6.07	6.16	6.35	6.29	6.24	6.19	6.13	6.08	6.02	5.97	5.92	5.86	5.81	5.75	5.70	5.65	5.59	5.54	5.48	5.43	5.38	5.32	5.27

TABLE 3. PREDICTED FVC FOR FEMALES (KNUDSON, ET AL: AM REV RESPIR DIS, 1976, 113, 587.)

HT \ AGE	17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	47	49	51	53	55	57	59	61	63	65
52.0	2.45	2.64	2.65	2.61	2.56	2.52	2.47	2.43	2.39	2.34	2.30	2.25	2.21	2.17	2.12	2.08	2.03	1.99	1.95	1.90	1.86	1.81	1.77	1.73	1.68
52.5	2.50	2.68	2.70	2.65	2.61	2.57	2.52	2.48	2.43	2.39	2.35	2.30	2.26	2.21	2.17	2.13	2.08	2.04	1.99	1.95	1.91	1.86	1.82	1.77	1.73
53.0	2.54	2.72	2.74	2.70	2.66	2.61	2.57	2.52	2.48	2.44	2.39	2.35	2.30	2.26	2.22	2.17	2.13	2.08	2.04	2.00	1.95	1.91	1.86	1.82	1.78
53.5	2.58	2.76	2.79	2.75	2.70	2.66	2.62	2.57	2.53	2.48	2.44	2.40	2.35	2.31	2.26	2.22	2.18	2.13	2.09	2.04	2.00	1.96	1.91	1.87	1.82
54.0	2.62	2.81	2.84	2.79	2.75	2.71	2.66	2.62	2.57	2.53	2.49	2.44	2.40	2.35	2.31	2.27	2.22	2.18	2.13	2.09	2.05	2.00	1.96	1.91	1.87
54.5	2.66	2.85	2.89	2.84	2.80	2.75	2.71	2.67	2.62	2.58	2.53	2.49	2.45	2.40	2.36	2.31	2.27	2.23	2.18	2.14	2.09	2.05	2.01	1.96	1.92
55.0	2.71	2.89	2.93	2.89	2.84	2.80	2.76	2.71	2.67	2.62	2.58	2.54	2.49	2.45	2.40	2.36	2.32	2.27	2.23	2.18	2.14	2.10	2.05	2.01	1.96
55.5	2.75	2.93	2.98	2.94	2.89	2.85	2.80	2.76	2.72	2.67	2.63	2.58	2.54	2.50	2.45	2.41	2.36	2.32	2.28	2.23	2.19	2.14	2.10	2.06	2.01
56.0	2.79	2.97	3.03	2.98	2.94	2.89	2.85	2.81	2.76	2.72	2.67	2.63	2.59	2.54	2.50	2.45	2.41	2.37	2.32	2.28	2.23	2.19	2.15	2.10	2.06
56.5	2.83	3.01	3.07	3.03	2.99	2.94	2.90	2.85	2.81	2.77	2.72	2.68	2.63	2.59	2.55	2.50	2.46	2.41	2.37	2.33	2.28	2.24	2.19	2.15	2.11
57.0	2.87	3.06	3.12	3.08	3.03	2.99	2.94	2.90	2.86	2.81	2.77	2.72	2.68	2.64	2.59	2.55	2.50	2.46	2.42	2.37	2.33	2.28	2.24	2.20	2.15
57.5	2.91	3.10	3.17	3.12	3.08	3.04	2.99	2.95	2.90	2.86	2.82	2.77	2.73	2.68	2.64	2.60	2.55	2.51	2.46	2.42	2.38	2.33	2.29	2.24	2.20
58.0	2.96	3.14	3.21	3.17	3.13	3.08	3.04	2.99	2.95	2.91	2.86	2.82	2.77	2.73	2.69	2.64	2.60	2.55	2.51	2.47	2.42	2.38	2.33	2.29	2.25
58.5	3.00	3.18	3.26	3.22	3.17	3.13	3.09	3.04	3.00	2.95	2.91	2.87	2.82	2.78	2.73	2.69	2.65	2.60	2.56	2.51	2.47	2.43	2.38	2.34	2.29
59.0	3.04	3.22	3.31	3.26	3.22	3.18	3.13	3.09	3.04	3.00	2.96	2.91	2.87	2.82	2.78	2.74	2.69	2.65	2.60	2.56	2.52	2.47	2.43	2.38	2.34
59.5	3.08	3.27	3.36	3.31	3.27	3.22	3.18	3.14	3.09	3.05	3.00	2.96	2.92	2.87	2.83	2.78	2.74	2.70	2.65	2.61	2.56	2.52	2.48	2.43	2.39
60.0	3.12	3.31	3.40	3.36	3.31	3.27	3.23	3.18	3.14	3.09	3.05	3.01	2.96	2.92	2.87	2.83	2.79	2.74	2.70	2.65	2.61	2.57	2.52	2.48	2.43
60.5	3.17	3.35	3.45	3.41	3.36	3.32	3.27	3.23	3.19	3.14	3.10	3.05	3.01	2.97	2.92	2.88	2.83	2.79	2.75	2.70	2.66	2.61	2.57	2.53	2.48
61.0	3.21	3.39	3.50	3.45	3.41	3.36	3.32	3.28	3.23	3.19	3.14	3.10	3.06	3.01	2.97	2.92	2.88	2.84	2.79	2.75	2.70	2.66	2.62	2.57	2.53
61.5	3.25	3.43	3.54	3.50	3.46	3.41	3.37	3.32	3.28	3.24	3.19	3.15	3.10	3.06	3.02	2.97	2.93	2.88	2.84	2.80	2.75	2.71	2.66	2.62	2.58
62.0	3.29	3.48	3.59	3.55	3.50	3.46	3.41	3.37	3.33	3.28	3.24	3.19	3.15	3.11	3.06	3.02	2.97	2.93	2.89	2.84	2.80	2.75	2.71	2.67	2.62
62.5	3.33	3.52	3.64	3.59	3.55	3.51	3.46	3.42	3.37	3.33	3.29	3.24	3.20	3.15	3.11	3.07	3.02	2.98	2.93	2.89	2.84	2.80	2.76	2.71	2.67
63.0	3.38	3.56	3.68	3.64	3.60	3.55	3.51	3.46	3.42	3.38	3.33	3.29	3.24	3.20	3.16	3.11	3.07	3.02	2.98	2.94	2.89	2.85	2.80	2.76	2.72
63.5	3.42	3.60	3.73	3.69	3.64	3.60	3.56	3.51	3.47	3.42	3.38	3.34	3.29	3.25	3.20	3.16	3.12	3.07	3.03	2.98	2.94	2.90	2.85	2.81	2.76
64.0	3.46	3.64	3.78	3.73	3.69	3.65	3.60	3.56	3.51	3.47	3.43	3.38	3.34	3.29	3.25	3.21	3.16	3.12	3.07	3.03	2.99	2.94	2.90	2.85	2.81
64.5	3.50	3.69	3.83	3.78	3.74	3.69	3.65	3.61	3.56	3.52	3.47	3.43	3.39	3.34	3.30	3.25	3.21	3.17	3.12	3.08	3.03	2.99	2.95	2.90	2.86
65.0	3.54	3.73	3.87	3.83	3.78	3.74	3.70	3.65	3.61	3.56	3.52	3.48	3.43	3.39	3.34	3.30	3.26	3.21	3.17	3.12	3.08	3.04	2.99	2.95	2.90
65.5	3.59	3.77	3.92	3.88	3.83	3.79	3.74	3.70	3.66	3.61	3.57	3.52	3.48	3.44	3.39	3.35	3.30	3.26	3.22	3.17	3.13	3.08	3.04	3.00	2.95
66.0	3.63	3.81	3.97	3.92	3.88	3.83	3.79	3.75	3.70	3.66	3.61	3.57	3.53	3.48	3.44	3.39	3.35	3.31	3.26	3.22	3.17	3.13	3.09	3.04	3.00
66.5	3.67	3.85	4.01	3.97	3.93	3.88	3.84	3.79	3.75	3.71	3.66	3.62	3.57	3.53	3.49	3.44	3.40	3.35	3.31	3.27	3.22	3.18	3.13	3.09	3.05
67.0	3.71	3.89	4.06	4.02	3.97	3.93	3.88	3.84	3.80	3.75	3.71	3.66	3.62	3.58	3.53	3.49	3.44	3.40	3.36	3.31	3.27	3.22	3.18	3.14	3.09
67.5	3.75	3.94	4.11	4.06	4.02	3.98	3.93	3.89	3.84	3.80	3.76	3.71	3.67	3.62	3.58	3.54	3.49	3.45	3.40	3.36	3.32	3.27	3.23	3.18	3.14
68.0	3.79	3.98	4.15	4.11	4.07	4.02	3.98	3.93	3.89	3.85	3.80	3.76	3.71	3.67	3.63	3.58	3.54	3.49	3.45	3.41	3.36	3.32	3.27	3.23	3.19
68.5	3.84	4.02	4.20	4.16	4.11	4.07	4.03	3.98	3.94	3.89	3.85	3.81	3.76	3.72	3.67	3.63	3.59	3.54	3.50	3.45	3.41	3.37	3.32	3.28	3.23
69.0	3.88	4.06	4.25	4.20	4.16	4.12	4.07	4.03	3.98	3.94	3.90	3.85	3.81	3.76	3.72	3.68	3.63	3.59	3.54	3.50	3.46	3.41	3.37	3.32	3.28
69.5	3.92	4.10	4.30	4.25	4.21	4.16	4.12	4.08	4.03	3.99	3.94	3.90	3.86	3.81	3.77	3.72	3.68	3.64	3.59	3.55	3.50	3.46	3.42	3.37	3.33
70.0	3.96	4.15	4.34	4.30	4.25	4.21	4.17	4.12	4.08	4.03	3.99	3.95	3.90	3.86	3.81	3.77	3.73	3.68	3.64	3.59	3.55	3.51	3.46	3.42	3.37
70.5	4.00	4.19	4.39	4.35	4.30	4.26	4.21	4.17	4.13	4.08	4.04	3.99	3.95	3.91	3.86	3.82	3.77	3.73	3.69	3.64	3.60	3.55	3.51	3.47	3.42
71.0	4.05	4.23	4.44	4.39	4.35	4.30	4.26	4.22	4.17	4.13	4.08	4.04	4.00	3.95	3.91	3.86	3.82	3.78	3.73	3.69	3.64	3.60	3.56	3.51	3.47
71.5	4.09	4.27	4.48	4.44	4.40	4.35	4.31	4.26	4.22	4.18	4.13	4.09	4.04	4.00	3.96	3.91	3.87	3.82	3.78	3.74	3.69	3.65	3.60	3.56	3.52
72.0	4.13	4.31	4.53	4.49	4.44	4.40	4.35	4.31	4.27	4.22	4.18	4.13	4.09	4.05	4.00	3.96	3.91	3.87	3.83	3.78	3.74	3.69	3.65	3.61	3.56
72.5	4.17	4.36	4.58	4.53	4.49	4.45	4.40	4.36	4.31	4.27	4.23	4.18	4.14	4.09	4.05	4.01	3.96	3.92	3.87	3.83	3.79	3.74	3.70	3.65	3.61
73.0	4.21	4.40	4.62	4.58	4.54	4.49	4.45	4.40	4.36	4.32	4.27	4.23	4.18	4.14	4.10	4.05	4.01	3.96	3.92	3.88	3.83	3.79	3.74	3.70	3.66
73.5	4.26	4.44	4.67	4.63	4.58	4.54	4.50	4.45	4.41	4.36	4.32	4.28	4.23	4.19	4.14	4.10	4.06	4.01	3.97	3.92	3.88	3.84	3.79	3.75	3.70
74.0	4.30	4.48	4.72	4.67	4.63	4.59	4.54	4.50	4.45	4.41	4.37	4.32	4.28	4.23	4.19	4.15	4.10	4.06	4.01	3.97	3.93	3.88	3.84	3.79	3.75
74.5	4.34	4.52	4.77	4.72	4.68	4.63	4.59	4.55	4.50	4.46	4.41	4.37	4.33	4.28	4.24	4.19	4.15	4.11	4.06	4.02	3.97	3.93	3.89	3.84	3.80
75.0	4.38	4.57	4.81	4.77	4.72	4.68	4.64	4.59	4.55	4.50	4.46	4.42	4.37	4.33	4.28	4.24	4.20	4.15	4.11	4.06	4.02	3.98	3.93	3.89	3.84
75.5	4.42	4.61	4.86	4.82	4.77	4.73	4.68	4.64	4.60	4.55	4.51	4.46	4.42	4.38	4.33	4.29	4.24	4.20	4.16	4.11	4.07	4.02	3.98	3.94	3.89
76.0	4.47	4.65	4.91	4.86	4.82	4.77	4.73	4.69	4.64	4.60	4.55	4.51	4.47	4.42	4.38	4.33	4.29	4.25	4.20	4.16	4.11	4.07	4.03	3.98	3.94
76.5	4.51	4.69	4.95	4.91	4.87	4.82	4.78	4.73	4.69	4.65	4.60	4.56	4.51	4.47	4.43	4.38	4.34	4.29	4.25	4.21	4.16	4.12	4.07	4.03	3.99
77.0	4.55	4.73	5.00	4.96	4.91	4.87	4.82	4.78	4.74	4.69	4.65	4.60	4.56	4.52	4.47	4.43	4.38	4.34	4.30	4.25	4.21	4.16	4.12	4.08	4.03

TABLE 4. PREDICTED FEV1 FOR FEMALES (KNUDSON, ET AL: AM REV RESPIR DIS. 1976, 113, 587.)

HT \ AGE	17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	47	49	51	53	55	57	59	61	63	65
52.0	2.31	2.48	2.33	2.29	2.25	2.21	2.16	2.12	2.08	2.04	2.00	1.95	1.91	1.87	1.83	1.79	1.74	1.70	1.66	1.62	1.58	1.53	1.49	1.45	1.41
52.5	2.34	2.51	2.37	2.32	2.28	2.24	2.20	2.16	2.11	2.07	2.03	1.99	1.95	1.90	1.86	1.82	1.78	1.74	1.69	1.65	1.61	1.57	1.53	1.48	1.44
53.0	2.38	2.55	2.40	2.36	2.32	2.27	2.23	2.19	2.15	2.11	2.06	2.02	1.98	1.94	1.90	1.85	1.81	1.77	1.73	1.69	1.64	1.60	1.56	1.52	1.48
53.5	2.41	2.58	2.43	2.39	2.35	2.31	2.27	2.22	2.18	2.14	2.10	2.06	2.01	1.97	1.93	1.89	1.85	1.80	1.76	1.72	1.68	1.64	1.59	1.55	1.51
54.0	2.45	2.62	2.47	2.43	2.38	2.34	2.30	2.26	2.22	2.17	2.13	2.09	2.05	2.01	1.96	1.92	1.88	1.84	1.80	1.75	1.71	1.67	1.63	1.59	1.54
54.5	2.48	2.65	2.50	2.46	2.42	2.38	2.33	2.29	2.25	2.21	2.17	2.12	2.08	2.04	2.00	1.96	1.91	1.87	1.83	1.79	1.75	1.70	1.66	1.62	1.58
55.0	2.51	2.68	2.54	2.49	2.45	2.41	2.37	2.33	2.28	2.24	2.20	2.16	2.12	2.07	2.03	1.99	1.95	1.91	1.86	1.82	1.78	1.74	1.70	1.65	1.61
55.5	2.55	2.72	2.57	2.53	2.49	2.45	2.40	2.36	2.32	2.28	2.24	2.19	2.15	2.11	2.07	2.03	1.98	1.94	1.90	1.86	1.82	1.77	1.73	1.69	1.65
56.0	2.58	2.75	2.61	2.56	2.52	2.48	2.44	2.40	2.35	2.31	2.27	2.23	2.19	2.14	2.10	2.06	2.02	1.98	1.93	1.89	1.85	1.81	1.77	1.72	1.68
56.5	2.62	2.79	2.64	2.60	2.56	2.51	2.47	2.43	2.39	2.35	2.30	2.26	2.22	2.18	2.14	2.09	2.05	2.01	1.97	1.93	1.88	1.84	1.80	1.76	1.72
57.0	2.65	2.82	2.67	2.63	2.59	2.55	2.51	2.46	2.42	2.38	2.34	2.30	2.25	2.21	2.17	2.13	2.09	2.04	2.00	1.96	1.92	1.88	1.83	1.79	1.75
57.5	2.69	2.86	2.71	2.67	2.62	2.58	2.54	2.50	2.46	2.41	2.37	2.33	2.29	2.25	2.20	2.16	2.12	2.08	2.04	1.99	1.95	1.91	1.87	1.83	1.78
58.0	2.72	2.89	2.74	2.70	2.66	2.62	2.57	2.53	2.49	2.45	2.41	2.36	2.32	2.28	2.24	2.20	2.15	2.11	2.07	2.03	1.99	1.94	1.90	1.86	1.82
58.5	2.75	2.92	2.78	2.73	2.69	2.65	2.61	2.57	2.52	2.48	2.44	2.40	2.36	2.31	2.27	2.23	2.19	2.15	2.10	2.06	2.02	1.98	1.94	1.89	1.85
59.0	2.79	2.96	2.81	2.77	2.73	2.69	2.64	2.60	2.56	2.52	2.48	2.43	2.39	2.35	2.31	2.27	2.22	2.18	2.14	2.10	2.06	2.01	1.97	1.93	1.89
59.5	2.82	2.99	2.85	2.80	2.76	2.72	2.68	2.64	2.59	2.55	2.51	2.47	2.43	2.38	2.34	2.30	2.26	2.22	2.17	2.13	2.09	2.05	2.01	1.96	1.92
60.0	2.86	3.03	2.88	2.84	2.80	2.75	2.71	2.67	2.63	2.59	2.54	2.50	2.46	2.42	2.38	2.33	2.29	2.25	2.21	2.17	2.12	2.08	2.04	2.00	1.96
60.5	2.89	3.06	2.91	2.87	2.83	2.79	2.75	2.70	2.66	2.62	2.58	2.54	2.49	2.45	2.41	2.37	2.33	2.28	2.24	2.20	2.16	2.12	2.07	2.03	1.99
61.0	2.93	3.10	2.95	2.91	2.86	2.82	2.78	2.74	2.70	2.65	2.61	2.57	2.53	2.49	2.44	2.40	2.36	2.32	2.28	2.23	2.19	2.15	2.11	2.07	2.02
61.5	2.96	3.13	2.98	2.94	2.90	2.86	2.81	2.77	2.73	2.69	2.65	2.60	2.56	2.52	2.48	2.44	2.39	2.35	2.31	2.27	2.23	2.18	2.14	2.10	2.06
62.0	2.99	3.16	3.02	2.97	2.93	2.89	2.85	2.81	2.76	2.72	2.68	2.64	2.60	2.55	2.51	2.47	2.43	2.39	2.34	2.30	2.26	2.22	2.18	2.13	2.09
62.5	3.03	3.20	3.05	3.01	2.97	2.93	2.88	2.84	2.80	2.76	2.72	2.67	2.63	2.59	2.55	2.51	2.46	2.42	2.38	2.34	2.30	2.25	2.21	2.17	2.13
63.0	3.06	3.23	3.09	3.04	3.00	2.96	2.92	2.88	2.83	2.79	2.75	2.71	2.67	2.62	2.58	2.54	2.50	2.46	2.41	2.37	2.33	2.29	2.25	2.20	2.16
63.5	3.10	3.27	3.12	3.08	3.04	2.99	2.95	2.91	2.87	2.83	2.78	2.74	2.70	2.66	2.62	2.57	2.53	2.49	2.45	2.41	2.36	2.32	2.28	2.24	2.20
64.0	3.13	3.30	3.15	3.11	3.07	3.03	2.99	2.94	2.90	2.86	2.82	2.78	2.73	2.69	2.65	2.61	2.57	2.52	2.48	2.44	2.40	2.36	2.31	2.27	2.23
64.5	3.17	3.34	3.19	3.15	3.10	3.06	3.02	2.98	2.94	2.89	2.85	2.81	2.77	2.73	2.68	2.64	2.60	2.56	2.52	2.47	2.43	2.39	2.35	2.31	2.26
65.0	3.20	3.37	3.22	3.18	3.14	3.10	3.05	3.01	2.97	2.93	2.89	2.84	2.80	2.76	2.72	2.68	2.63	2.59	2.55	2.51	2.47	2.42	2.38	2.34	2.30
65.5	3.23	3.40	3.26	3.21	3.17	3.13	3.09	3.05	3.00	2.96	2.92	2.88	2.84	2.79	2.75	2.71	2.67	2.63	2.58	2.54	2.50	2.46	2.42	2.37	2.33
66.0	3.27	3.44	3.29	3.25	3.21	3.17	3.12	3.08	3.04	3.00	2.96	2.91	2.87	2.83	2.79	2.75	2.70	2.66	2.62	2.58	2.54	2.49	2.45	2.41	2.37
66.5	3.30	3.47	3.33	3.28	3.24	3.20	3.16	3.12	3.07	3.03	2.99	2.95	2.91	2.86	2.82	2.78	2.74	2.70	2.65	2.61	2.57	2.53	2.49	2.44	2.40
67.0	3.34	3.51	3.36	3.32	3.28	3.23	3.19	3.15	3.11	3.07	3.02	2.98	2.94	2.90	2.86	2.81	2.77	2.73	2.69	2.65	2.60	2.56	2.52	2.48	2.44
67.5	3.37	3.54	3.39	3.35	3.31	3.27	3.23	3.18	3.14	3.10	3.06	3.02	2.97	2.93	2.89	2.85	2.81	2.76	2.72	2.68	2.64	2.60	2.55	2.51	2.47
68.0	3.41	3.58	3.43	3.39	3.34	3.30	3.26	3.22	3.18	3.13	3.09	3.05	3.01	2.96	2.92	2.88	2.84	2.80	2.76	2.71	2.67	2.63	2.59	2.55	2.50
68.5	3.44	3.61	3.46	3.42	3.38	3.34	3.29	3.25	3.21	3.17	3.13	3.08	3.04	3.00	2.96	2.92	2.87	2.83	2.79	2.75	2.71	2.66	2.62	2.58	2.54
69.0	3.47	3.64	3.50	3.46	3.41	3.37	3.33	3.29	3.25	3.20	3.16	3.12	3.08	3.04	2.99	2.95	2.91	2.87	2.83	2.78	2.74	2.70	2.66	2.62	2.57
69.5	3.51	3.68	3.53	3.49	3.45	3.41	3.36	3.32	3.28	3.24	3.20	3.15	3.11	3.07	3.03	2.99	2.94	2.90	2.86	2.82	2.78	2.73	2.69	2.65	2.61
70.0	3.54	3.71	3.57	3.52	3.48	3.44	3.40	3.36	3.31	3.27	3.23	3.19	3.15	3.10	3.06	3.02	2.98	2.94	2.89	2.85	2.81	2.77	2.73	2.68	2.64
70.5	3.58	3.75	3.60	3.56	3.52	3.47	3.43	3.39	3.35	3.31	3.26	3.22	3.18	3.14	3.10	3.05	3.01	2.97	2.93	2.89	2.84	2.80	2.76	2.72	2.68
71.0	3.61	3.78	3.63	3.59	3.55	3.51	3.47	3.42	3.38	3.34	3.30	3.26	3.21	3.17	3.13	3.09	3.05	3.00	2.96	2.92	2.88	2.84	2.79	2.75	2.71
71.5	3.65	3.82	3.67	3.63	3.58	3.54	3.50	3.46	3.42	3.37	3.33	3.29	3.25	3.21	3.16	3.12	3.08	3.04	3.00	2.95	2.91	2.87	2.83	2.79	2.74
72.0	3.68	3.85	3.70	3.66	3.62	3.58	3.53	3.49	3.45	3.41	3.37	3.32	3.28	3.24	3.20	3.16	3.11	3.07	3.03	2.99	2.95	2.90	2.86	2.82	2.78
72.5	3.71	3.88	3.74	3.70	3.65	3.61	3.57	3.53	3.49	3.44	3.40	3.36	3.32	3.28	3.23	3.19	3.15	3.11	3.07	3.02	2.98	2.94	2.90	2.86	2.81
73.0	3.75	3.92	3.77	3.73	3.69	3.65	3.60	3.56	3.52	3.48	3.44	3.39	3.35	3.31	3.27	3.23	3.18	3.14	3.10	3.06	3.02	2.97	2.93	2.89	2.85
73.5	3.78	3.95	3.81	3.76	3.72	3.68	3.64	3.60	3.55	3.51	3.47	3.43	3.39	3.34	3.30	3.26	3.22	3.18	3.13	3.09	3.05	3.01	2.97	2.92	2.88
74.0	3.82	3.99	3.84	3.80	3.76	3.71	3.67	3.63	3.59	3.55	3.50	3.46	3.42	3.38	3.34	3.29	3.25	3.21	3.17	3.13	3.08	3.04	3.00	2.96	2.92
74.5	3.85	4.02	3.87	3.83	3.79	3.75	3.71	3.66	3.62	3.58	3.54	3.50	3.45	3.41	3.37	3.33	3.29	3.24	3.20	3.16	3.12	3.08	3.03	2.99	2.95
75.0	3.89	4.06	3.91	3.87	3.82	3.78	3.74	3.70	3.66	3.61	3.57	3.53	3.49	3.45	3.40	3.36	3.32	3.28	3.24	3.19	3.15	3.11	3.07	3.03	2.98
75.5	3.92	4.09	3.94	3.90	3.86	3.82	3.77	3.73	3.69	3.65	3.61	3.56	3.52	3.48	3.44	3.40	3.35	3.31	3.27	3.23	3.19	3.14	3.10	3.06	3.02
76.0	3.95	4.12	3.98	3.94	3.89	3.85	3.81	3.77	3.73	3.68	3.64	3.60	3.56	3.52	3.47	3.43	3.39	3.35	3.31	3.26	3.22	3.18	3.14	3.10	3.05
76.5	3.99	4.16	4.01	3.97	3.93	3.89	3.84	3.80	3.76	3.72	3.68	3.63	3.59	3.55	3.51	3.47	3.42	3.38	3.34	3.30	3.26	3.21	3.17	3.13	3.09
77.0	4.02	4.19	4.05	4.00	3.96	3.92	3.88	3.84	3.79	3.75	3.71	3.67	3.63	3.58	3.54	3.50	3.46	3.42	3.37	3.33	3.29	3.25	3.21	3.16	3.12

APPENDIX D—PULMONARY FUNCTION STANDARDS FOR COTTON DUST STANDARD

The spirometric measurements of pulmonary function shall conform to the following minimum standards, and these standards are not intended to preclude additional testing or alternate methods which can be determined to be superior.

I. APPARATUS

a. The instrument shall be accurate to within ±50 milliliters or within ±3 percent of reading, whichever is greater.

b. The instrument should be capable of measuring vital capacity from 0 to 7 liters BTPS.

c. The instrument shall have a low inertia and offer low resistance to airflow such that the resistance to airflow at 12 liters per second must be less than 1.5 cm H_2O/(liter/sec).

d. The zero time point for the purpose of timing the FEV_1 shall be determined by extrapolating the steepest portion of the volume time curve back to the maximal inspiration volume (1, 2, 3, 4) or by an equivalent method.

e. Instruments incorporating measurements of airflow to determine volume shall conform to the same volume accuracy stated in (a) of this section when presented with flow rates from at least 0 to 12 liters per second.

f. The instrument or user of the instrument must have a means of correcting volumes to body temperature saturated with water vapor (BTPS) under conditions of varying ambient spirometer temperatures and barometric pressures.

g. The instrument used shall provide a tracing or display of either flow versus volume or volume versus time during the entire forced expiration. A tracing or display is necessary to determine whether the patient has performed the test properly. The tracing must be stored and available for recall and must be of sufficient size that hand measurements may be made within requirement of paragraph (a) of this section. If a paper record is made it must have a paper speed of at least 2 cm/sec and a volume sensitivity of at least 10.0 mm of chart per liter of volume.

h. The instrument shall be capable of accumulating volume for a minimum of 10 seconds and shall not stop accumulating volume before (1) the volume change for a 0.5 second interval is less than 25 milliliters, or (2) the flow is less than 50 milliliters per second for a 0.5 second interval.

i. The forced vital capacity (FVC) and forced expiratory volume in 1 second ($FEV_{1.0}$) measurements shall comply with the accuracy requirements stated in paragraph (a) of this section. That is, they should be accurately measured to within ±50 ml or within ±3 percent of reading, whichever is greater.

j. The instrument must be capable of being calibrated in the field with respect to the FEV_1 and FVC. This calibration of the FEV_1 and FVC may be either directly or indirectly through volume and time base measurements. The volume calibration source should provide a volume displacement of at least 2 liters and should be accurate to within ±30 milliliters.

II. TECHNIQUE FOR MEASUREMENT OF FORCED VITAL CAPACITY MANEUVER

a. Use of a nose clip is recommended but not required. The procedures shall be explained in simple terms to the patient who shall be instructed to loosen any tight clothing and stand in front of the apparatus. The subject may sit, but care should be taken on repeat testing that the same position be used and, if possible, the same spirometer. Particular attention shall be given to insure that the chin is slightly elevated with the neck slightly extended. The patient shall be instructed to make a full inspiration from a normal breathing pattern and then blow into the apparatus, without interruption, as hard, fast, and completely as possible. At least three forced expirations shall be carried out. During the maneuvers, the patient shall be observed for compliance with instruction. The expirations shall be checked visually for reproducibility from flow-volume or volume-time tracings or displays. The following efforts shall be judged unacceptable when the patient:

1. has not reached full inspiration preceding the forced expiration,

2. has not used maximal effort during the entire forced expiration,

3. has not continued the expiration for at least 5 seconds or until an obvious plateau in the volume time curve has occurred,

4. has coughed or closed his glottis,

5. has an obstructed mouthpiece or a leak around the mouthpiece (obstruction due to tongue being placed in front of mouthpiece, false teeth falling in front of mouthpiece, etc.)

6. has an unsatisfactory start of expiration, one characterized by excessive hesitation (or false starts), and therefore not allowing back extrapolation of time 0 (extrapolated volume on the volume time tracing must be less than 10 percent of the FVC.)

7. has an excessive variability between the three acceptable curves. The variation between the two largest FVC's and FEV_1's of the three satisfactory tracings should not exceed 10 percent or ± 100 milliliters, whichever is greater.

b. Periodic and routine recalibration of the instrument or method for recording FVC and $FEV_{1.0}$ should be performed using a syringe or other volume source of at least 2 liters.

III. INTERPRETATION OF SPIROGRAM

a. The first step in evaluating a spirogram should be to determine whether or not the patient has performed the test properly or as described in II above. From the three satisfactory tracings, the forced vital capacity (FVC) and forced expiratory volume in 1 second ($FEV_{1.0}$) shall be measured and recorded. The largest observed FVC and largest observed FEV_1 shall be used in the analysis regardless of the curve(s) on which they occur.

b. The following guidelines are recommended by NIOSH for the evaluation and management of workers exposed to cotton dust. It is important to note that employees who show reductions in FEV_1/FVC ratio below .75 or drops in Monday FEV_1 of 5 percent or greater on their initial screening exam, should be re-evaluated within a month of the first exam. Those who show consistent decrease in lung function, as shown on the following table, should be managed as recommended.

IV. QUALIFICATIONS OF PERSONNEL ADMINISTERING THE TEST

Technicians who perform pulmonary function testing should have the basic knowledge required to produce meaningful results. Training consisting of approximately 16 hours of formal instruction should cover the following areas. Persons who successfully complete the course will be certified by OSHA or their designee.

a. Basic physiology of the forced vital capacity maneuver and the determinants of airflow limitation with emphasis on the relation to reproducibility of results.

b. Instrumentation requirements including calibration procedures, sources of error and their correction.

c. Performance of the testing including subject coaching, recognition of improperly performed maneuvers and corrective actions.

d. Data quality with emphasis on reproducibility.

e. Actual use of the equipment under supervised conditions.

f. Measurement of tracings and calculations of results.

(Secs. 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911).

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[4510-26]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 1928—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

Occupational Exposure to Cotton Dust In Cotton Gins

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final standard.

SUMMARY: This final standard establishes mandatory occupational safety and health requirements for occupational exposure to cotton dust in cotton gins. It reflects OSHA's determination, based on evidence in the record, that exposure to cotton dust in cotton gins presents a significant health hazard to employees, necessitating federal regulation. This final rule establishes requirements for work practices, respirator usage, medical surveillance and recordkeeping, but does not impose a numerical permissible exposure limit. This occupational safety and health standard for exposure to cotton dust in cotton gins is issued in conjunction with the general industry standard for exposure to cotton dust published today also in Part III of this FEDERAL REGISTER.

EFFECTIVE DATE: September 4, 1978, except that some provisions are effective September 4, 1979.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This occupational safety and health

standard is issued under sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059) and Title 29, Code of Federal Regulations (CFR) Part 1911. It amends Part 1910 of 29 CFR by adding a new § 1910.1046 entitled "Exposure to cotton dust in cotton gins," and amends § 1928.21 in 29 CFR Part 1928, to apply the new § 1910.1046 to agricultural operations. Thus, the new standard will apply to all cotton gins, whether considered agricultural operations or industrial operations.

I. Background—General

Cotton is commercially grown in at least nineteen states and is a major crop in fourteen. The states generally considered to be the largest producers of cotton are Texas, California, Mississippi and Arkansas. In 1973, with an average price of 44.6 cents per pound, nearly 13 million bales approximately 480 pounds were produced on nearly 12.5 million acres planted, for a production value of about $2.8 billion. In 1975 the average price has risen to 50.1 cents per pound, but production has declined to 8.3 million bales on 9.5 million acres planted, for a production value of about $2 billion. (U.S. Department of Agriculture, Agricultural Statistics, 1976, pp. 57-71).

Most of the crop is harvested and ginned in the fall and early winter. Almost 100 percent of total U.S. cotton production is now machine harvested by mechanical devices which remove the seed cotton from the ball. Machine-stripped cotton is harvested by mechanical devices which strip the entire cotton plant. Machine salvaged cotton is picked from the ground by special machinery. Strippers are used in the Blacklands and High Plains of Texas and in the cotton-producing areas of Western Oklahoma. Spindle-type pickers are used to harvest the crop elsewhere. Seed cotton that has been harvested mechanically by machine stripping or machine salvaging contains more trash and other contaminants than machine picked cotton. Harvesting is entirely outdoors, involves a small number of workers, and is in every respect a traditional agricultural operation.

Cotton as a crop has no intrinsic value until the seed has been removed by the gin. Thus, as soon as cotton is harvested it is usually hauled to a nearby gin. After the seed cotton arrives at the gin, it is exposed to multiple stages of conditioning and cleaning most, if not all, of which result in cotton dust exposures. Finally, the lint is separated from the seed and packaged into bales.

Cotton has traditionally been ginned in numerous small gins owned by farmers and located on the farm. In 1974 there were 3,262 gins operating in 16 states. More than half of these were small, with capacities of one to eight bales per hour, while less than 8 percent were large, with capacities of 19 or more bales per hour. The large gins had substantially higher profit rates and exhibited economics of scale for both stripper and picker types of gin. Revenues for the 1973-1974 season for the industry were estimated at $346.7 million, including $38.1 million for non-ginning activities (Ex. 88e). In recent years the total number of gins has declined sharply. At the same time there has been a steady rise in the demand for construction of modern gins with greatly increased capacity and more sophisticated equipment. With this consolidation of ginning capacity has come a shift in ownership of gins from individual farmers to co-operative associations. These co-op gins are centralized for service to members and customers.

The ginning of the cotton crop commences after the harvest. There appears to be some variation in the length of the ginning season depending to some extent on the individual gin and circumstances, but also on the particular growing region. Testimony for the National Cotton Ginners Association states:

> "Approximately 85 percent of the U.S. cotton crop is ginned between September 15th and January 15th. About 13 percent is ginned before this 4-month period and the remainder after January. For individual producing areas, harvesting may be completed within a 6-8 week period." (Ex. 88c, p. 6)

The ginning season generally parallels the harvesting. Other testimony approximates the length of the individual seasons in similar magnitudes: 4-6 weeks (Ex. 88d, p. 10), 4-8 weeks (Tr. 3833) and 5-12 weeks (Tr. 3826). In terms of worker exposure, U.S. Department of Agriculture statistics for 1976-77 indicate that a typical gin crew spent 78 percent of its total hours on the job within an 8 week period of almost constant work. Of course, these statistics do not reflect the time spent in more than one gin by migrant workers.

Local transient labor is a major source of gin workers in gins throughout the cotton belt. In the West this population is supplemented by a substantial number of migrant workers. Many of the jobs in the gin do not require skill or experience (Ex. 88, pp. 5-8). Often the turnover in these jobs is extremely rapid (Ex. 88, p. 5). It appears that some gin workers migrate from gin to gin.

The ginners who operate the gins and their assistants are skilled workers who return to the gin each year for longer careers than do the unskilled employees. In many cases the ginner remains on the farm in some other capacity or tends to the gin year around.

II. History of Regulation

The proposed standard for exposure to cotton dust was applicable to "all workplaces in all industries where exposure to cotton dust exists, including ginning * * *" (41 FR 56502). The provisions of the proposed standard, including the 200 $\mu g/m^3$ permissible exposure limit, applied equally to ginning and all other industries which handle and process cotton. During the hearing considerable testimony was presented on the properties and hazard of cotton dust regardless of its source of exposure. There was also major testimony and comment directed to the specific effects of cotton dust in ginning. While much of this testimony was presented at the hearing held in Washington, D.C. conducted from April 5-8, May 2-6, and 16-17, 1977, the two regional hearings in Greenville, Mississippi on April 12, 1977 and in Lubbock, Texas on May 10-12, 1977, attracted wide-ranging participation from the ginning community.

The written and oral testimony of all participants as well as the proposal and pre-hearing and post-hearing comments were made part of the rulemaking record. The hearing record was closed on September 2, 1977 (42 FR 39120).

In promulgating these final standards for exposure to cotton dust, OSHA has severed the ginning standard from the standard applicable to the other segments of the cotton industry which is being published with this ginning standard in Part III of this Federal Register. This separate standard for ginning reflects these unique characteristics of cotton ginning which necessitate somewhat different treatment from other segments of the cotton industry. While OSHA bases this standard on all the evidence gathered during the proceedings, separate standards are being established in order to avoid any confusion on the part of affected employers and employees as to the different provisions applicable to ginning.

While various exposure limits have been established for other segments of the industry, no specific permissible exposure limit has been set for ginning. On the other hand, provisions adapted specially for the ginning workplace, such as the requirement for bi-lingual training and education and the provision for apportioning the medical surveillance among employers in the case of employees, who move from gin to gin, would not be required of employers who did not operate gins. To avoid the confusion that might arise from including all these provisions in one regulation, OSHA has developed a separate standard for ginning.

Since the cotton dust standard for ginning and the rest of the cotton in-

dustry are the product of one rulemaking and are based on record, the preamble sections on Legal Authority and History of the Regulation published with the general cotton dust standard, as well as other relevant portions of that preamble, are equally applicable to ginning, and are incorporated herein by reference.

III. Health Effects

In the preamble to the general cotton dust standard, the health effects associated with occupational exposure to cotton dust are described in detail. The evidence in the record indicates that the respiratory diseases observed in all diverse segments of the cotton industry have also been found to exist among workers employed in ginning. Classical byssinosis, both the acute and chronic stages (Ex. 128A; Ex. 128B; Ex. 128D; Ex. 128E), and decrements in pulmonary function measurements usually associated with byssinotic symptoms (Ex. 128B; Ex. 128C); "Brit. J. Ind. Med." 22:291 (1965); Ex. 128D have been documented in several foreign studies of ginning employees. The one study based in the United States similarly found significant acute depression in lung function among ginners (Ex. 6, #59). The progressive nature of the disease has been noted for gin workers just as it has for textile mill workers (Tr. 839; Ex. 128A; Ex. 128B). Upon reviewing this scientific literature in the record, OSHA finds regulation of cotton dust in gins to be required under the mandate of the Occupational Safety and Health Act.

Even without relying on foreign studies, OSHA believes that the evidence of pulmonary effects in all other facets of the U.S. cotton industry alone would point to the existence of a causal relationship between cotton dust exposure and respiratory disease in the U.S. ginning industry. This is based on the view that the etiologic agent(s) found in the dust generated at all other stages of cotton processing are also to be found in the dust generated during ginning, and based on the evidence that the physiological response of cotton gin workers does not differ significantly from the response of other workers handling cotton. In other words, OSHA places heavy reliance on the evidence presented in detail in the Health Effects section of the general cotton dust standard in supporting the need for regulatory action to protect the health of cotton gin workers. OSHA believes that the results of the initial survey of the U.S. gin workers by Palmer et al corroborates the soundness of this view.

Claims for an exemption from the standard by representatives of the ginning industry based on the argument that no cotton dust induced respiratory disease exists in gins ignore the findings of numerous scientific studies in the record. Before discussing the findings in the U.S., it is appropriate to analyze the significant body of foreign studies of cotton gins.

Foreign Studies

Dr. M. A. El Batawi produced two studies based upon Egyptian gin workers (Ex. 128A; Ex. 128B). A 1962 study of 323 ginners in 11 gins founds a byssinosis prevalence (all grades) of 39.4% (Ex. 128A). Dust exposures were not reported although later testimony indicated that they were probably very high. Duration of employment averaged 8 years for these workers who ginned for six months each year. Symptoms usually appeared after 5 years (i.e. seasons) with 31% of all workers with less than 6 years of exposure reporting grade ½ or 1 byssinosis. If only those ginning more than 10 years are evaluated, then 65% of those with byssinosis are grade 2 or 3.

In a second study by El Batawi, byssinosis was present in 33% of 24 ginners surveyed (Ex. 128B). Dust levels indicated a mean exposure to total dust of 15.3 mg/m³. This second study included pulmonary function measurements. Ginners in dust had FEV 0.75 acute decrements of 190 mls while those out of dust had only 20 mls. Those with byssinosis lost 250 mls FEV 0.75 over the work shift. Pulmonary function tests were taken on the third day of the work week and, therefore, might be expected to understate acute effects. Comparison of standarized baseline measurements indicated significantly lower values for ginners than controls.

Gilson et al (Ex. 128C) studied a small number of workers in three gins in Uganda where a language barrier prevented evaluation of symptomatic byssinosis. Duration of employment was not stated but the populations were young on average (range 25–29 years) and worked generally only four months in a year. Exposure measurements were high particularly in "fifi" (dirty, moldy grade of cotton) processing. Actual exposures, however, were certainly lower as workers spent a significant portion of time outside the gins. Significant acute loss of FEV 0.75 (230 mls) occurred in workers ginning fifi and large (90 mls) loss occurred in one gin where workers were exposed to much lower levels.

Kondakis and Pournaras investigated the prevalence of byssinosis among a sample of 70 ginnery workers in Greece "Brit. J. Industry. Med." 22:291 (1965); Ex. 18, p. 2) No case of byssinosis was found but a statistically significant relationship was found between length of exposure and impairment of lung function. Workers with an exposure of 0–3 years (mean age of 46.7 years) exhibited a mean FEV_1 of 96.4% of predicted; workers with 4–8 years of exposure (48.0 years, mean age) exhibited a mean FEV_1 of 87.4% of predicted; after 9 or more years (50.0 years, mean age), mean FEV_1 was only 84.1% of normal. The mean age of the workforce, 49, was high. The Greek ginning season runs from September to May. The dust levels encountered were not presented.

Two studies (Ex. 128D; Ex. 128E) were done by Khogali in Sudanese gins where ginning occurs 6 months per year. The study population included 271 ginners and pressers, 52 ginning workshop workers servicing the gins, and a control group. The three populations had worked on average between 9 and 13 years. Both gin workshop workers and ginners experienced a prevalence of 20% byssinosis, 35 farfara workers experienced 49% and controls 0% (Ex. 128D). Byssinosis as defined here is based on chest tightness on the first three days of the annual work period, i.e. similar to grade 2. Workshop exposure was 0.11 mg/m³, gin exposure 0.63 mg/m³, and farfara 2.6 mg/m³ based on the hexlet of Roach measuring only particles less than 7 μm. Pulmonary function testing of FEV_1 showed controls gaining 230 mls during the work day while the workshop lost 40 mls and the ginners 100 mls on the average.

Khogali found a statistically significant association between the prevalence of byssinosis and the concentration of fine dust (less than 7μ) when comparing various ginnery workers and farfara workers. Also, there was a significant relationship between the mean adjusted FEV_1, the mean fall in FEV_1, and fine dust concentration.

Two years later a follow-up of this population was undertaken with almost all (96%) restudied (Ex. 128E). The resurvey took place after six months off and just prior to the next season's ginning. Age and height adjusted FEV_1 decreased slightly for controls but increased by 360 mls in the workshop and 450 mls in the gin. Byssinosis was shown to occur with the same prevalence as in the earlier study, and exposure measurements were also approximately the same in the second survey. Khogali developed a dose-response relationship between prevalence of byssinosis and level of dust concentration (dust less fly). Exposure history was also regressed against time. It is noted that the earlier work by Fox et al in the Lancashire textile mills provides almost identical results (Ex. 381 (Appendix 12, pp. 16–17)). Dr. Arend Bouhuys of Yale University commented on this data, as follows:

Although conditions in the Sudan ginneries studied by Khogali differ from those in the United States, it is of interest that Khogali found about 11% byssinosis prevalence among a group of workers with a total dust

exposure experience of about 22 μg/years/m³. Thus, such a prevalence might be experienced among workers exposed to about 0.5 mg/m³ dust (less fly) during about 40 years. (Ex. 11, pp. 2-3)

It is clear from these studies that pulmonary effects have been observed in all foreign countries where ginning has been studied. These studies generally evidence an acute pulmonary effect, and, although chronic respiratory effects among ginners are less evident, these studies do not in general adequately address this problem.

While OSHA views these foreign studies as support for inclusion of ginning in an occupational health standard, the Agency acknowledges the uncertainty in relying too heavily upon studies based on worker populations and prevailing conditions found primarily in Egypt and the Sudan. First of all, review of these studies is complicated by dust measurements which, when included, cannot really be compared. In addition, the dust levels reported by El Batawi and Gilson et al especially for farfara or "fifi" are remarkably high. These high measurements appear to reflect the fact, as testified by Dr. El Batawi (TR 814), that foreign gins are likely to be relatively primitive, especially at the time when these studies were done. Also, foreign gins are likely to include many manual operations (TR 823-31) which increase the personal exposure of gin workers. Farfara is an extreme example of a hazardous manual process.

Second, the ginning seasons in Egypt (6 months), the Sudan (5-6 months) and Greece (7 months) are much longer than the season in a typical U.S. ginning region. It is true that some U.S. workers travel from gin to gin in the Southwest, but the maximum extent of the western season appears not to exceed 3 to 4 months (Ex. 88c, p. 6; See generally the section on *Background*).

Finally, the foreign ginning population, usually living in a village, appears to be more stable and, consequently, to continue in ginning longer than do their more transient U.S. counterparts. In Khogali's follow-up study (Ex. 128E), after 2 full years 96 percent of the study population were still employed, their number depleted by transfers, training courses and retirement rather than the attrition found in the United States (Tr. 3197-9). Data produced by Kondakis and Pournaras, and El Batawi et al., demonstrated the presence of many older ginners with long term service in the gin.

OSHA does not view this data as supplying unimpeachable dose-response relationships which would adequately describe the U.S. population. Indeed, Khogali's regression analysis (Ex. 128E, p. 173) does not even adequately describe the gin worker populations in neighboring countries. Even assuming the extrapolation of Khogali's data to predict a prevalence of byssinosis among ginners after 40 years to be valid, it grossly exaggerates the length of time the typical ginner appears to spend in the U.S. gin over a career. Therefore, OSHA has been cautious in its handling of foreign data to predict domestic prevalences of both acute and chronic byssinosis.

These differences notwithstanding, it is clear that pulmonary effects have been observed in all countries where ginning has been studied. It is only when the extent of these pulmonary effects is examined that the difficulty of intercomparing data from Egypt, Sudan, Greece, Uganda, and the United States becomes pronounced.

American Study

In contrast to this body of foreign studies, only one preliminary survey exists covering gins in this country. Palmer et al studied 203 gin workers and 260 controls (Ex. 6, No. 59; Ex. 18). No symptoms of byssinosis were reported on questionnaires although questionnaires were deemed to be unreliable by the investigators for reasons of language and circumstance (Ex. 18, pp. 30-31).

Spirometric monitoring of FEV_1 over the shift showed that 44 percent of the workers tested were classified as functional reactors. Of this number, 27 percent were moderate reactors (change in FEV_1 greater than 5 percent to 10 percent) and 17 percent were severe reactors (change in FEV_1 greater than 10 percent). Since many workers were never "out of dust" for the 48 hours before measurement, acute dust effects are probably underestimated. No correlation with dust measurement was found. Mean dust levels measured by vertical elutriator for Texas gins, New Mexico gins, and combined gins were 0.86 mg/m³, 1.03 mg/m³ and 0.93 mg/m³, respectively, and were generally uniform for work area. Duration of exposure averaged 13 years for the gin stand, 7 years for the baling press, 8 years for others, and 8.8 years for total workers. Workers at the gin stand were about 40 years old while other gin workers averaged 34 years. Reactors made up 44 percent of the 39 ginners with adequate $FEV_{1\cdot0}$ measurements. These were exposed to average dust levels of 1.25 mg/m³ almost twice that of the pressmen who showed a higher proportion of reactors, 53 percent.

Controls were not tested for acute change in $FEV_{1\cdot0}$. Review of $FEV_{1\cdot0}$ baseline values suggest no major difference between exposed workers and controls in several gins scattered over a wide geographical area. The Palmer study failed to detect any classical byssinosis (Ex. 18, p. 22) or excess chronic respiratory disease (Ex. 18, pp. 12-13). As stated earlier, failure to overcome communication difficulty with the predominantly Spanish speaking workforce (Tr. 762) and worker concern that their employment could be jeopardized (Tr. 789-91), was the author's explanation for the lack of response to the questionnaire where the question related to the gin's effect on health. Impressive data has been produced on functional reactors. A significant percentage (18.7 percent) of the population studied exhibited pulmonary function losses that qualify them for a removal from exposure according to generally accepted medical criteria (Ex. 18, p. 35). In many cases, decreases in objective pulmonary function measurements have been shown to accompany subjective symptoms such as chest-tightness or breathing difficulty (Ex. 6, No. 18, 19, 3, 24). The failure to report any subjective symptoms is peculiar, and, as stated by Dr. Palmer, might merely represent refusal to admit adverse health effects despite clearly observable suffering (Tr. 804-5).

The Palmer study is consistent with the foreign studies in a number of respects. It demonstrates clear evidence of acute pulmonary effects. The extent of the hazard in the U.S., is similar to that reported by other researchers, Dr. El Batawi for example (Ex. 18, pp. 35-36). In every country where exposure to cotton dust in ginning has been studied, an occupational hazard has been demonstrated. Although chronic respiratory effects have not always been demonstrated, the studies do not adequately address the problem and, indeed, there is no reason to believe that the chronic stage does not develop progressively from the acute stage in ginning as has been evidenced where adequate data has been developed. Indeed, Dr. Palmer has endorsed this conclusion (Tr. 765). Upon reviewing this body of evidence, OSHA concludes that occupational exposure to cotton dust in ginning is a hazard that must be regulated. Worker health in U.S. cotton gins must be safeguarded by inclusion of their work places within the scope of the cotton dust standard.

Once it becomes clear that ginning must be included in the standard, the question of what level of protection should be required arises. Should the standard for ginning include a numerical permissible exposure limit, or is it more appropriate to provide protection to ginning workers through work practices, medical surveillance, etc, without setting a numerical limit? OSHA recognizes that determining what exposure is adequately protective of U.S. gin workers is, a much more difficult question than whether gin workers need some means of protection from cotton dust exposure. This difficulty follows from the lack of any dose-response data covering the

U.S. ginning population. The Palmer study did not quantify dose and response in the sample population studied (Ex. 18, pp. 20, 26). Without adequate dose-response data, OSHA is forced to draw inferences from the Palmer work and the foreign studies in the record, or from the dose-response data gathered on the textile industry. Numerous factors cast doubt on the numerical inferences drawn from these data.

Initially, OSHA recognizes the evidence of a seasonal pattern of exposure associated with ginning which mitigates the extent of cotton dust exposure (e.g., Ex. 11, p. 3; Tr. 816–817). The impact of seasonal exposure is to decrease the total exposure and to allow recovery of lung function during the off-season. Khogali's work demonstrates dramatic recovery in the baseline FEV_1 after 6 months of removal from exposure (Ex. 128E, pp. 169–70). Dr. El Batawi testified that the interruption in exposure probably causes a relative increase in acute symptomatology and a decrease in advanced symptoms compared to the distribution of prevalences found in textile operations (Tr. 816–17).

There is evidence in the record that the average U.S. gin's season lasts from 5 to 12 weeks (Ex. 88c, p. 6; See *Background*, generally). While some workers might migrate from one cotton growing region to another as the season progresses, the maximum extent of the season is unlikely to exceed 6 months for a fraction of the workforce. It should be noted that the record contains only passing reference to workers' movement (e.g. Ex. 88, p. 5); no definitive data on migratory patterns among gin workers is available. Nevertheless, it would appear that the vast majority of employees of U.S. gins experience a briefer exposure to cotton dust and enjoy a longer period to recover during the off-season than do their Egyptian and Sudanese counterparts.

On the other hand, there is testimony that lung function is not totally recoverable, and that the long-term effects of even brief intermittent exposure could be harmful to the worker (Tr. 839–40). As Dr. El Batawi stated on this point in reference to the "total recoverability" of workers intermittently exposed to cotton dust:

> So, at one stage, in the early stages, you have certain changes. When you suspend exposure they are reversed completely. The person becomes normal. But then if you repeat the exposure again, his ability to combat that is most probably less than when he was originally normal to begin with (Tr. 840–41).

The connection between acute and chronic health effects among gin workers is generally not as well understood as it is for workers in the textile industry, although Dr. El Batawi expressed the opinion that the same general process of gradual pulmonary insult and deterioration was occurring despite the seasonal break. A review of the research done in cotton gins reveals an acute dust response in many places where exposure has been studied, whereas there appears to be less conclusive evidence of widespread chronic obstructive pulmonary disease. There are several explanations for this scarcity of data on chronic disease effects. As stated above, the studies in the record do not on the whole adequately address the problem. There is evidence that a "healthy worker effect" diminishes the number of severely affected workers in the study population (Tr. 806–7). Thus, in the case of the U.S. ginning industry, the return of Mexican nationals to their homeland may be a confounding factor in determining the extent of cotton dust related disease in the U.S. (Tr. 765, 806–7). In the U.S. the failure to seek out retired gin workers may explain the lack of data (Tr. 765).

The most significant factor might be the length of the average worker's career in a U.S. gin compared to that of Egyptian or Sudanese workers. El Batawi's work indicates a noticeable prevalence of grades 1 and 2 byssinosis only after several years (i.e. seasons) of exposure (Ex. 128A; Ex. 128B), although in testimony he stated that the length of time was not conclusive (Tr. 834). In light of Palmer's data indicating an average U.S. exposure of only 7–8 years for workers other than the skilled gin stand operators, it is possible that the average gin worker leaves the worker pool before the development of chronic symptoms. Those who remain in the gins the longest, the gin stand operators, represent a hardier group (older, with longer career, but with reduced pulmonary sensitivity in the face of relatively higher exposures than other workers) which exhibits the characteristics of a typical "survivor population" (Ex. 18, pp. 31–32). All of these explanations, however, are speculative in view of the lack of adequate research into the effect of seasonality on the prevalence of cotton dust induced respiratory disease among the U.S. ginning population.

In summary, there is convincing evidence of acute pulmonary effects in almost all studies of ginning, including one in the United States. Not only are acute effects often of considerable magnitude (44 percent acute reactors according to Palmer), but there is testimony indicating that the seasonal break may not totally restore lung function, especially after the repeated exposures of several seasons (Tr. 839–40; Ex. 11, p. 3). For sensitive individuals, the acute effects may appear after the passage of only a few seasons (Ex. 128A).

While there is evidence of chronic respiratory effects in foreign gin worker populations, such evidence is yet to be gathered in this country. The preponderance of evidence on cotton dust exposure is sufficiently consistent to predict a relationship between acute and chronic effects. However, the moderating effects of the U.S. gin season and the relatively brief career of the ginning population which might affect the development of chronic obstructive pulmonary disease are not satisfactorily well researched to draw any firm conclusions about the prevalence of chronic disease.

OSHA views all the evidence on adverse health effects in the ginning operation as requiring the development of a standard on cotton dust exposure for the ginning industry. The ginning workforce in the United States is clearly suffering a high prevalence of acute respiratory dysfunction which has been shown in studies of other U.S. cotton industries and in foreign ginning industries to develop into a state of chronic obstructive pulmonary disease. Although no chronic disease has been documented among the domestic gin workforce, the reason may be merely the inadequate epidemiological research into the problem. OSHA believes that any uncertainy in the data on health effects must be resolved in favor of worker protection despite some factors suggesting that a lesser degree of protection might be needed in ginning than in other cotton processing industries.

IV. Control of Exposure

The standard provides for worker protection from exposure in gins primarily through the implementation of work practice controls and respiratory controls. This approach to employee protection also relies heavily on medical surveillance and employee education and training provisions, adapted for the unique working environment found in the ginning industry. Where appropriate, effective implementation of some of these provisions will call for a bilingual program.

In developing this strategy for worker protection in gins, OSHA is not establishing any specific numerical limit on exposure which it would deem to protect all workers in U.S. gins. Instead of requiring a specific exposure limit in this industry, the Agency has determined to depend on dust control technology in the more flexible context of work practice controls. Adoption of this strategy for the ginning segment of the cotton industry reflects OSHA's consideration of the unique conditions prevailing in ginning which have been amply demonstrated in the record.

Before determining that the limited epidemiological data in the record is inadequate for the purpose of specify-

ing a permissible exposure limit in ginning, OSHA weighed several strategies employing a numerical level ranging from 200 $\mu g/m^3$ to 1000 $\mu g/m^3$ lint-free respirable dust.

OSHA has considered treating ginning simply as another component of the non-textile cotton industry, and as such, subject to the 500 $\mu g/m^3$ permissible exposure limit. In one sense, the data on ginning compares with the evidence in other non-textile industries. Qualitatively, there appears to be acute respiratory dysfunction occurring in worker populations exposed to cotton dust, while quantitatively, there is incomplete data on dose-response. Beyond this broad similarity, however, the employee exposure and reaction characteristic of the gin is so clearly distinguishable from the pattern of exposure reported for aggregate non-textile industries that a different approach is clearly appropriate in this industry.

The primary distinguishing variable in ginning is the pattern of exposure. In the Health Effects section, the effect of interrupting employee exposure for 3 to 9 month periods was addressed. Development of acute byssinotic symptomatology is retarded and lung function is generally recovered during the off-season. The brevity of the average worker's career in the gin has the further effect of removing many workers from exposure before the onset of chronic obstructive pulmonary disease. Until adequate dose-response data is developed, OSHA has no evidence of chronic respiratory disease among gin workers exposed to current levels of dust in U.S. gins.

The permissible exposure limit applicable to the non-textile industry is also an inadequate benchmark for establishing an exposure limit for gins for several other reasons beside the critical difference between brief, intermittent exposure and constant, year-round occupational exposure to cotton dust. In general, the working gin environment rather than being confined within the building is coextensive with the duties of the typical gin hand (Ex. 88, pp. 6-8). To the extent that an average gin worker spends half of his time outside the shed, moving bales or performing other functions, he is receiving a lower dose of dust than he would if he were confined to the interior, dustry environment. Thus, an expert witness testified that a technological solution based upon the enclosure of the gin could in actuality increase the time-weighted exposure of the gin workforce (Ex. 88B, p. 7).

OSHA does not consider the reasoning used to set a permissible exposure limit in non-textiles as applicable to ginning. Furthermore, OSHA does not believe that the data in the record meaningfully points to any specific exposure level.

OSHA sees no evidence for applying a lower exposure limit in ginning than in any other non-textile industry for all the reasons enumerated above. In addition, the testimony on economic and technological feasibility in the record demonstrates the momentous impact which application of the 200 $\mu g/m^3$ permissible exposure limit to cotton gins would produce (see the discussion of Economic Feasibility). While not giving undue weight to this type of evidence in determining what level or whether any level constitutes a safe exposure, the Agency will not ignore these feasibility findings, especially where reliable evidence or inferences of severe health effects is not available.

OSHA has considered setting a higher exposure limit for ginning than other non-textiles, in a manner which would provide an appropriate margin of safety while at the same time giving due consideration to the unique exposure pattern in ginning. However, any attempt to set a level without adequate data involves speculation. Also, in view of the vast differences in harvesting and ginning methods, varieties of crops grown, and other regional differences, a level designed for the High Plains of Texas might be seriously inadequate for other regions of the country. OSHA concludes that the sparse data in the record does not support the establishment of any permissible exposure level which would provide the first order of protection for gin workers that the permissible exposure limits in carding, slashing and waste utilization provide for their respective workers.

In view of the above, OSHA has concluded not to set a numerical permissible exposure limit for cotton gins. The Agency believes, however, that the provisions of this standard specially modified to address the pecularities of the ginning industry will afford an acceptable margin of safety for ginning employees. Further, the provisions of the standard reconcile the demonstrated health needs of gin workers with methods of protection which are feasible and appropriate under the conditions unique to this segment of the cotton industry.

Since the reduction of acute respiratory symptoms is a major target of the standard, the work practices provision should achieve a marked lowering of subjective and objective reactivity margins. Actually, work practice controls as mandated in this standard embrace a variety of approaches to reducing exposures. One approach emphasizes the traditional housekeeping aspects of dust suppression. For example, ritual "blow down" operations would be forbidden except when other workers were absent from the area. A second approach stresses proper upkeep and maintenance of the gin's pneumatic production equipment. If the integrity of ducts and seals is maintained, the enclosed machinery can be expected to provide its own intrinsic dust control. This is especially true where the machinery imparts a negative pressure to the flow of cotton. The effectiveness of these measures should be enhanced by the participation of an informed work force. OSHA believes that the employee education and training provisions should apprise the workers, in Spanish where appropriate, of the purposes of these exposure protections.

The medical surveillance program has been designed to detect acute subjective and objective dust effects and, where appropriate, to follow the worker's movement from gin to gin, and over multiple seasons. In the absence of a medical removal provision in the standard, employers are not required to remove sensitive workers to low exposure stations; however, OSHA encourages voluntary movement of employees who have been identified by medical screening. In this respect, the abundance of primarily open-air jobs should facilitate voluntary removal or minimization of exposure for byssinotic employees or reactors. The standard also requires employers to provide respiratory protection for affected workers. Respirators, especially the minimally burdensome single use variety, have been shown to help in reducing dust exposure and suppressing the effects of cotton dust.

All of these controls, if conscientiously implemented, should have a substantial positive impact on reducing the acute effects of cotton dust. Evidence in ginning and in other areas of cotton processing demonstrate significant recovery from acute reactions following removal from or suppression of cotton dust (Ex. 128E; Tr. 1665, 1679).

Since little or no excess of chronic obstructive pulmonary disease was reported among the U.S. population studied, it appears that the medical surveillance system should be an effective mechanism for isolating any workers who may be in danger of developing an advanced state of respiratory degeneration. Furthermore, it is unlikely that many ginning workers will be unable to wear a respirator because of chronic pulmonary impairment.

Several parties have argued that a regulation of cotton gins must take into account the ambient dust levels in the vicinity of most gins (Tr. 3119; Tr. 3135; Ex. 159). The basic design of gin equipment necessitates the drawing of outside air into the gin building. This make-up air required by the gin machinery includes ambient dust (Tr. 3135). Thus, fugitive dust has been shown to contribute an undetermined amount of background dust to the gin environment which is not for the most

part distinguishable by the type of sampling device required for monitoring of cotton dust. Representatives of the ginning industry have recommended that background dust levels should be subtracted from the level of dust measured inside the gin if dust levels recorded were to be a fair measure of exposure to cotton dust (Tr. 3168-9). Several problems inherent in this approach, such as uncertainty over the appropriateness of the vertical elutriator as an environmental sampler, persuade OSHA to discount site-by-site corrections for background dust (Tr. 3658-61) which admittedly can be a problem of some magnitude on the farm. Instead, any permissible exposure limit developed for ginning should appropriately include a numerical factor acknowledging the uncertainty of the dust composition monitored inside the shed, and the uncertainty of industry's ability to design systems to exclude fugitive dust. OSHA's decision not to impose an environmental limit obviates the need to estimate, on the basis of conflicting data, the influence of background dust, ways to monitor ambient levels, and appropriate correction or industry's technological capacity for screening background dust out.

OSHA has evaluated the evidence of health effects, feasibility, both technological and economic, and the applicability of the provisions required under industry-wide cotton dust standard to ginning. OSHA has concluded that the evidence in the record supports the soundness of measures taken in this section on ginning, but not the imposition of any numerical environmental limit. OSHA also declares its intention to review the standard if sufficient evidence is presented demonstrating either the inadequacies of the current standard for the purpose of protecting worker health, or the need for a quantitative measure of exposure in the gins of the United States. OSHA will review this standard at the end of five years, or earlier if sufficient evidence of the need for a specific exposure limit is presented. In the meantime, OSHA is requesting NIOSH and the U.S. Department of Agriculture to accelerate efforts to explore the hazard in this industry and to develop engineering controls and alternatives for meeting any greater hazards that may be revealed by future research.

OSHA has attempted to employ different strategies, where the evidence justified such treatment, in the control of the hazards documented in each phase of cotton processing. In ginning, it has attempted to mandate a regulation which takes into account the unique characteristics of this industry. This approach, and the special provisions for medical surveillance and employee education and training reflect OSHA's efforts to apply some flexibility to regulating exposure to cotton dust in all workplaces.

V. Feasibility Issues

GENERAL

In setting standards for toxic substances, the Secretary is required by section 6(b)(5) of the Act to give regard to the question of feasibility. Section 6(b)(5) mandates that final standards be set which most adequately assure employee safety and health "to the extent feasible, on the basis of the best available evidence" and further requires that, in the development of occupational safety and health standards, "considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws."

While the precise meaning of this term is not clear from the Act or the legislative history, it has generally been construed in a standard-setting context to include both technological and economic considerations. The determination that OSHA has the authority to consider economic feasibility factors in developing standards has been endorsed by the courts, *Industrial Union Dept., AFL-CIO* v. *Hodgson*, 499 F. 2d 467 (C.A.D.C., 1974); *AFL-CIO* v. *Brennan*, 530 F. 2d 109 (C.A. 3, 1975); *AISI* v. *OSHA*, —— F. 2d —— (C.A. 3 Nos. 67-2358 et cetera, March 28, 1978). As pointed out by the D.C. Circuit Court of Appeals, Congress did not intend the Secretary to promulgate standards which drive entire industries or large numbers of employers out of business. On the other hand, "standards may be economically feasible even though, from the standpoint of employers, they are financially burdensome and affect profit margins adversely; further, the Court said, the concept of economic feasibility does not "necessarily guarantee the continued existence of individual employers. It would appear to be consistent with the purposes of the Act to envisage the economic demise of an employer who has lagged behind the rest of the industry in protecting the health and safety of employers and is consequently financially unable to comply with new standards as quickly as other employers." *Industrial Union Dept., AFL-CIO* v. *Hodgson*, supra, at page 478.

In accordance with the Secretary's position, it has long been OSHA's practice to analyze the economic and technological feasibility of proposed standards, to make such analysis available to affected parties for comment and subsequent hearing prior to issuance of final rules, and to invite the submission of other information on the technological and economic impact and feasibility of proposed standards. In developing a final standard, therefore, OSHA evaluates the economic feasibility of the final standard on the basis of the information developed by its own studies of the proposal and submissions by the public during rulemaking.

To assess the feasibility of the proposed standard for cotton dust, including the impact on ginning, OSHA undertook a study of the proposal's economic impact on the affected industries. This study was conducted for OSHA by the Research Triangle Institute (RTI)(IIS). Additional information was obtained through OSHA's analysis and consideration of all other technological and economic data, comments, arguments and testimony submitted at the hearings, in pre-hearing comments and in post-hearing comments and briefs. On the basis of the best available evidence, therefore, OSHA has determined, as explained in detail below, that this standard is technologically and economically feasible.

OSHA contracted for a study of the technological feasibility, cost, and economic impact of the proposed cotton dust standard, and an assessment of the impact of the proposed standard at permissible exposure levels of 500, 200, and 100 $\mu g/m^3$ measured as a time-weighted average by vertical elutriator (Ex. 16) was made. This study included assessment of the technological feasibility and economic impact of these levels of cotton ginning. OSHA's decision to control employee exposure to cotton dust in gins without reliance upon a permissible exposure limit, in effect, eliminates technological feasibility considerations from this standard.

ECONOMIC FEASIBILITY

The bulk of testimony directed toward ginning was related to questions of the technological and economic feasibility of meeting the 200 $\mu g/m^3$ exposure limit and other requirements of the proposed regulation. Economic feasibility was heavily dependent on technological considerations since measures such as sealing of gin plants to exclude external dust, and moving and filtering external air for use in gins were very costly. Such measures were included in industry estimates of capital and annual costs of compliance with the proposed regulation, described in detail below. In view of the determination not to impose a specific permissible exposure limit, in the ginning industry, much of the discussion of economic feasibility in the rulemaking proceeding is not directly relevant to the feasibility of the final standard since engineering controls are no longer required. The industry's projected level of costs and uncertainty as to the availability of capital financing led to an estimate that 1952, or 69 per-

cent of the gins operating in 1974, would go out of business if the proposed requirements were incorporated in the final regulation and if there were no changes in the prices of ginning services (Tr. 3242-3243).

In addition, it was noted that a substantial portion of the fiber output is exported to foreign markets. The testimony indicated that the costs of compliance with the proposed regulation would be the equivalent of giving foreign producers a competitive advantage, and that this would make it impossible to maintain export sales (Tr. 3242-3243).

In 1974, exports included nearly 4 million bales of the total U.S. production of more than 11.5 million bales. U.S. exports constituted more than 30 percent of the world exports of cotton in 1974; U.S. cotton imports were less than 40,000 bales (U.S. Department of Agriculture, "Agricultural Statistics 1976," pp. 57-71). Recently, export sales have risen. In the 1976-1977 export season, exports were 4.4 million bales, and, in the 1977-1978 season, more than 5.7 million bales. The recent weakness of the dollar in international currency markets and a shortage of high quality grades of cotton in foreign countries have been cited as reasons for recent increases in shipments and prices of cotton.

As a result, there appears no reason to expect any significant decline in the overall demand for cotton, even though other factors, including the OSHA regulation of cotton dust in industries other than ginning, may have some effect upon domestic cotton consumption. Moreover, as discussed in detail below, the estimated costs of compliance with the provisions of the final regulation of exposure to cotton dust in gins is a small fraction of the anticipated costs of the proposed regulation. Therefore, especially in the absence of capital cost requirements, there is no apparent reason to expect either an acceleration of the declining secular trend in the number of gins or impetus toward substitution of other crops for cotton as a result of the final regulation of worker exposure to cotton dust in gins.

Such effects have been a matter of concern to OSHA in framing the regulation. Especially at the field hearings on the proposed standard, there was substantial testimony on the dependence of area economics in the cotton belt on the viability of the ginning industry which would make continued cotton production economically feasible. OSHA believes that the provisions of the final regulation achieve reasonable levels of protection of gin workers exposed to cotton dust without significant economic effects.

Costs of Compliance

The major economic effects of the regulation of worker exposure to cotton dust in gins result from the imposition of compliance costs upon the firms in the industry. As a result, these costs are reviewed in detail before the other anticipated economic effects of the regulation are discussed. The total cost of compliance for the final regulation is estimated by OSHA to be $1,850,213 for the first year and $1,717,566 for ensuing years. This is an average of $659 per gin the first year and $612 per gin annually thereafter. OSHA does not consider these costs to be significant.

For cotton ginning, RTI indicated that its estimates of costs were not exact, but were to provide a "relative idea" of the costs and effectiveness of control systems (Ex. 16, p. V-20). However, RTI did develop methods for estimating costs of compliance with most provisions, and these methods were then used by many who testified on the results of independent estimates for different sectors.

OSHA's estimates of total costs for compliance with the final standard are much lower than estimates of the proposal's compliance costs because the standard in its final form differs from the proposal in areas which significantly impact on the cost of compliance. The primary difference is that the proposal would have required all ginning employers to reduce employee exposure to cotton dust to 200 $\mu g/m^3$, whereas the final standard does not contain a permssible exposure limit, and therefore does not require either the institution of engineering controls or monitoring.

Among those who presented cost date were representatives of Natural Fibers Economic Research (NFER) of the University of Texas. NFER prepared a report for the National Cotton Ginners Association, "Economic Impact of OSHA's Proposed Cotton Dust Standard on Cotton Gins," March 1977, (Ex. 88e), which represented a thorough study in which their assumptions and calculations were clearly provided. More recent data were used by NFER, applying RTI methods, for estimating the costs of various provisions, and NFER developed its own models for certain elements.

As noted, the final regulation for cotton gins is significantly different from the proposed regulation, and it was necessary for OSHA to calculate the costs of the final regulation in the light of such differences. The method for that calculation was to change assumptions where necessary, and to recalculate the cost estimates for relevant provisions on the basis of the NFER report. The results of those recalculations are presented below, separately for each relevant provision of the final regulation and for total costs, and they are contrasted with the NFER estimates of the costs of the proposed standard.

Medical Surveillance

The regulation requires that each ginning worker be subject to two medical examinations each season by or under the supervision of a physician. Both RTI and NFER estimated the costs of the proposed regulation's medical surveillance program using similar methods; their assumptions differed principally on the basis of the numbers of gins and workers involved, since RTI estimates were based on earlier data. Both assumed a 25 minute preplacement examination performed by a nurse, and NFER noted that the 1974 average gin payroll included 7 workers per shift and 14 new workers hired each year to fill those positions; because of labor turnover during each season, an average of 21 workers per gin are employed to fill 7 positions. On that basis, NFER calculated the total costs of initial, preplacement examinations as equal to $149,948 as noted in Ex. *88e*, p. 31. RTI estimated this total cost at $127,774.

This initial (annual) examination process also includes informing each new employee whose initial screening indicated increased risk from cotton dust exposures as a result of smoking or a history of respiratory problems. Under the assumption that half of the tested workers would require 15 minutes of counseling, shared equally by doctors and nurses, NFER calculated counseling costs as equal to $94,822 as noted in Ex. *88e*, p. 31, while RTI estimated this cost at $78,843 (IIS, Vol. II, B-11).

NFER estimated capital costs of purchasing a spirometer at $727.50 for each of 3,262 gins, at a total $2,373,105, (RTI total estimate $2,557,617) and costs of training nurses to perform these tests, $267,518. The summary of NFER medical surveillance costs, then, included: Spirometer capital costs of $2,373,105, first year operating costs of testing, retesting, counseling and nurses' training, $740,318 and recurring annual costs for testing, counseling and retesting, $466,780, (RTI estimate for recurring annual costs was .8 million). These estimates reflected the provisions of the proposed regulation under the assumptions made by NFER.

OSHA views some of the NFER assumptions as unrealistic in their application to the final regulation and, thus, as overstating the costs of medical surveillance. For example, NFER's estimates are based on the 3,262 gins operating in 1974, while they reported 2,808 active gins in 1977. Given the secular decline in the number of gins, even the 2,808 figure is likely to be an overstatement of the number that can reasonably be expected to comply with the final regulation. For these reasons, the NFER estimates would overstate anticipated costs of the proposed regulation.

On the other hand, some of the assumptions probably understate costs. For example, the assumed worker wage rate of $2.30 an hour is likely to have increased by 25 to 30 percent by 1977. Moreover, the final regulation requires that workers be subject to two examinations in each season. This will raise the cost of medical surveillance, although it is not expected to double the relevant costs of the examinations for two reasons both related to labor turnover. Many workers subject to the first examination will leave employment before the time for the second. In addition, a worker who leaves one gin for employment in another need not be subject to reexamination in the second gin since he may substitute records of prior examinations in the same season for new examinations. These factors can be expected to reduce the cost impact of the requirement for a second examination each season by at least 50 percent of new hires.

OSHA has therefore recalculated the annual costs of the medical surveillance program by making appropriate changes in the estimates of NFER. The estimated total costs for the initial examination are, $639,674. This includes: For continuing workers, $39,877 based on 4 workers per gin for 2,808 gins; for new hires, $109,804 based on 17 workers per gin for 2,808 gins; counseling, $109,635 based on half the total of continuing workers. The total cost of retesting is estimated at $1,066,643 (for the examination, $124,314 based on 4 continuing workers and half of 17 new hires per gin for 2,808 gins; for counseling, $75,951; ventilatory capacity tests, $155,849; pulmonary function tests, $70,555). For the initial examination, it is assumed that no more than four workers per gin, more than half of the average number of positions, would be continuing workers. In fact, that number is substantially lower in most cases, since few employees continue working beyond the ginning season and are therefore likely to be considered to be eligible for pay for the examinations. The estimated average wage rate for them has been increased to $3 an hour, Further, the estimate is based on the 2,808 gins active in 1976-1977, rather than the number operating in 1974. The NFER assumption on physicians' and nurses' time and wages for these examinations has not been changed; while such wage rates have risen, it is expected that many of these functions may be performed by paraprofessionals such as respiratory technicians or others who may not have the full level of training required for nursing. The number of new hires, total tests and those counseled reflect the average of a total of 21 W-2 forms per gin, as noted by NFER for 1977. However, the recalculation does not use the NFER assumptions that counseling and retesting of continuing or current workers are included in the costs for new employees.

It is unlikely that as many as half of the 17 newly hired workers would be employed for a sufficiently long period to be subject to the second examination. The assumption that half of these will take that examination may overstate such costs. Counseling costs for 50 percent of those tested are again estimated. Counseling may be even more significant for those taking the second examination because they will have been exposed to the cotton dust in ginning, but some of those affected are expected to have quit on that account, as well as for other reasons, before they are subject to the second examination. Costs of testing ventilatory capacity and pulmonary function are estimated for all who are subject to the second examination. Costs per test for the second examination are the same as those for the initial one, except that payment of workers' wages for testing time is assumed for all who take the second examination.

The results of these recalculations are noted above, and they may be compared to the NFER estimates. Recurring annual costs for the first examination are recalculated to a total of $639,674, which is $172,894 or 37 percent higher than the $466,780 NFER estimate of continuing annual costs of testing but lower than the .8 million estimate by RTI. NFER did not explicity calculate such costs for continuing workers, and instead such costs were assumed as part of those for new hires. Moreover, NFER estimated examination costs for 14 workers per gin, when the average number of total hires was 21. The effects of higher worker wage rates and a higher estimate of workers per gin to be tested more than offset the reduction in the estimates of the appropriate number of gins and of the proportion of workers to be paid for examination time.

It appears unlikely to OSHA that many gins would, independently, be required to buy a spirometer or to pay for nurses' training for the program. Instead ginning employers would contract with units offering medical surveillance services which are able to ecomomize on the use of equipment and trained staff currently in short supply and to substitute paraprofessionals for some functions, or ginning employers would join together to set up their own mobile units. Even with any added costs for mobile operations it is unlikely that even half of the capital and first year training costs estimated by NFER would be passed on as charges to the gins. If half of such costs were to be involved, this would amount to $1,137,000 for first year or investment costs of those providing the services. If such costs were annualized on the basis of NFER assumptions (9.2 percent interest rate, 10-year depreciation period for capital), the annual charges to be passed back to the gins would be $206,745. Addition of this amount to the annual costs of examinations, $1,066,969, would result in an estimate of total annual costs of $1,273,714, or an average of $453.60 a year per gin. While this amount for both required examinations is substantially higher than the NFER estimate of annual costs per gin ($466,780 for 3262 gins, or $143.10 per gin), it would be relevant for the first year, for which NFER estimates would be $740,318 per 3262 gins or $226.95 for operating and maintenance costs for one examination for each new worker plus $727.50 for capital costs of a spirometer.

Respirators

The proposed regulation would have required the use of respirators in gins which failed to achieve the permissible exposure limit. Further, use of disposable respirators in gins was not generally acceptable under the criteria of the proposed regulation. As a result, NFER estimated the costs of personal protective equipment as including capital expenditures for half mask reusable respirators and annual costs for filter replacement and maintenance. The estimated costs were $495,269 for capital expenditures and $1,582,396 for recurring annual expenditures.

However, the final regulation does permit the use of disposable respirators. Also, in the absence of a permissible exposure limit, such use is required only for gin workers affected by cotton dust or engaged in specific practices such as equipment blowdowns. Under these requirements a respirator must be available for each employee, but it is unlikely that as many as half of the gin workers would use them on a daily basis. NFER noted there are seven work positions in the average gin. In the calculation of annual costs of respirators, NFER assumed 42 days as the number of working days per gin. It is reasonable to assume daily replacement of a disposable particle respirator, similar to the NFER assumption of daily filter replacement and maintenance of a reusable respirator. However, there would be no capital costs or maintenance for use of disposable respirators which many gins currently provide for workers who wish to use them.

The 1978 price for disposable particle respirators in small quantities was $13.33 for a box of 20 units, or $.6665 each. Under these assumptions, then, the cost of respirator use by affected workers in 2808 gins would be calculated as: 7 positions$\times$½ (affected workers)$\times$2808 gins$\times$42 days$\times$$.6665/respirator=$275,115 for the industry, or

$98 a year for the average gin. This amount is substantially less than the NFER estimate because of differences in the assumptions on the numbers of gins and of affected workers as well as the difference in the nature of the required respirator.

WORK PRACTICES

The regulation requires delineation and posting of specific work practices for all work positions where cotton dust is present. In most cases, it is expected that there will be little or no effect on productivity or costs of the specific practices, such as the reduced use of blowdown, and that other practices relate primarily to housekeeping efforts that are normal in most facilities. As NFER noted, some changes in practices may reduce efficiency while others may increase productivity. Therefore no specific costs are estimated for any productivity losses in implementing the work practices prescribed. However, some additional costs for establishing the work practices and for training of supervisors and workers in their use will be incurred.

NFER estimated such costs. It is assumed that an industrial engineer would require 16 hours to do a study of each of three work positions (gin stand, lint cleaners and the bale press area) in each gin and will require 15 minutes of secretarial time for each position. On that basis, assuming $5.25 and $2.60 as hourly wage rates for engineers and secretaries and a 22 percent fringe benefit factor, NFER estimated the costs of the engineering studies at $1,010,629.

OSHA views this estimate as unrealistic because NFER assumed that each study must be done separately for each work position in each gin and did not use current salary data assumed are not current. It seems likely and appropriate that the gins, through their association, will be able to cooperate and develop some prototypes of work practices for each work position that will be applicable to the gins, although there may be some due to types and sizes of gins. In some areas, the cooperation of government agencies such as the Agricultural Extension Services, may also be helpful.

In their analysis of financial effects, NFER developed 20 models (four different size classes for each of five regions, to represent the diversity within the industry (Ex. 88e, pp. 4, 5). This would require 60 (20 models in 3 positions) engineering studies. Recalculation of industrial engineering study costs using the NFER figures and increasing assumed salary levels by about 30 percent, results in an estimate of $8,253.

NFER estimated the costs of training supervisors on the assumption that such training would require an hour of time for one supervisor and one engineer for each gin. On that basis, assuming supervisors' wages at $3.98 per hour, NFER estimates supervisor training costs at $36,732. In some localities, cooperation may permit an engineer to train several supervisors from nearby gins. However, the economics may not be significant if supervisor travel time is substituted for engineers' instruction time. Therefore recalculation is appropriate largely to reflect more current wage rates ($7/hour for engineers and $4.80/hr. for supervisors) and numbers of gins, giving a total cost of $40,424.

Costs of employee training discussed by NFER assumed that training will take 10 minutes by the supervisor and that no allowance is made for productivity loss. However, the calculation of costs of training of new employees suggests that an hour of time for those employees was assumed; the costs of training new employees were estimated at $105,036 a year for 14 employees per gin. In addition, NFER estimates costs of training of gin workers at $107,279; no breakdown of this amount is included in the NFER report, but this is assumed to be for the first year only.

If on-the-job training costs specifically for this regulation are recalculated, using 10 minutes of supervisor time and including the same amount of employee time as the basis estimates, productivity loss for such training would be included in the costs. For 2,808 gins, each hiring 21 new or continuing employees a season, there would be 58,968 training sessions in the first year if individual training is required. In the first and ensuing years, if 4 employees per gin are assumed to be continuing workers, such sessions would be required for 17 workers in each of 2,808 gins, or at the rate of 47,736 training sessions a year. Such costs would then be a total of $16,928 for continuing employees and $70,458 for recurring years.

The recalculated estimates are substantially lower than those of NFER but they reflect more current wage rates and number of gins. If there is a bias, it is likely to be on the high side because in many cases employee training may involve several workers in one session, thereby economizing on supervisors' time.

In summary, the NFER industry total for first year costs at $1,251,916 and the RTI estimate of $1 million, are nearly 10 times the estimate of the OSHA recalculation of $135,713. The principal differences are in the assumptions on cooperation in engineering studies and in employee training as well as in the number of gins used as the basis for estimation. NFER first year costs average $384 per gin, while the OSHA estimate is for $48 for first year costs per gin. Recurring annual costs are estimated by NFER at $105,036 for training new employees, or an average of $32 per gin. The OSHA recalculation estimates the industry total at $70,458, or $25 a year per gin for these recurring annual costs.

INFORMING EMPLOYEES

The regulation requires that workers be informed of the hazards of exposure to cotton dust. NFER notes that employees can be so informed during other training programs or by supervisors, so that the added cost of this requirement is not considered significant. (Ex. 88e, p. 35) OSHA concurs with this view.

POSTING

The regulation requires posting warning signs at entrances to and in each workplace where cotton dust exposure is expected. RTI and NFER assumed the costs per sign to be $4 each. The final regulation requires that, where appropriate, bilingual signs be used. This is not likely to affect the cost per sign. NFER estimates cost of posting on the basis of 6 signs per gin (3 entrances and 3 work areas) for 3,262 gins at $78,288. Costs for 2,808 gins would be $67,392 under the same assumptions. These would be first year costs of $24 per gin. Recurring annual costs for occasional replacement of signs would not be significant.

RECORDKEEPING

Both RTI and NFER reported jointly the costs of monitoring and recordkeeping requirements of the proposed regulation. However, in the absence of a permissible exposure limit, the final regulation does not require the gins to monitor cotton dust levels periodically. Costs of keeping records for most of the other provisions are included in the costs of performing specific functions, such as medical surveillance examinations, or are incidental to normal maintenance of other records, such as those concerning employment and wages. While such costs are not expected to be significant for each gin, it does seem appropriate to assign some value to the extra effort required. Since NFER anticipated monitoring sample costs at $35 per sample per gin, including recordkeeping costs, a reasonable estimate of the extra costs per gin for recordkeeping might be $35 in the absence of payment for monitoring services. That amount for each of 2,808 gins would add $98,280 to annual costs of the regulation.

TOTAL COSTS—SUMMARY

The total costs of compliance for the final regulation are estimated to be a small fraction of the estimated costs of the proposed regulation. As shown in Table 1, the OSHA estimate of total costs of the final regulation is

$1,850,213 for the first year and $1,717,566 for ensuing years for the 2,808 gins expected to remain in operation. This is an average of $659 per gin for the first year and $612 annually for ensuing years, or 15 to 16 cents for each 480-pound bale ginned. OSHA does not consider these costs to be significant.

TABLE 1

	RTI	NFER	OSHA
Monitoring & Recordkeeping	3.5 million/yr	1.7 million/yr.	98,280 (recordkeeping only).
Workpractices	1 million	1.3 million	135,713.
			70,458.
Respirators	2.7 million 1st yr .1 recurring annual.	2.1 million 1st yr 1.6 recurring annual.	275,115 (single use).
Medical Surveillance	2.6 capital	2.4 capital	1,213,714.
	-.8 annual	-.7 1st yr.	
		-.5 annual thereafter	
Signs	28,000	78,000	67,392.
Totals	9,828,000	7,578,000	1,850,213 1st yr.
	1st yr	1st yr	1,717,566 annual.

NFER estimated the costs of attempting to comply with the proposed regulation. The capital costs for engineering controls, estimated at $581,937,000 dominated all other cost estimates. Other capital costs were $2,373,000 for spirometers and $495,000 for reusable respirators. The total capital costs of $584,805,000 constituted nearly 90 percent of first year costs. In addition, the costs of operation and maintenance and energy for the proposed engineering controls at $60,669,000 and the annualized cost of capital at $11,910,000 together constituted nearly 98 percent of the NFER estimate of annualized costs.

While the elimination of requirements for engineering controls in the final regulation had the most substantial cost reducing effects, there are two other significant differences between the proposed and final standards. Again, because there is no specific permissible exposure limit in the final standard, there are no requirements for monitoring. The costs of the monitoring requirements envisioned by the proposed regulation, were estimated by NFER at $1,712,000 a year and by RTI at 3.5 million per year, including recordkeeping. OSHA's recalculation indicates $98,280 as an estimate of record keeping costs attributable to the regulation in the absence of monitoring. Another cost reducing change is that, in the final regulation, use of disposable respirators is permitted. As a result, though daily replacement of disposable respirators for each worker may cost more than daily replacement of filters for reusable respirators, the capital and maintenance expenditures for reusable respirators are avoided. Thus the NFER estimate of annual costs of respirator requirements of the proposed regulation, $1,582,000, and RTI's estimate of 2.7 million were much greater than the $275,115 OSHA estimate to meet the needs of affected workers under the final regulation.

Only in the final regulation's provisions for medical surveillance are costs expected to be higher than those estimated for the proposed standard. The final regulation requires two sets of medical examinations, retesting and counseling, rather than one. Program costs would not double because more than half of those hired are likely to quit before being subject to the second examination and because tests taken for one employer need not be repeated by another. However, the OSHA estimate of medical program costs, at $1,213,714 a year, is more than double the NFER estimate of $467,000 and approximately fifty percent more than RTI's estimate of .8 million in annual costs because the OSHA estimate relates to more workers for the initial examination and includes annualized capital (spirometer) and training costs.

For the final regulation the medical surveillance program accounts for more than two-thirds of the costs, and the respirator program accounts for nearly half of the remainder.

LABOR

Most of the costs of compliance are directly related to worker protection from the hazards of cotton dust. At $612 a year for the average gin in continuing annual costs, or at 15¢ a bale, to be passed on (back) to the cotton grower, the costs of the final regulation are not burdensome, especially as compared to the NFER and RTI estimates of costs of the proposed standard.

OTHER ECONOMIC IMPACTS

RTI and NFER both dealt with the anticipated economic effects of the proposed regulation. These were reviewed in the preamble for the general regulation of cottondust (draft, pp. 62-83). NFER also analyzed the effects of the proposed regulation, but the NFER review dealt primarily with the anticipated impact of the costs of compliance upon financial profiles of a number of models of gin. In the sections below there is an attempt to follow the RTI outline of economic effects, with reference to the NFER conclusions where such reference is relevant and appropriate. In general, under either RTI and NFER analysis, the effects of the final cotton dust regulations for ginning are not significant.

Most of the additional production labor which RTI estimated would be required under the proposed standard were required for the operation and maintenance of engineering controls. However, as noted above, the final standard does not specify a permissible exposure limit, nor use of engineering controls. Therefore most of the additional labor anticipated for the provisions of the proposed regulation will not be required.

Additional labor requirements will be largely for the medical surveillance program. Lost work time for production workers as well as professional time of those administering tests are estimated as the costs of the additional labor. For the seasonal production workers, no significant impact of the marginal numbers of hours involved is anticipated; these hours are likely to be spent by the same workers ordinarily hired by gins, so that no noticeable effect on the local labor supply is likely to occur. For the professional and paraprofessional personnel required for the tests, there may be some temporary labor supply problems. However, if examinations are provided through use of contracted services that can serve a number of gins in a region, few persons will be required in each region. That is one way

OSHA foresees private sector organization will meet the requirements of the medical surveillance program, perhaps in conjunction with other health services programs in those areas. Any shortage is expected to be temporary because the numbers of extra persons required for each region and season are likely to be low. As a result, no significant effect on wage levels for such personnel is expected.

ENERGY

The preamble to the general cotton dust regulation (pp. 64-65), expected changes in energy consumption as a result of two types of effects: firstly, to the extent that increased costs of cotton production led to substitution of synthetic for cotton fibers, the petroleum sources of the synthetic fibers would be the equivalent of increased energy use; secondly, substantial amounts of energy were to be required in the mandated use of engineering controls for the attempt to reach a permissible exposure limit.

For the final regulation on cotton gins, however, OSHA does not anticipate any significant change in energy use. The total cost of the cotton dust regulation on gins, 15-16 cents per bale, is not likely to induce any fiber substitution. As noted above, much of that cost impact is expected to be shifted forward in the price of exported cotton, and the amount to be shifted to domestic textile users is not likely to be significant in comparison to any anticipations of increases in coal or petroleum prices and, consequently, in synthetic fiber prices. Moreover, since the final regulation does not mandate the use of engineering controls in gins, no change in the energy requirements of gins is expected on that account.

CAPITAL REQUIREMENTS, FINANCING

Both RTI and NFER devoted substantial attention to the analysis of capital costs and financing problems associated with the requirements of the proposed standard. The substantial capital requirements of the proposed regulation as estimated by both RTI and NFER gave rise to questions of the ability of gins to qualify for and to obtain financing. However, the final regulation does not require significant capital expenditures by the gins. The principal source of capital spending was the proposed requirement for engineering controls; this does not exist in the final regulation. Others were for monitoring equipment and reusable respirators, and these are not mandated by the final regulation. The only situations where capital expenditures are anticipated are for those gins who have to buy a sirormeter, at $727.50, and this would be the case only where they would not be able to obtain medical examinations through an outside, contracted service. The absence of significant capital expenditures indicates that the gins will not need to compete for funds in capital markets.

BENEFITS

OSHA policy and conclusions on benefit assessment are described in the preamble to the cotton dust regulation for other sectors. In the absence of current, directly relevant epidemiological studies, it is not possible to estimate anticipated declines in the incidence of byssinosis that would result from implementation of the provisions of the final regulation of cotton dust in gins. OSHA is confident that significant worker protection will result from mandated changes in work practices and from medical surveillance and respirator programs. Pending the result of further NIOSH study, more costly controls do not appear to be warranted. The estimated costs of the final regulation of cotton dust in gins are modest when compared to those estimated for the proposed regulation, and OSHA feels that the anticipated benefits in terms of improved worker health will fully justify such costs.

Based upon the foregoing and the record as a whole, OSHA finds that compliance with the standard is well within the financial capability of the ginning industry. Moreover, although the benefits of the standard cannot rationally be quantified in dollars, OSHA has given careful consideration to the question of whether these costs are justified in light of the hazards of exposure to cotton dust. OSHA concludes that these costs are minimal and necessary in order to effectuate the statutory purpose of the Act and to adequately protect employees from the hazards of exposure to cotton dust.

V. SUMMARY AND EXPLANATION OF THE STANDARD

The following sections discuss the individual requirements imposed by the standard for the protection of employees exposed to cotton dust in cotton gins. Each section includes an analysis of the record evidence, the recommendations of NIOSH, and the policy considerations underpinning the decisions on the particular provisions of the standard. Although this ginning standard has been severed from the standard regulating cotton dust exposure in other segments of the textile industry and in non-textile operations (29 CFR 1910.1043), many provisions of both standards are derived from the same data sources. Much of the information presented in the NIOSH criteria document, the preamble to the proposed standard for cotton dust, and elicited as comment and testimony during the rulemaking proceeding is equally pertinent to the development of this ginning standard. Accordingly, the rationale for many provisions in this ginning standard, such as medical surveillance and respirators, is parallel to the rationale for the comparable provisions in the general cotton dust standard. The discussion of those provisions in the preamble to 29 CFR 1910.1043 is referenced herein and not repeated detail.

(a) *Scope and Application.* This standard applies to all cotton gins. Although the standard is promulgated as a general industry standard, it has also been incorporated in 29 CFR Part 1928 as a standard applicable to agricultural operations. This ginning standard applies, therefore, to cotton gins located on farm sites as well as to cotton gins in other locations; it applies whether the gins are considered general industry or agricultural operations.

Several provisions of the standard will be effective September 4, 1978, whereas others will not be effective until September 4, 1979. Only the requirements for work practices, training, use of respirators during maintenance and repair and "blow down," and posting of signs will have to be implemented for this year's ginning season. The requirements for medical surveillance and respirators for employees who are at an increased risk from exposure to cotton dust, will not have to be implemented until the 1979 ginning season. OSHA's decision to delay for a year implementation of these medical surveillance and respirator requirements is based on its determination that the ginning industry, as a whole, will be unable to comply with these requirements in time for this year's ginning season. The ginning industry consists primarily of numerous small to moderate sized gins located in rural areas. As pointed out below, there is a question as to the availability of adequate numbers of physicians and other trained health specialists in these areas, and there will, consequently, be a need for these gin employers to develop means of obtaining the services necessary to provide the required medical surveillance for their employees. Since the determination that an employee is at an increased risk from exposure to cotton dust cannot be made before the initial medical examination of that employee, compliance with the requirement of the standard that such employee be furnished a respirator also cannot be undertaken until the 1979 ginning season.

(b) *Definitions.* The standard contains four definitions which remain unchanged from those of the proposal. The definition of "cotton dust" is discussed in detail in the preamble to 29 CFR 1910.1043 which regulates exposure to cotton dust in the textile and non-textile industries.

(c) *Methods of Compliance.* The proposed standard would have required engineering controls along with work practices as the preferred means of reducing dust concentrations in cotton gins below a specified permissible exposure limit and would have allowed the use of respirators only where such controls were infeasible or inadequate to reach the specified level. The final standard, however, sets no numerical permissible exposure limit, but rather requires work practices to reduce employee exposure. As indicated earlier, the changes in the proposed methods of compliance are a result of OSHA's decision not to establish a permissible exposure level for cotton gins and OSHA's determination that work practices, coupled with medical surveillance and other compliance requirements, will provide adequate protection to gin employees against the hazards of exposure to cotton dust.

(d) *Work Practices.* The final standard requires employers to establish and implement a written program of work practices which will reduce cotton dust exposure in each specific job. This requirement essentially replaces the proposed requirement for a written compliance program. The standard also prescribes specific work practices which, at a minimum, must be implemented. Since, as earlier indicated, the higher the level of exposure to cotton dust, the greater the health risk, work practices are necessary to reduce employee exposure and thus reduce the risk. Evidence in the rulemaking record established that work practices are important in reducing employee exposure in the cotton industry (See the discussion the *Work practices* in the preamble to 29 CFR 1910.1043). Considerable testimony supported the need for establishment of work practice programs in the cotton industry (Ex. 17, p. 4, 5-7; Ex 38; Ex. 1, p. 98; Ex. 16 p. IV-30). OSHA concludes that this evidence and testimony also support the usefulness of work practice programs in cotton gins. Since there are only three basic work areas in the gin (yard and suction, conditioning and ginning, and bale packaging, Ex. 88C, p. 2) and only a few distinct job functions, developing a work practice program should not be unduly burdensome.

The lack of a permissible exposure limit has a broad impact on work practice controls in gins. With no mandatory requirement for engineering controls, work practices are accorded greater significance as a worker protection strategy. Testimony presented by witnesses familiar with ginning supports the need for and importance of housekeeping and maintenance in reducing dust in gins (TR 901; Ex. 88, Minutes of National Ginners Technical Committee Meeting, pp. 5-8). Since intact gin machinery, relying on suction and gravity to move cotton, will by its nature contain dust, maintaining the integrity of duct work, sleeves, joints, and other components of the system, including machinery used for dust control, ventilation and production, will reduce dust dispersal.

Accordingly, the standard requires the employer to develop basic housekeeping provisions to maintain surfaces as free as practicable of accumulations of cotton dust. The standard also requires the employer to inspect, clean, maintain, and repair all gin engineering equipment and ventilation systems including power sources, ducts and filtration units pursuant to a detailed written program. Testimony presented during the hearings indicated that significant improvements in reduction of cotton dust levels in gins could be achieved by simply maximizing the effectiveness of gin machinery (TR 901; Ex. 88, Minutes of National Ginners Technical Committee Meeting, p. 5, 8). The employer would have to, at a minimum, tape or cover leaks in valves, flashing, elbows, and bands on air lines.

The gin standard requires that cotton and cotton waste shall be stacked, sorted, baled, dumped, removed, or otherwise handled by mechanical means except where the employer can show that it is infeasible to do so. Although much of the handling of cotton in many gins, especially the modern ones, is accomplished by automatic or enclosed systems, there are gins where these operations are performed manually. OSHA recognizes that in certain operations, substitutes for personal handling do not presently exist, for example, where cotton is sucked out of a trailer, or where the ginner routinely handles the cotton to aid in judging its condition, or handles cotton under emergency conditions, such as a fire or clog in the mechanisms (Ex. 88F, p. 12). The standard recognizes that where mechanical means are infeasible, the employers may select another method provided that it is the method which most effectively prevents or reduces employee exposure to cotton dust, thereby ensuring that the greatest protection is afforded to employee in such operations. Therefore, the infeasibility of mechanical means in certain operations does not detract from OSHA's position that employee handling of cotton or cotton waste products should be eliminated to the extent feasible. (Ex. 2) Therefore, those work practices and procedures which afford the most protection and which are feasible must be utilized to control employee exposure.

Housekeeping and maintenance activities cannot be wholly effective unless they are systematically and regularly done. Therefore, the standard requires the employer to develop a written plan which lists appropriate schedules for carrying out the housekeeping and maintenance operations mandated by this standard for minimizing worker exposure to cotton dust.

A number of specific work practices are also required. The standard prohibits the employer from using compressed air cleaning in "blow down" operations except where alternative means are not available. There was only limited comment on this provision by participants, who particularly addressed the issue of whether there should be a blanket prohibition of "blow down". In opposition to a prohibition of "blow down", one commenter mentioned the fire hazard posed by accumulation of fine particles (Ex. 88E, p. 7), and another raised by the safety hazard created when workers are forced to vacuum rafters and ceiling ducts (Ex. 88F, p. 13). OSHA agrees that, in view of the negative safety implications, "blow down" must be allowed where alternative means of cleaning are infeasible. OSHA has required that respirators be worn by workers performing the "blow down" and that other workers be required to leave the area during this cleaning operation.

The final standard also requires the implementation of specific housekeeping provisions, including floor sweeping with a vacuum or a method designed to reduce dispersal of dust. Testimony in the record supports the usefulness of housekeeping in reducing the levels in gins (Ex. 88, Minutes of National Ginners Technical Committee Meeting, Neitzel, p. 8). OSHA, in the preamble to 29 CFR 1910.1043, states that it accepts push-brooms or plows as a "method designed to reduce dispersal of dust," in the cotton textile industry and in non-textile industries. Furthermore, the injection of floor sweepings into a trash line could serve to remove a dust source from a work area (Ex. 88, Minutes * * *, Prikosovits, p. 60).

Some participants argued that implementation of work practices would result in lost productivity (Tr. 867). The discussion of lost productivity in the preamble to the cotton industry standard makes two points which apply equally to the issue in ginning. First, there is no evidence offered in support of claims that productivity will suffer because of the implementation of work practice controls. Second, there is testimony that certain work practices should have no effect on productivity or may indeed increase efficiency. For example, it is generally accepted that maintenance and repair of ventilation and production equipment will lead to increased efficiency. The record also demonstrates that inefficiency exists in the use of gin labor, apart from any effect expected from this standard (Ex. 88, Extract from

the Agricultural Handling and Processing Industry, USDA). OSHA anticipates that the implementation of work practice controls in the context of developing improved labor performance could lead to overall gains in productivity (Ex. 88, Extract * * *, p. 10).

(E) RESPIRATORY PROTECTION

The standard contains requirements for respiratory protection. Although the specific requirements for respiratory protection applicable to the ginning industry differ somewhat from the requirements applicable to general industry, OSHA is relying on the evidence elicited on respirators for the cotton industry and on its own expertise in formulating the ginning provisions. In gins, as in other workplaces, respirators cannot be considered to be the primary means of employee protection since respirators have many limitations which make them undesirable. One problem, described by several gin owners, is the refusal of the majority of workers to use respirators when these devices have been made available (Tr. 878, Tr. 3850; Ex. 105). Nevertheless, OSHA has concluded that respirators must be made available and their use required under certain circumstances. Support for respirator usuage during ginning operations is found in the testimony of the North Carolina Department of Agriculture (Ex. 107a, p. 8) and of David Smith, on behalf of the National Cotton Ginners Association (Ex. 88F, pp. 13-16). OSHA also notes testimony in the record showing that gin workers will wear respirators when dust levels are heavy (Ex. 105 e-1) or when the nature of the job (e.g. cleaning a lint filter) produces high dust exposure (Ex. 105 m).

The absence of a permissible exposure limit in this standard has two major effects on this provision for respiratory protection: (1) The use of respirators becomes a major mode for reducing dust exposure, and (2) all respirators are equally acceptable.

The employer is required to provide and assure the wearing of respirators by all exposed workers who manifest significant sensitivity to cotton dust as determined by medical surveillance. OSHA has provided the supervising physician with recommended criteria with which to determine whether a respirator should be required (Appendix A). Respirators have been shown to be effective in suppressing the symptoms of exposure to cotton dust in affected workers (Tr. 1665, 1679). The standard provides that where respirators are required under the provisions of the medical surveillance program, the employer shall provide a powered air purifying respirator for each employee who expresses a preference for such a device. As the preamble to the proposal stated, "the wearing of a non-powered respirator may be difficult for medical reasons, e.g. reduced pulmonary function or chronic lung disease." (41 FR 56506) Since there are no objective medical tests to determine an employee's ability to wear a negative pressure or demand type respirator, the determination must be left to the subjective evaluation of the employee.

The standard further requires the employer to assure use of respirators during maintenance operations such as "blow-down". OSHA recognizes that the worker is subject to excessive exposure to cotton dust during these operations, and requires the wearing of respirators during dusty operations even when engineering controls are in place to reduce general environmental dust limits (Ex. 107a, p. 8). Therefore OSHA requires that employees engaged in "blow down" wear respirators.

The standard also requires the employer to notify his employees of the availability of respirators and to provide a respirator to any employee requesting one. OSHA believes the respirator requirements do not place any undue burden on the employer indeed, some gin owners already furnish employees with respirators (Tr. 878; Tr. 3850; Ex. 105 e-1). OSHA is of the view that this requirement will protect workers who are at an increased risk but who have not yet been detected through medical surveillance, or who are reluctant to admit to subjective symptoms or who perceive that they have a temporary need for respiratory protection.

The protection factor upon which respirators are usually rated cannot be used as a basis for selecting respirators for use in gins since an exposure limit does not provide the necessary yard stick. Consequently, the respirator provision for the ginning industry contains the following changes from the proposed standard: (1) All NIOSH approved respirators are acceptable, including single use respirators; (2) the respirator table is dropped from the standard; (3) no specific qualitative or quantitative fit testing is required.

In allowing the use of any NIOSH approved respirators OSHA has given serious consideration to the question of whether adequate protection against the hazards of cotton dust exposure would be afforded gin employees. OSHA recognizes that single use (disposable) respirators have the lowest protection factor and that employers, on the basis of cost, may provide their employees only with single use respirators. As pointed out in greater detail in the Respirator Section of the accompanying standard, however, even the single use respirator has been shown to be help in reducing dust exposure and suppressing the effects of cotton dust. Moreover, it appears in general that employees prefer to use the lighter weight respirators because they are more comfortable. Wearer acceptance is most critical to the success of any respirator program and of increased importance in the context of gins since the standard requires the employer to provide a respirator to any employee who requests one. For the foregoing reasons, OSHA has concluded that allowing the use of any NIOSH approved respirator is appropriate.

While some workers may have difficulties with the wearing of respirators, these difficulties would be mitigated by the fact that, as earlier indicated, a gin worker spends half of his work period in the outside environment where the respirator could be removed. However, even though workers find relief through excursions into the fresh air, skin irritation can still result from the accumulation of dust around the facepiece seal. To prevent this irritation and to minimize the discomfort of respirator use, the standard requires that employees be allowed to periodically wash their faces and respirator facepieces, in order to remove any accumulation of dust.

While it is known that worker resistance to wearing respirators can be great, much can also be done to eliminate this problem (Tr. 3042; 4180-1). The employee must be properly trained to wear the respirator, to know why the respirator is needed, and to understand the limitations of the respirator. An understanding of the hazard involved is necessary to enable employees to take steps necessary for their own protection.

The standard further requires that the employer institute a respiratory protection program in accordance with 29 CFR 1910.134. That standard contains basic requirements for proper selection, use, cleaning, and maintenance of respirators.

The standard requires the employer to provide respirators for protection from exposure to cotton dust "at no cost to the employee". OSHA has allocated the costs of respirators required for protection from exposure to the employer in order to effectuate the purposes of the Act. The employer will be in the best position to provide the correct type of equipment and keep it in repair. The employers' costs in providing respirators were considered in the economic assessment. This language in the standard makes explicit the position which has long been implicit in all OSHA health standard proceedings under section 6(b) of the Act.

(F) MEDICAL SURVEILLANCE

The standard requires each employer to institute a medical surveillance program for all gin employees exposed to cotton dust. The need for a medical

surveillance program in all workplaces and the evidence supporting diagnostic procedures set forth in the standard were presented in great detail in the Medical Surveillance section of the preamble to 29 CFR 1910.1043, Occupational Exposure to Cotton Dust. The need for medical surveillance in gins is increased by the absence of an environmental exposure level in the cotton dust standard applicable to ginning, and the consequent reliance upon screening to identify and aid acute reactors.

The standard provides for administration of a standard respiratory questionnaire (Appendix B Sp II) or Spanish questionnaire (Appendix B IV) for Spanish speaking workers prior to each ginning season. The standard also requires pulmonary function measurements including FVC and FEV_1 to be performed at the time of initial assignment, before each employee enters the operating gin. This requirement provides for an initial assessment of each employee's fitness for exposure to cotton dust and establishes a baseline health condition against which changes in an employee's health may be compared. The spirometry testing must be repeated during the ginning season, after at least 14 days of employment and before the termination of employment for the season. The measurements must be performed before the employee enters the gin on the first day of work following at least 24 hours or one working day away from work. The pulmonary function testing must be repeated during the shift as specified in section (e)(3) of the standard. The purpose of retesting during the ginning season is to detect acute response to cotton dust among gin workers. If an employee changes his job and goes to another gin during the season, the second employer will not be required to provide medical testing already completed at a previous workplace, provided that prior administration of medical surveillance is demonstrated through transfer of the testing results. The standard also requires that the employer provide each affected employee with an opportunity for medical examination and pulmonary function testing on an annual basis.

The framework for medical surveillance in gins is generally the same as that applied in the cotton industry. 29 CFR 1910.1043. There was little testimony of substance concerning the implementation of medical surveillance in the ginning industry because of the general posture of many industry participants that such a program was unnecessary and infeasible (Ex. 107a; Ex. 88a, p. 8). Upon reviewing all the evidence in the record, OSHA concludes that medical surveillance is of critical importance to thousands of exposed gin workers. OSHA relies on the evidence in Health Effects to support this conclusion.

The question of "feasibility" is more complex. Several arguments against the feasibility of medical surveillance requirements were made during the cotton dust hearing. The first argument is basically logistical: the ginning industry consists of numerous small to moderate sized gins often separated from each other and from hospitals or medical practitioners by substantial distances (Ex. 88c; Ex. 88f; Tr. 5051). In any one cotton growing region, many gins might be starting up simultaneously (Tr. 3850; Tr. 5051). During the course of the season, each gin could expect to acquire and lose some workers through turnover (Tr. 4007-8). Finally, many ginners and their representatives complained that the preplacement requirement and the follow-up examination would disrupt gin routines (Tr. 867). They argued that, not only might testing be disruptive, but it would be unduly costly, especially if charges for local diagnostic services were separately applied to each gin hire (Tr. 971-3; Tr. 3928).

Upon reviewing the testimony on medical surveillance in gins and in the cotton industry at large, OSHA has concluded, contrary to the contentions of the ginning industry, that medical surveillance as outlined in this final standard is feasible. While testimony has identified several obstacles to be overcome, there is no basis for the overwhelming pessimism of the industry. Claims of total infeasibility must be viewed against a record devoid of any evidence indicating any attempt by the industry to establish a medical screening program. In contrast to the lack of interest of the industry as a whole or any individual ginner, Palmer and his NIOSH team were successful in implementing a prototypical medical surveillance program during their study in Texas and New Mexico (Ex. 2, No. 59; Ex. 18). The basic structure of Palmer's screening program is incorporated in the provisions of this standard.

The proposed provisions which the industry found to be infeasible have also been changed in the final standard to facilitate implementation by ginners. First, the content of the screening programs has been altered to permit pulmonary function measurements after one working day or 24 hours in order to fit into a typical gin worker's work schedule or to follow a brief shut-down (Ex. 88, p. 2). The subjective part a Spanish version of the questionnaire where a language barrier could be an impediment to an expeditious administration (Tr. 758-9; Ex. 88f, p. 6). OSHA also relies on testimony indicating the relative ease and simplicity of the few basic means of the required medical surveillance. For example, an experienced technician can secure satisfactory tracings on the subject in about 8-10 minutes. Calculations of FVC and FEV_1 are simple and on some instruments could be read directly from the chart. The cost, size and the ease of handling of the spirometers depend on the needs and resources of the people using the equipment. Although there are expensive, computerized, non-portable units used mainly in research, there are portable, reliable and inexpensive spirometers on the market which meet minimum spirometry standards. These portable units can be used to conduct tests required by the standard.

Secondly, while the standard requires each medical surveillance program to be under the supervision of a physician, the standard permits the use of nurses, health professionals, and appropriately trained technicians in place of physicians in the implementation of the standard. Once personnel has been properly trained, they can provide the on-site administration of medical surveillance without any sacrifice in protection afforded the gin employee. Minimum training requirements are established as part of this standard to assure quality of testing.

Thirdly, the standard takes turnover into consideration by allowing employers to co-ordinate medical surveillance over the course of the ginning season. Thus, if an employee has been provided with a baseline examination before moving to another gin, the second employer need only provide the retest. Any employer hiring the individual during the remainder of the season will not be required to screen him.

Furthermore, OSHA envisions the employment of other resources in the implementation of the standard. For example, in the case of gin employers located too far from cities, joint action can solve individual problems. Vans similar to that used by Palmer, containing some basic, easily obtainable equipment, is one obvious suggestion. Co-operative action would further serve to reduce the per-patient charge beyond that estimated on the basis of single diagnostic examinations. There is some evidence of availability of such services at present (Tr. 3926, 3928). OSHA is hopeful that the United States Department of Agriculture which offered its cooperation during the hearing will also be instrumental in developing viable solutions to the problems of individual gin owners faced with the need to find proper medical services (Ex. 92d, p. 13-14). For example, the Agricultural Extension Service might disseminate information which could facilitate implementation of the standard.

For all these reasons, OSHA believes that medical surveillance is feasible in the cotton ginning industry. This conclusion is grounded on the assumption

that the members of the industry will make a good faith effort to use all resources available to them. Even if in the case of individual gins or specific localities for which implementation of medical surveillance may be difficult, the Agency is compelled by the health evidence in the record to require employers to undertake the efforts necessary to comply. Medical surveillance has a dual purpose in the framework of the standard: not only does it serve to identify susceptible workers, but it triggers the use of respirators which protect employees against the hazard of cotton dust.

(g) EMPLOYEE EDUCATION AND TRAINING

The final standard for ginning requires each employer to provide each employee with access to this regulation and to inform each employee of the specific nature of operations which could result in exposure to cotton dust. The employer is also responsible for providing employee training programs which would include information on mandated work practices, respirators, and medical surveillance as well as the signs and symptoms of respiratory diseases, and a review of the entire standard.

Scant testimony on education and training provisions applied to ginning was introduced into the hearing record (Ex. 88F, pp. 17-18). Nevertheless, OSHA views the reasoning supporting employee education and training in other areas of the cotton industry as equally applicable in the ginning industry. As stated in the proposal, information and training are essential for the protection of employees because employees can do much to protect themselves if they are made aware of the hazards in the workplace. This is especially true in ginning where the standard relies on respirators, work practices and in particular, medical surveillance provisions, to afford worker protection. The need for worker understanding of and cooperation in the implementation of these protection programs is well grounded in logic and documented in the record. There is also evidence that, in the past, workers have not been informed of the hazards in the workplace or the purpose of medical surveillance and respirators even when these programs have been established.

OSHA believes that a medical surveillance program, especially one which can be waived by employees, cannot be wholly effective unless workers understand the nature of the disease and its continuing hazard. This standard's reliance upon medical surveillance as a primary means of identifying and protecting sensitive workers makes imperative worker understanding and acceptance of the program's purpose and goals. Since a significant percentage of the local and the migrant labor pool in the Southwest and West communicate in Spanish rather than English (e.g., Tr. 3910; Tr. 3747; Tr. 3752), the standard provides for bilingual education and training (Ex. 88F, pp. 5-6). Any employer whose workforce consists of a significant percentage of Spanish speaking workers who cannot communicate effectively in English must provide bi-lingual administration of the provisions of this section. In setting this requirement, OSHA recognizes that some gins already provide instructions in Spanish, both oral and written, for the benefit of gin work crews. Consequently, the requirements of this provision do not appear, on the basis of the evidence in the record, to be infeasible or unduly burdensome for the gins employing a significant percentage of Spanish-speaking workers.

The evidence for the general cotton industry also supports the requirement, applied by this standard to the ginning segment of the industry, that employers post the regulation and its appendices in the workplace at a public location which is readily accessible to the employee, in addition to making copies available to employees upon request. One participant suggested that workers can be easily intimidated if they must request the material from a company supervisor. Moreover, once identified, a worker might be fearful of taking steps with regard to non-compliance, such as requesting an OSHA inspection. OSHA is aware of worker fears referred to in connection with Dr. Alan Palmer's study and testimony (Tr. 789-91, 806). Further, OSHA believes that worker fears of repercussions when exercising rights under the regulations, whether real or imagined, would diminish worker participation in implementing the standard. On the other hand, the posting requirement resolves worker concerns without adding any burden to the employer.

As in the case of the general cotton dust standard, OSHA considered the recommendation of several participants that OSHA provide materials and a uniform format for employee education and training. For the reasons set forth in the preamble to 29 CFR 1910.1043, OSHA has not adopted this provision in full. However, OSHA has included in the ginning standard, as in 29 CFR 1910.1043, a requirement that employers include as part of their training programs and distribute to employees any materials, relating to the Occupational Safety and Health Act, the regulations issued pursuant to that Act, and to this ginning standard, which are made available by OSHA.

(h) SIGNS

The final standard requires that warning signs be posted at gins at employee entrances. The standard specifies the legend for these signs. The purpose of the sign is to warn employees that they are entering an area where there is cotton dust exposure which may cause byssinosis.

The proposal would only have required signs where respirators were mandated. However, during the course of the hearing the need for these additional posting provisions was clearly demonstrated. The reasons supporting the usefulness of signs in cotton mills apply equally persuasively to cotton gins (Tr. 3052).

OSHA believes that it is important, and indeed section 6(b)(7) of the Act requires, that appropriate forms of warning, as necessary, be used to apprise employees of the hazards to which they are exposed in the course of their employment. OSHA believes as a matter of policy, that employees should be given the opportunity to make informed decisions on whether to work at a job under the particular working conditions existent. Furthermore, OSHA believes that when the control of potential safety and health problems involves the cooperation of employees, the success of such a program is highly dependent upon the worker's understanding of the hazards attendant to that job.

In light of the serious nature of the hazard of exposure to cotton dust, OSHA does not believe that periodic training alone will adequately apprise employees of the hazard. However, coupled with the training requirements, OSHA believes that the requirement to post signs will adequately do so. Accordingly, the standard requires gin employers to post warning signs.

As recommended in the criteria document the standard requires that warning signs be printed both in English and in Spanish if the workforce consists of a significant percentage of Spanish-speaking employees. OSHA is aware that warning signs are customarily printed in Spanish in gins located in the Southwest and West.

(i) RECORDKEEPING

OSHA considers it necessary that cotton gin employers retain records of medical surveillance. The purpose of those records is, both to assure the employer's compliance with the medical surveillance requirements, and to collect data vital to epidemiological and diagnostic investigations. Additionally, medical surveillance records make the gin employer aware of the incidence of respiratory effects in his establishment, assist him to focus on such aspects of his operations which may materially impair the health of his employees, and identify for him operations where exposure needs to be reduced through implementation of additional or different work practices.

Medical records also assist the employees' examining physicians to accurately diagnose and treat any health problem and assure proper evaluation of their health.

The few adverse comments directed to the recordkeeping provisions in the particular case of ginning complained of the paper work burden the requirement would pose for single gins (Tr. 3994) and small hospitals conducting medical surveillance for gin employers (Tr. 3998). High turnover coupled with the long retention period for transient employees appeared to be the core of this criticism (Ex. 105e-1, p. 6).

OSHA concludes, however, that the advantages of retaining medical records listed above far outweigh the burden to the employer. OSHA's conclusions as to the need for retention of medical records by the cotton industry as a whole are also relevant to the questions raised concerning retention of these records in ginning. As stated in the preamble to 29 CFR 1910.1043, a retention period is necessary in order to develop sufficient longitudinal dose-response data.

Furthermore, OSHA has greatly reduced the paperwork required of employers by limiting recordkeeping to medical records, and reduced the retention period from the proposed 20 years to 10 years. The reduction in the retention period appears to better reflect the average career of a gin worker, and thus to insure the gathering of the necessary data in a shorter period of time.

This final standard, in conformity with other OSHA standards, requires that all records required to be maintained by the standard be made available to the Director and Assistant Secretary, and that medical records be available to a physician or other individual designated by an employee or former employee. More specifically, it is necessary for the Assistant Secretary and Director to have access to records for enforcement and research purposes. The physician needs access to medical records for diagnostic purposes.

The transfer provisions are unchanged, except for the addition that records for research are no longer to be mailed by registered mail for NIOSH at the expiration of the retention period or when the employer ceases to do business. NIOSH is to be notified at the expiration of the retention period so it can determine if the records are still needed for research purposes.

(j) EFFECTIVE DATE

In order to ensure that affected employers and employees will be informed of the existence of the provisions of this standard, and that employers are given an opportunity to familiarize themselves and their employees with the existence of the new requirements, this standard is not effective until September 4, 1978.

Some provisions of the standard have different start-up dates. The medical surveillance requirement of paragraph (e) and the requirement in paragraph (d)(2)(i) for respirators for workers identified as being at an increased risk are effective September 4, 1979. This date has been selected to make it clear that these provisions do not apply for the 1978 ginning season, but apply starting with the 1979 ginning season. Start-up dates for other requirements of the standard are the effective date of the standard for all operating gins.

APPENDICES

Appendices B, C, and D included with this standard are incorporated as a part of this standard and impose additional mandatory obligations on covered employers. Appendices A and E contain recommendations and, therefore, are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligation.

IX. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Ave. NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Title 29, Code of Federal Regulations, is hereby amended by adding a new § 1910.1046a to Part 1910, and by adding a cross-reference to the new section in § 1928.21 of Part 1928, as set forth below.

In addition, for all reasons discussed above, pursuant to section 6(b)(8) of the Act (84 Stat. 1594: 29 U.S.C. 655), OSHA has determined that this new standard in § 1910.1046a is more effective than the existing national consensus standard in 29 CFR 1910.1000, Table Z-1 and that the new standard will better effectuate the purposes of the Act.

Signed at Washington, D.C., this 16th day of June 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

1. Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended by adding a new § 1910.1046a and Appendices A, B, C, D, and E to read as follows:

§ 1910.1046a Exposure to cotton dust in cotton gins.

(a) *Scope and application.* This section applies to the control of employee exposure to cotton dust in cotton gins.

(b) *Definitions.* For the purpose of this section:

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee;

"Blow down" means the cleaning of equipment and surface with compressed air;

"Cotton dust" means dust present in the air during the handling or processing of cotton which may contain a mixture of many substances including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, non-cotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods.

"Director" means the Director of the National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare, or designee.

(c) *Work practices.* Each employer shall immediately establish and implement a written program of work practices, which shall minimize cotton dust exposure for each specific job. Where applicable, the following work practices shall be included in the written work practices program:

(1) *General.* (i) All surfaces shall be maintained as free as practicable of accumulations of cotton dust.

(ii) The employer shall inspect, clean, maintain and repair, all engineering control equipment, production equipment and ventilation systems including power sources, ducts, and filtration units of the equipment, and at a minimum, tape or cover leaks in valves, flashing, elbows, and bands on air lines.

(iii) Cotton and cotton waste shall be stacked, sorted, baled, dumped, removed or otherwise handled by mechanical means except where the employer can show that it is infeasible to do so. Where infeasible, the method used for handling cotton and cotton waste shall be the method which most effectively reduces exposure to the lowest level feasible.

(2) *Specific.* (i) Floors and other accessible surfaces contaminated with cotton dust may not be cleaned by the use of compressed air.

(ii) Cleaning of clothing with compressed air is prohibited.

(iii) Floor sweeping shall be performed by a vacuum or with methods designed to minimize dispersal of dust.

(iv) Compressed air "blow-down" cleaning shall be prohibited, except where alternative means are not feasible. Where compressed air "blow-down" is done, respirators shall be worn by the employees performing the "blow-down," and employees in the area whose presence is not required to perform the "blow-down" shall be required to leave the area during this cleaning operation.

(3) *Workpractice plan.* A written workplace plan shall be kept which shall list appropriate schedules for carrying out housekeeping operations, and for cleaning and maintaining dust collection equipment. The plan shall be made available for inspection by the Assistant Secretary.

(d) *Use of Respirators*—(1) *General.* Where the use of respirators is required under this section, the employer shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this paragraph (d).

(2) *Use of respirators.* Respirators shall be used in the following circumstances:

(i) By workers identified by medical surveillance under paragraph (e)(6)(i)(*d*) of this section; or

(ii) During operations such as maintenance and repair activities, in which work practice controls are not feasible; or

(iii) In operations specified under paragraph (c)(2)(iv) of this section.

(3) *Availability upon request.* Respirators shall be made available upon request, to any employee exposed to cotton dust

(4) *Respirator selection.* (i) Where respirators are required under this section, the employer shall select, provide and assure the use of any respirator tested and approved for protection against dust by the National Institute of Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(ii) Where respirators are required by this paragraph, the employer shall provide either any NIOSH approved respirator or at the option of each affected worker, a NIOSH approved powered air purifying respirator with a high efficiency filter.

(5) *Respirator program.* The employer shall institute a respirator program in accordance with § 1910.134 (b), (d), (e), and (f).

(6) *Respirator usage.* (i) The employer shall assure that the respirator used by each employee exhibits minimum facepiece leakage and that the respirator is fitted properly.

(ii) The employer shall allow each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected by the employee, and shall maintain an adequate supply of filter elements for this purpose.

(iii) The employer shall allow employees who wear respirators to wash their face and respirator facepiece to prevent skin irritation associated with respirator use.

(e) *Medical surveillance*—(1) *General.* (i) Each employer who has an operating gin in which cotton dust is present shall institute a program of medical surveillance for all employees exposed to cotton dust.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and are provided without cost to the employee.

(iii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section, shall complete a NIOSH approved training course in spirometry.

(2) *Initial examinations.* For each ginning season, at the time of initial assignment, the employer shall provide each employee who is or may be exposed to cotton dust, with an opportunity for medical surveillance that shall include:

(i) A medical history;

(ii) The standardized questionnaire in Appendix B; and

(iii) A pulmonary function measurement, including a determination of forced vital capacity (FVC) and forced expiratory volume in 1 second (FEV_1), and the percentage that the measured values of FEV and FVC differ from the predicted values, using the standard tables in Appendix C.

(iv) Based upon the questionnaire results, each employee shall be graded according to Schilling's byssinosis classification system.

(3) *Mid-season retest.* The determinations required under paragraph (e)(2) of this section shall be made again for each employee after at least 14 days of employment and before the termination of employment for the season. The determinations shall be made following at least 24 hours or 1 working day after previous exposure to cotton dust. The pulmonary function tests shall be repeated during the shift, no sooner than 4 and no more than 10 hours after the beginning of the work shift; and, in any event, no more than 1 hour after cessation of exposure.

(4) *Periodic examinations.* (i) The employer shall provide the medical surveillance under this paragraph (e) annually.

(ii) A comparison shall be made between the current examination results and those of previous examinations and a determination made by the physician as to whether there has been a significant change.

(iii) An employee whose FEV_1 is less than 60 percent of the predicted value shall be referred to a physician for a detailed pulmonary examination.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its Appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) A description of any personal protective equipment used or to be used; and

(iv) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(6) *Physician's written opinion.* (i) The employer shall obtain and furnish the employee with a copy of the written opinion from the examining physician containing the following:

(*a*) The results of the medical examination and tests, including any determinations made under paragraph (e)(4)(ii) of this section.

(*b*) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to cotton dust;

(*c*) The physician's recommended limitations upon the employee's exposure to cotton dust or upon the employee's use of respirators;

(*d*) The physician's recommendations for the employee's use of a respirator where dust effects could be suppressed by respirator use;

(*e*) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific findings or diagnosis unrelated to occupational exposure.

(7) *Spanish speaking employees.* An employer whose workforce consists of a significant percentage of Spanish speaking workers who cannot communicate effectively in English shall provide bi-lingual administration of the medical surveillance requirements, including use of the Spanish questionnaire provided in Appendix B.

(8) *Non-duplication of medical surveillance.* (i) During any one ginning season, an employer is not required to provide medical surveillance as described in this paragraph (f) of this section for any employee who can demonstrate that both the background medical surveillance and the mid-season retest required by paragraph (e) of this section were administered during that ginning season while in the employment of another gin employer.

(ii) If an employee can demonstrate that the background medical surveillance has been administered but not the mid-season retest, the employer shall provide the mid-season medical retest of paragraph (e)(3) of this section, and comply with provisions of paragraphs (e)(4)–(e)(6) of this section. Where the employer is administering only the mid-season retest, the employer shall provide the mid-season retest after at least 14 days of employment in his gin and before termination of employment for the season.

(iii) For purposes of this section, where the employer does not adminis-

ter any medical surveillance, the employer shall be satisfied that an employee has undergone the medical surveillance required under paragraphs (e)(1) to (e)(3) of this section upon receipt of written notification from the employer who administered the test, or upon receipt by the physician supervising the program, of a copy of the results of medical surveillance.

(f) *Employee education and training.*—(1) *Training program.* (i) Each employer who operates an active gin shall institute a training program for all his employees, prior to initial assignment, and shall assure that each employee is informed of the following:

(*a*) The specific nature of the operations which could result in exposure to cotton dust;

(*b*) The measures, including work practices, required by paragraph (c) of this section, necessary to protect the employee from excess exposures;

(*c*) The purpose, proper use and limitations of respirators required by paragraph (d) of this section;

(*d*) The purpose for and a description of the medical surveillance program required by paragraph (e) of this section; and other information which will aid exposed employees in understanding the hazards of cotton dust exposure; and

(*e*) The contents of this standard and its appendices.

(2) *Access to training materials.* (i) Each employer shall post a copy of this section with its Appendices in a public location at the workplace, and shall, upon request, make copies available to employees.

(ii) The employer shall provide all materials relating to the employee training and information program to the Assistant Secretary and the Director upon request.

(iii) An employer whose workforce consists of a significant percentage of Spanish speaking employees who cannot communicate effectively in English shall provide bi-lingual administration of the provisions of this section.

(iv) In addition to the information required by paragraph (f)(1), the employer shall include as part of his training program and distribute to employees any materials pertaining to the Occupational Safety and Health Act, the regulations issued pursuant to that Act, and to this cotton dust standard which are made available by the Assistant Secretary.

(g) *Signs.* (1) The employer shall post the following warning sign in each work area where there is potential exposure to cotton dust:

WARNING:

COTTON DUST WORK AREA MAY CAUSE ACUTE OR DELAYED LUNG INJURY (BYSSINOSIS).

(2) An employer whose workforce consists of a significant percentage of Spanish-speaking employees who cannot communicate effectively in English shall provide bilingual versions of the sign required by paragraph (g)(1) of this section.

(h) *Recordkeeping.*—(1) *Medical surveillance.* (i) The employer shall establish and maintain an accurate medical record for each employee subject to medical surveillance required by paragraph (e) of this section.

(ii) The record shall include:

(*a*) The name, social security number and description of the duties of the employee;

(*b*) A copy of the medical surveillance results including the medical history, questionnaire responses, results of all tests and the physician's recommendation;

(*c*) A copy of the physician's written opinion;

(*d*) Any employee medical complaints related to exposure to cotton dust;

(*e*) The type of protective devices worn, and length of time worn;

(*f*) A copy of this standard and its appendices, except that the employer may keep one copy of the standard and its appendices for all employees: *Provided,* That he references the standard in the medical surveillance records of each employee.

(ii) The employer shall maintain this record for at least 10 years.

(2) *Availability.* (i) The employer shall make available upon request all records required to be maintained by paragraph (h) of this section to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall make available an employee's medical records required by this section, for examination and copying, to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employee.

(3) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by paragraph (h) of this section.

(ii) Whenever the employer ceases to do business, and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the Director at least 3 months prior to the disposal of such records and shall transmit those records to the Director if he requests them within that period.

(i) *Effective date.* This standard shall become effective on September 4, 1978 except for provisions requiring medical surveillance and respirators for employees who are at an increased exposure to cotton dust which shall become effective on September 4, 1979.

(j) *Appendices.* (1) Appendices to this section are incorporated as part of this section and the contents of these appendices are mandatory.

APPENDIX A.—*Recommendations for classification and respiratory use of workers exposed to cotton dust in gins*

Functional severity	FEV 1 (percent of predicted)	FEV 1 (percent)
F0	Greater than 80 (no evidence of chronic ventilatory impairment).	(a) −4 to 0; or more. (b) −9 to −5 or more. (c) −10 or more.
F1	60–79 (evidence of slight to moderate irreversible impairment of ventilatory capacity).	(a) −4 to 0; or more. (b) −5 or more.
F2	Less than 60 (evidence of moderate to severe irreversible impairment of ventilatory capacity).	....

NOTE.—These recommendations are generally accepted criteria for classification and management of workers exposed to cotton dust. Since medical removal provisions are not included in the standard, OSHA believes them to constitute equally useful criteria for the physician to use in determining whether a gin worker is suffering any degree of functional severity which calls for respiratory protection.

Although these criteria are advisory, a worker who falls in the F2 category of functional severity shall be sent to a pulmonary physician according to § 1910.1046a(e)(4)(iii).

APPENDIX B-I
RESPIRATORY QUESTIONNAIRE

A. IDENTIFICATION DATA

PLANT_____ SOCIAL SECURITY NO._____
DAY MONTH (figures) YEAR (last 2 digits)

NAME_____ DATE OF INTERVIEW_____
(Surname)

_____ _____ DATE OF BIRTH_____
(First Names) M F

ADDRESS_____ AGE_____ (8,9) SEX_____ (10)

RACE_____ W N IND. OTHER (11)

INTERVIEWER: 1 2 3 4 5 6 7 8 (12)

WORK SHIFT: 1st_____ 2nd_____ 3rd_____ (13) STANDING HEIGHT_____ (14,15)

PRESENT WORK AREA WEIGHT_____ (16,18)

If working in more than one specified work area, X area where most of the work shift is spent. If "other," but spending 25% of the work shift in one of the specified work areas, classify in that work area. If carding department employee, check area within that department where most of the work shift is spent (if in doubt, check "throughout"). For work areas such as spinning and weaving where many work rooms may be involved, be sure to check the specific work room to which employee is assigned — if he works in more than one work room within a department classify as 7 (all) for that department.

	Workroom Number	(19) Open	(20) Pick	Area	(21) Card #1	(22) #2	(23) Spin	(24) Wind	(25) Twist	(26) Spool	(27) Warp	(28) Slash	(29) Weave	(30) Other
AT RISK (cotton & cotton blend)	1			Cards										
	2			Draw										
	3			Comb										
	4			Rove										
	5 —			Thru Out										
	6													
	7 - (all)													
Control (synthetic & wool)	8													
Ex-Worker (cotton)	9													

Use actual wording of each question. Put X in appropriate square after each question. When in doubt record 'No'. When no square, circle appropriate answer.

B. COUGH

Do you usually cough first thing in the morning? (on getting up)† ____ Yes ____ No ____ (31)
(Count a cough with first smoke or on "first going out of doors." Exclude clearing throat or a single cough.)

Do you usually cough during the day or at night? ____ Yes ____ No ____ (32)
(Ignore an occasional cough.)

If 'Yes' to either question (31-32):

Do you cough like this on most days for as much as three months a year? ____ Yes ____ No ____ (33)

Do you cough on any particular day of the week? ____ Yes ____ No ____ (34)

(1) (2) (3) (4) (5) (6) (7)

If 'Yes': Which day? Mon. Tues. Wed. Thur. Fri. Sat Sun. (35)

C. PHLEGM or alternative word to suit local custom.

Do you usually bring up any phlegm from your chest first thing in the morning? (Count phlegm with the first smoke or on "first going out of doors." Exclude phlegm from the nose. Count swallowed phlegm.) (on getting up)† ____ Yes ____ No ____ (36)

Do you usually bring up any phlegm from your chest during the day or at night? (Accept twice or more.) ____ Yes ____ No ____ (37)

If 'Yes' to either question (36) or (37):

Do you bring up phlegm like this on most days for as much as three months each year? ____ Yes ____ No ____ (38)

If 'Yes' to question (33) or (38):

How long have you had this phlegm? (cough)
(Write in number of years

(1) ☐ 2 years or less
(2) ☐ More than 2 years-9 years
(3) ☐ 10-19 years
(4) ☐ 20+ years

†These words are for subjects who work at night

D. CHEST ILLNESSES

In the past three years, have you had a period of (increased) †cough and phlegm lasting for 3 weeks or more? ____

(1) ☐ No (40)
(2) ☐ Yes, only one period
(3) ☐ Yes, two or more periods

†For subjects who usually have phlegm

During the past 3 years have you had any chest illness which has kept you off work, indoors at home or in bed? (For as long as one week, flu?) ____ Yes ____ No ____ (41)

If 'Yes' to (41): Did you bring up (more) phlegm than usual in any of these illnesses? ____ Yes ____ No ____ (42)

If 'Yes' to (42): During the past three years have you had:

Only one such illness with increased phlegm? (1) ☐ (43)

More than one such illness: (2) ☐ (44)

Br. Grade ____

E. TIGHTNESS

Does your chest ever feel tight or your breathing become difficult? _____ Yes _____ No ____ (45)

Is your chest tight or your breathing difficult on any particular day of the week? (after a week or 10 days away from the mill) _____ Yes _____ No ____ (46)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (47)

(1) Sometimes (2) Always

If 'Yes' Monday: At what time on Monday does your chest feel tight or your breathing difficult? 1 ☐ Before entering the mill (48)

2 ☐ After entering the mill

(Ask only if NO to Question (45)

In the past, has your chest ever been tight or your breathing difficult on any particular day of the week? _____ Yes _____ No ____ (49)

If 'Yes': Which day? Mon. (3) Tues. (4) Wed. (5) Thur. (6) Fri. (7) Sat. (8) Sun. (50)

(1) Sometimes (2) Always

F. BREATHLESSNESS

If disabled from walking by any condition other than heart or lung disease put "X" here and leave questions (52-60) unasked. ☐ (51)

Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? _____ Yes _____ No ____ (52)

If 'No', grade is 1. If 'Yes' proceed to next question

Do you get short of breath walking with other people at an ordinary pace on the level? _____ Yes _____ No ____ (53)

If 'No', grade is 2. If 'Yes', proceed to next question

Do you have to stop for breath when walking at your own pace on the level? _____ Yes _____ No ____ (54)

If 'No', grade is 3. If 'Yes', proceed to next question

Are you short of breath on washing or dressing? _____ Yes _____ No ____ (55)

If 'No', grade is 4. If 'Yes', grade is 5.

Dyspnea Grd. _____ (56)

ON MONDAYS:

Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? _____ Yes _____ No ____ (57)

If 'No', grade is 1. If 'Yes', proceed to next question

Do you get short of breath walking with other people at an ordinary pace on the level? _____ Yes _____ No ____ (58)

If 'No', grade is 2. If 'Yes', proceed to next question

Do you have to stop for breath when walking at your own pace on the level? _____ Yes _____ No ____ (59)

If 'No', grade is 3. If 'Yes', proceed to next question

Are you short of breath on washing or dressing? _____ Yes _____ No ____ (60)

If 'No', grade is 4. If 'Yes', grade is 5

B. Grd. _____ (61)

G. OTHER ILLNESSES AND ALLERGY HISTORY

Do you have a heart condition for which you are under a doctor's care? ____ Yes ____ No ____ (62)

Have you ever had asthma? Yes No (63)

If 'Yes', did it begin: (1) ☐ Before age 30
(2) ☐ After age 30

If 'Yes' before 30: did you have asthma before ever going to work in a textile mill? ____ Yes ____ No ____ (64)

Have you ever had hay fever or other allergies (other than above)? ____ Yes ____ No ____ (65)

H. TOBACCO SMOKING*

Do you smoke?

Record 'Yes' if regular smoker up to one month ago. (Cigarettes, cigar or pipe) ____ Yes ____ No ____ (66)

If 'No' to (63).

Have you ever smoked? (Cigarettes, cigars, pipe. Record 'No' if subject has never smoked as much as one cigarette a day, or 1 oz. of tobacco a month, for as long as one year.) ____ Yes ____ No ____ (67)

If 'Yes' to (63) or (64); what have you smoked and for how many years? (Write in specific number of years in the appropriate square)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	
Years	(<5)	(5-9)	(10-14)	(15-19)	(20-24)	(25-29)	(30-34)	(35-39)	(>40)	
Cigarettes										(68)
Pipe										(69)
Cigars										(70)

If cigarettes, how many packs per day? (Write in number of cigarettes)

(1) ☐ less than 1/2 pack (71)
(2) ☐ 1/2 pack, but less than 1 pack
(3) ☐ 1 pack, but less than 1-1/2 packs
(4) ☐ 1-1/2 packs or more

Number of pack years: ____ (72,73)

If an ex-smoker (cigarettes, cigar or pipe), how long since you stopped? ____ (74)
(Write in number of years)

(1) ☐ 0-1 year
(2) ☐ 1-4 years
(3) ☐ 5-9 years
(4) ☐ 10+ years

*Have you changed your smoking habits since last interview? If yes, specify what changes.

I. OCCUPATIONAL HISTORY**

Have you ever worked in: A foundry? (As long as one year) ____ Yes ____ No ____ (75)

Stone or mineral mining, quarrying or processing? (As long as one year) ____ Yes ____ No ____ (76)

Asbestos milling or processing? (Ever) ____ Yes ____ No ____ (77)

Other dusts, fumes or smoke? If yes, specify: ____ Yes ____ No ____ (78)

Type of exposure ____

Length of exposure ____

**Ask only on first interview.

At what age did you first go to work in a textile mill? (Write in specific age in appropriate square).

(1)	(2)	(3)	(4)	(5)	(6)	
<20	20-24	25-29	30-34	35-39	40+	(79)

When you first worked in a textile mill, did you work with (1) ☐ Cotton or cotton blend (80)
(2) ☐ Synthetic or wool

APPENDIX B-II

Respiratory Questionnaire
for
Non-Textile Workers for the
Cotton Industry

Identification No. Interviewer Code

Location Date of Interview

A. IDENTIFICATION

1. NAME (Last) (First) (Middle Initial)	3. PHONE NUMBER AREA CODE ( ) NO.	4. SOCIAL SECURITY # (optional see below)
2. CURRENT ADDRESS (Number, Street, or Rural Route, City or Town, County, State, Zip Code)	5. BIRTHDATE (Mo., Day, Yr.)	6. AGE LAST BIRTHDAY

7. SEX

1 ☐ Male 2 ☐ Female

8. ETHNIC GROUP OR ANCESTRY

1. ☐ White, not of Hispanic Origin
2. ☐ Black, not of Hispanic Origin
3. ☐ Hispanic
4. ☐ American Indian or Alaskan Native
5. ☐ Asian or Pacific Islander
6. ☐ Other: _____

9. STANDING HEIGHT	10. WEIGHT	11. WORK SHIFT
_____ (cm)	_____	1st ☐ 2nd ☐ 3rd ☐

12. PRESENT WORK AREA

Please indicate primary assigned work area and percent of time spent at that site. If at other locations, please indicate and note percent of time for each.

PRIMARY WORK AREA	
SPECIFIC JOB	

13. APPROPRIATE INDUSTRY

1 ☐ Garnetting 3 ☐ Cotton Warehouse 5 ☐ Cotton Classification

2 ☐ Cottonseed Oil Mill 4 ☐ Utilization 6 ☐ Cotton Ginning

(Furnishing your Social Security number is voluntary. Your refusal to provide this number will not affect any right, benefit, or privilege to which you would be entitled if you did provide your Social Security number. Your Social Security number is being requested since it will permit use in future determinations in statistical research studies.)

B. OCCUPATIONAL HISTORY TABLE

Complete the following table showing the entire work history of the individual from present to initial employment. Sporadic, part-time periods of employment, each of no significant duration, should be grouped if possible.

INDUSTRY AND LOCATION	TENURE OF EMPLOYMENT		SPECIFIC OCCUPATION	AVERAGE NO. DAYS WORKED PER WEEK	HAZARDOUS HEALTH EXPOSURE ASSOCIATED WITH WORK		
	FROM 19__	TO 19__			YES	NO	IF YES, DESCRIBE

C. SYMPTOMS

Use actual wording of each question. Put X in appropriate square after each question. When in doubt record "No".

COUGH

1. Do you usually cough first thing in the morning? (on getting up)* (Count a cough with first smoke or on "first going out of doors". Exclude clearing throat or a single cough.) 1 ☐ Yes 2 ☐ No

2. Do you usually cough during the day or at night? (Ignore an occasional cough.) 1 ☐ Yes 2 ☐ No

If YES to either question 1 or 2:

3. Do you cough like this on most days for as much as three months a year? 1 ☐ Yes 2 ☐ No 9 ☐ NA

4. Do you cough on any particular day of the week? 1 ☐ Yes 2 ☐ No

If YES:

5. Which day? Mon. Tue. Wed. Thur. Fri. Sat. Sun. _____

PHLEGM

6. Do you usually bring up any phlegm from your chest first thing in the morning? (on getting up)* (Count phlegm with the first smoke or on "first going out of doors." Exclude phlegm from the nose. Count swallowed phlegm.) 1 ☐ Yes 2 ☐ No

7. Do you usually bring up any phlegm from your chest during the day or at night? (Accept twice or more.) 1 ☐ Yes 2 ☐ No

If YES to either question 6 or 7:

8. Do you bring up phlegm like this on most days for as much as three months each year? 1 ☐ Yes 2 ☐ No

If YES to question 3 or 8:

9. How long have you had this phlegm? (cough) (Write in number of years)

(1) ☐ 2 years or less
(2) ☐ More than 2 years - 9 years
(3) ☐ 10-19 years
(4) ☐ 20+ years

*These words are for subjects who work at night

CHEST ILLNESS

10. In the past three years, have you had a period of (increased) cough and phlegm lasting for 3 weeks or more?
(1) ☐ No
(2) ☐ Yes, only one period
(3) ☐ Yes, two or more periods

For subjects who usually have phlegm:

11. During the past 3 years have you had any chest illness which has kept you off work, indoors at home or in bed? (For as long as one week, flu?) 1 ☐ Yes 2 ☐ No

If YES to 11:

12. Did you bring up (more) phelgm than usual in any of these illnesses? 1 ☐ Yes 2 ☐ No

If YES to 12: During the past three years have you had:

13. Only one such illness with increased phelgm? 1 ☐ Yes 2 ☐ No

14. More than one such illness: 1 ☐ Yes 2 ☐ No

Br. Brade _____

TIGHTNESS

15. Does your chest ever feel tight or your breathing become difficult? 1 ☐ Yes 2 ☐ No

16. Is your chest tight or your breathing difficult on any particular day of the week? (after a week or 10 days away from the mill) 1 ☐ Yes 2 ☐ No

17. If YES, Which day? Mon. (1) Tues. (2) Wed. (3) Thur. (4) Fri. (5) Sat. (6) Sun. (7) Sometimes (8) Always

18. If YES Monday: At what time on Monday does your chest feel tight or your breathing difficult?
☐ Before entering mill
☐ After entering mill

(ASK ONLY IF NO TO QUESTION 15)

19. In the past, has your chest ever been tight or your breathing difficult on any particular day of the week? 1 ☐ Yes 2 ☐ No

20. If YES, Which day? Mon. (1) Tues. (2) Wed. (3) Thur. (4) Fri. (5) Sat. (6) Sun. (7) Sometimes (8) Always

BREATHLESSNESS

21. If disabled from walking by any condition other than heart or lung disease put "X" in the space and leave questions (22-30) unasked. ☐

22. Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? 1 ☐ Yes 2 ☐ No

If NO, grade is 1. If YES, proceed to next question

23. Do you get short of breath walking with other people at an ordinary pace on the level? 1 ☐ Yes 2 ☐ No

If NO, grade is 2. If YES, proceed to next question

24. Do you have to stop for breath when walking at your own pace on the level? 1 ☐ Yes 2 ☐ No

If NO, grade is 3. If YES, proceed to next question

25. Are you short of breath on washing or dressing? 1 ☐ Yes 2 ☐ No

If NO, grade is 4. If YES, grade is 5.

26. Dyspnea Grd. _____

ON MONDAYS:

27. Are you ever troubled by shortness of breath, when hurrying on the level or walking up a slight hill? 1 ☐ Yes 2 ☐ No

If NO, grade is 1. If YES, proceed to next question

28. Do you get short of breath walking with other people at an ordinary pace on the level? 1 ☐ Yes 2 ☐ No

If NO, grade is 2, If YES, proceed to next question

29. Do you have to stop for breath when walking at your own pace on the level? 1 ☐ Yes 2 ☐ No

If NO, grade is 3. If YES, proceed to next question

30. Are you short of breath on washing or dressing? 1 ☐ Yes 2 ☐ No

If NO, grade is 4. If YES, grade is 5

31. B. Grd. _____

OTHER ILLNESSES AND ALLERGY HISTORY

32. Do you have a heart condition for which you are under a doctor's care? 1 ☐ Yes 2 ☐ No

OTHER ILLNESSES AND ALLERGY HISTORY CONTINUED:

33. Have you ever had asthma? 1 ☐ Yes 2 ☐ No

If yes, did it begin: (1) Before age 30 ☐

(2) After age 30 ☐

34. If yes before 30: did you have asthma before ever going to work in a textile mill? 1 ☐ Yes 2 ☐ No

35. Have you ever had hay fever or other allergies (other than above)? 1 ☐ Yes 2 ☐ No

TOBACCO SMOKING

36. Do you smoke? 1 ☐ Yes 2 ☐ No
Record Yes if regular smoker up to one month ago. (Cigarettes, cigar or pipe)

If NO to (33):

37. Have you ever smoked? (Cigarettes, cigars, pipe. Record NO if subject has never smoked as much as one cigarette a day, or 1 oz. of tobacco a month, for as long as one year.) 1 ☐ Yes 2 ☐ No

If Yes to (33) or (34); what have you smoked for how many years? (Write in specific number of years in the appropriate square)

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Years	(<5)	(5-9)	(10-14)	(15-19)	(20-24)	(25-29)	(30-34)	(35-39)	(>40)
38. Cigarettes									
39. Pipe									
40. Cigars									

41. If cigarettes, how many packs per day? Write in number of cigarettes _____

☐ Less than 1/2 pack
☐ 1/2 pack, but less than 1 pack
☐ 1 pack, but less than 1 1/2 packs
☐ 1-1/2 packs or more

42. Number of pack years: _____

43. If an ex-smoker (cigarettes, cigar or pipe), how long since you stopped? (Write in number of years.) _____

☐ 0-1 year
☐ 1-4 years
☐ 5-9 years
☐ 10+ years

OCCUPATIONAL HISTORY

Have you ever worked in:

44. A foundry? (As long as one year) 1 ☐ Yes 2 ☐ No

45. Stone or mineral mining, quarrying or processing? (As long as one year) 1 ☐ Yes 2 ☐ No

46. Asbestos milling or processing? (Ever) 1 ☐ Yes 2 ☐ No

47. Cotton or cotton blend mill? (For controls only) 1 ☐ Yes 2 ☐ No

48. Other dusts, fumes or smoke? If yes, specify. 1 ☐ Yes 2 ☐ No

Type of exposure _____

Length of exposure _____

APPENDIX B -III

ABBREVIATED RESPIRATORY QUESTIONNAIRE

A. IDENTIFICATION DATA

PLANT _____ SOCIAL SECURITY NO. _____

DAY MONTH (figures) YEAR (last 2 digits)

NAME _____ DATE OF INTERVIEW _____
(Surname)

_____ _____ DATE OF BIRTH _____
(First Names) M F

ADDRESS _____ AGE _____ (8,9) SEX _____ (10)

_____ RACE | W | N | IND. | OTHER | (11)

INTERVIEWER: 1 2 3 4 5 6 7 8 (12)

WORK SHIFT: 1st _____ 2nd _____ 3rd _____ (13) STANDING HEIGHT _____ (14,15)

PRESENT WORK AREA WEIGHT _____ (16,18)

If working in more than one specified work area, X area where most of the work shift is spent. If "other," but spending 25% of the work shift in one of the specified work areas, classify in that work area. If carding department employee, check area within that department where most of the work shift is spent (if in doubt, check "throughout"). For work areas such as spinning and weaving where many work rooms may be involved, be sure to check the specific work room to which employee is assigned — if he works in more than one work room within a department classify as 7 (all) for that department.

	Workroom Number	(19) Open	(20) Pick	Area	(21) Card #1	(22) #2	(23) Spin	(24) Wind	(25) Twist	(26) Spool	(27) Warp	(28) Slash	(29) Weave	(30) Other
AT RISK (cotton & cotton blend)	1			Cards										
	2			Draw										
	3			Comb										
	4			Rove										
	5 —			Thru Out										
	6													
	7 (all)													
Control (synthetic & wool)	8													
Ex-Worker (cotton)	9													

Use actual wording of each question. Put X in appropriate square after each question. When in doubt record 'No'. When no square, circle appropriate answer.

B. COUGH

Do you usually cough first thing in the morning? (on getting up)† ____ Yes ____ No ____ (31)
(Count a cough with first smoke or on "first going out of doors." Exclude clearing throat or a single cough.)

Do you usually cough during the day or at night? ____ Yes ____ No ____ (32)
(Ignore an occasional cough.)

If 'Yes' to either question (31-32):

Do you cough like this on most days for as much as three months a year? ____ Yes ____ No ____ (33)

Do you cough on any particular day of the week? ____ Yes ____ No ____ (34)

(1) (2) (3) (4) (5) (6) (7)

If 'Yes': Which day? Mon. Tues. Wed. Thur. Fri. Sat Sun. (35)

C. PHLEGM or alternative word to suit local custom.

Do you usually bring up any phlegm from your chest first thing in the morning? (Count phlegm with the first smoke or on "first going out of doors." Exclude phlegm from the nose. Count swallowed phlegm.) (on getting up)† ____ Yes ____ No ____ (36)

Do you usually bring up any phlegm from your chest during the day or at night? (Accept twice or more.) ____ Yes ____ No ____ (37)

If 'Yes' to either question (36) or (37):

Do you bring up phlegm like this on most days for as much as three months each year? ____ Yes ____ No ____ (38)

If 'Yes' to question (33) or (39):

How long have you had this phlegm? (cough)
(Write in number of years

(1) ☐ 2 years or less
(2) ☐ More than 2 years-9 years
(3) ☐ 10-19 years
(4) ☐ 20+ years

†These words are for subjects who work at night

D. TIGHTNESS

Does your chest ever feel tight or your breathing become difficult? ____ Yes ____ No ____ (39)

Is your chest tight or your breathing difficult on any particular day of the week? (after a week or 10 days away from the mill) ____ Yes ____ No ____ (40)

If 'Yes': Which day? Mon. (1) Tues. (2) Wed. (3) Thur. (4) Fri. (5) Sat. (6) Sun. (7) (8) (41)

(1) Sometimes (2) Always

If 'Yes' Monday: At what time on Monday does your chest feel tight or your breathing difficult? (42)
1 ☐ Before entering the mill
2 ☐ After entering the mill

(Ask only if NO to Question (45)*

In the past, has your chest ever been tight or your breathing difficult on any particular day of the week? ____ Yes ____ No ____ (43)

If 'Yes': Which day? Mon. (1) Tues. (2) Wed. (3) Thur. (4) Fri. (5) Sat. (6) Sun. (7) (8) (44)

(1) Sometimes (2) Always

E. TOBACCO SMOKING*

*Have you changed your smoking habits since last interview? If yes, specify what changes.

APPENDIX B-IV
Cuestionario Medico

1. Nótese: ¿ Muestra el sujeto señales de resfraido o síntomas de grave infección respiratoria? ☐ Sí ☐ No (1)

2. Caso núm. _____ (2-6)

A. DATOS DE IDENTIFICACION

3. Desmotadora: _____ (7-11)

4. Nombre: _____ (Apellido)
_____ (Nombre de pila)

5. Dirección: _____
_____ (Ciudad)

6. Entrevistador: 1 2 3 4 5 6 7 8 (12-13)

7. Turno de Trabajo: 1 ___ 2 ___ (14)

8. Sitio de Trabajo Actual: (15)
   a. Balancero
   b. Corralero
   c. Succionero
   d. Desmotador
   e. Ayudante de desmotador
   f. Comprimidor
   g. Desemillador
   h. Basurero
   i. Quitahilachas
   j. Embalador

9. Número de Seguro Social
___-___-___ (16-24)

10. Fecha de Entrevista:
Mes Día Año
__/ __/ __/ (25-30)
de la mañana

11. Hora: _____ de la tarde

12. Fecha de Nacimiento:
Mes Día Año
__/ __/ __/

13. Edad: _____ (31-32)

14. Sexo: Varón___ Hembra ___ (33)

15. Raza: B___N___M___O___ (34)

16. Altura Medida:____(Pulgadas) (35-37)

17. Peso Medido:_____(Libras) (38-40)

SINTOMAS RESPIRATORIAS

EMPLÉENSE LAS PALABRAS EXACTAS DE CADA PREGUNTA. PÓNGASE UNA "X" EN LA CASILLA QUE SIGUE CADA PREGUNTA. EN CASO DE DUDA, PÓNGASE "NO". DONDE NO HAY CASILLA, PÓNGASE UN CÍRCULO ALREDEDOR DE LA RESPUESTA APROPIADA.

INTRODUCCIÓN: LE VOY A HACER UNAS PREGUNTAS, POR LA MAYOR PARTE ACERCA DE LOS PULMONES. QUIERO QUE CONTESTE CON "SÍ" O "NO" CUANDO SEA POSIBLE.

B. LA TOS

18. ¿ Tóse Ud. ordinariamente al levantarse por la mañana? ☐ Sí ☐ No (41)

19. ¿ Tose Ud. ordinariamente de día o de moche? ☐ Sí ☐ No (42)

20. Si se contesta "Sí" a la pregunta 18 o 19, pregúntese: ¿ Ha tosido así la mayoría de los días por un periodo de 3 meses durante el año pasado? ☐ Sí ☐ No ☐ NR (43)

21. Si se contesta "Sí" a 20, pregúntese: ¿ Cuántos años hace que tose de esta manera?

Menos de 2 años	Más de 2 años	NR
_____	_____	__ (44-45)

C. LA FLEMA (u otra palabra de uso local):

22. ¿Se arranca Ud. flema del pecho ordinariamente al levantarse? (Tenga en cuenta la flema arrancada al fumar o al salir de la casa por primera vez. No tenga en cuenta los mucos nasales. Tenga en cuenta la flema que se traga.)

☐ Sí ☐ No (46)

23. ¿Se arranca Ud. alguna flema del pecho ordinariamente de día o de noche? (Nótense sólo 2 veces o más)

☐ Sí ☐ No (47)

24. Si se contesta "Sí" a la pregunta 22 o 23, pregúntese: ¿Se ha arrancado flemas la mayoría de los días por un periodo de 3 meses durante el año pasado?

☐ Sí ☐ No ☐ NR (48)

25. Si se contesta "Sí" a 24, pregúntese: ¿Cuántos años hace que se arranca flemas así? _____Años

Menos de 2 años | Mas de 2 años | NR
_____ | _____ | ___ (49-50)

D. ENFERMEDADES PULMONARIAS

26. ¿Durante los tres años pasados, ha pasado algún periodo de tos* (aumentada) y flemas que duró 3 semanas o más?

* Sujetos que ordinariamente se arrancan flemas

☐ No
☐ Sí, uno solo
☐ Sí, dos o más (51)

27. ¿Ha tenido Ud. durante los 3 años pasados alguna enfermedad del pecho que le haya impedido a trabajar o le haya obligado a permanecer en casa, en cama por tanto como una semana? (Por ejemplo: ¿la gripe?)

☐ Sí ☐ No (52)

28. Si se contesta "Sí" a 27, pregúntese: ¿se arrancó Ud. más flemas que lo general durante alguno de estos ataques?

☐ Sí ☐ No ☐ NR (53)

29. Si se contesta "Sí" a 28, pregúntese: ¿Ha tenido durante los tres anos pasados:

Sólo un tal ataque con aumento de flemas? ___
Más de uno? ___
No cabe ___ (54)

30. Br. Grade
0_____(0)
1_____(1)
2_____(2)
3_____(3) (55)

31. ¿Resuella ruidosamente o tiene silbidos alguna vez en el pecho?

☐ Sí ☐ No (56)

32. Si se contesta "Sí" a 31, pregúntese: ¿Cuántas veces por año pasa eso? _____Veces

Menos de 50 | Más de 50 | NR
_____ | _____ | ___ (57-58)

E. LA DISPNEA (desaliento)

33. Sufre Ud. ataques de desaliento que no se relacionan con ningún esfuerzo físico? ☐ Sí ☐ No (59)

34. Si se contesta "Sí" a 33, pregúntese: Cuántos de tales ataques ha sufrido durante el año pasado? _____Ataques — Menos de 50 _____ Mas de 50 _____ NR _____ (60-61)

35. Si se inhabilita de caminar a causa de cualquier condicion que no sea enfermedad del corazón o del pecho, ponga una "X" y especifique: ___ _____ (62)

36. ¿Lo aflige un desaliento al caminar aprisa en terreno llano o al subir una pequeña cuesta? ☐ Sí ☐ No (63)

(Si "No," el grado es 1. Si es "Sí," siga a la pregunta siguiente.)

37. ¿Lo aflige un desaliento al caminar con otros de su propia edad a su paso ordinario en terreno llano? ☐ Sí ☐ No ☐ NR (64)

(Si "No," el grado es 2. Si es "Sí," prosiga)

38. ¿Tiene que detenerse porque se ahoga al caminar a paso ordinario en terreno llano? ☐ Sí ☐ No ☐ NR (65)

(Si "No," el grado es 3. Si es "Sí," prosiga)

39. ¿Se desalienta al lavarse o vestirse? ☐ Sí ☐ No ☐ NR (66)

(Si "No," el grado es 4. Si es "Sí," el grado es 5)

40. Dyspnea Grd._____ (67)

Introducción para las preguntas 40-43:

EL PRIMER DIA DE VUELTA AL TRABAJO DESPUES DE SUS DIAS LIBRES:

41. ¿Lo aflige un desaliento al caminar aprisa en terreno llano o al subir una pequeña cuesta? ☐ Sí ☐ No (68)

(Si "No," el grado es 1. Si es "Sí," siga a la pregunta siguiente.)

42. ¿Lo aflige un desaliento al caminar con otros de su propia edad a su paso ordinario en terreno llano? ☐ Sí ☐ No ☐ NR (69)

(Si "No," el grado es 2. Si es "Sí," prosiga)

43. ¿Tiene que detenerse porque se ahoga al caminar a paso ordinario en terreno llano? ☐ Sí ☐ No ☐ NR (70)

(Si "No," el grado es 3. Si es "Sí," prosiga)

44. ¿Se desalienta al lavarse o vestirse? ☐ Sí ☐ No ☐ NR (71)

(Si "No," el grado es 4. Si es "Sí," el grado es 5)

45. B. Grd. 0_____(0)
1/2_____(1)
1_____(2)
— 2_____(3)
— 3_____(4) (72)

46. ¿Ha tosido más que lo usual durante la semana pasada?

Fecha											
Sí											
No											

(73)

47. ¿Se ha arrancado flemas del pecho o de día o de noche durante la semana pasada?

Sí											
No											

(74)

48. ¿Ha tenido un "resfriado del pecho" durante la semana pasada?

Fecha											
Sí											
No											

(75)

7. LA OPRESION EN EL PECHO

49. ¿Tiene Ud. alguna vez opresión en el pecho o dificultad de respirar?

Sí											
No											

(76)

50. ¿Se le oprime el pecho o se le hace difícil respirar algún día de la semana en particular?

Sí											
No											

(77)

51. Si se contesta "Sí" a 50, pregúntese: ¿Cuál día?

D											
L											
Mar.											
Mier.											
J											
V											
S											
Siempre											
A veces											
NR											

(78-85)

52. ¿Se le oprime el pecho o se le hace difícil respirar:

a. ¿El primer día de vuelta al trabajo después de un día libre o más?

b. ¿El segundo día de vuelta al trabajo después de un día libre o más?

c. ¿El último día de trabajo antes de un día libre?

d. No cabe ninguna de las preguntas de arriba.

Fecha											

(86-89)

53. Si se contesta "Sí" a 52, pregúntese: ¿Siente opresión en el pecho o se le hace difícil respirar:

a. En todas tales ocasiones?
b. Sólo a veces.
c. No cabe.

Fecha _____ (90-92)

54. Si se contesta "Sí" a la pregunta 50 o 52, pregúntese: ¿A qué hora del día indicado siente opresión en el pecho o dificultad de respirar?

a. Antes de entrar en la desmotadora.
b. Después de entrar en la desmotadora.
c. Después de salir de la desmotadora.
d. No cabe.

Fecha _____ (93-96)

55. Si la respuesta a 54 "b" o "c" es afirmativa, preqúntese: ¿Cuántas horas después de empezar un turno comienza esto?

Horas_____
No cabe_____ (97-98)

56. Si la respuesta a 54 "b" o "c" es afirmativa, pregúntese: ¿Cuánto tiempo dura esta opresión o dificultad de respirar?

Horas_____
No cabe_____ (99-100)

57. (Pregúntese sólo si se contesta "No" a 50) En el pasado, ha sentido alguna vez opresión en el pecho o dificultad de respirar algún día de la semana en particular?

☐ Sí ☐ No ☐ NR (101)

58. Si se contesta "Sí" a 57, pregúntese: Cuál día?

D_____
L_____
Mar._____
Mier._____
J_____ Siempre___
V_____ A veces___
S_____ NR_____ (102)

59. (Pregúntese sólo si se contesta "No" a 52) ¿En el pasado, ha sentido alguna vez opresión en el pecho o dificultad de respirar?

a. El primer día de vuelta al trabajo después de un día libre o más. a._____

b. El segundo día de vuelta al trabajo después de un día libre o más. b._____

c. El último día de trabajo antes de un dia libre. c._____ (103)

d. No cabe nada de lo de arriba. d._____

e. NR. e._____

60. Si se contesta "Sí" a 59, pregúntese:
¿Sentía Ud. opresión en el pecho o dificultad de respirar?

a. En toda (o casi toda) ocasion a____
b. Sólo a veces b____ (104)
c. No cabe c____

61. Si se contesta "Sí" a 50, 52, 57, O 59, pregúntese:
¿Cuantos años hace que siente opresión en el pecho o dificultad de respirar? _____ Años☐ NR (105-106)

G. HISTORIA LABORAL

62. ¿Qué clase de trabajo hace Ud. cuando no desmote el algodón (Especifique)? _____
_____ (107)
_____

Introducción para las preguntas 63 a 69: ¿Ha trabajado Ud. alguna vez en:

63. Una fundición (por tanto como un año)? ☐ Sí ☐ No (108)

64. La minería o elaboración de piedra o metales (por tanto como un año)? ☐ Sí ☐ No (109)

65. En una planta de asbesto (alguna vez)? ☐ Sí ☐ No (110)

66. En una fábrica de textil de algodón, de mezclado de algondon o de aceite de semilla de algodón? ☐ Sí ☐ No (111)

67. En el cosecho de algodón o cereales? ☐ Sí ☐ No (112)

68. En una desmotadora de algodón (sólo para el grupo de control)? ☐ Sí ☐ No (113)

69. En proximidad de otros polvos, emanaciones o humos? Si se contesta "Sí," especifíquese: ☐ Sí ☐ No (114)
Clase de contacto_____
Duración de contacto_____

70. ¿Cuántos años tenía cuando empezó a trabajar por primera vez en una desmotadora de algodón? (Escríbase su edad exacta)_____ (115-116)

71. ¿Cuántos años hace que trabaja en una desmotadora de algodón? (Número total de años)_____ (117-118)

72. ¿Cuántos meses por año trabaja ordinariamente en una desmotadora de algodón?_____ (Núm. de meses) (119-120)

73. ¿En qué otras regiones del estado o del país ha trabajado (desmotando el algodón)?_____
_____ (121-122)
_____

H. OTRAS ENFERMEDADES

74. ¿Tiene Ud. una condición del corazón que requiere los servicios de un médico? ☐ Sí ☐ No (123)

75. Si se contesta "Sí" a 74, especifíquense la condición_____

la medicacion:_____

No cabe:_____

76. ¿Ha tenido alguna vez asma? ☐ Sí ☐ No (124)

77. Si se contesta "Si" a 76, pregúntese si empezó: ___Antes de los 30 anos
___Despues de los 30 anos
___NR

78. Si se contesta "Sí" a 76, pregúntese: Tenía asma antes de trabajar en una desmotadora de algodón? ☐ Sí ☐ No ☐ NR (125)

79. ¿Le ha dicho alguna vez un medico que Ud. Tenía alguna de las condiciones que siguen?

a. Bronquitis crónica ☐ Sí ☐ No (126)

b. Enfisema ☐ Sí ☐ No (127)

c. Infección fungoso de los pulmones ☐ Sí ☐ No (128)

d. Tisis (tuberculosis) ☐ Sí ☐ No (129)

e. Cualquier condición crónica de los pulmones ☐ Sí ☐ No (130)

Si se contesta "Sí," especifíquese:_____

_____

_____

I. CONSUMO DE TABACO

80. ¿Ha fumado Ud. alguna vez cigarrillos? ☐ Sí ☐ No (131)

(Si se contesta "Sí" a 80, pregúntese 81. Si "No," omítase lo que no quepa.)

81. ¿Fuma cigarrillos actualmente? ☐ Sí ☐ No ☐ NR (132)

(Si se contesta "Sí" a 81, pregúntese 82 a 84. Si "No," pregúntese 85 a 87.)

82. ¿Aproximadamente cuántos cigarrillos fuma ordinariamente por día? ____ Número ☐ NR (133-134)

83. ¿Inhala (aspira), digo, traga el humo? ☐ Sí ☐ No ☐ NR (135)

84. ¿Cuántos años hace que fuma cigarrillos? ____ Años ☐ NR (136-137)

(Omítase hasta 88)

85. ¿Cuando fumaba, cuántos cigarrillos consumía por día? ____ Número ☐ NR (138-139)

86. ¿Inhalaba (aspiraba), digo, tragaba el humo? ☐ Si ☐ No ☐ NR (140)

87. ¿Aproximadamente cuántos años hacía que fumaba cigarrillos? ____ Años ☐ NR (141-142)

88. ¿Ha fumado alguna vez puros? ☐ Si ☐ No (143)

(Si se contesta "Si" a 88, pregúntese 89 a 91. Si "No," omítase hasta 92.)

89. ¿Fuma puros actualmente? ☐ Si ☐ No ☐ NR (144)

(Si se contests "Si" a 89, pregúntese 90 a 91. Si "No," omítase hasta 92.)

90. ¿Aprximadamente cuántos puros fuma ordinariamente por día? ____ Número ☐ NR (145-146)

91. ¿Aproximadamente cuántos años hace que fuma puros? ____ Años ☐ NR (147-148)

92. ¿Ha fumado alguna vez en pipa? ☐ Si ☐ No (149)

(Si se contesta "Sí" a 92, pregúntese 93 a 95. Si "No," terminese la entrevista.)

93. Fuma en pipa actualmente? ☐ Si ☐ No ☐ NR (150)

(Si se contesta "Sí" a 93, preguntese 94 a 95. Si "No," terminese la entrevista.)

94. ¿Aproximadamente cuántas pipadas de tabaco fuma ordinariamente por día? ____ Número ☐ NR (151-152)

95. ¿Aproximadamente cuántos años hace que fuma en pipa? ____ Años ☐ NR (153-154)

TABLE 1. PREDICTED FVC FOR MALES (KNUDSON, ET AL: AM REV RESPIR DIS, 1976, 113, 587.)

HT \ AGE	17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	47	49	51	53	55	57	59	61	63	65
60.0	3.44	3.59	3.75	3.91	3.72	3.66	3.61	3.55	3.49	3.43	3.37	3.32	3.26	3.20	3.14	3.08	3.03	2.97	2.91	2.85	2.79	2.74	2.68	2.62	2.56
60.5	3.50	3.66	3.81	3.97	3.80	3.75	3.69	3.63	3.57	3.51	3.46	3.40	3.34	3.28	3.22	3.17	3.11	3.05	2.99	2.93	2.88	2.82	2.76	2.70	2.64
61.0	3.56	3.72	3.88	4.03	3.89	3.83	3.77	3.71	3.66	3.60	3.54	3.48	3.42	3.37	3.31	3.25	3.19	3.13	3.08	3.02	2.96	2.90	2.84	2.79	2.73
61.5	3.63	3.78	3.94	4.10	3.97	3.91	3.85	3.80	3.74	3.68	3.62	3.56	3.51	3.45	3.39	3.33	3.27	3.22	3.16	3.10	3.04	2.98	2.93	2.87	2.81
62.0	3.69	3.85	4.00	4.16	4.05	3.99	3.94	3.88	3.82	3.76	3.70	3.65	3.59	3.53	3.47	3.41	3.36	3.30	3.24	3.18	3.12	3.07	3.01	2.95	2.89
62.5	3.76	3.91	4.07	4.22	4.13	4.08	4.02	3.96	3.90	3.84	3.79	3.73	3.67	3.61	3.55	3.50	3.44	3.38	3.32	3.26	3.21	3.15	3.09	3.03	2.97
63.0	3.82	3.97	4.13	4.29	4.22	4.16	4.10	4.04	3.99	3.93	3.87	3.81	3.75	3.70	3.64	3.58	3.52	3.46	3.41	3.35	3.29	3.23	3.17	3.12	3.06
63.5	3.88	4.04	4.19	4.35	4.30	4.24	4.18	4.13	4.07	4.01	3.95	3.89	3.84	3.78	3.72	3.66	3.60	3.55	3.49	3.43	3.37	3.31	3.26	3.20	3.14
64.0	3.95	4.10	4.26	4.41	4.38	4.32	4.27	4.21	4.15	4.09	4.03	3.98	3.92	3.86	3.80	3.74	3.69	3.63	3.57	3.51	3.45	3.40	3.34	3.28	3.22
64.5	4.01	4.17	4.32	4.48	4.46	4.41	4.35	4.29	4.23	4.17	4.12	4.06	4.00	3.94	3.88	3.83	3.77	3.71	3.65	3.59	3.54	3.48	3.42	3.36	3.30
65.0	4.07	4.23	4.39	4.54	4.55	4.49	4.43	4.37	4.32	4.26	4.20	4.14	4.08	4.03	3.97	3.91	3.85	3.79	3.74	3.68	3.62	3.56	3.50	3.45	3.39
65.5	4.14	4.29	4.45	4.60	4.63	4.57	4.51	4.46	4.40	4.34	4.28	4.22	4.17	4.11	4.05	3.99	3.93	3.88	3.82	3.76	3.70	3.64	3.59	3.53	3.47
66.0	4.20	4.36	4.51	4.67	4.71	4.65	4.60	4.54	4.48	4.42	4.36	4.31	4.25	4.19	4.13	4.07	4.02	3.96	3.90	3.84	3.78	3.73	3.67	3.61	3.55
66.5	4.26	4.42	4.58	4.73	4.80	4.74	4.68	4.62	4.56	4.51	4.45	4.39	4.33	4.27	4.22	4.16	4.10	4.04	3.98	3.93	3.87	3.81	3.75	3.69	3.64
67.0	4.33	4.48	4.64	4.80	4.88	4.82	4.76	4.70	4.65	4.59	4.53	4.47	4.41	4.36	4.30	4.24	4.18	4.12	4.07	4.01	3.95	3.89	3.83	3.78	3.72
67.5	4.39	4.55	4.70	4.86	4.96	4.90	4.84	4.79	4.73	4.67	4.61	4.55	4.50	4.44	4.38	4.32	4.26	4.21	4.15	4.09	4.03	3.97	3.92	3.86	3.80
68.0	4.45	4.61	4.77	4.92	5.04	4.98	4.93	4.87	4.81	4.75	4.69	4.64	4.58	4.52	4.46	4.40	4.35	4.29	4.23	4.17	4.11	4.06	4.00	3.94	3.88
68.5	4.52	4.67	4.83	4.99	5.13	5.07	5.01	4.95	4.89	4.84	4.78	4.72	4.66	4.60	4.55	4.49	4.43	4.37	4.31	4.26	4.20	4.14	4.08	4.02	3.97
69.0	4.58	4.74	4.89	5.05	5.21	5.15	5.09	5.03	4.98	4.92	4.86	4.80	4.74	4.69	4.63	4.57	4.51	4.45	4.40	4.34	4.28	4.22	4.16	4.11	4.05
69.5	4.64	4.80	4.96	5.11	5.29	5.23	5.17	5.12	5.06	5.00	4.94	4.88	4.83	4.77	4.71	4.65	4.59	4.54	4.48	4.42	4.36	4.30	4.25	4.19	4.13
70.0	4.71	4.86	5.02	5.18	5.37	5.32	5.26	5.20	5.14	5.08	5.02	4.97	4.91	4.85	4.79	4.74	4.68	4.62	4.56	4.50	4.44	4.39	4.33	4.27	4.21
70.5	4.77	4.93	5.08	5.24	5.46	5.40	5.34	5.28	5.22	5.17	5.11	5.05	4.99	4.93	4.88	4.82	4.76	4.70	4.64	4.59	4.53	4.47	4.41	4.35	4.30
71.0	4.83	4.99	5.15	5.30	5.54	5.48	5.42	5.36	5.31	5.25	5.19	5.13	5.07	5.02	4.96	4.90	4.84	4.78	4.73	4.67	4.61	4.55	4.49	4.44	4.38
71.5	4.90	5.05	5.21	5.37	5.62	5.56	5.50	5.45	5.39	5.33	5.27	5.21	5.16	5.10	5.04	4.98	4.92	4.87	4.81	4.75	4.69	4.63	4.58	4.52	4.46
72.0	4.96	5.12	5.27	5.43	5.70	5.65	5.59	5.53	5.47	5.41	5.36	5.30	5.24	5.18	5.12	5.07	5.01	4.95	4.89	4.83	4.78	4.72	4.67	4.60	4.54
72.5	5.03	5.18	5.34	5.49	5.79	5.73	5.67	5.61	5.55	5.50	5.44	5.38	5.32	5.26	5.21	5.15	5.09	5.03	4.97	4.92	4.86	4.80	4.74	4.68	4.63
73.0	5.09	5.24	5.40	5.56	5.87	5.81	5.75	5.69	5.64	5.58	5.52	5.46	5.40	5.35	5.29	5.23	5.17	5.11	5.06	5.00	4.94	4.88	4.82	4.77	4.71
73.5	5.15	5.31	5.46	5.62	5.95	5.89	5.83	5.78	5.72	5.66	5.60	5.54	5.49	5.43	5.37	5.31	5.25	5.20	5.14	5.08	5.02	4.96	4.91	4.85	4.79
74.0	5.22	5.37	5.53	5.68	6.03	5.98	5.92	5.86	5.80	5.74	5.69	5.63	5.57	5.51	5.45	5.40	5.34	5.28	5.22	5.16	5.11	5.05	4.99	4.93	4.87
74.5	5.28	5.44	5.59	5.75	6.12	6.06	6.00	5.94	5.88	5.83	5.77	5.71	5.65	5.59	5.54	5.48	5.42	5.36	5.30	5.25	5.19	5.13	5.07	5.01	4.96
75.0	5.34	5.50	5.65	5.81	6.20	6.14	6.08	6.02	5.97	5.91	5.85	5.79	5.73	5.68	5.62	5.56	5.50	5.44	5.39	5.33	5.27	5.21	5.15	5.10	5.04
75.5	5.41	5.56	5.72	5.87	6.28	6.22	6.17	6.11	6.05	5.99	5.93	5.88	5.82	5.76	5.70	5.64	5.59	5.53	5.47	5.41	5.35	5.30	5.24	5.18	5.12
76.0	5.47	5.63	5.78	5.94	6.36	6.31	6.25	6.19	6.13	6.07	6.02	5.96	5.90	5.84	5.78	5.73	5.67	5.61	5.55	5.49	5.44	5.38	5.32	5.26	5.20
76.5	5.53	5.69	5.85	6.00	6.45	6.39	6.33	6.27	6.21	6.16	6.10	6.04	5.98	5.92	5.87	5.81	5.75	5.69	5.63	5.58	5.52	5.46	5.40	5.34	5.29
77.0	5.60	5.75	5.91	6.06	6.53	6.47	6.41	6.35	6.30	6.24	6.18	6.12	6.06	6.01	5.95	5.89	5.83	5.77	5.72	5.66	5.60	5.54	5.48	5.43	5.37
77.5	5.66	5.82	5.97	6.13	6.61	6.55	6.50	6.44	6.38	6.32	6.26	6.21	6.15	6.09	6.03	5.97	5.92	5.86	5.80	5.74	5.68	5.63	5.57	5.51	5.45
78.0	5.72	5.88	6.04	6.19	6.69	6.64	6.58	6.52	6.46	6.40	6.35	6.29	6.23	6.17	6.11	6.06	6.00	5.94	5.88	5.82	5.77	5.71	5.65	5.59	5.53
78.5	5.79	5.94	6.10	6.26	6.78	6.72	6.66	6.60	6.54	6.49	6.43	6.37	6.31	6.25	6.20	6.14	6.08	6.02	5.96	5.91	5.85	5.79	5.73	5.67	5.62
79.0	5.85	6.01	6.16	6.32	6.86	6.80	6.74	6.68	6.63	6.57	6.51	6.45	6.39	6.34	6.28	6.22	6.16	6.10	6.05	5.99	5.93	5.87	5.81	5.76	5.70
79.5	5.91	6.07	6.23	6.38	6.94	6.88	6.83	6.77	6.71	6.65	6.59	6.54	6.48	6.42	6.36	6.30	6.25	6.19	6.13	6.07	6.01	5.96	5.90	5.84	5.78
80.0	5.98	6.13	6.29	6.45	7.02	6.97	6.91	6.85	6.79	6.73	6.68	6.62	6.56	6.50	6.44	6.39	6.33	6.27	6.21	6.15	6.10	6.04	5.98	5.92	5.86
80.5	6.04	6.20	6.35	6.51	7.11	7.05	6.99	6.93	6.87	6.82	6.76	6.70	6.64	6.58	6.53	6.47	6.41	6.35	6.29	6.24	6.18	6.12	6.06	6.00	5.95
81.0	6.10	6.26	6.42	6.57	7.19	7.13	7.07	7.02	6.96	6.90	6.84	6.78	6.73	6.67	6.61	6.55	6.49	6.44	6.38	6.32	6.26	6.20	6.15	6.09	6.03
81.5	6.17	6.32	6.48	6.64	7.27	7.21	7.16	7.10	7.04	6.98	6.92	6.87	6.81	6.75	6.69	6.63	6.58	6.52	6.46	6.40	6.34	6.29	6.23	6.17	6.11
82.0	6.23	6.39	6.54	6.70	7.35	7.30	7.24	7.18	7.12	7.06	7.01	6.95	6.89	6.83	6.77	6.72	6.66	6.60	6.54	6.48	6.43	6.37	6.31	6.25	6.19
82.5	6.30	6.45	6.61	6.76	7.44	7.38	7.32	7.26	7.20	7.15	7.09	7.03	6.97	6.91	6.86	6.80	6.74	6.68	6.62	6.57	6.51	6.45	6.39	6.33	6.28
83.0	6.36	6.51	6.67	6.83	7.52	7.46	7.40	7.35	7.29	7.23	7.17	7.11	7.06	7.00	6.94	6.88	6.82	6.77	6.71	6.65	6.59	6.53	6.48	6.42	6.36
83.5	6.42	6.58	6.73	6.89	7.60	7.54	7.49	7.43	7.37	7.31	7.25	7.20	7.14	7.08	7.02	6.96	6.91	6.85	6.79	6.73	6.67	6.62	6.56	6.50	6.44
84.0	6.49	6.64	6.80	6.95	7.68	7.63	7.57	7.51	7.45	7.39	7.34	7.28	7.22	7.16	7.10	7.05	6.99	6.93	6.87	6.81	6.76	6.70	6.64	6.58	6.52
84.5	6.55	6.71	6.86	7.02	7.77	7.71	7.65	7.59	7.53	7.48	7.42	7.36	7.30	7.24	7.19	7.13	7.07	7.01	6.95	6.90	6.84	6.78	6.72	6.66	6.61
85.0	6.61	6.77	6.92	7.08	7.85	7.79	7.73	7.68	7.62	7.56	7.50	7.44	7.39	7.33	7.27	7.21	7.15	7.10	7.04	6.98	6.92	6.86	6.81	6.75	6.69

TABLE 2. PREDICTED FEV1 FOR MALES (KNUDSON, ET AL., AM REV RESPIR DIS. 1976, 113, 587.)

HT	AGE 17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	47	49	51	53	55	57	59	61	63	65
60.0	2.97	3.06	3.15	3.24	3.05	2.99	2.94	2.88	2.83	2.78	2.72	2.67	2.61	2.56	2.51	2.45	2.40	2.34	2.29	2.24	2.18	2.13	2.07	2.02	1.97
60.5	3.03	3.12	3.21	3.30	3.11	3.06	3.00	2.95	2.90	2.84	2.79	2.73	2.68	2.63	2.57	2.52	2.46	2.41	2.36	2.30	2.25	2.19	2.14	2.09	2.03
61.0	3.08	3.17	3.26	3.35	3.18	3.12	3.07	3.02	2.96	2.91	2.85	2.80	2.75	2.69	2.64	2.58	2.53	2.48	2.42	2.37	2.31	2.26	2.21	2.15	2.10
61.5	3.14	3.23	3.32	3.41	3.24	3.19	3.14	3.08	3.03	2.97	2.92	2.87	2.81	2.76	2.70	2.65	2.60	2.54	2.49	2.43	2.38	2.33	2.27	2.22	2.16
62.0	3.20	3.29	3.38	3.47	3.31	3.26	3.20	3.15	3.09	3.04	2.99	2.93	2.88	2.82	2.77	2.72	2.66	2.61	2.55	2.50	2.45	2.39	2.34	2.28	2.23
62.5	3.26	3.35	3.44	3.53	3.38	3.32	3.27	3.22	3.16	3.11	3.05	3.00	2.95	2.89	2.84	2.78	2.73	2.68	2.62	2.57	2.51	2.46	2.41	2.35	2.30
63.0	3.32	3.41	3.50	3.59	3.44	3.39	3.34	3.28	3.23	3.17	3.12	3.07	3.01	2.96	2.90	2.85	2.80	2.74	2.69	2.63	2.58	2.53	2.47	2.42	2.36
63.5	3.38	3.47	3.56	3.65	3.51	3.46	3.40	3.35	3.29	3.24	3.19	3.13	3.08	3.02	2.97	2.92	2.86	2.81	2.75	2.70	2.65	2.59	2.54	2.48	2.43
64.0	3.43	3.52	3.61	3.70	3.58	3.52	3.47	3.41	3.36	3.31	3.25	3.20	3.14	3.09	3.04	2.98	2.93	2.87	2.82	2.77	2.71	2.66	2.60	2.55	2.50
64.5	3.49	3.58	3.67	3.76	3.64	3.59	3.53	3.48	3.43	3.37	3.32	3.26	3.21	3.16	3.10	3.05	2.99	2.94	2.89	2.83	2.78	2.72	2.67	2.62	2.56
65.0	3.55	3.64	3.73	3.82	3.71	3.65	3.60	3.55	3.49	3.44	3.38	3.33	3.28	3.22	3.17	3.11	3.06	3.01	2.95	2.90	2.84	2.79	2.74	2.68	2.63
65.5	3.61	3.70	3.79	3.88	3.77	3.72	3.67	3.61	3.56	3.50	3.45	3.40	3.34	3.29	3.23	3.18	3.13	3.07	3.02	2.96	2.91	2.86	2.80	2.75	2.69
66.0	3.67	3.76	3.85	3.94	3.84	3.79	3.73	3.68	3.62	3.57	3.52	3.46	3.41	3.35	3.30	3.25	3.19	3.14	3.08	3.03	2.98	2.92	2.87	2.81	2.76
66.5	3.73	3.82	3.91	4.00	3.91	3.85	3.80	3.74	3.69	3.64	3.58	3.53	3.47	3.42	3.37	3.31	3.26	3.20	3.15	3.10	3.04	2.99	2.93	2.88	2.83
67.0	3.79	3.88	3.97	4.06	3.97	3.92	3.86	3.81	3.75	3.70	3.65	3.59	3.54	3.49	3.43	3.38	3.32	3.27	3.22	3.16	3.11	3.05	3.00	2.95	2.89
67.5	3.84	3.93	4.02	4.11	4.04	3.98	3.93	3.88	3.82	3.77	3.71	3.66	3.61	3.55	3.50	3.44	3.39	3.34	3.28	3.23	3.17	3.12	3.07	3.01	2.96
68.0	3.90	3.99	4.08	4.17	4.10	4.05	4.00	3.94	3.89	3.83	3.78	3.73	3.67	3.62	3.56	3.51	3.46	3.40	3.35	3.29	3.24	3.19	3.13	3.08	3.02
68.5	3.96	4.05	4.14	4.23	4.17	4.12	4.06	4.01	3.95	3.90	3.85	3.79	3.74	3.68	3.63	3.58	3.52	3.47	3.41	3.36	3.31	3.25	3.20	3.14	3.09
69.0	4.02	4.11	4.20	4.29	4.24	4.18	4.13	4.07	4.02	3.97	3.91	3.86	3.80	3.75	3.70	3.64	3.59	3.53	3.48	3.43	3.37	3.32	3.26	3.21	3.16
69.5	4.08	4.17	4.26	4.35	4.30	4.25	4.19	4.14	4.09	4.03	3.98	3.92	3.87	3.82	3.76	3.71	3.65	3.60	3.55	3.49	3.44	3.38	3.33	3.28	3.22
70.0	4.14	4.23	4.32	4.41	4.37	4.31	4.26	4.21	4.15	4.10	4.04	3.99	3.94	3.88	3.83	3.77	3.72	3.67	3.61	3.56	3.50	3.45	3.40	3.34	3.29
70.5	4.19	4.28	4.37	4.46	4.43	4.38	4.33	4.27	4.22	4.16	4.11	4.06	4.00	3.95	3.89	3.84	3.79	3.73	3.68	3.62	3.57	3.52	3.46	3.41	3.35
71.0	4.25	4.34	4.43	4.52	4.50	4.45	4.39	4.34	4.28	4.23	4.18	4.12	4.07	4.01	3.96	3.91	3.85	3.80	3.74	3.69	3.64	3.58	3.53	3.47	3.42
71.5	4.31	4.40	4.49	4.58	4.57	4.51	4.46	4.40	4.35	4.30	4.24	4.19	4.13	4.08	4.03	3.97	3.92	3.86	3.81	3.76	3.70	3.65	3.59	3.54	3.49
72.0	4.37	4.46	4.55	4.64	4.63	4.58	4.52	4.47	4.42	4.36	4.31	4.25	4.20	4.15	4.09	4.04	3.98	3.93	3.88	3.82	3.77	3.71	3.66	3.61	3.55
72.5	4.43	4.52	4.61	4.70	4.70	4.64	4.59	4.54	4.48	4.43	4.37	4.32	4.27	4.21	4.16	4.10	4.05	4.00	3.94	3.89	3.83	3.78	3.73	3.67	3.62
73.0	4.49	4.58	4.67	4.76	4.76	4.71	4.66	4.60	4.55	4.49	4.44	4.39	4.33	4.28	4.22	4.17	4.12	4.06	4.01	3.95	3.90	3.85	3.79	3.74	3.68
73.5	4.54	4.63	4.72	4.81	4.83	4.78	4.72	4.67	4.61	4.56	4.51	4.45	4.40	4.34	4.29	4.24	4.18	4.13	4.07	4.02	3.97	3.91	3.86	3.80	3.75
74.0	4.60	4.69	4.78	4.87	4.90	4.84	4.79	4.73	4.68	4.63	4.57	4.52	4.46	4.41	4.36	4.30	4.25	4.19	4.14	4.09	4.03	3.98	3.92	3.87	3.82
74.5	4.66	4.75	4.84	4.93	4.96	4.91	4.85	4.80	4.75	4.69	4.64	4.58	4.53	4.48	4.42	4.37	4.31	4.26	4.21	4.15	4.10	4.04	3.99	3.94	3.88
75.0	4.72	4.81	4.90	4.99	5.03	4.97	4.92	4.87	4.81	4.76	4.70	4.65	4.60	4.54	4.49	4.43	4.38	4.33	4.27	4.22	4.16	4.11	4.06	4.00	3.95
75.5	4.78	4.87	4.96	5.05	5.09	5.04	4.99	4.93	4.88	4.82	4.77	4.72	4.66	4.61	4.55	4.50	4.45	4.39	4.34	4.28	4.23	4.18	4.12	4.07	4.01
76.0	4.84	4.93	5.02	5.11	5.16	5.11	5.05	5.00	4.94	4.89	4.84	4.78	4.73	4.67	4.62	4.57	4.51	4.46	4.40	4.35	4.30	4.24	4.19	4.13	4.08
76.5	4.90	4.99	5.08	5.17	5.23	5.17	5.12	5.06	5.01	4.96	4.90	4.85	4.79	4.74	4.69	4.63	4.58	4.52	4.47	4.42	4.36	4.31	4.25	4.20	4.15
77.0	4.95	5.04	5.13	5.22	5.29	5.24	5.18	5.13	5.08	5.02	4.97	4.91	4.86	4.81	4.75	4.70	4.64	4.59	4.54	4.48	4.43	4.37	4.32	4.27	4.21
77.5	5.01	5.10	5.19	5.28	5.36	5.30	5.25	5.20	5.14	5.09	5.03	4.98	4.93	4.87	4.82	4.76	4.71	4.66	4.60	4.55	4.49	4.44	4.39	4.33	4.28
78.0	5.07	5.16	5.25	5.34	5.42	5.37	5.32	5.26	5.21	5.15	5.10	5.05	4.99	4.94	4.88	4.83	4.78	4.72	4.67	4.61	4.56	4.51	4.45	4.40	4.34
78.5	5.13	5.22	5.31	5.40	5.49	5.44	5.38	5.33	5.27	5.22	5.17	5.11	5.06	5.00	4.95	4.90	4.84	4.79	4.73	4.68	4.63	4.57	4.52	4.46	4.41
79.0	5.19	5.28	5.37	5.46	5.56	5.50	5.45	5.39	5.34	5.29	5.23	5.18	5.12	5.07	5.02	4.96	4.91	4.85	4.80	4.75	4.69	4.64	4.58	4.53	4.48
79.5	5.25	5.34	5.43	5.52	5.62	5.57	5.51	5.46	5.41	5.35	5.30	5.24	5.19	5.14	5.08	5.03	4.97	4.92	4.87	4.81	4.76	4.70	4.65	4.60	4.54
80.0	5.30	5.39	5.48	5.57	5.69	5.63	5.58	5.53	5.47	5.42	5.36	5.31	5.26	5.20	5.15	5.09	5.04	4.99	4.93	4.88	4.82	4.77	4.72	4.66	4.61
80.5	5.36	5.45	5.54	5.63	5.75	5.70	5.65	5.59	5.54	5.48	5.43	5.38	5.32	5.27	5.21	5.16	5.11	5.05	5.00	4.94	4.89	4.84	4.78	4.73	4.67
81.0	5.42	5.51	5.60	5.69	5.82	5.77	5.71	5.66	5.60	5.55	5.50	5.44	5.39	5.33	5.28	5.23	5.17	5.12	5.06	5.01	4.96	4.90	4.85	4.79	4.74
81.5	5.48	5.57	5.66	5.75	5.89	5.83	5.78	5.72	5.67	5.62	5.56	5.51	5.45	5.40	5.35	5.29	5.24	5.18	5.13	5.08	5.02	4.97	4.91	4.86	4.81
82.0	5.54	5.63	5.72	5.81	5.95	5.90	5.84	5.79	5.74	5.68	5.63	5.57	5.52	5.47	5.41	5.36	5.30	5.25	5.20	5.14	5.09	5.03	4.98	4.93	4.87
82.5	5.60	5.69	5.78	5.87	6.02	5.96	5.91	5.86	5.80	5.75	5.69	5.64	5.59	5.53	5.48	5.42	5.37	5.32	5.26	5.21	5.15	5.10	5.05	4.99	4.94
83.0	5.65	5.74	5.83	5.92	6.08	6.03	5.98	5.92	5.87	5.81	5.76	5.71	5.65	5.60	5.54	5.49	5.44	5.38	5.33	5.27	5.22	5.17	5.11	5.06	5.00
83.5	5.71	5.80	5.89	5.98	6.15	6.10	6.04	5.99	5.93	5.88	5.83	5.77	5.72	5.66	5.61	5.56	5.50	5.45	5.39	5.34	5.29	5.23	5.18	5.12	5.07
84.0	5.77	5.86	5.95	6.04	6.22	6.16	6.11	6.05	6.00	5.95	5.89	5.84	5.78	5.73	5.68	5.62	5.57	5.51	5.46	5.41	5.35	5.30	5.24	5.19	5.14
84.5	5.83	5.92	6.01	6.10	6.28	6.23	6.17	6.12	6.07	6.01	5.96	5.90	5.85	5.80	5.74	5.69	5.63	5.58	5.53	5.47	5.42	5.36	5.31	5.26	5.20
85.0	5.89	5.98	6.07	6.16	6.35	6.29	6.24	6.19	6.13	6.08	6.02	5.97	5.92	5.86	5.81	5.75	5.70	5.65	5.59	5.54	5.48	5.43	5.38	5.32	5.27

TABLE 3. PREDICTED FVC FOR FEMALES (KNUDSON, ET AL: AM REV RESPIR DIS, 1976, 113, 587.)

HT	AGE 17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	47	49	51	53	55	57	59	61	63	65
52.0	2.45	2.64	2.65	2.61	2.56	2.52	2.47	2.43	2.39	2.34	2.30	2.25	2.21	2.17	2.12	2.08	2.03	1.99	1.95	1.90	1.86	1.81	1.77	1.73	1.68
52.5	2.50	2.68	2.70	2.65	2.61	2.57	2.52	2.48	2.43	2.39	2.35	2.30	2.26	2.21	2.17	2.13	2.08	2.04	1.99	1.95	1.91	1.86	1.82	1.77	1.73
53.0	2.54	2.72	2.74	2.70	2.66	2.61	2.57	2.52	2.48	2.44	2.39	2.35	2.30	2.26	2.22	2.17	2.13	2.08	2.04	2.00	1.95	1.91	1.86	1.82	1.78
53.5	2.50	2.76	2.79	2.75	2.70	2.66	2.62	2.57	2.53	2.48	2.44	2.40	2.35	2.31	2.26	2.22	2.18	2.13	2.09	2.04	2.00	1.96	1.91	1.87	1.82
54.0	2.62	2.81	2.84	2.79	2.75	2.71	2.66	2.62	2.57	2.53	2.49	2.44	2.40	2.35	2.31	2.27	2.22	2.18	2.13	2.09	2.05	2.00	1.96	1.91	1.87
54.5	2.66	2.85	2.89	2.84	2.80	2.75	2.71	2.67	2.62	2.58	2.53	2.49	2.45	2.40	2.36	2.31	2.27	2.23	2.18	2.14	2.09	2.05	2.01	1.96	1.92
55.0	2.71	2.89	2.93	2.89	2.84	2.80	2.76	2.71	2.67	2.62	2.58	2.54	2.49	2.45	2.40	2.36	2.32	2.27	2.23	2.18	2.14	2.10	2.05	2.01	1.96
55.5	2.75	2.93	2.98	2.94	2.89	2.85	2.80	2.76	2.72	2.67	2.63	2.58	2.54	2.50	2.45	2.41	2.36	2.32	2.28	2.23	2.19	2.14	2.10	2.06	2.01
56.0	2.79	2.97	3.03	2.98	2.94	2.89	2.85	2.81	2.76	2.72	2.67	2.63	2.59	2.54	2.50	2.45	2.41	2.37	2.32	2.28	2.23	2.19	2.15	2.10	2.06
56.5	2.83	3.01	3.07	3.03	2.99	2.94	2.90	2.85	2.81	2.77	2.72	2.68	2.63	2.59	2.55	2.50	2.46	2.41	2.37	2.33	2.28	2.24	2.19	2.15	2.11
57.0	2.87	3.06	3.12	3.08	3.03	2.99	2.94	2.90	2.86	2.81	2.77	2.72	2.68	2.64	2.59	2.55	2.50	2.46	2.42	2.37	2.33	2.28	2.24	2.20	2.15
57.5	2.91	3.10	3.17	3.12	3.08	3.04	2.99	2.95	2.90	2.86	2.82	2.77	2.73	2.68	2.64	2.60	2.55	2.51	2.46	2.42	2.38	2.33	2.29	2.24	2.20
58.0	2.96	3.14	3.21	3.17	3.13	3.08	3.04	2.99	2.95	2.91	2.86	2.82	2.77	2.73	2.69	2.64	2.60	2.55	2.51	2.47	2.42	2.38	2.33	2.29	2.25
58.5	3.00	3.18	3.26	3.22	3.17	3.13	3.09	3.04	3.00	2.95	2.91	2.87	2.82	2.78	2.73	2.69	2.65	2.60	2.56	2.51	2.47	2.43	2.38	2.34	2.29
59.0	3.04	3.22	3.31	3.26	3.22	3.18	3.13	3.09	3.04	3.00	2.96	2.91	2.87	2.82	2.78	2.74	2.69	2.65	2.60	2.56	2.52	2.47	2.43	2.38	2.34
59.5	3.08	3.27	3.36	3.31	3.27	3.22	3.18	3.14	3.09	3.05	3.00	2.96	2.92	2.87	2.83	2.78	2.74	2.70	2.65	2.61	2.56	2.52	2.48	2.43	2.39
60.0	3.12	3.31	3.40	3.36	3.31	3.27	3.23	3.18	3.14	3.09	3.05	3.01	2.96	2.92	2.87	2.83	2.79	2.74	2.70	2.65	2.61	2.57	2.52	2.48	2.43
60.5	3.17	3.35	3.45	3.41	3.36	3.32	3.27	3.23	3.19	3.14	3.10	3.05	3.01	2.97	2.92	2.88	2.83	2.79	2.75	2.70	2.66	2.61	2.57	2.53	2.48
61.0	3.21	3.39	3.50	3.45	3.41	3.36	3.32	3.28	3.23	3.19	3.14	3.10	3.06	3.01	2.97	2.92	2.88	2.84	2.79	2.75	2.70	2.66	2.62	2.57	2.53
61.5	3.25	3.43	3.54	3.50	3.46	3.41	3.37	3.32	3.28	3.24	3.19	3.15	3.10	3.06	3.02	2.97	2.93	2.88	2.84	2.80	2.75	2.71	2.66	2.62	2.58
62.0	3.29	3.48	3.59	3.55	3.50	3.46	3.41	3.37	3.33	3.28	3.24	3.19	3.15	3.11	3.06	3.02	2.97	2.93	2.89	2.84	2.80	2.75	2.71	2.67	2.62
62.5	3.33	3.52	3.64	3.59	3.55	3.51	3.46	3.42	3.37	3.33	3.29	3.24	3.20	3.15	3.11	3.07	3.02	2.98	2.93	2.89	2.85	2.80	2.76	2.71	2.67
63.0	3.38	3.56	3.68	3.64	3.60	3.55	3.51	3.46	3.42	3.38	3.33	3.29	3.24	3.20	3.16	3.11	3.07	3.02	2.98	2.94	2.89	2.85	2.80	2.76	2.72
63.5	3.42	3.60	3.73	3.69	3.64	3.60	3.56	3.51	3.47	3.42	3.38	3.34	3.29	3.25	3.20	3.16	3.12	3.07	3.03	2.98	2.94	2.90	2.85	2.81	2.76
64.0	3.46	3.64	3.78	3.73	3.69	3.65	3.60	3.56	3.51	3.47	3.43	3.38	3.34	3.29	3.25	3.21	3.16	3.12	3.07	3.03	2.99	2.94	2.90	2.85	2.81
64.5	3.50	3.69	3.83	3.78	3.74	3.69	3.65	3.61	3.56	3.52	3.47	3.43	3.39	3.34	3.30	3.25	3.21	3.17	3.12	3.08	3.03	2.99	2.95	2.90	2.86
65.0	3.54	3.73	3.87	3.83	3.78	3.74	3.70	3.65	3.61	3.56	3.52	3.48	3.43	3.39	3.34	3.30	3.26	3.21	3.17	3.12	3.08	3.04	2.99	2.95	2.90
65.5	3.59	3.77	3.92	3.88	3.83	3.79	3.74	3.70	3.66	3.61	3.57	3.52	3.48	3.44	3.39	3.35	3.30	3.26	3.22	3.17	3.13	3.08	3.04	3.00	2.95
66.0	3.63	3.81	3.97	3.92	3.88	3.83	3.79	3.75	3.70	3.66	3.61	3.57	3.53	3.48	3.44	3.39	3.35	3.31	3.26	3.22	3.17	3.13	3.09	3.04	3.00
66.5	3.67	3.85	4.01	3.97	3.93	3.88	3.84	3.79	3.75	3.71	3.66	3.62	3.57	3.53	3.49	3.44	3.40	3.35	3.31	3.27	3.22	3.18	3.13	3.09	3.05
67.0	3.71	3.89	4.06	4.02	3.97	3.93	3.88	3.84	3.80	3.75	3.71	3.66	3.62	3.58	3.53	3.49	3.44	3.40	3.36	3.31	3.27	3.22	3.18	3.14	3.09
67.5	3.75	3.94	4.11	4.06	4.02	3.98	3.93	3.89	3.84	3.80	3.76	3.71	3.67	3.62	3.58	3.54	3.49	3.45	3.40	3.36	3.32	3.27	3.23	3.18	3.14
68.0	3.79	3.98	4.15	4.11	4.07	4.02	3.98	3.93	3.89	3.85	3.80	3.76	3.71	3.67	3.63	3.58	3.54	3.49	3.45	3.41	3.36	3.32	3.27	3.23	3.19
68.5	3.84	4.02	4.20	4.16	4.11	4.07	4.03	3.98	3.94	3.89	3.85	3.81	3.76	3.72	3.67	3.63	3.59	3.54	3.50	3.45	3.41	3.37	3.32	3.28	3.23
69.0	3.88	4.06	4.25	4.20	4.16	4.12	4.07	4.03	3.98	3.94	3.90	3.85	3.81	3.76	3.72	3.68	3.63	3.59	3.54	3.50	3.46	3.41	3.37	3.32	3.28
69.5	3.92	4.10	4.30	4.25	4.21	4.16	4.12	4.08	4.03	3.99	3.94	3.90	3.86	3.81	3.77	3.72	3.68	3.64	3.59	3.55	3.50	3.46	3.42	3.37	3.33
70.0	3.96	4.15	4.34	4.30	4.25	4.21	4.17	4.12	4.08	4.03	3.99	3.95	3.90	3.86	3.81	3.77	3.73	3.68	3.64	3.59	3.55	3.51	3.46	3.42	3.37
70.5	4.00	4.19	4.39	4.35	4.30	4.26	4.21	4.17	4.13	4.08	4.04	3.99	3.95	3.91	3.86	3.82	3.77	3.73	3.69	3.64	3.60	3.55	3.51	3.47	3.42
71.0	4.05	4.23	4.44	4.39	4.35	4.30	4.26	4.22	4.17	4.13	4.08	4.04	4.00	3.95	3.91	3.86	3.82	3.78	3.73	3.69	3.64	3.60	3.56	3.51	3.47
71.5	4.09	4.27	4.48	4.44	4.40	4.35	4.31	4.26	4.22	4.18	4.13	4.09	4.04	4.00	3.96	3.91	3.87	3.82	3.78	3.74	3.69	3.65	3.60	3.56	3.52
72.0	4.13	4.31	4.53	4.49	4.44	4.40	4.35	4.31	4.27	4.22	4.18	4.13	4.09	4.05	4.00	3.96	3.91	3.87	3.83	3.78	3.74	3.69	3.65	3.61	3.56
72.5	4.17	4.36	4.58	4.53	4.49	4.45	4.40	4.36	4.31	4.27	4.23	4.18	4.14	4.09	4.05	4.01	3.96	3.92	3.87	3.83	3.79	3.74	3.70	3.65	3.61
73.0	4.21	4.40	4.62	4.58	4.54	4.49	4.45	4.40	4.36	4.32	4.27	4.23	4.18	4.14	4.10	4.05	4.01	3.96	3.92	3.88	3.83	3.79	3.74	3.70	3.66
73.5	4.26	4.44	4.67	4.63	4.58	4.54	4.50	4.45	4.41	4.36	4.32	4.28	4.23	4.19	4.14	4.10	4.06	4.01	3.97	3.92	3.88	3.84	3.79	3.75	3.70
74.0	4.30	4.48	4.72	4.67	4.63	4.59	4.54	4.50	4.45	4.41	4.37	4.32	4.28	4.23	4.19	4.15	4.10	4.06	4.01	3.97	3.93	3.88	3.84	3.79	3.75
74.5	4.34	4.52	4.77	4.72	4.68	4.63	4.59	4.55	4.50	4.46	4.41	4.37	4.33	4.28	4.24	4.19	4.15	4.11	4.06	4.02	3.97	3.93	3.89	3.84	3.80
75.0	4.38	4.57	4.81	4.77	4.72	4.68	4.64	4.59	4.55	4.50	4.46	4.42	4.37	4.33	4.28	4.24	4.20	4.15	4.11	4.06	4.02	3.98	3.93	3.89	3.84
75.5	4.42	4.61	4.86	4.82	4.77	4.73	4.68	4.64	4.60	4.55	4.51	4.46	4.42	4.38	4.33	4.29	4.24	4.20	4.16	4.11	4.07	4.02	3.98	3.94	3.89
76.0	4.47	4.65	4.91	4.86	4.82	4.77	4.73	4.69	4.64	4.60	4.55	4.51	4.47	4.42	4.38	4.33	4.29	4.25	4.20	4.16	4.11	4.07	4.03	3.98	3.94
76.5	4.51	4.69	4.95	4.91	4.87	4.82	4.78	4.73	4.69	4.65	4.60	4.56	4.51	4.47	4.43	4.38	4.34	4.29	4.25	4.21	4.16	4.12	4.07	4.03	3.99
77.0	4.55	4.73	5.00	4.96	4.91	4.87	4.82	4.78	4.74	4.69	4.65	4.60	4.56	4.52	4.47	4.43	4.38	4.34	4.30	4.25	4.21	4.16	4.12	4.08	4.03

TABLE 4. PREDICTED FEV1 FOR FEMALES (KNUDSON, ET AL: AM REV RESPIR DIS. 1976. 113. 587.)

HT	17	19	21	23	25	27	29	31	33	35	37	39	41	43	45	47	49	51	53	55	57	59	61	63	65
52.0	2.31	2.48	2.33	2.29	2.25	2.21	2.16	2.12	2.08	2.04	2.00	1.95	1.91	1.87	1.83	1.79	1.74	1.70	1.66	1.62	1.58	1.53	1.49	1.45	1.41
52.5	2.34	2.51	2.37	2.32	2.28	2.24	2.20	2.16	2.11	2.07	2.03	1.99	1.95	1.90	1.86	1.82	1.78	1.74	1.69	1.65	1.61	1.57	1.53	1.48	1.44
53.0	2.38	2.55	2.40	2.36	2.32	2.27	2.23	2.19	2.15	2.11	2.06	2.02	1.98	1.94	1.90	1.85	1.81	1.77	1.73	1.69	1.64	1.60	1.56	1.52	1.48
53.5	2.41	2.58	2.43	2.39	2.35	2.31	2.27	2.22	2.18	2.14	2.10	2.06	2.01	1.97	1.93	1.89	1.85	1.80	1.76	1.72	1.68	1.64	1.59	1.55	1.51
54.0	2.45	2.62	2.47	2.43	2.38	2.34	2.30	2.26	2.22	2.17	2.13	2.09	2.05	2.01	1.96	1.92	1.88	1.84	1.80	1.75	1.71	1.67	1.63	1.59	1.54
54.5	2.48	2.65	2.50	2.46	2.42	2.38	2.33	2.29	2.25	2.21	2.17	2.12	2.08	2.04	2.00	1.96	1.91	1.87	1.83	1.79	1.75	1.70	1.66	1.62	1.58
55.0	2.51	2.68	2.54	2.49	2.45	2.41	2.37	2.33	2.28	2.24	2.20	2.16	2.12	2.07	2.03	1.99	1.95	1.91	1.86	1.82	1.78	1.74	1.70	1.65	1.61
55.5	2.55	2.72	2.57	2.53	2.49	2.45	2.40	2.36	2.32	2.28	2.24	2.19	2.15	2.11	2.07	2.03	1.98	1.94	1.90	1.86	1.82	1.77	1.73	1.69	1.65
56.0	2.58	2.75	2.61	2.56	2.52	2.48	2.44	2.40	2.35	2.31	2.27	2.23	2.19	2.14	2.10	2.06	2.02	1.98	1.93	1.89	1.85	1.81	1.77	1.72	1.68
56.5	2.62	2.79	2.64	2.60	2.56	2.51	2.47	2.43	2.39	2.35	2.30	2.26	2.22	2.18	2.14	2.09	2.05	2.01	1.97	1.93	1.88	1.84	1.80	1.76	1.72
57.0	2.65	2.82	2.67	2.63	2.59	2.55	2.51	2.46	2.42	2.38	2.34	2.30	2.25	2.21	2.17	2.13	2.09	2.04	2.00	1.96	1.92	1.88	1.83	1.79	1.75
57.5	2.69	2.86	2.71	2.67	2.62	2.58	2.54	2.50	2.46	2.41	2.37	2.33	2.29	2.25	2.20	2.16	2.12	2.08	2.04	1.99	1.95	1.91	1.87	1.83	1.78
58.0	2.72	2.89	2.75	2.70	2.66	2.62	2.57	2.53	2.49	2.45	2.41	2.36	2.32	2.28	2.24	2.20	2.15	2.11	2.07	2.03	1.99	1.94	1.90	1.86	1.82
58.5	2.75	2.92	2.78	2.73	2.69	2.65	2.61	2.57	2.52	2.48	2.44	2.40	2.36	2.31	2.27	2.23	2.19	2.15	2.10	2.06	2.02	1.98	1.94	1.89	1.85
59.0	2.79	2.96	2.81	2.77	2.73	2.69	2.64	2.60	2.56	2.52	2.48	2.43	2.39	2.35	2.31	2.27	2.22	2.18	2.14	2.10	2.06	2.01	1.97	1.93	1.89
59.5	2.82	2.99	2.85	2.80	2.76	2.72	2.68	2.64	2.59	2.55	2.51	2.47	2.43	2.38	2.34	2.30	2.26	2.22	2.17	2.13	2.09	2.05	2.01	1.96	1.92
60.0	2.86	3.03	2.88	2.84	2.80	2.75	2.71	2.67	2.63	2.59	2.54	2.50	2.46	2.42	2.38	2.33	2.29	2.25	2.21	2.17	2.12	2.08	2.04	2.00	1.96
60.5	2.89	3.06	2.91	2.87	2.83	2.79	2.75	2.70	2.66	2.62	2.58	2.54	2.49	2.45	2.41	2.37	2.33	2.28	2.24	2.20	2.16	2.12	2.07	2.03	1.99
61.0	2.93	3.10	2.95	2.91	2.86	2.82	2.78	2.74	2.70	2.65	2.61	2.57	2.53	2.49	2.44	2.40	2.36	2.32	2.28	2.23	2.19	2.15	2.11	2.07	2.02
61.5	2.96	3.13	2.98	2.94	2.90	2.86	2.81	2.77	2.73	2.69	2.65	2.60	2.56	2.52	2.48	2.44	2.39	2.85	2.31	2.27	2.23	2.18	2.14	2.10	2.06
62.0	2.99	3.16	3.02	2.97	2.93	2.89	2.85	2.81	2.76	2.72	2.68	2.64	2.60	2.55	2.51	2.47	2.43	2.39	2.34	2.30	2.26	2.22	2.18	2.13	2.09
62.5	3.03	3.20	3.05	3.01	2.97	2.93	2.88	2.84	2.80	2.76	2.72	2.67	2.63	2.59	2.55	2.51	2.46	2.42	2.38	2.34	2.30	2.25	2.21	2.17	2.13
63.0	3.06	3.23	3.09	3.04	3.00	2.96	2.92	2.88	2.83	2.79	2.75	2.71	2.67	2.62	2.58	2.54	2.50	2.46	2.41	2.37	2.33	2.29	2.25	2.20	2.16
63.5	3.10	3.27	3.12	3.08	3.04	2.99	2.95	2.91	2.87	2.83	2.78	2.74	2.70	2.66	2.62	2.57	2.53	2.49	2.45	2.41	2.36	2.32	2.28	2.24	2.20
64.0	3.13	3.30	3.15	3.11	3.07	3.03	2.99	2.94	2.90	2.86	2.82	2.78	2.73	2.69	2.65	2.61	2.57	2.52	2.48	2.44	2.40	2.36	2.31	2.27	2.23
64.5	3.17	3.34	3.19	3.15	3.10	3.06	3.02	2.98	2.94	2.89	2.85	2.81	2.77	2.73	2.68	2.64	2.60	2.56	2.52	2.47	2.43	2.39	2.35	2.31	2.26
65.0	3.20	3.37	3.22	3.18	3.14	3.10	3.05	3.01	2.97	2.93	2.89	2.84	2.80	2.76	2.72	2.68	2.63	2.59	2.55	2.51	2.47	2.42	2.38	2.34	2.30
65.5	3.23	3.40	3.26	3.21	3.17	3.13	3.09	3.05	3.00	2.96	2.92	2.88	2.84	2.79	2.75	2.71	2.67	2.63	2.58	2.54	2.50	2.46	2.42	2.37	2.33
66.0	3.27	3.44	3.29	3.25	3.21	3.17	3.12	3.08	3.04	3.00	2.96	2.91	2.87	2.83	2.79	2.75	2.70	2.66	2.62	2.58	2.54	2.49	2.45	2.41	2.37
66.5	3.30	3.47	3.33	3.28	3.24	3.20	3.16	3.12	3.07	3.03	2.99	2.95	2.91	2.86	2.82	2.78	2.74	2.70	2.65	2.61	2.57	2.53	2.49	2.44	2.40
67.0	3.34	3.51	3.36	3.32	3.28	3.23	3.19	3.15	3.11	3.07	3.02	2.98	2.94	2.90	2.86	2.81	2.77	2.73	2.69	2.65	2.60	2.56	2.52	2.48	2.44
67.5	3.37	3.54	3.39	3.35	3.31	3.27	3.23	3.18	3.14	3.10	3.06	3.02	2.97	2.93	2.89	2.85	2.81	2.76	2.72	2.68	2.64	2.60	2.55	2.51	2.47
68.0	3.41	3.58	3.43	3.39	3.34	3.30	3.26	3.22	3.18	3.13	3.09	3.05	3.01	2.97	2.92	2.88	2.84	2.80	2.76	2.71	2.67	2.63	2.59	2.55	2.50
68.5	3.44	3.61	3.46	3.42	3.38	3.34	3.29	3.25	3.21	3.17	3.13	3.08	3.04	3.00	2.96	2.92	2.87	2.83	2.79	2.75	2.71	2.66	2.62	2.58	2.54
69.0	3.47	3.64	3.50	3.46	3.41	3.37	3.33	3.29	3.25	3.20	3.16	3.12	3.08	3.04	2.99	2.95	2.91	2.87	2.83	2.78	2.74	2.70	2.66	2.62	2.57
69.5	3.51	3.68	3.53	3.49	3.45	3.41	3.36	3.32	3.28	3.24	3.20	3.15	3.11	3.07	3.03	2.99	2.94	2.90	2.86	2.82	2.78	2.73	2.69	2.65	2.61
70.0	3.54	3.71	3.57	3.52	3.48	3.44	3.40	3.36	3.31	3.27	3.23	3.19	3.15	3.10	3.06	3.02	2.98	2.94	2.89	2.85	2.81	2.77	2.73	2.68	2.64
70.5	3.58	3.75	3.60	3.56	3.52	3.47	3.43	3.39	3.35	3.31	3.26	3.22	3.18	3.14	3.10	3.05	3.01	2.97	2.93	2.89	2.84	2.80	2.76	2.72	2.68
71.0	3.61	3.78	3.63	3.59	3.55	3.51	3.47	3.42	3.38	3.34	3.30	3.26	3.21	3.17	3.13	3.09	3.05	3.00	2.96	2.92	2.88	2.84	2.79	2.75	2.71
71.5	3.65	3.82	3.67	3.63	3.58	3.54	3.50	3.46	3.42	3.37	3.33	3.29	3.25	3.21	3.16	3.12	3.08	3.04	3.00	2.95	2.91	2.87	2.83	2.79	2.74
72.0	3.68	3.85	3.70	3.66	3.62	3.58	3.53	3.49	3.45	3.41	3.37	3.32	3.28	3.24	3.20	3.16	3.11	3.07	3.03	2.99	2.95	2.90	2.86	2.82	2.78
72.5	3.71	3.88	3.74	3.70	3.65	3.61	3.57	3.53	3.49	3.44	3.40	3.36	3.32	3.28	3.23	3.19	3.15	3.11	3.07	3.02	2.98	2.94	2.90	2.86	2.81
73.0	3.75	3.92	3.77	3.73	3.69	3.65	3.60	3.56	3.52	3.48	3.44	3.39	3.35	3.31	3.27	3.23	3.18	3.14	3.10	3.06	3.02	2.97	2.93	2.89	2.85
73.5	3.78	3.95	3.81	3.76	3.72	3.68	3.64	3.60	3.55	3.51	3.47	3.43	3.39	3.34	3.30	3.26	3.22	3.18	3.13	3.09	3.05	3.01	2.97	2.92	2.88
74.0	3.82	3.99	3.84	3.80	3.76	3.71	3.67	3.63	3.59	3.55	3.50	3.46	3.42	3.38	3.34	3.29	3.25	3.21	3.17	3.13	3.08	3.04	3.00	2.96	2.92
74.5	3.85	4.02	3.87	3.83	3.79	3.75	3.71	3.66	3.62	3.58	3.54	3.50	3.45	3.41	3.37	3.33	3.29	3.24	3.20	3.16	3.12	3.08	3.03	2.99	2.95
75.0	3.89	4.06	3.91	3.87	3.82	3.78	3.74	3.70	3.66	3.61	3.57	3.53	3.49	3.45	3.40	3.36	3.32	3.28	3.24	3.19	3.15	3.11	3.07	3.03	2.98
75.5	3.92	4.09	3.94	3.90	3.86	3.82	3.77	3.73	3.69	3.65	3.61	3.56	3.52	3.48	3.44	3.40	3.35	3.31	3.27	3.23	3.19	3.14	3.10	3.06	3.02
76.0	3.95	4.12	3.98	3.94	3.89	3.85	3.81	3.77	3.73	3.68	3.64	3.60	3.56	3.52	3.47	3.43	3.39	3.35	3.31	3.26	3.22	3.18	3.14	3.10	3.05
76.5	3.99	4.16	4.01	3.97	3.93	3.89	3.84	3.80	3.76	3.72	3.68	3.63	3.59	3.55	3.51	3.47	3.42	3.38	3.34	3.30	3.26	3.21	3.17	3.13	3.09
77.0	4.02	4.19	4.05	4.00	3.96	3.92	3.88	3.84	3.79	3.75	3.71	3.67	3.63	3.58	3.54	3.50	3.46	3.42	3.37	3.33	3.29	3.25	3.21	3.16	3.12

APPENDIX D—PULMONARY FUNCTION STANDARDS FOR COTTON DUST STANDARD

The spirometric measurements of pulmonary function shall conform to the following minimum standards, and these standards are not intended to preclude additional testing or alternate methods which can be determined to be superior.

I. APPARATUS

a. The instrument shall be accurate to within ±50 milliliters or within ±3 percent of reading, whichever is greater.

b. The instrument should be capable of measuring vital capacity from 0 to 7 liters BTPS.

c. The instrument shall have a low inertia and offer low resistance to airflow such that the resistance to airflow at 12 liters per second must be less than 1.5 cm H_2O/(liter/sec).

d. The zero time point for the purpose of timing the FEV_1 shall be determined by extrapolating the steepest portion of the volume time curve back to the maximal inspiration volume (1, 2, 3, 4) or by an equivalent method.

e. Instruments incorporating measurements of airflow to determine volume shall conform to the same volume accuracy stated in (a) of this section when presented with flow rates from at least 0 to 12 liters per second.

f. The instrument or user of the instrument must have a means of correcting volumes to body temperature saturated with water vapor (BTPS) under conditions of varying ambient spirometer temperatures and barometric pressures.

g. The instrument used shall provide a tracing or display of either flow versus volume or volume versus time during the entire forced expiration. A tracing or display is necessary to determine whether the patient has performed the test properly. The tracing must be stored and available for recall and must be of sufficient size that hand measurements may be made within requirement of paragraph (a) of this section. If a paper record is made it must have a paper speed of at least 2 cm/sec and a volume sensitivity of at least 10.0 mm of chart per liter of volume.

h. The instrument shall be capable of accumulating for a minimum of 10 seconds and shall not stop accumulating volume before (1) the volume change for a 0.5 second interval is less than 25 milliliters, or (2) the flow is less than 50 milliliters per second for a 0.5 second interval.

i. The forced vital capacity (FVC) and forced expiratory volume in 1 second ($FEV^{1.0}$) measurements shall comply with the accuracy requirements stated in paragraph (a) of this section. That is, they should be accurately measured to within ±50 ml or within ±3 percent of reading, whichever is greater.

j. The instrument must be capable of being calibrated in the field with respect to the FEV_1 and FVC. This calibration of the FEV_1 and FVC may be either directly or indirectly through volume and time base measurements. The volume calibration source should provide a volume displacement of at least 2 liters and should be accurate to within ±30 milliliters.

II. TECHNIQUE FOR MEASUREMENT OF FORCED VITAL CAPACITY MANEUVER

a. Use of a nose clip is recommended but not required. The procedures shall be explained in simple terms to the patient who shall be instructed to loosen any tight clothing and stand in front of the apparatus. The subject may sit, but care should be taken on repeat testing that the same position be used and, if possible, the same spirometer. Particular attention shall be given to insure that the chin is slightly elevated with the neck slightly extended. The patient shall be instructed to make a full inspiration from a normal breathing pattern and then blow into the apparatus, without interruption, as hard, fast, and completely as possible. At least three forced expirations shall be carried out. During the maneuvers, the patient shall be observed for compliance with instructions. The expirations shall be checked visually for reproducibility from flow-volume or volume-time tracings or displays. The following efforts shall be judged unacceptable when the patient:

1. has not reached full inspiration preceding the forced expiration,
2. has not used maximal effort during the entire forced expiration,
3. has not continued the expiration for at least 5 seconds or until an obvious plateau in the volume time curve has occurred,
4. has coughed or closed his glottis,
5. has an obstructed mouthpiece or a leak around the mouthpiece (obstruction due to tongue being placed in front of mouthpiece, false teeth falling in front of mouthpiece, etc.),
6. has an unsatisfactory start of expiration, one characterized by excessive hesitation (or false starts), and therefore not allowing back extrapolation of time 0 (extrapolated volume on the volume time tracing must be less than 10 percent of the FVC).
7. has an excessive variability between the three acceptable curves. The variation between the two largest FVC's and FEV_1's of the three satisfactory tracings should not exceed 10 percent or ± 100 milliliters, whichever is greater.

b. Periodic and routine recalibration of the instrument or method for recording FVC and $FEV_{1.0}$ should be performed using a syringe or other volume source of at least 2 liters.

III. INTERPRETATION OF SPIROGRAM

a. The first step in evaluating a spirogram should be to determine whether or not the patient has performed the test properly or as described in II above. From the three satisfactory tracings, the forced vital capacity (FVC) and forced expiratory volume in 1 second ($FEV_{1.0}$) shall be measured and recorded. The largest observed FVC and largest observed FEV_1 shall be used in the analysis regardless of the curve(s) on which they occur.

b. The following guidelines are recommended by NIOSH for the evaluation and management of workers exposed to cotton dust. It is important to note that employees who show reductions in FEV_1/FVC ratio below .75 or drops in Monday FEV_1 of 5 percent or greater on their initial screening exam, should be re-evaluated within a month of the first exam. Those who show consistent decrease in lung function, as shown on the following table, should be managed as recommended.

IV. QUALIFICATIONS OF PERSONNEL ADMINISTERING THE TEST

Technicians who perform pulmonary function testing should have the basic knowledge required to produce meaningful results. Training consisting of approximately 16 hours of formal instruction should cover the following areas. Persons who successfully complete the course will be certified by OSHA or their designee.

a. Basic physiology of the forced vital capacity maneuver and the determinants of airflow limitation with emphasis on the relation to reproducibility of results.

b. Instrumentation requirements including calibration procedures, sources of error and their correction.

c. Performance of the testing including subject coaching, recognition of improperly performed maneuvers and corrective actions.

d. Data quality with emphasis on reproducibility.

e. Actual use of the equipment under supervised conditions.

f. Measurement of tracings and calculations of results.

2. Part 1928 of Title 29 of the Code of Federal Regulations is hereby amended by adding a new paragraph (a)(5) to § 1928.21 to read as follows:

§ 1928.21 Applicable standards in 29 CFR Part 1910.

(a) * * *

(5) Exposure to cotton dust in cotton gins—§ 1910.1046

(Secs. 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911)

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federal register

FRIDAY, JUNE 23, 1978
PART IV



DEPARTMENT OF LABOR

Wage and Hour Division

■

WAIVER OF CHILD LABOR PROVISIONS FOR AGRICULTURAL EMPLOYMENT OF 10 AND 11 YEAR OLD MINORS IN HAND HARVESTING OF SHORT SEASON CROPS

Application for and Granting of a Waiver

[4510-27]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 575—WAIVER OF CHILD LABOR PROVISIONS FOR AGRICULTURAL EMPLOYMENT OF 10 AND 11 YEAR OLD MINORS IN HAND HARVESTING OF SHORT SEASON CROPS

Provisions Governing Application for and Granting of a Waiver

NOTE: This document originally appeared in the FEDERAL REGISTER for Wednesday, June 21, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 42914, August 6, 1976.)

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rules.

SUMMARY: The Administrator of the Wage and Hour Division of the Department of Labor is publishing final rules governing the application for and granting of a waiver pursuant to section 13(c)(4) of the Fair Labor Standards Act of 1938, as amended. This section, added to the Act by the Fair Labor Standards Amendments of 1977, authorizes the Secretary of Labor to grant a waiver from the child labor provisions of the Act for the agricultural employment of 10 and 11 year old minors in the hand harvesting of short season crops if specific requirements are met and under conditions provided in that section of the Act or prescribed by the Secretary of Labor.

EFFECTIVE DATE: These regulations are issued pursuant to a statutory provision which relieves restrictions, and therefore in accordance with 5 U.S.C. 553(d) shall be effective June 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Xavier M. Vela, Administrator, Wage and Hour Division, Attention: Lucille C. Pinkett, Room S-3022, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-8412.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Administrator of the Wage and Hour Division of the Department of Labor is publishing final regulations pursuant to section 13(c)(4) of the Fair Labor Standards Act of 1938, as amended. These regulations establish the procedures and requirements for application for and granting of a waiver of the child labor provisions of the Act for agricultural employment of 10 and 11 year old minors in hand harvesting of short season crops.

The child labor provisions of the Fair Labor Standards Act, section 12, prescribe the following minimum age standards for employment in agriculture: 16 years of age if the agricultural occupation has been declared hazardous by the Secretary of Labor, or if it is to be performed during school hours; 14 years of age if the employment is outside school hours and is in an agricultural occupation not declared hazardous by the Secretary of Labor, except that 12 and 13 year old minors may be employed in such nonhazardous occupations outside school hours either with written parental consent or on a farm where the minor's parent or person standing in place of the parent or person is also employed. Minors under 12 years of age may also be employed in such nonhazardous occupations outside school hours with written parental consent provided they work on farms where the employees are exempt from the Federal minimum wage provisions (a farm which did not use more than 500 man-days of agricultural labor during any calendar quarter during the preceding calendar year).

Minors of any age may be employed by their parent or person standing in place of their parent at any time in any occupation on a farm owned or operated by their parent or person standing in place of their parent.

Section 13(c)(4) authorizes the Secretary to grant a waiver from the standards described above to permit the employment of 10 and 11 year old minors in agriculture as hand harvesters of short season crops when specific requirements are met and in accordance with the conditions provided in the statute or prescribed by the Secretary of Labor in these regulations. (The Secretary of Labor's authority under the Act has been delegated to the Administrator of the Wage and Hour Division, Secretary's Order No. 16-75, 40 FR 55913 and Employment Standards Order No. 2-75, 40 FR 56743.) These regulations specify the information that an employer or group of employers must submit when applying for a waiver under section 13(c)(4). The regulations also include the standards the Secretary of Labor has established for the employment of these minors under a granted waiver.

PROPOSED REGULATIONS

The regulations were published as proposed rulemaking on April 4, 1978, at 43 FR 14068. Initially comments were invited until May 4, 1978. Notice of a hearing in this matter to be held at Washington, D.C., on May 11, 1978, was published in the FEDERAL REGISTER on May 1 and 2, 1978, and the period for comment was extended to that date. The public hearing was held on May 11 and 12, and the record was held open for comment until May 23, 1978. *Twenty seven* individuals or organizations testified at the hearings and/or submitted statements for the record. In addition, the *159* written comments which were received during the entire comment period were incorporated in and made a part of the record of the hearing.

DEPARTMENT OF LABOR RESPONSE TO COMMENTS AND HEARING TESTIMONY

1. DEFINITIONS

The proposed regulations in § 575.2 set forth the definitions of terms used in the regulations. Nineteen commenters urged that the definition of "permanent residence" be amended to make it clear that a granted waiver would apply to local children and not to migratory children who, with their parents or persons standing in the place of their parents, are temporarily living in the community. The final regulations define "permanent residence" to mean the place where the minor and the minor's parent or person standing in place of parent reside year-round. The descriptive "year-round" suggested by 15 of the commenters was adopted to emphasize that only local 10 and 11 year olds, as distinguished from migrant children, could be employed under a waiver. In addition, the definition of "commute daily" was added to provide that children travel daily to and from their permanent residences.

The proposed regulations defined school hours on the basis of the official school calendars for the school districts where the minors are living while so employed and in § 575.4 required a copy of the appropriate school calendar to be filed with the application. Ten commenters objected to the use of the official school calendar (for the school district where the minor is living while so employed) as the determinant of "school hours" on the basis that such calendars are changed during the school year. Two commenters from the State of Maine advised that their school systems recess for 3 weeks for the potato harvest, and that the schools operate day-to-day, depending on weather conditions. The final regulations thus define "outside school hours" as any period of time when the school for the district of the minor's permanent residence does not assemble. Section 575.4 in the final regulations thus requires the applicant to submit a statement that the employment will be outside school hours.

Ten commenters recommended adding definitions of "severe economic disruption," "deleterious to their health," "knowledgeable individual,"

and that "hand harvest" be defined to exclude operation of power driven equipment. These recommendations have been incorporated in the final regulations as refinements of these terms in subsections 575.5(b), (c), and (e) and 575.8(f).

2. APPLICATION FOR WAIVER

The proposed regulations in § 575.3 provided that the applications, for which no particular form was prescribed, be filed with the Administrator 6 weeks prior to the period the waiver is to be in effect. Of the 34 commenters addressing themselves to this section, 21 considered the regulations too stringent, and 13 too lenient. Some commenters who considered the requirements too lenient recommended periods as high as 90 days to provide time to give adult workers notice of available jobs, and some proposed that all applications for waivers be published in the FEDERAL REGISTER with a stated period for public comment. Seven commenters objected to the 6 weeks as being too long, creating problems of last minute recruitment, and inability to predict weather conditions; they suggest periods as short as 3 weeks. The final regulations are clarified to indicate that 6 weeks is not a requirement but is suggested to permit adequate time for processing the application.

Twenty commenters recommended adoption of a standardized application form and acceptance of a single application prepared by the State, on behalf of all applicants within a state, including supporting data. The Department seriously considered these practical recommendations but determined that some of the statutory requirements were too varied and closely related to the needs of each employer. The final regulations thus provide for a check list in § 575.3(b) and a new § 575.5(g) to specify data which may be submitted as a group or by geographic areas.

3. GENERAL INFORMATION REQUIRED

The proposed regulations in § 575.4 prescribed the general information an applicant must provide. The general information required in the final regulations, with the exception of editorial revisions, remains unchanged except for the requirement that the applicant state that the employment under the waiver will be outside school hours. This replaces the proposed requirement for the submission of school calendars.

4. SUPPORTING DATA

The proposed regulations in § 575.5 defined the objective data required by the statute to be submitted by the employer or group of employers. Eighty-four commenters addressed themselves to this section, and their comments will be discussed with reference to the particular objective data.

a. Short Season Crop

The proposed regulations in § 575.5(a) provided that the Administrator would accept the statement of the agricultural extension agent for the county to the effect that the variety of the crop to be harvested is harvested within 4 weeks in the particular region as evidence that the crop has a "particularly short harvest season." Of the 8 commenters on this requirement, one indicated that a general statement from a land grant college to that effect should be adequate for the state. Others indicated that 4 weeks was too short for some crops. The Department determined that the legislative history of the statute supported 4 weeks as delineating crops with a particularly short harvest season from others. The final regulations retain 4 weeks as the standard for a particularly short harvest season but delete the requirement that the supporting data must relate to each field and substitute therefor the requirement that the crop "must ordinarily be harvested within 4 weeks." The regulations also retain the provision that the statement to that effect may be from the agricultural extension agent since there is such an agent for each county.

b. Severe Economic Disruption

The proposed regulations in § 575.5(b) provided that the Administrator would accept written statements of knowledgeable individuals that document the fact that the 12 year minimum age would cause "severe economic disruption in the industry of the employer or group of employers" on the basis of comparison of industry statistics for seasons prior to 1974 with seasons subsequent thereto. Of the 26 commenters on this requirement, 7 considered it too stringent and urged that the regulations provide that the requirement be satisfied by the employer's statement of severe economic disruption. One urged that the State should be permitted to submit a single representation of such economic disruption on a state-wide basis. Of the 19 commenters who considered the requirement too lenient, some criticized reliance on data submitted by the employer; and some argued that the data be documented from sources outside the industry. Others recommended that the employer be required to demonstrate a percentage crop loss based on the unavailability of 10 and 11 year old hand harvesters. Some contended that the determination of severe economic disruption should be based only on the showing of a substantial current economic loss. Others argued that severe economic disruption should be documented by a showing of insufficient available labor. The final regulations require that the documentation of severe economic disruption be related to the particular operation of the employer or each employer of a group of employers. They provide that "severe economic disruption in the industry" refers to the existence of a compelling need for the employment of 10 and 11 year old hand harvesters. Evidence of this compelling need may be shown by documentation that the requisite number of workers 12 and above needed to harvest the acreage planted based on labor requirements of the employer in previous years as well as the current year cannot be recruited.

c. Deleterious to Health or Well-Being

The proposed regulations in § 575.5(c) provided that the Administrator would accept statements from knowledgeable individuals, such as educators, doctors or nurses affiliated with schools or public health facilities, that the employment of minors under a waiver would not be deleterious to their health or well-being. Of the 29 commenters on this subsection, 6 considered the requirements too stringent, and recommended that a general certification by state health agencies to lack of harm should be adequate. Another commenter considered the requirement unnecessary asserting that it was duplicative of the requirement relating to the adverse effect of pesticides on the health or well-being of 10 and 11 year old minors. Of the 23 commenters who considered the requirements too lenient, most questioned the objectivity and expertise of local individuals. The final regulations thus require that the statement be from trained medical personnel, namely, doctors, nurses, or public health officials in the region. The regulations were also changed to indicate that the "health or well-being" refers to the health or well-being generally of 10 and 11 year old hand harvesters, and not to the tolerance level of pesticides and other chemicals.

d. Pesticides and Other Chemicals

The proposed regulations in § 575.5(d) required the employer or group of employers to submit supporting data that the "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver. The data required identification of each pesticide or chemical used and the projected date of last application prior to harvest, and the standards of EPA, OSHA, NIOSH, or other comparable authority which establish that each field so treated will not adversely affect the health or well-being of minors who will enter such field on the first day of the period designated

in the waiver. The Environmental Protection Agency, which is the Federal agency designated for determining safety standards for the use of pesticides and chemicals for agricultural workers, advised that the standards it has established for the reentry of agricultural workers after the application of pesticides were established for adult workers and not for the pubescent child. The agency has further advised that it had not and could not on the basis of its present knowledge establish any safe reentry times for 10 and 11 year olds. Several witnesses at the hearing also testified as to their personal experience as to the adverse effects of pesticides on children. Others argued that the regulations should accept the manufacturer's reentry times (based on EPA's standards) specified as being safe for 10 and 11 year olds. This suggestion was not adopted since it was established at the hearing that EPA safe reentry times were based on adult tolerance. Moreover, it was apparent from the testimony at the hearings that the currently established EPA and other federal standards have not been shown to be safe for 10 and 11 year olds. Accordingly till such standards are developed or until the Secretary obtains information establishing by objective data that specified reentry times are safe for 10 and 11 year olds, no waivers will be granted to an employer or group of employers who have used pesticides or other chemicals on the crops to be harvested. Therefore, the final regulations provide that the applicant, in order to satisfy this condition, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data is sufficient or if standards are subsequently developed which establish safe reentry standards for 10 and 11 year olds, such application will be considered as meeting the pesticide requirement. If such data, or additional studies conducted by the Secretary or the Secretary's designee, establish safe reentry standards for 10 and 11 year olds this section will be amended to include such standards, and the applicant will then need only identify the type and level of pesticides or other chemicals used and the date of last application of same prior to harvest.

e. Individuals Age 12 Years and Above Not Available

The proposed regulations in § 575.5(e) provided that the Administrator would accept the statement of an appropriate official of the state employment service or school district verifying that sufficient (this word was omitted in the published proposed regulations) individuals 12 years and above have not placed their names on recruitment lists for hand harvesting the crops specified in the application. Of the 38 commenters on this subsection, 13 considered the requirement too stringent. They argued that the requirement was too burdensome and frustrated the asserted intent of the legislation which was to allow participation of children under 12 years in hand harvesting along with those over 12 years of age; and that the state employment service could not determine availability in advance of the application. The 25 commenters who considered the requirement too lenient, objected that the lack of names on current recruitment lists did not show actual shortages and urged utilization of the existing interstate clearance system to recruit workers. Other commenters objected to the use of the state employment service on the ground that it had been criticized for failing to service farmworkers. The final regulations establish recruitment actions which the employer or group of employers must take in order to document the unavailability of individuals 12 years and above. Specifically these actions include placing an order with the local employment service for intrastate and interstate job orders, in which the piece rate is specified, in advance of the harvest season; placing two advertisements in local newspapers or advertising over local radio stations; contacting farm labor contractors and others; contacting schools, businesses and other organizations to enlist their help. The resulting recruitment of hand harvesters 12 years and above in an insufficient number to harvest the specified crops will establish the unavailability of individuals 12 years and above. An interstate order need not be placed if the applicant can demonstrate that suitable housing is not available. In order for the Secretary to evaluate whether or not these efforts were unsuccessful in locating sufficient numbers of older employees, information on the responses received, by age, would have to be submitted. Therefore, the final regulations require the submission of such information.

f. Traditional Employment of Children Under 12 Years Without Displacing Individuals Over 16 Years

The proposed regulations in § 575.5(f) provided for the documentation that the industry of the applicant has traditionally and substantially employed individuals under 12 years of age without displacing substantial job opportunities for individuals over 16 years of age. Documentation of the traditional aspect of such employment could include newspaper and other published reports; and documentation that such employment did not displace individuals over 16 years of age could include certification to that effect by officials of the state employment service. Of the 16 commenters on this subsection, some indicated that news articles were too casual documentation, and some indicated that individuals over 16 years were not interested in hand harvesting crops. Others considered the state employment service an inadequate information agency. Some commenters suggested that waivers be issued only in the areas (Washington, Oregon, and Maine) specifically mentioned in the legislative history as traditionally using such children. The Department considered all of these comments and determined that the language of the proposed regulations was appropriate for the information required. The final regulations retain the subsection unchanged.

5. PROCEDURES FOR ACTION ON AN APPLICATION

The proposed regulations in section 575.6 set forth the procedures the Administrator would follow when an application for a waiver is received. Two additional provisions were added to this section in the final regulations providing that a waiver shall be denied to any employer against whom a final civil money penalty is outstanding for violation of section 16(e) of the Act, and that if a waiver is granted the name and address of the employer to whom it was granted and the dates of the period the waiver will be in effect will be published in the FEDERAL REGISTER.

6. SECRETARY'S CONDITIONS FOR EMPLOYMENT UNDER A WAIVER

The proposed regulations in § 575.8 provided the terms and conditions prescribed by the Secretary for the protection of minors employed under a waiver.

With respect to other sections of the proposed regulations many commenters recommended that an employer or group of employers be required to obtain the written consent of the minor's parent or person standing in place of his/her parent to the employment of such minor under the waiver. The final regulations provide a new subsection incorporating this requirement.

One of the Secretary's conditions limited employment under a waiver to 8 hours a day and 40 hours a week. Of the 17 commenters that addressed themselves to the hours limitation 2 commenters considered it too stringent because hours of harvest vary according to the weather and in good weather a 40 hour limit is not desirable. The other 15 commenters considered the hours too long for such young children, and recommended that it be cut to 4, 5, or 6 hours a day, and 24, 30, or 36 hours a week, with

time specified for rest and lunch. The final regulations limit the hours of employment under a waiver to 5 in any one day and 30 in any workweek with a meal break of at least 30 minutes and 2 rest breaks of at least 15 minutes.

Many commenters suggested including provisions that the employer or group of employers be required to supply adequate sanitary facilities, drinking water, and first aid services. Other commenters also recommended that the employer or group of employers should be required to provide emergency transportation of the minor to the minor's permanent residence or the nearest hospital for any 10 or 11 year old who becomes ill or is injured during the normal hours of employment. The final regulations provide two new subsections requiring these conditions for employment under a waiver.

With respect to other sections of the proposed regulations many commenters expressed concern that 10 and 11 year old hand harvesters employed under a waiver might operate or be exposed to power driven farm machinery. The final regulations provide a new subsection prohibiting employment under a waiver in the operation of riding on, or in close proximity to power driven machinery and equipment.

7. OTHER CHANGES

In addition to the changes specified above, many editorial, organizational, and clarifying changes have been made.

These regulations have been developed under the direction and control of Xavier M. Vela, Administrator, Wage and Hour Division, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, Chapter V of Title 29 of the Code of Federal Regulations is amended to add the new Part 575 as follows:

Sec.
575.1 Purpose and scope.
575.2 Definitions.
575.3 Application for waiver.
575.4 Information to be included in application.
575.5 Supporting data to accompany application.
575.6 Procedure for action on an application.
575.7 Statutory conditions for employment under the waiver.
575.8 Secretary's conditions for employment under the waiver.
575.9 Failure to comply with terms and conditions of the waiver.

AUTHORITY: Secs. 11, 12, 13, 18, 52 Stat. 1067, 1069, as amended; 29 U.S.C. 212, 213, 218; Secretary of Labor's Order No. 16-75, 40 FR 55913; Employment Standards Order No. 2-75, 40 FR 56743.

§ 575.1 Purpose and scope.

(a) Section 13(c)(4) was added to the Fair Labor Standards Act of 1938, as amended, by the Fair Labor Standards Amendments of 1977. This section provides that:

(A) An employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment for not more than 8 weeks in any calendar year of individuals who are less than 12 years of age, but not less than 10 years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—

(i) The crop to be harvested is one with a particularly short harvesting season and the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

(ii) The employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being;

(iii) The level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

(iv) Individuals age 12 and above are not available for such employment; and

(v) The industry of such employer or group of employers has traditionally and substantially employed individuals under 12 years of age without displacing substantial job opportunities for individuals over 16 years of age.

(B) Any waiver granted by the Secretary under subparagraph (A) shall require that—

(i) The individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

(ii) Such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

(iii) Such individuals be employed under such waiver (I) for not more than 8 weeks between June 1 and October 15 of any calendar year, and (II) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.

(b) The child labor provisions of the Fair Labor Standards Act, section 12, require the following age standards for employment in agriculture:

(1) 16 years of age in any occupation at any time;

(2) 14 and 15 years of age outside of school hours except in occupations found and declared by the Secretary to be particularly hazardous for the employment of minors under 16 years of age (subpart E-1, 29 CFR 570.70, et seq.);

(3) 12 and 13 years of age in nonhazardous occupations outside of school hours if:

(i) Such employment is with the written consent of a parent or person standing in the place of a parent of such minor, or

(ii) Such employment is on the same farm where such parent or person is also employed;

(4) Under 12 years of age in nonhazardous occupations outside of school hours if such employment is with the written consent of a parent or person standing in place of a parent of such minor, on a farm where, because of the provisions of section 13(a)(6)(A) of the Act, none of the employees are required to be paid at the wage rate prescribed by section 6(a)(5) of the Act;

(5) 10 and 11 years of age in nonhazardous occupations outside of school hours employed to hand-harvest short season crop or crops under a waiver issued pursuant to section 13(c)(4) of the Act and this part:

(6) Minors of any age may be employed by their parents or persons standing in place of their parents at any time in any occupation on a farm owned or operated by their parents or persons standing in place of their parents.

(c) This part provides the procedures to be used under section 13(c)(4) of the Act. This part describes the information and defines the supporting data that the employer or group of employers must submit when applying for a waiver of the child labor provisions for the employment of 10 and 11 year old minors as hand-harvest laborers in an agricultural operation. It further explains the specific requirements imposed by the statute for employment under a waiver and specifies the conditions prescribed by the Secretary for employment under a waiver.

§ 575.2 Definitions.

As used in this part—

"Act" means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201, et seq.).

"Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, and includes an authorized representative designated by the Administrator to perform any of the functions of the Administrator under this part.

"Agriculture" means agriculture as defined in section 3(f) of the Act and as interpreted in part 780 of this chapter.

"Commute daily" means the minors shall travel by foot, car, or other vehicle designed for transporting passengers from their permanent residences to the field or farm where they will work and return thereto at the end of each workday.

"Department" means the U.S. Department of Labor.

"Employer" means employer as defined in section 3(d) of the Act.

"Group of employers" means a number of employers who seek to be considered together for the purpose of

applying for a waiver under section 13(c)(4) of the Act.

"Hand-harvest laborers" means agricultural workers engaged solely in harvesting by hand soil grown crops such as but not limited to berries, potatoes, and beans, and as interpreted in § 780.312 of this chapter.

"Outside school hours" means such periods as determined by the school district of the minor's permanent residence. These periods include before or after school hours, holidays, summer vacation, Saturdays, Sundays, or any other days on which the school for the school district does not assemble.

"Permanent residence" means the place where the minor and the minor's parent or person standing in place of a parent reside year-round.

"Secretary" means the Secretary of Labor, United States Department of Labor, or an authorized representative of the Secretary.

"Waiver" means a letter signed by the Administrator advising the named employer or group of employers that 10 and 11 year old minors may be employed in the hand-harvesting of the specified short season crop or crops for the period designated, in accordance with the terms and conditions set forth in section 13(c)(4) of the Act and this part.

§ 575.3 Application for waiver.

(a) An application for a waiver shall be filed with the Administrator of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor, Washington, D.C. 20210. To permit adequate time for processing, it is recommended that such applications be filed 6 weeks prior to the period the waiver is to be in effect.

(b) No particular form is prescribed. The application, which may be in letter form, shall be typewritten or clearly written and shall include the following information:

(1) The general information as described in section 575.4 of this part:

(i) Name and address of employer or group of employers;

(ii) Telephone number;

(iii) Location of farm(s);

(iv) Crop or crops to be hand harvested;

(v) Whether payment is customarily paid on a piece rate basis;

(vi) Requested period of waiver;

(vii) Statement that such employment shall be outside school hours;

(2) The objective data as required in section 575.5 of this part to show that:

(i) The crops have a short harvesting season;

(ii) Without 10 and 11 year olds the industry would suffer severe economic disruption;

(iii) Employment will not be deleterious to the health and well-being of 10 and 11 year olds;

(iv) The level of pesticides will not adversely affect 10 and 11 year olds;

(v) Individuals 12 years and over are not available for employment;

(vi) Employer or group of employers has traditionally used minors under 12 years and this will not displace employees 16 years or older.

(c) The application shall be signed and dated by the employer or group of employers requesting the waiver or by the authorized representative of such employer or group.

§ 575.4 Information to be included in application.

An application for a waiver pursuant to Section 13(c)(4) of the Act shall contain the following information:

(a) The name, address, and zip code of the employer, or each employer of a group of employers, and the authorized representative, if any, of an employer or group.

(b) The telephone number and area code for any employer or authorized representative from whom additional information concerning the application may be obtained.

(c) The address, location, and/or area (State, county, and/or other geographic designation), clearly identifying each employer's farm(s) or field(s) where 10 and 11 year old hand-harvest laborers are to be employed.

(d) The specific crop or crops to be hand-harvested at each designated farm or field.

(e) Substantiation of the claim that such agricultural operation "is customarily and generally recognized as being paid on a piece rate basis in the region in which such individuals would be employed." The Administrator will accept signed statements to that effect from agricultural employers and employees and others, such as agricultural extension agents, in the region of employment who are familiar with farming operations and practices in the region and with the method of compensation used in such operations and practices.

(f) Designated dates of not more than 8 weeks an any calendar year, between June 1 and October 15, during which it is anticipated that 10 and 11 year old minors will be employed in the hand-harvesting of the specified short season crop or crops.

(g) A statement that the 10- and 11-year old hand harvesters will be employed outside school hours.

§ 575.5 Supporting data to accompany application.

Objective data, as required by Section 13(c)(4) of the Act, shall also be submitted by the employer or group of employers applying for a waiver, to show that:

(a) The crop to be harvested is one with a "particularly short harvesting season." The variety of each crop to be harvested must ordinarily be harvested within 4 weeks in the region in which the waiver will be applicable. The Administrator will accept the written statement to that effect from the agricultural extension agent for the county.

(b) The 12-year minimum age prescribed by the Act for such employment would cause "severe economic disruption in the industry of the employer or group of employers applying for the waiver." Severe economic disruption in the industry refers to the consequences of not meeting a compelling need for the employment of 10- and 11-year olds to avoid loss of a significant portion of the crop. Evidence of this need includes the projected number of laborers needed to harvest the acreage planted and evidence that recruitment requirements specified in subsection (e) of this section have been complied with. Data concerning the number of hand harvest laborers used in previous years for given acreages will serve as a basis for evaluating needs for the current year. If the requisite number of workers cannot be recruited from the labor supply of 12 years and above, this would ordinarily demonstrate the compelling need for the employment of 10- and 11-year olds.

(c) The employment of minors under the waiver "would not be deleterious to their health or well-being." This refers to the prospective effect on the health or well-being generally (i.e., other than the tolerance level of pesticides or other chemicals) of 10 and 11-year old hand harvesters. The Administrator will accept signed statements to that effect from doctors, or nurses or public health officials in the region.

(d) The "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver. The safe reentry standards established by the Environmental Protection Agency, and followed by other federal and state agencies, were established for adult workers and have not been shown to be safe for 10 and 11 year olds. Therefore, the applicant, in order to satisfy this condition, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data, or additional studies conducted by the Secretary or the Secretary's designee, establish safe reentry standards for 10 and 11 year olds, this section will be amended to include such standards and the applicant will then need only identify the type and level of pesticides or chemicals used and the date of last application of same prior to harvest.

(e) Individuals age 12 and above are not available for such employment. Evidence of such unavailability must be documented by the applicant by: (1) Placement of intrastate and interstate job orders, in which the piece rate is specified, with the state employment service sufficiently in advance of the harvest to allow reasonable time for the recruitment of local and migrant workers. An interstate order need not be placed if the applicant can demonstrate that suitable housing is not available. (2) Placement of at least two advertisements in local papers of general circulation or advertisements over local radio stations. (3) Contact with farm labor contractors, migrant workers, and other potential workers. (4) Contact with schools, business and labor organizations, nonprofit organizations and public agencies to enlist their help. Data showing the responses received to these solicitations must be categorized by age and submitted with the waiver application to verify that older workers are not available to perform the work.

(f) The "industry of such employer or groups of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age." Documentation that the industry has traditionally and substantially employed individuals under 12 years of age may include newspaper reports, magazine articles, research organization reports, or other appropriate sources. Data to indicate that such employment did not displace substantial job opportunities for individuals over 16 years of age may include the signed statement of an appropriate official of the employment service agency of the State (or States, if region designated crosses State lines) certifying to that fact. This certification must be based on statistical documentation for at least the previous year.

(g) In those instances where supporting data are submitted for a group of employers, the objective data required by paragraphs (a), (c), (e), and (f) of this section may be submitted for the specific geographic area, e.g., an entire county, of the group of employers. However, the information required by paragraphs (b) and (d) of this section shall be submitted on the basis of each individual employer.

§ 575.6 Procedure for action on an application.

(a) Upon receipt of an application for a waiver, the Administrator shall review all of the information and supporting data. If sufficient, the Administrator shall grant a waiver; if insufficient, the Administrator may seek further information. If such information is not made available to the Administrator, the Administrator shall deny the waiver.

(b) The Administrator shall deny the application for a waiver from any employer against whom a final civil money penalty is outstanding under section 16(e) of the Act for violation of the child labor provisions of the Act.

(c) The waiver, in the form of a letter signed by the Administrator, shall set forth the terms and conditions for employment under the waiver as provided in §§ 575.7 and 575.8. The waiver shall be issued to the employer or group of employers applying for it.

(d) If a waiver is granted there will be published in the FEDERAL REGISTER a general notice to that effect setting forth for each waiver granted: the name of the employer or the name of each employer of a group of employers; the address of each such employer, including city, state, and zip code; and the dates of the period the waiver will be in effect.

(e) If a waiver is denied, the Administrator shall give written notice of such denial to the employer or group of employers applying for a waiver. Such denial will be without prejudice to the filing of any subsequent application.

§ 575.7 Statutory conditions for employment under the waiver.

Any waiver granted pursuant to Section 13(c)(4) of the Act and this part shall require that:

(a) Employment of 10 and 11 year old minors pursuant to the waiver be outside school hours.

(b) Individuals employed commute daily from their permanent residence to the farms(s) or field(s) where employed.

(c) Such individuals be employed for not more than 8 weeks between June 1 and October 15 of any calendar year. When schools are in session, any employment under a waiver shall be confined to outside of school hours.

§ 575.8 Secretary's conditions for employment under the waiver.

The Secretary prescribes the following terms and conditions for the protection of minors employed pursuant to a waiver granted under Section 13(c)(4) of the Act:

(a) An employer or group of employers granted such a waiver shall obtain and keep on file a signed statement of the parent or person standing in the place of the parent of each 10 and 11-year old minor employed consenting to the employment of such minor under the waiver.

(b) Any employment pursuant to a waiver shall be in compliance with applicable Federal and State laws, and any regulations issued under them.

(c) No employer or group of employers shall employ any 10 or 11 year old minor pursuant to a waiver for more than 5 hours in any one day or for more than 30 hours in any workweek with a meal break of at least 30 minutes and two rest breaks of at least 15 minutes each.

(d) An employer or group of employers granted such a waiver shall provide immediately adjacent to the field(s) to be hand harvested: (1) Adequate sanitary facilities, such as portable toilets; (2) adequate and clean drinking water in covered containers with spouts, and an adequate supply of paper or plastic cups for individual drinking use; and (3) a specified adult employee, who is appropriately equipped and is knowledgeable about first-aid treatment and readily available to give such treatment when needed.

(e) An employer or group of employers granted such a waiver shall provide emergency transportation either to the minor's permanent residence or to the nearest hospital for any 10 or 11 year old hand harvester who becomes ill or is injured during the normal hours of employment.

(f) No 10 or 11-year old employed under a waiver shall ride upon or be employed in the operation of or in the close proximity to any power driven machinery or equipment. Generally, a distance of fifty feet or more will be construed to meet the requirement that employment not be in "close proximity" to machinery or equipment.

(g) An employer or group of employers granted such a waiver who owns, operates, or causes to be operated any vehicle for the transportation of such minors shall be responsible for assuring that:

(1) Every such vehicle is in compliance with all applicable Federal and State safety and health standards and with the rules and regulations issued by the Bureau of Motor Carrier Safety, Federal Highway Administration of the U.S. Department of Transportation;

(2) Every such vehicle be designed for transporting passengers and be operated by a lawfully licensed driver; and

(3) A vehicle liability insurance policy provides insurance in an amount not less than the amounts applicable to vehicles used in the transportation of passengers under the Interstate Commerce Act and its regulations. These amounts currently are as follows:

Insurance required for passenger equipment

	12 or less passengers	More than 12 passengers
Limit for bodily injuries to or death of 1 person	$100,000	$100,000
Limit for bodily injuries to or death of all persons injured or killed in any 1 accident (subject to a maximum of $100,000 for bodily injuries to or death of 1 person)	300,000	500,000
Limit for loss or damage in any 1 accident to property of others (excluding cargo)	50,000	50,000

(h) A copy of the waiver shall be posted or readily available at the site or sites of such employment of such minors during the entire period.

(i) The employer or group of employers shall maintain and preserve a record of the name, address, and occupation of each minor employed under the waiver in accordance with § 516.33(b) of this chapter. In addition, the record shall also include the date of birth, the name and address of the school in which the minor is enrolled, and the number of hours worked each day and each week of the designated period. Each employer required to maintain records under this part shall preserve them for a period of at least 2 years.

(j) A waiver shall be effected for the period designated therein with no provision for amendment.

§ 575.9 Failure to comply with the terms and conditions of the waiver.

If the employer or group of employers granted a waiver pursuant to Section 13(c)(4) of the Act and this part do not comply with the terms and conditions set forth in the waiver and this part, the waiver shall be null and void and the employer or group of employers will be subject to civil money penalties under Section 16(e) of the Act.

Signed at Washington, D.C. on this 19th day of June, 1978.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 78-17239 Filed 6-20-78; 8:45 am]

federal register

FRIDAY, JUNE 23, 1978
PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

ETHYLENE OXIDE, ETHYLENE CHLOROHYDRIN, AND ETHYLENE GLYCOL

Proposed Maximum Residue Limits and Maximum Levels of Exposure

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 211 and 821]

[Docket No. 77N-0424]

ETHYLENE OXIDE, ETHYLENE CHLOROHYDRIN, AND ETHYLENE GLYCOL

Proposed Maximum Residue Limits and Maximum Levels of Exposure

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would impose restrictions on the continued use of ethylene oxide as a sterilant for certain drug products and medical devices for human use by: (1) Establishing maximum residue limits for ethylene oxide and its two major reaction products, ethylene chlorohydrin (2-chloroethanol) and ethylene glycol, in drug products for human and veterinary use, including biological products for human use, and in medical devices for human use and (2) establishing maximum daily levels of exposure for drug products for ethylene oxide and its two major reaction products. This action is being taken because residues of ethylene oxide and its two major reaction products in drug products and devices for which ethylene oxide is used as a sterilant may produce toxic reactions in patients, and because of the potential risk of mutagenicity from exposure to these residues.

DATES: Comments by August 22, 1978. The Commissioner proposes that the final regulation based on this proposal be effective 60 days after publication of the final regulation in the FEDERAL REGISTER.

ADDRESS: Written comments (four copies, indentified with Docket No. 77N-0424) to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Marilyn L. Watson, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-3640).

SUPPLEMENTARY INFORMATION: Ethylene oxide has been used for a number of years as a sterilant for human drugs (e.g., certain ophthalmic and parenteral drug products), veterinary drugs (e.g., ophthalmic ointments for small animals and certain intramammary infusion products), biological products for human use (e.g., tuberculin test preparations and inactivation of some vaccines), medical devices for human use containing heat sensitive plastic components (e.g., heart pacemakers, kidney dialysis machines, and heart lung machines) as well as for other devices such as surgical sutures, intraocular lenses, and surgical scrub sponges. Ethylene oxide also has been used as a sterilant for the individual ingredients of drug products and for containers, container closures, and delivery systems of drugs and medical devices for human use. Because some drugs, medical devices for human use, and other articles cannot be sterilized by heat, filtration, radiation, or liquid chemical agents without degradation or other damage, gaseous sterilization must be used. Possible substitutes for ethylene oxide are formaldehyde or glutaraldehyde. Of these, there is no literature on tests for the long-term toxicity of gluteraldehyde. Formaldehyde has, however, been shown to be mutagenic (Ref. 1).

Ethylene oxide is an alkylating agent which reacts primarily with nucleophilic groups—amines, alcohols, phenols, organic and inorganic acids, and water. Its biochemical reactions include those with the ring nitrogens of purine and pyrimidine bases and the amino and carboxy groups of amino acids and proteins. Ethylene oxide reacts with the chloride ion to form ethylene chlorohydrin or with water to form ethylene glycol.

In response to questions raised regarding the safety and effectiveness of ethylene oxide as a sterilant for drugs and medical devices for human use and because of reports of serious adverse reactions associated with the use of products sterilized with ethylene oxide, a notice was published in the FEDERAL REGISTER of September 12, 1973 (38 FR 25213) inviting the submission of published and unpublished data concerning the use, performance, and toxicity of ethylene oxide and its reaction products, or any other date having a bearing on the safety and effectiveness of ethylene oxide.

An internal Food and Drug Administration (FDA) Ethylene oxide Review Committee evaluated the data submitted in response to this notice, other data contained in new drug applications and petitions, data submitted by the Association for the Advancement of Medical Instrumentation (AAMI) Ethylene oxide (Z-79) Subcommittee, and data from other sources. The FDA committee submitted recommendations to the Commissioner of Food and Drugs on May 30, 1975 (Ref. 2). One of the actions recommended by the FDA committee and approved by the Commissioner was the eventual publication of maximum residue limits for ethylene oxide and for its two major reaction products, ethylene chlorohydrin and ethylene glycol.

In January 1977, the Department of Health, Education, and Welfare's (HEW) Committee to Coordinate Toxicology and Related Programs chartered a subcommittee to provide the Assistant Secretary for Health with a comprehensive analysis of the benefits and risks of ethylene oxide. The HEW subcommittee concluded in a report of April 1, 1977 (Ref. 1) that "ethylene oxide is an extremely useful chemical which, unfortunately, possesses mutagenic properties." The report further stated that "there is little evidence that it is also carcinogenic to experimental animals, although adequate testing has yet to be conducted."

The Environmental Protection Agency (EPA) reviewed the report of the HEW subcommittee and other literature available on the toxicity of ethylene oxide and its two major reaction products and issued in the FEDERAL REGISTER of January 27, 1978 (43 FR 3801) a "Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Ethylene Oxide," based on reports of mutagenicity and reproductive effects. This is the first step in EPA's regulatory procedures that could result in cancellation of the registration as a pesticide of ethylene oxide.

The EPA action and this proposal should be viewed as compatible efforts to reduce the risks presented by ethylene oxide to levels which are considered safe. At present, there are several memoranda of understanding between FDA and EPA under which the two agencies have agreed to share regulatory responsibility for actions which arise under the various statutes they administer. The existing memoranda do not discuss the particular regulatory problems associated with ethylene oxide, however, and the precise details regarding the relationship between this action and the notice of rebuttable presumption against registration issued by EPA must await each agency's final action.

In addition to its use as a sterilant in the manufacture of drugs and devices, uses with which this proposal is concerned, ethylene oxide is also listed in FDA's food additive regulations as a fumigant for the control of microorganisms and insect infestation in ground spices and other natural seasoning materials. A separate proposal concerning the food additive uses of ethylene oxide will be published in the FEDERAL REGISTER in the future.

The Commissioner has no information showing that ethylene oxide is an essential sterilant for cosmetics; therefore no requirements that permit its continued use as such are proposed herein. Nonetheless, the Commissioner invites the submission of data or other information regarding the use of ethylene oxide as a sterilant for cosmetics. The FDA is particularly inter-

ested in information on the types and frequency of use of ethylene oxide, on methods of determining residual amounts of ethylene oxide, ethylene chlorohydrin, and ethylene glycol in cosmetics, and on procedures that might be followed to reduce residual levels to the lowest concentrations obtainable under current technological constraints.

I. Toxicity Review

The following information summarizes the toxicity data on ethylene oxide, ethylene chlorohydrin, and ethylene glycol as contained in the HEW subcommittee report as well as additional toxicity data received by the agency since the HEW subcommittee report.

ETHYLENE OXIDE

A. *Human Acute Toxicity*

Ethylene oxide is an eye and respiratory tract irritant and a skin vesicant (blistering agent). Nausea, dizziness, and signs of mental disturbance have been observed in humans accidentally exposed to high concentrations of the compound (Ref. 1).

b. *Animal Acute Toxicity*

1. *Lethal dose from oral and parenteral administration.*—The LD_{50} of ethylene oxide (administered in aqueous solution to rats, mice, and rabbits) from oral and parenteral exposure (studies by Woodard and Woodard, Ref. 4) has been summarized by Bruch (Ref. 3). The doses ranged from 127 milligrams per kilogram (mg/kg) by the subcutaneous route in the rat to 631 mg/kg by the oral route in rabbits. In most cases, deaths occurred within 24 hours. Signs of pharmacological action included ataxia, prostration, labored respiration, and an occasional tonic convulsion.

2. *Irritation to eye and tissues.*—Woodard and Woodard (Ref. 4) in a study designed to determine the acute eye and tissue irritant properties of ethylene oxide (in aqueous solution) reported no effect at solution concentrations ranging from 0.1 percent (5 mg total dose) by subcutaneous administration to guinea pigs to 2.1 percent (2 mg total dose) by ocular instillation in rabbits.

In a study by McDonald et al. (Ref. 6), the acute eye irritant properties of ethylene oxide (in a balances salt solution) were investigated in rabbits. The study showed that the maximum nondamaging concentrations (highest concentration that produced no treatment-related damage to the eye) of ethylene oxide for ocular tissues after a 6-hour acute topical ocular instillation varied from 0.1 percent in the conjunctiva to greater than 20 percent for the lens and retina. After a single anterior chamber injection, the maximum nondamaging concentration of ethylene oxide ranged from 0.1 percent for the anterior chamber, iris, and lens to 1 percent for the cornea and conjunctiva.

3. *Inhalation.*—Hine and Rowe (Ref. 8) compiled data on inhalation exposure from studies of Jacobson et al. (Ref. 9), Hollingsworth et al. (Ref. 10), Waite et al. (Ref. 11), and Flury and Zernik (Ref. 12). The data illustrate the variable lethal response by species, concentration, and duration of exposure for guinea pigs, cats, dogs, and rabbits. In general, no deaths were reported at ethylene oxide exposure levels of 250 to 280 parts per million (ppm) for these animals.

C. *Animal Subchronic Toxicity* (repeated doses for a period not exceeding 1 year)

1. *Oral and parenteral administration.*—Ethylene oxide was administered to rats orally by gavage five times a week (Ref. 10). At the high dosage level (100 mg/kg, 15 doses were administered in 21 days) a marked loss of body weight, gastric irritation, and slight liver damage were found. Repeated oral doses of 30 mg/kg given daily, 5 days a week, for a period of 30 days produced no toxic effect in rats.

In another study (Ref. 4), ethylene oxide was administered to rats and dogs by daily subcutaneous injection for 30 days at 3 dosage levels (6, 18, and 54 mg/kg). In the dog study, the high dosage level was reduced to 36 mg/kg on day 7 due to severe pharmacologic and toxicilogic effects and continued at that dosage for the remainder of the study. The no-effect level for the rat was 18 mg/kg. A no-effect level was not established for dog; however, the lowes dosage administered was 6 mg/kg. All rats survived the duration of the study but experienced inflammation and occasional hemorrhage and necrosis at the injection sites. Male rats at the high dosage level showed a mean body weight of 92 percent of that achieved by control rats.

Dogs on the high level dosage 54(36) mg/kg showed extensive and sometimes necrotic inflammatory changes, whereas dogs at a lower level dosage (18 mg/kg and 6 mg/kg) showed marked local inflammatory changes. The study also showed increased mortality at the high level dosage (54(36) mg/kg), and reduced hemoglobin and hematocrit values at all dosage levels. Hematological changes of dose-related severity attributed to sever local tissue injury at the injection sites were reported. Hepatic changes such as increased liver weights at each dose, and cholestasis at the high dose (54(36) mg/kg) in each dog and at the mid dose (18 mg/kg) in one of four dogs, were observed. Increased ectopic hematopoiesis was observed in two of four dogs at all dosage levels. Other pharmacologic effects observed were muscular hypertonicity, lowered body temperature, prostration (at the 54-mg/kg dosage) and ataxia, sluggish behavior, tremors, loss of skin elasticity, lacrimation, and conjunctival congestion (at the 36-mg/kg dosage).

2. *Inhalation.*—Hollingsworth et al. (Ref. 10) and Jacobson et al. (Ref. 9) conducted studies in which a variety of animal species (rats, rabbits, monkeys, mice, guinea pigs) were repeatedly exposed to ethylene oxide vapors at concentrations that ranged from 100 to 841 ppm. The results of these studies are summarized by Hine and Rowe (Ref. 8). Pathological findings included growth depression, anemia, impairment of nervous system function including posterior paresis and transient paraplegia, severe lung injury and, in guinea pigs, degeneration of the tubules of the testes.

D. *Hemolytic Effects.*

Hemolysis has been reported with ethylene oxide sterilized devices used for blood perfusion, and with devices used for intravenous administration in patients (Refs. 85-87). Anemia of dose-related severity was reported (Ref. 4) to have developed in dogs injected subcutaneously (6 to 36 mg/kg ethylene oxide in saline solution for 30 days). However, a later study by FDA was unable to confirm the finding of anemia. In this FDA study, three beagle dogs were dosed intravenously with ethylene oxide glucose solution daily for 3 weeks. Doses were increased from 3 to 60 mg/kg at intervals. Three controls received the vehicle. No evidence of anemia was detected (Balazs, Ref. 13).

E. *Allergenic Response*

Sensitization-allergic-type reactions have been reported in workers drenched with ethylene oxide solution (Sexton and Henson, Ref. 14) and patients exposed to improperly degassed dressings (Hanifin, Ref. 15). Ethylene oxide (1 percent solution) was not a contact sensitizer in the occlusive patch test in guinea pigs nor did a 0.1 percent ethylene oxide solution produce sensitization by the intracutaneous injection method in this species (Woodard and Woodard, Ref. 4).

In a report (Ref. 78) of recent skin irritation studies by Shupak, sponsored by AAMI Ethylene Oxide (Z-79) Subcommittee, delayed sensitization in human subjects was observed in response to ethylene oxide contained in polyvinylchloride blocks and films and in petrolatum. This finding supports an earlier report of anaphylaxis from reaction products of ethylene oxide gas used in the sterilization of renal dialysis equipment (Poothullil et al., Ref. 16).

F. *Mutagenicity*

Evidence from a variety of prokaryotic (bacterial) and eukaryotic (animals and higher plants) systems indicate that ethylene oxide causes mutations. The test organisms include *Drosophilia melanogaster* (Rapoport, Ref. 17; Bird, Ref. 18; Nakao and Auerbach, Ref. 19), *Neurospora crassa* (Kolmark and Kilbey, Ref. 20), barley (Ehrenberg and Gustafsson, Ref. 21; Sulovska et al., Ref. 22), *Aspergillus* (Morpurgo, Ref. 23), and *Salmonella typhimurium* (Rannug, Ref. 79). The studies by Embree and Hine (Ref. 24) and Rannug et al. (Ref. 79) indicate that ethylene oxide can induce base-pair substitutions (a type of gene mutation). This is consistent with the action of monofunctional alkylating agents. In addition, ethylene oxide has been shown to induce chromosome aberrations in maize (Faberge, Ref. 25), barley (Moutschen-Dahmen et al., Ref. 26), Vicia faba (Loveless, Ref. 27), *Tradescantia* (Smith and Lotfy, Ref. 28), *Drosophila* (Nakao and Auerbach, Ref. 19), and rats (Strekalova, Ref. 29, Embree and Hine, Ref. 24).

Embree (Ph.D. dissertation, Ref. 30) employed three different assays for mutagenicity in the rat. In a direct cytogenetic assay of bone marrow samples from rats exposed to 250 ppm of ethylene oxide in air for 7 hrs/day for 3 days, the frequency of chromosome aberrations increased from .05 (controls) to .84 (treated). In a rat dominant lethal assay conducted with males exposed to 1,000 ppm ethylene oxide in air for 4 hours, increases in post-implantation loss were found in weeks 1, 2, 3, and 5 after exposure indicating genetic damage in post-meiotic and meiotic sperm cells. In the third test, a micronucleus test which measures the appearance of micronuclei in polychromatic erythrocytes, rats in groups of five were exposed for 4 hours to doses of 10, 25, 50, 250, and 1,000 ppm of ethylene oxide in air. A linear increase in micronuclei was seen with doses up to 50 ppm (only 50 ppm and above were statistically higher than controls). The effect of 250 ppm was only slightly greater than at 50 ppm, but the effect of 1,000 ppm was more than three times greater than at 250 ppm. Although, the micronucleus test is an indirect test for chromosomal damage, studies (Refs. 76 and 77) have shown that it correlates with some direct methods.

In another study by Strekalova, E. E., et al., (Ref. 31) of the mutagenic effect in rats of ethylene oxide on mammalian somatic and reproductive cells, cytogenic analysis of the bone marrow and analysis of the male reproductive cells were carried out by the method of dominant lethal mutations. Cytogenic analysis of the bone marrow showed an increased incidence of chromosome reorganizations in experimental male animals compared to controls. In animals exposed to the action of high concentrations of ethylene oxide, chromosome abrerrations were detected in 9.4±0.9 percent; in animals exposed to the action of low concentrations, 7.6±0.1 percent; in the control, 2.6±0.3, ($p<0.001$).

ETHYLENE CHLOROHYDRIN

A. *Human Acute Toxicity*

Serious systemic toxic effects have been reported from exposure to ethylene chlorohydrin. Inhalation of ethylene chlorohydrin vapor may result in nausea, dizziness, vomiting, circulatory failure, stupification, and death. Poisoning occurs from inhalation of 18 ppm. Ethylene chlorohydrin irritates mucous membranes and causes kidney and liver degeneration. The effects may be cumulative (Ref. 1).

B. *Animal Acute Toxicity*

1. *Lethal dose from oral and parenteral administration.*—The acute toxicity (LD_{50}) values have been determined for ethylene chlorohydrin in mice, rats, rabbits, and dogs (Refs. 4, 43, 82-84). The results of these studies point to LD_{50} values in a range of 56 mg/kg by the parenteral route in rats to 178 mg/kg by the oral route in mice (Ref. 3). Ethylene chlorohydrin was shown to be somewhat more toxic acutely than ethylene oxide. The route of administration appeared to have little influence on the acute toxicity values. The animals showed signs of central nervous system effects such as depression and labored respiration and usually died within 24 hours without specific organ pathology.

In another study (Friedman et al., Ref. 38), a single oral dose of ethylene chlorohydrin (10 to 50 mg/kg) caused a dose-related decrease of liver protein synthesis and glutathione level in rats.

2. *Irritation to eye and tissues.*—The results of studies to determine the acute effect of ethylene chlorohydrin on eye and other tissues have been summnarized by Bruch (Ref. 3). Maximal no-effect concentrations ranged from 0.5 percent (0.25 mg total dose) administered subcutaneously in guinea pigs to 20 percent (40 mg total dose) by dermal application in the rabbit. In the eye and tissue studies by Woodard and Woodard (Ref. 4), ethylene chlorohydrin solution produced induration and ecchymoses (small hemorrhages) in one of five animals tested following subcutaneous injection (0.5 percent) in the guinea pig, minimal irritation after dermal administration in the rabbit, and lacrimation and conjunctival erythema, corenal opacity, iritis, and conjunctival irritation following ocular administration in the rabbit.

The acute eye irritant properties of ethylene chlorohydrin (in a balanced salt solution) were investigated in the rabbit by McDonald et al., (Ref. 6). The maximal nondamaging concentrations of ethylene oxide ranged from 2 percent for the conjunctiva to greater than 40 percent for the lens after a 6-hour acute topical ocular instillation. After a single anterior chamber instillation, 0.5 percent and 5 percent were the maximum nondamaging concentrations of ethylene chlorohydrin for the iris and conjunctiva, respectively.

C. *Animal Subchronic Toxicity* (Repeated doses for a period not exceeding 1 year)

Ethylene chlorohydrin has been administered subchronically by the oral route, both by gavage and in the diet, to the rat, dog, and monkey, parenterally to the dog and rat, and by inhalation to rats (Refs. 4, 32, 41-44). Effects include depressed weight gain and increased mortality, subacute myocarditis, and changes in organ weights. Data from the 30-day subcutaneous dosing (27 mg/kg) of ethylene chlorohydrin to dogs indicated hepatocellular degenerative changes and increased serum alkaline phosphatase and bilirubin levals. One dog died. No hepatic effects were seen with significantly lower doses (9 mg or 3 mg/kg). Seminiferous tubular degeneration was detected at the 27 and 9 mg/kg dose levels.

In another study (Feuer, G. et al., Ref. 39), subcutaneous daily dosing of rats (20 mg/kg of ethylene chlorohydrin for 7 days) caused a reduction in the activities of hepatic drug-metabolizing enzymes and of glucose 6-phosphatase. A trend of reduction was seen also at 3 or 10 mg/kg in male rats.

A 21-day ocular irritation study has been performed in rabbits with solutions of ethylene chlorohydrin, ethylene glycol, and combinations of ethylene chlorohydrin and ethylene glycol (Ref. 7). The concentrations of the ethylene chlorohydrin solutions ranged from 0.1 to 40 percent; of the ethylene glycol solutions, from 0.5 to 80 percent; and of the combination solution of ethylene chlorohydrin and ethylene glycol, from 0.1 percent/0.5 percent to 30 percent/70 percent. Maximal conjunctival congestion and discharge, moderate swelling, increasing corneal cloudiness, damage as evidenced by fluorescein staining, and pannus were observed with solutions of 40 percent ethylene chlorohydrin; moderate conjunctival congestion, minimal discharge and minimal swelling with solutions of 80 percent ethylene glycol; and moderate conjunctival congestion, moderate discharge, minimal swelling, flare, iritis, corneal cloudiness, damage as evidenced by fluorescein staining, and moderate pannus with solutions of 30 percent/70 percent ethylene chlorohydrin/ethylene glycol.

D. *Animal Chronic Toxicity* (Repeated doses for period exceeding 1 year)

The results of oral and parenteral administration of ethylene chlorohy-

drin in chronic toxicity studies are summarized in references 40 and 44-47. No chronic systemic toxic effects or carcinogenic effects were detected in mice and rats.

E. *Mutagenicity*

Two studies have been reported in which increases in chromosome aberrations in rat bone marrow cells were induced after exposure to ethylene chlorohydrin (Isakova, G. K., et al., Ref. 32 and Semenova, V. N., et al., Ref. 33). Rosenkranz and Wlodkowski (Ref. 34) found a dose-related increase in mutation rate in strains TA1530 and TA1535 of *Salmonella*, but no increase in strain TA1538, which indicates that ethylene chlorohydrin induces base-pair substitutions, but not frameshift mutations. Data from studies by Rannug et al. (Ref. 79) show ethylene chlorohydrin to be a weaker mutagen than ethylene oxide in causing mutations in *Salmonella* TA1535.

F. *Teratogenicity and Fetotoxicity*

Verrett (Ref. 80) tested ethylene chlorohydrin for teratogenic and fetotoxic effects in the developing chick embryo by injecting 5, 12.5, 25, and 50 mg/kg in the air sac of 4-day old embryos. This resulted in a dose-related increase in defective embryos. A later study (Courtney and Andrews, Ref. 81) in CD-1 mice failed to produce malformations when ethylene chlorohydrin was administered orally or by inhalation.

ETHYLENE GLYCOL

A. *Human Acute Toxicity*

The single oral lethal dose of ethylene glycol for a human has been estimated at 1.4 mg/kg or about 100 milliliters for an average adult (Rowe, Ref. 37). This estimate indicates that the compound is more acutely toxic for humans than for the animal species for which LD_{50} ranges have been determined.

B. *Animal Acute Toxicity*

1. *Lethal dose from oral and parenteral administration.*—The most recent study of the acute and parenteral toxicity of ethylene glycol by four routes of administration in mice, rats, and rabbits is summarized by Bruch (Ref. 3). The LD_{50}'s ranged from 2.4 gram/kg by the intraperitoneal route of administration in female mice to 17 gram/kg by the oral route in rats. Although there is some variation from earlier findings (Browning, Ref. 35; Lang et al., Ref. 36), the variation does not appear to be due to dose concentrations or sex. Unlike ethylene oxide and ethylene chlorohydrin, which generally produced death within 24 hours, ethylene glycol produced a number of delayed deaths which were associated with kidney lesions accompanied by the deposition of oxalate crystals in the kidney.

2. *Irritation to eye and tissues.*—The results of studies (Ref. 4) to determine the acute eye and tissue irritant properties of ethylene glycol (in aqueous solution and in undiluted form) have been summarized by Bruch (Ref. 3). The highest no-effect concentration of ethylene glycol ranged from 1 percent (0.5 mg total dose) by subcutaneous administration to 10 percent by ocular (10 mg total dose) and intramuscular (50 mg total dose) administration. Both ethylene glycol solutions and undiluted compound produced some mild irritation by the intradermal route, transient lacrimation and erythema from ocular administration, and minimal irritation following dermal application.

The acute eye irritant properties of ethylene glycol (in a balanced salt solution) were investigated by McDonald et al. (Ref. 6). The maximum nondamaging concentrations of ethylene glycol 6 hours after topical ocular instillation ranged from 4 percent for the conjunctiva to greater than 80 percent for the lens. After a single anterior chamber injection of ethylene glycol, the nondamaging concentrations ranged from 2 percent for the iris to from 20 percent to 80 percent for the cornea, lens, and retina.

B. *Animal Subchronic Toxicity* (Repeated doses for a period not exceeding 1 year)

1. *Oral, parenteral, and inhalation administration.*—In a subchronic oral study in the monkey (Ref. 48), ethylene glycol was administered in the drinking water from 13 to 157 days. The no-effect level was 1 milliliter per kilogram (ml/kg) total dose. From 1 ml/kg to 15 ml/kg, mild glomerular damage with azotemia was noted. Total doses of 15 ml/kg and above produced deposition of calcium oxalate crystals in the proximal renal tubules and associated tubular degeneration. In other subchronic studies (Ref. 49), monkeys were exposed to ethylene glycol by inhalation at a concentration of 600 milligrams per cubic meter (mg/m^3), continuously for 5 to 7 months. At 5 months, liver mitochonria showed respiration and uncoupled oxidative phosphorylation. Mitochondria from monkeys exposed for 6 and 7 months had normal phosphate/oxygen (P/O) ratios and respiration that was returning to normal. Rats and mice exposed by the inhalation route to 300 mg/m^3, 8 hrs/day, for 16 weeks, showed no effects (Ref. 50). In rats and dogs treated by the subcutaneous route for 30 days, 50 mg/kg was a no-effect dose for the rat; a no-effect dose was not established for the dog (Ref. 4). Both species showed an increased number of white cells.

2. *Ocular.*—See discussion of ocular irritation study in paragraph C. under "Ethylene Chlorohydrin" above.

C. *Animal Chronic Toxicity* (Repeated doses for periods exceeding 1 year)

A number of oral chronic studies have been performed with ethylene glycol, but a no-effect level has not been clearly established. In two rat studies (Refs. 52 and 53), dietary levels of 0.5 percent and higher depressed growth and produced oxalate calculi and deposition of crystals in the kidneys. In one of these studies, the no-effect level appeared to be approximately 0.2 percent. In another study (Ref. 51), three monkeys were fed ethylene glycol for 3 years, one monkey at a level of 0.2 percent and 2 monkeys at a level of 0.5 percent. No effects were seen. In still another study (Ref. 47), ethylene glycol showed no carcinogenic effect when administered subcutaneously at a dose of 1,000 mg/kg twice a week to rats for 1 year followed by an additional 6 months with no treatment.

D. *Mutagenicity*

The Food and Drug Administration is aware of one report (Rapoport, Ref. 17) which suggests that ethylene glycol at high concentrations may cause mutations in *Drosophilia*. To FDA's knowledge, this has not been confirmed. Using a bacterial plate assay, Embree (Ref. 30) tested ethylene glycol on *S. typhimurium* strains TA1535, TA1537, and TA1538 without microsomal activation and found no revertents.

II. The Proposed Rule

The Commissioner believes that there is need for the continued use of ethylene oxide as a sterilant for certain drug products and medical devices for human use because of a lack of acceptable alternatives. Although steam sterilization under pressure is usually considered the most economical and the most efficient sterilant, many heat-labile biochemical substances such as vitamins, amino acids, and antibiotics, as well as many plastics, cannot tolerate moist or dry heat. Further, most articles that must be sterile cannot be sterilized by ionizing radiation because of physical damage due to radiation. As previously stated, formaldehyde and glutaraldehyde were cited (Ref. 1) as possible substitutes for ethylene oxide; but no literature on tests for long-term toxicity is available for glutaraldehyde, and formaldehyde has been shown to be mutagenic. Nonetheless, when ethylene oxide is used as a sterilant during the manufacture of drug products and medical devices for human use, its residue and that of its two major reaction products may produce toxic reactions in patients. Consequently, the Commissioner is proposing herein to establish maximum residue limits and exposure levels for ethylene oxide, ethylene chlorohydrin, and ehtylene glycol.

Residue limits would be set for certain drug products for human and veterinary use, for medical devices for human use, and for certain other articles. The proposed limits are intended to take into consideration the lowest possible limits achievable under current good manufacturing practices.

Maximum daily exposure levels would also be set, but for drug products only. These proposed exposure levels are based on the toxicity data previously discussed. The Commissioner is proposing to include the residue limits and exposure levels for drug products for human and veterinary use in the current good manufacturing practice regulations in 21 CFR Part 211. The residue limits for medical devices would be included in a new 21 CFR Part 821. The Commissioner intends that these requirements will, for those patients using drugs and medical devices for human use for which ethylene oxide has been used as a sterilant, limit exposure to ethylene oxide, ehtylene chlorohydrin, and ethylene glycol to levels below those that are presently known to be harmful.

MAXIMUM RESIDUE LIMITS

A. *Drug Products and Other Articles for Human and Veterinary Use*

The notice proposes maximum residue limits for ethylene oxide, ethylene chlorohydrin, and ethylene glycol in ophthalmic preparations for topical use, injectable preparations (including veterinary intramammary infusion products), intrauterine devices containing a drug component, surgical scrub sponges containing a drug component, and hard gelatin capsule shells. The residue limits would be the maximum acceptable limits for any of these drug products or other article for which ethylene oxide is used as a sterilant during any part of the manufacturing process, including the manufacturing process for any component of the product or for the product's container. The limits would apply to the product as it appears in its market container at the time it is releasd for marketing, and throughout the period of its shelf life. The limits proposed are based on data that have been previously submitted to FDA in new drug applications, which data consist of values that are currently being net by some manufacturers.

Under the proposed regulations, each manufacturer of a drug product or other article to which the residue limits apply would be required to assure by appropriate laboratory testing that such product or other article in its market container does not exceed the residue limits when released for marketing. The Commissioner advises that a number of analytical methods (Refs. 54 through 75) are available through which residues of ethylene oxide, ethylene chlorohydrin, and ethylene glycol can be reliably determined. Gas and thin-layer chromatographic, polarographic, colorimetric, mass spectrographic, radio tracer and other methods have been published which can identify and measure minute residues of ethylene oxide and its reaction products. Nonetheless, the Commissioner recognizes that there are technical problems associated with identifying and determining the minute amounts of ethylene oxide and ethylene oxide reaction products. For example, any of the following factors may affect the amount of residue of ethylene oxide and its reaction products or how readily that residue can be detected: the applied dosage, the type and cycle of the sterilizer and conditions of aeration, the physical state, catalytic nature, and reaction kinetics of the product, the diffusion rate of ethylene oxide into and out of the product, the moisture and air content in the product, and any synergistic effects. The Commissioner advises that he will view as current good manufacturing practice any generally accepted scientific method for laboratory control of residues of ethylene oxide and its two major reaction products if it includes (1) batch sampling, (2) appropriate sample sizes, (3) sample handling techniques which assure no residue loss from the point of sample collection to that of assay completion, and (4) adequate methods to measure product residue changes from the time of sample collection during the quarantine period to the time of release of the product for shipment and sale.

The Commissioner further purposes that, for each drug product in which ethylene oxide is used as a sterilant, the manufacturer prepare a residue dissipation curve for residues of ethylene oxide, ethylene chlorohydrin, and ethylene glycol for each manufacturing procedure in which ethylene oxide is used as a sterilant. This will provide a full dissipation profile for each sterilized article and will enable a manufacturer to determine the point in time at which the product will be within the established limits for purposes of release for marketing.

As noted, the Commissioner has also proposed that the residue limits would apply during the shelf life of the product. Proposed current good manufacturing practice regulations published in the FEDERAL REGISTER of February 13, 1976 (41 FR 6878) would require expiration dating for all drug products so the application of the residue requirement throughout a product's shelf life is consistent with the purpose of the proposed current good manufacturing practice regulations that products maintain their identity, strength, quality, and purity until the time of use. In addition, under this proposal, a drug product intended to be reconstituted or diluted prior to dispensing or use would be required to conform to the established residue limits as reconstituted or diluted. This requirement is consistent with the purpose of the proposed current good manufacturing practice regulations, regarding the maintenance of a product's identity, strength, quality, and purity until its time of use.

B. *Medical Devices for Human Use*

The Commissioner also proposes to establish maximum residue limits for ethylene oxide, ethylene chlorohydrin, and ethylene glycol in certain devices intended for human use: small implants (less than 10 grams), which include sutures and contact lenses, medium implants (10 to 100 grams), large implants (greater than 100 grams), intrauterine devices, intraocular lenses, devices contacting human mucosa (mouth, nose, trachea, urinary tract), devices contacting blood but used outside the body (hemodialysis units, blood oxygenators, blood bags), devices contacting normal skin (surgical drapes, bandages), and surgical scrub sponges.

As with drug products, the residue limits proposed are the maximum acceptable limits for medical devices in their market containers at the time of release for marketing. The residue limits were derived from values developed from a Toxicity Working Group of the AAMI Ethylene Oxide (Z-79) Subcommittee, from industrial data submitted to FDA in response to the September 12, 1973 FEDERAL REGISTER notice, and from residue limits already established by current good manufacturing practice for similar products subject to approved new drug applications. For example, the proposed residue limits for intrauterine devices and surgical scrub sponges are the same as those being proposed by this notice for similar articles which are classified as drugs.

As in the case of drug products, residue limits established for certain medical devices would apply if ethylene oxide was used at a sterilant during any part of the manufacturing process of the device, including the manufacturing process for any components of the device, or the device's market container. Each device manufacturer would be required to assure, by appropriate laboratory testing, that the device as it appears in its market container does not exceed the residue limit when released for marketing. Some analytical methods that will produce reliable determinations of residues in drugs of ethylene oxide, ethylene chlorohydrin, and ethylene glycol have been discussed under paragraph A above. The Association for the Advancement of Medical Instrumentation Ethylene Oxide (Z-79) Subcom-

mittee has validated (Ref. 57) three analytical methods for the detection of residues in medical devices (Refs. 54, 55, and 56). In addition, some manufacturers and equipment producers, and certain others persons have developed methods or have sponsored the publication of methodology for determining residues on treated plastics, fabrics, and pharmaceuticals (Refs. 58 through 75).

The proposed rule would further require, as in the case of drug products, for each medical device for human use, including its component parts and market container, that the manufacturer prepare a residue dissipation curve for residues of ethylene oxide, ethylene chlorohydrin, and ethylene glycol for each manufacturing procedure in which ethylene oxide is used as a sterilant. This would provide a dissipation profile for each sterilized article and would enable a manufacturer to determine the point in time at which the medical device would be within the established residue limits so that it might be released for marketing.

The Commission is not, at this time, proposing that the residue limits established for medical devices be maintained throughout the shelf life of the device. Diffusion of ethylene oxide and its reaction products from a device is influenced by several factors, such as the type of material in the device (e.g., type of plastic), physical dimensions, exposed surface areas, and packaging. Further, residues of ethylene oxide are more likely to be converted to ethylene glycol (the less toxic of the reaction products) than to ethylene chlorohydrin. The Commissioner believes that even though a theoretical calculation could be made that the residues of either ethylene chlorohydrin or ethylene glycol could increase from the time of shipment of the device, there should also be a corresponding loss of these residues based on diffusion. The Commissioner concludes that, until more data are available regarding the diffusion of residues from device materials, he cannot reasonably expect a manufacturer to assure that devices comply with these residue limits throughout the shelf life of the device.

MAXIMUM DAILY LEVELS OF EXPOSURE

A. *Drug Products and Other Articles for Human and Veterinary Use*

The Commissioner also proposes to establish maximum daily levels of exposure to ethylene oxide and ethylene chlorohydrin, because of the potential risk of mutagenicity from exposure to drug products containing these residues. He also proposes to establish a maximum daily level of exposure to ethylene glycol because of known toxicity from exposure to drug products containing this residue.

Current calculations leading to estimates of human genetic risk are based on various assumptions and tests that are in a relatively early stage of evaluation and validation. Levels of ethylene oxide and ethylene chlorohydrin considered safe by traditional toxicological tests (for example, measurements of physiological, biochemical, or pathological changes in the body function) may not be safe when the potential for mutagenicity is considered. Nonetheless, the Commissioner's judgment is, given the potential risk of mutagenicity from exposure to ethylene oxide and its reaction product ethylene chlorohydrin, that he must attempt now to restrict that exposure insofar as products within his jurisdiction are involved. He therefore proposes to establish maximum daily levels of exposure based on available toxicity data, certain assumptions, and the application of an additional "best judgment" safety factor. The Commissioner advises that as the scientific basis for making risk judgments relative to mutagenicity improves, the agency will reconsider established maximum daily levels of exposure. This reconsideration may involve a further lowering of these exposure levels. The Commissioner proposes to establish maximum daily levels of exposure to ethylene glycol based on available toxicity data.

The Commissioner therefore proposes to establish maximum daily levels of exposure to ethylene oxide, ethylene chlorohydrin, and ethylene glycol based on the following calculations:

Ethylene oxide.—In the toxicity studies reported by Woodard and Woodard (Ref. 4), dogs and rats received subcutaneous injections of ethylene oxide for 30 days. At the lowest level of ethylene oxide administered (6 mg/kg/day) (see paragraph C.1. under "Ethylene oxide" above), some hematological changes were noted in both animal species and 2/4 dogs had ectopic hematopoiesis of the spleen. Thus, the dose-response data by Woodard and Woodard do not show a clear "no effect" level for ethylene oxide. Based on the trends shown by the dose-response data, Bruch (Ref. 3) estimated that if the lowest dose tested had been cut by 50 percent (i.e., 3 mg/kg/day), a "no effect" level had a high probability of being achieved. A 10-fold safety factor (a factor frequently used in extrapolating systemic "no effect" doses to man) was then applied by Bruch to yield an assumed safe level of 0.3 mg/kg/day for 30 days. Using that safety factor for a 70-kg man, the safe (in terms of toxicity) daily dose would be 21 mg.

However, because ethylene oxide has irreversible toxic effects, e.g., mutagenicity, for which sufficient dosage data are not available, the Commissioner, to adequately protect users of products sterilized with ethylene oxide, proposes to add an additional safety factor of 10 in proposing an acceptable exposure level. A level of 30 micrograms per kilogram per day (μg/kg/day) for 30 days is therefore proposed as an acceptable level of exposure to ethylene oxide residue.

Ethylene chlorohydrin.—In the Woodard and Woodard study (Ref. 4) dogs and rats also received subcutaneous injections of ethylene chlorohydrin for 30 days. At the lowest ethylene chlorohydrin level tested (3 mg/kg/day), and as with ethylene oxide, some of the animals showed slight hematological changes, and 1/4 dogs had ectopic hematopoiesis of the spleen (see the discussion of Animal Subchronic Toxicity, Paragraph C., under Ethylene Chlorohydrin). Again, the dose-response data by Woodard and Woodard do not show a clear "no effect" level. Based on the trends shown by the dose-response data, Bruch again estimated that if the lowest dose tested were cut by 50 percent (i.e., 1.5 mg/kg/day), a "no effect" level had a high probability of being achieved. As with ethylene oxide, Bruch then applied a 10-fold safety factor which yields an assumed safe level of 0.15 mg/kg/day for 30 days for man.

Because of mutagenic potential of ethylene chlorohydrin and because of its similarities with ethylene oxide, the Commissioner believes that the same additional safety factor is similarly appropriate for products containing ethylene chlorohydrin. Therefore, he proposes that an additional safety factor of 10 be applied, yielding an exposure level of 15 μg/kg/day of ethylene chlorohydrin residue.

Ethylene glycol.—The Woodard and Woodard study also contained data on a 30-day toxicity study in dogs and rats based on daily subcutaneous injections of ethylene glycol. At the lowest ethylene glycol level tested (50 mg/kg/day), there were some slight hematological changes in the animals. As with ethylene oxide and ethylene chlorohydrin, the dose-response data from the study do not show a clear "no effect" level. Based on trends shown by the dose-response data, Bruch estimated by cutting the lowest dose tested by 50 percent (25 mg/kg/day), a "no effect" level had a high probability of being achieved. As with ethylene oxide, Bruch applied a 10-fold safety factor, which yields an estimated safe dose of 2.5 mg/kg/day for 30 days. Because the Commissioner is not aware of evidence showing ethylene glycol to have mutagenic potential, he concludes that an additional safety factor is unnecessary.

B. *Medical Devices for Human Use*

The Commissioner has determined that the maximum levels of exposure

(30 μg/kg/day for ethylene oxide, 15 μg/kg/day for ethylene chlorohydrin and 2.5 mg/kg/day for ethylene glycol) proposed for drug products cannot reasonably be applied to medical devices for human use at this time. The application of such exposure levels would necessitate the development of a significant number of exemptions, as many medical devices as presently manufactured would be unable to meet these daily exposure levels, and with existing technology may not be readily modified to do so.

Other factors that have dissuaded the Commissioner from applying levels of exposure to medical devices for human use at this time deal with the nature, manner, and frequency of use of many medical devices. For example, devices used topically, such as sponges and pads, are used only once and would not be expected to deliver their total residue to the patient. Devices that are implanted, however, would be expected to deliver a greater percentage of their residue immediately following insertion, with a slowing of the rate of delivery thereafter. There is, at the same time, a lack of data on the rate of residue diffusion and movement from various plastic materials; and it would be impractical to expect medical device manufacturers to be able to work in concert with physicians and other health professionals to restrict the amount of patient contact from different devices use on the same day. Based on these factors, the Commissioner has concluded that he cannot effectively set proposed maximum levels of exposure for medical devices for human use. However, he invites the submission of published and unpublished data on rates of diffusion of various residues from plastic materials. The Commissioner advises, however, that the proposed residue limits for medical devices for human use have been calculated to reduce as much as possible maximum daily levels of residue exposure.

Summary of Requirements

Under these proposed requirements, a drug product would be deemed to be in compliance if the residues of ethylene oxide, ethylene chlorohydrin, and ethylene glycol do not exceed those set forth in the regulation, at the time of release of the product for marketing and throughout the shelf life, and the maximum daily level of exposure does not exceed 30 μg/kg/day for 30 days for ethylene oxide, 15 μg/kg/day for 30 days for ethylene chlorohydrin and 2.5 mg/kg/day for 30 days for ethylene glycol. Thus, if the dosage of a drug product in its recommended or approved labeling were such that the exposure levels established for the product would still be exceeded, notwithstanding compliance with the residue limits the manufacturer would still be required to reduce the amount of residue for the product so that, on the basis of the recommended dosage, the total daily exposure level would not be exceeded. In addition, for a drug product that is labeled to be reconstituted or diluted before dispensing, or use, the stated residue limits would be required to be met at the time the drug is reconstituted or diluted. A medical device for human use would be deemed to be in compliance if the residues of ethylene oxide, ethylene chlorohydrin, and ethylene glycol do not exceed those set forth in the regulation at the time of release of the device for marketing. Daily exposure levels for devices would not be established.

Even though the Commissioner considers the proposed residue limits acceptable, manufacturers should attempt to achieve even lower levels presuming current good manufacturing practices are followed and the level used will not compromise the effectiveness of the sterilant or the sterility of the product.

The Commissioner recognizes that more data are needed before the potential of ethylene oxide and its reaction products to act as mutagens can be fully assessed. He encourages the submission of any published and unpublished data concerning the use, performance, and toxicity of ethylene oxide and its two major reaction products, and any other data having a bearing on the safety and effectiveness of these compounds. The Commissioner also invites the submission of similar data for any drug products or medical devices for human use not subject to this notice so that residue limits may also be established for these products.

Final residue limits will be determined by the agency from comments and data submitted by interested persons in response to this proposal. The Commissioner notes that there are presently ongoing animal toxicity studies involving ethylene oxide and its reaction products. There are 2-year ethylene oxide studies on rats under way at Carnegie-Mellon Institute of Research. These will include teratology, mutagenicity, and a one generation reproductive study. The National Cancer Institute has also begun 2-year carcinogenicity studies on ethylene chlorohydrin and has scheduled 2-year ethylene oxide carcinogenicity tests. Results of these tests may provide the bases for revision of established values for exposure levels or residues.

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The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 505, 506, 507, 512, 513-521, 701, 52 Stat. 1049-1050 as amended, 1052-1053 as amended, 1055-1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended; 82 Stat. 347-351, 90 Stat. 540-574 (21 U.S.C. 321, 351, 355, 356, 357, 360c-360k, 371)), the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

PART 221—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

1. By adding a new § 211.70 to Subpart C to read as follows:

§ 211.70 Maximum residue limits and maximum daily levels of exposure for ethylene oxide, ethylene chlorohydrin, and ethylene glycol.

(a) Residue limits: Each drug product of a type listed in this paragraph for which ethylene oxide is used as a sterilant in the manufacture of the finished product, its components, or its market container shall not, when tested as packaged in its market container, exceed the following residue levels:

[Parts per million]

Drug product	Ethylene oxide	Ethylene chlorohydrin	Ethylene glycol
Ophthalmics (for topical use)	10	20	60
Injectables (including veterinary intramammary infusions)	10	10	20
Intrauterine device (containing a drug)	5	10	10
Surgical scrub sponges (containing a drug)	25	250	500
Hard gelatin capsule shells	35	10	35

(b) Each drug product shall conform to the limits set forth in paragraph (a) of this section during the shelf life of the product.

(c) Any drug product failing to comply with the requirements of paragraphs (a) and (b) of this section shall not be released for marketing.

(d) Each manufacturer of a drug product subject to this section shall prepare a residue dissipation curve for each manufacturing procedure in which ethylene oxide is used as a sterilant for the drug product, its components, or its market container.

(e) Each drug product intended to be reconstituted or diluted prior to dispensing, or use, shall conform to the limits set forth in paragraph (a) of this section as reconstituted or diluted.

(f) Daily exposure levels: the maximum daily level of exposure to residues of ethylene oxide and its reaction products from any drug product subject to paragraph (a) of this section, under the conditions for use in the drug product's recommended or approved labeling, shall not exceed the following limits set:

Ethylene oxide, 30 μg/kg/day/30 days
Ethylene chlorohydrin, 15 μg/kg/day/30 days
Ethylene glycol, 2.5 mg/kg/day/30 days

A product which complies with paragraph (a) of this section shall also comply with the limits set forth in this paragraph.

PART 821—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICAL DEVICES: STERILE DEVICES

2. By adding a new Part 821 consisting of one section to read as follows:

Sec.
821.100 Maximum residue limits for ethylene oxide, ethylene chlorohydrin, and ethylene glycol.

AUTHORITY: Secs. 513-521, 701, 52 Stat. 1055-1056 as amended, 90 Stat. 540-574 (21 U.S.C. 360c-360k, 371).

§ 821.100 Maximum residue limits for ethylene oxide, ethylene chlorohydrin, and ethylene glycol.

(a) Each medical device for human use of a type listed in this paragraph for which ethylene oxide is used as a sterilant in the manufacture of the finished device, its component parts, or its market container shall not, when tested as packaged in its market container, exceed the following residue levels:

[Parts per million]

Medical device	Ethylene oxide	Ethylene chlorohydrin	Ethylene glycol
Implant:			
Small (<10 grams)	250	250	5,000
Medium (10-100 grams)	100	100	2,000
Large (>100 grams)	25	25	500
Intrauterine device	5	10	10
Intraocular lenses	25	25	500
Devices contacting mucosa	250	250	5,000
Devices contacting blood (ex vivo)	25	25	250
Devices contacting skin	250	250	5,000
Surgical scrub sponges	25	250	500

(b) Any medical device for human use failing to comply with the requirements of paragraph (a) of this section shall not be released for marketing.

(c) Each manufacturer of a medical device for human use subject to this section shall prepare a residue dissipation curve for each manufacturing procedure in which ethylene oxide is used as a sterilant for the device, its component parts, or its market container.

Interested persons may, on or before August 22, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: June 16, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-17384 Filed 6-22-78; 8:45 am]

federal register

FRIDAY, JUNE 23, 1978
PART VI



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

GUARANTY OF MORTGAGE-BACKED SECURITIES

Proposed Amendments to Increase Net Worth Requirements

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

[24 CFR Part 390]

[Docket No. R-78-552]

GUARANTY OF MORTGAGE-BACKED SECURITIES

Proposed Amendments To Increase Net Worth Requirements in the Mortgage-Backed Securities Program

AGENCY: Government National Mortgage Association, HUD.

ACTION: Proposed Rule.

SUMMARY: The amendments provide for increases in minimum net worth required of mortgage lenders which are issuers of Government National Mortgage Association (GNMA) Guaranteed Mortgage-Backed Securities. The change is intended to raise minimum net worth of such issuers in amounts commensurate with the amounts of securities they have outstanding.

DATES: Comments must be received on or before July 24, 1978. Proposed effective date: The higher net worth requirements would be applicable to all GNMA guaranteed securities issued on and after April 1, 1979.

ADDRESS: Send comments to Rules Docket Clerk, Department of Housing and Urban Development, 451 7th Street, SW., Room 5218, Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Paul A. Yates, Office of Mortgage-Backed Securities, Room 6222, Government National Mortgage Association, 451 7th Street, SW., Washington, D.C. 20410 202-755-5550.

SUPPLEMENTARY INFORMATION:

PROPOSED AMENDMENTS TO GNMA MBS REGULATIONS

1. It is proposed that § 390.3 be revised to read as follows:

§ 390.3 Eligible Issuers of Securities.

(a) A mortgage lender, including an instrumentality of a State or local government, shall be eligible to issue and service mortgage-backed securities guaranteed by the Association if such mortgage lender qualifies as an eligible issuer. In order to qualify as an eligible issuer, a mortgage lender must—

(1) Be in good standing as a mortgagee approved by the Federal Housing Administration;

(2) Be in good standing as a mortgage servicer approved by the Federal National Mortgage Association (FNMA) or the Association;

(3) Have adequate experience, management capability, and facilities to issue and service mortgage-backed securities, as determined by the Association;

(4) Maintain the applicable minimum net worth prescribed in paragraph (c) of this section; and

(5) Meet the requirements, conditions, and limitations prescribed by the Association in this section or in the Association's Mortgage-Backed Securities Guide (GNMA 5500.1).

(b) The Association shall not make a commitment to guarantee, or guarantee (pursuant to a commitment or otherwise) any issue of mortgage-backed securities unless the mortgage lender requesting such commitment or guaranty then qualifies as an eligible issuer.

(c) Each eligible issuer shall maintain at all times a net worth in assets acceptable to GNMA of not less than the applicable minimum amount set forth in this paragraph, as follows:

(1) For the issuance of straight pass-through securities, $100,000;

(2) For the issuance of modified pass-through securities based on and backed by home mortgages—

(i) With respect to securities issued or to be issued prior to April 1, 1979, an amount equal to the lesser of:

(*A*) $250,000; or

(*B*) $100,000, plus 1 percent of securities outstanding in excess of $5 million.

(ii) With respect to securities issued or to be issued on or after April 1, 1979, an amount equal to the sum of:

(*A*) $100,000; plus

(*B*) 1 percent of securities outstanding in excess of $5 million but not in excess of $20 million; plus

(*C*) 0.2 percent of securities outstanding in excess of $20 million.

(3) For the issuance of modified pass-through securities based on and backed by mortgages on mobile homes—

(i) With respect to securities issued or to be issued prior to April 1, 1979, $500,000.

(ii) With respect to securities issued or to be issued on or after April 1, 1979, an amount equal to the sum of:

(*A*) $500,000; plus

(*B*) 0.2 percent of securities outstanding in excess of $3 million.

(4)For the issuance of modified pass-through securities based on and backed by mortgages on multifamily projects (both construction and permanent mortgages)—

(i) With respect to securities issued or to be issued prior to April 1, 1979, an amount equal to the lesser of:

(*A*) $500,000; or

(*B*) The sum of 3 percent of the first $5 million of securities outstanding, plus 2 percent of the next $5 million of securities outstanding, plus 1 percent of securities outstanding in excess of $10 million, but in no event shall such net worth be less than $100,000.

(ii) With respect to securities issued or to be issued on or after April 1, 1979, an amount equal to the sum of:

(*A*) $500,000; plus

(*B*) 0.2 percent of securities outstanding in excess of $35 million.

(5) For the issuance of more than one type of security on or after April 1, 1979, an amount equal to the sum of:

(*A*) $500,000; plus

(*B*) 0.2 percent of all mortgage-backed securities outstanding in excess of $35 million.

(d)(1) In computing the required amount of net worth for purposes of this section, the term "securities outstanding" means the sum of:

(i) The unpaid principal balances of securities currently in the name of the issuer; plus

(ii) The amount of any outstanding commitments for guaranty issued by the Association; plus

(iii) The amount of any commitments to guaranty currently being requested from the Association.

(2) In calculating required net worth, any securities outstanding that are based on internal reserve pools will be reduced by one-half in the making of such calculations.

(e) The Association shall not guarantee any security the income of which is exempt from taxation under the provisions of the Internal Revenue Code of 1954, as amended.

(f) A mortgage lender shall not qualify as an eligible issuer at any time in which—

(1) The lending policies of the issuer permit any discrimination based on race, religion, color, national origin, age, or sex of a borrower; or

(2) The issuer is not in compliance with any rules, regulations, or orders issued under Title VI of the Civil Rights Act of 1974; Executive Order 11063, Equal Opportunity in Housing, November 20, 1962; or Title VII of the Civil Rights Act of 1968; or issued by the FHA or VA.

(g) A mortgage lender shall qualify as an eligible issuer only so long as it conducts its business operations in accordance with accepted mortgage banking practices, ethics, and standards, as determined by the Association.

(h) In the event that a mortgage lender which has qualified as an eligible issuer should subsequently fail to comply with any of the requirements prescribed in this section, the Association may withhold further commitments to guarantee securities until such time as the Association is satisfied that the mortgage lender has resumed business operations in compliance with such requirements.

(i) If any issuer, subsequent to the issuance of securities guaranteed by the Association, should fail in a material way to be in compliance with any of the requirements prescribed in this section or of the guaranty agreement, the Association may bring proceedings to default such issuer, in accordance with the following procedure: The Association shall serve the issuer, by hand delivery or by certified or registered mail, with a written notice stating the facts incident to such failure and setting forth such affirmative requirements as the Association may consider necessary to correct such failure to be in compliance. Steps to correct or otherwise remedy such failure shall be carried out in accordance with such procedures as may be set forth in the guaranty agreement.

§ 390.5 [Amended]

2. It is proposed that § 390.5 be amended by deleting therefrom existing paragraph (e).

3. It is proposed that § 390.7 be amended by revising paragraph (b) thereof to read as follows:

§ 390.7 Mortgages.

Each issue of guaranteed securities must be backed by a separate pool of mortgages which:

* * * * *

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

* * * * *

4. It is proposed that § 390.11 be revised to read as follows:

§ 390.11 Fidelity bond coverage.

The issuer shall maintain, for the benefit of the Association, fidelity bond coverage, acceptable to the Association, that assures the faithful performance of the fiduciary responsibilities of the issuer.

5. It is proposed that § 390.13 be revised to read as follows:

§ 390.13 Guaranty.

(a) With respect to straight pass-through securities, the Association guarantees the timely payment to the security holder of the proceeds of principal and interest, as collected, as undertaken in the Association's guaranty appearing on the face of the security. With respect to modified pass-through securities, the Association guarantees the timely payment, whether or not collected, of the fixed rate of interest on the outstanding balance and the specified principal installments, as undertaken in the Association's guaranty appearing on the face of the security. As to straight pass-through securities, any failure or inability of the issuer to make payment as due to the holders of the securities from the proceeds from the pool of mortgages which have been collected, or because of failure to make collections under reasonable and accepted standards of mortgage servicing, shall constitute a default of the issuer. As to modified pass-through securities, any failure or inability of the issuer to make fixed or other payments as due as well as such other failures as may be identified by the Association and included in the guaranty agreement, shall be deemed such a default.

(b) Upon any default by the issuer and payment under its guaranty by the Association, or any failure of the issuer to comply with the terms of the guaranty agreement, the Association may institute a claim against the issuer's fidelity bond, or may, pursuant to Section 306(g) of the National Housing Act, extinguish all the ownership, control, or other interest of the issuer in the pooled mortgages, by letter directed to the issuer and making the mortgages the absolute property of the Association, subject only to unsatisfied rights therein of the holders of the securities, or the Association may do both.

(Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., June 19, 1978.

JOHN H. DALTON,
President, Government National Mortgage Association.

[FR Doc. 78-17452 Filed 6-22-78; 8:45 am]

FRIDAY, JUNE 23, 1978
PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

federal register

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Human Development Services Office

CHILD WELFARE RESEARCH AND DEMONSTRATION GRANTS PROGRAM

Announcement of Availability

[4110-92]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

[Program Announcement No. 13608-782]

CHILD WELFARE RESEARCH AND DEMONSTRATION GRANTS PROGRAM

Fiscal Year 1978 Youth Demonstration Grants

AGENCY: Youth Development Bureau, ACYF, HDS, HEW.

SUBJECT: Announcement of Availability of Funds for Child Welfare Services Demonstration Grants.

SUMMARY: The Administration for Children, Youth and Families, Youth Development Bureau announces the availability of Fiscal Year 1978 funds for youth demonstration grants under the Child Welfare Research and Demonstration Grants Program, as authorized by 42 U.S.C. (606)(a) (A) and (B) (Section 426 of the Social Security Act, as amended). The Regulations applicable to this program are contained in 42 CFR Part 205. Applicant eligibility is limited to the organizations funded under the Runaway Youth Act (Title III of the Juvenile Justice Amendments of 1977) during FY 1978.

DATES: The closing date for receipt of applications is August 4, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement covers the youth demonstration grants to be funded during FY 1978. A separate program announcement, published on May 24, 1978 in the FEDERAL REGISTER, covered the remainder of the Child Welfare Services Research and Demonstration grant awards for FY 1978.

A. PROGRAM PURPOSE

The purpose of the Child Welfare Services Demonstration Program is to support special projects for the demonstration of new methods which show promise of substantial contribution to the advancement of child welfare. The purpose of the youth demonstration grants is to test the capacity of the organizations funded under the Runaway Youth Act to expand the range of services provided and the types of clients served and, thereby, to more comprehensively address the crisis needs of youth and families (beyond those problems associated with running away from home) in the communities in which they are located. For the purpose of these demonstration grants, youth are defined as persons between the ages of 10 and 18.

B. PROJECT OBJECTIVES

The objectives of the Youth Demonstration Program are: (1) To demonstrate innovative methods for addressing a broader range of youth and family problems within the context of projects for runaway youth beyond those specific target populations (runaway or otherwise homeless youth and their families) served under the Runaway Youth Act project grants. The specific youth/family problems to be addressed through these demonstrations (e.g., teenage pregnancy and other sex-related problems, adolescent abuse and neglect, teenage prostitution, alcohol and other drug abuse problems, school-related problems) are to be determined by the applicant based upon the documented service needs of youth and families in the community in which the youth demonstration grant would be located which are not being adequately met either by the applicant agency itself or by other service providers. The specific services to be provided (preventive, developmental, and/or treatment) are to be provided directly by the runaway youth project itself, through linkages established with relevant public and private service providers in the community, and/or through coordinated advocacy, planning, and service delivery efforts undertaken in cooperation with other agencies and organizations.

(2) To test the relative effectiveness of the various service methodologies being employed by the youth demonstration projects in providing more comprehensive services to youth and families in crisis and in addressing the specific service needs of the clients being served.

To determine the impact of expanding the range of services provided/types of clients served on the runaway youth projects themselves. This impact will be assessed both internally (e.g., relative to changes in staffing patterns and in the manner in which services are provided to clients) and externally (e.g., relative to the working relationships established with other service providers and to changes in how the project is viewed in the community).

Additional information is provided in the Program Guidance which accompanies the necessary application forms.

C. ELIGIBLE APPLICANTS

Applicants for these youth demonstration grants are limited to those organizations which received funding from the Youth Development Bureau under the Runaway Youth Act during FY 1978. Eligibility is further limited to those agencies which provide *direct services* to runaway youth. Umbrella agencies (or service components within umbrella agencies which do not provide direct services to runaway youth) are not eligible for funding.

D. AVAILABLE FUNDING

Of the total appropriation of $15,700,000 available in FY 1978 for Child Welfare Research and Demonstration Grants, ACYF expects to award $500,000 for new youth demonstration projects. It is anticipated that approximately eight grants will be awarded pursuant to this program announcement in amounts ranging from $25,000 to $100,000 annually for a project period of two years, with the average grant award expected to be $62,500. The specific level of funding to be awarded to each project will be dependent upon the number of youth and families to be served by the proposed project, the availability to existing services to address these needs, and the range and types of services to be provided under the proposed project. A new grant is the initial grant made in support of this program announcement. This grant will sustain the Federal share of the budget for the first year of the project. Continuation funding will be dependent upon satisfactory performance during the first year of funding and upon the availability of funds.

E. GRANTEE SHARE OF THE PROJECT

Program regulations require that all grantees must share in the cost of projects. Therefore, grantees will be required to provide at least 5 percent of the total cost of the youth demonstration project. The grantee share may be cash or in-kind, and must be project related and allowable under the Department's applicable cost principles published in 45 CFR Part 74 (see 38 FR 26274, September 19, 1973).

F. THE APPLICATION PROCESS

Availability of Application Forms. Projects funded under the Runaway Youth Act during FY 1978 wishing to apply under this grants program must submit an application for a grant on standard forms provided for this purpose. Application kits, containing these forms and the Program Guidance, may be obtained by writing to: Youth Development Bureau, Administration for Children, Youth and Families, Room 3260, DHEW North Building, 330 Independence Avenue SW., Washington, D.C. 20201, Attention: 13608-782, telephone 201-245-2870.

Application Submission. In order to be considered for a demonstration grant, an application must be submitted on the forms and in the manner required by ACYF. The application must be submitted by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

One signed original and four copies of the grant application, including all attachments, are required. The original and one copy are to be sent to the Grants Management Office in the appropriate DHEW Regional Office (ad-

dresses will be provided in the application kit). Three copies are to be sent to the Youth Development Bureau in Washington, D.C. at the same address from which the application kit was obtained.

Application Consideration. The Commissioner for Children, Youth and Families will determine the final action to be taken with respect to each grant application. All applications which are complete and conform to the requirements of this program announcement will be subjected to a competitive review and evaluation by qualifed persons outside the Youth Development Bureau Program Office. The results of this review will assist the Commissioner in considering competing applications. The consideration of applications by the competitive review panel will also take into account the comments of the ACYF Regional or headquarters program offices; comments may also be requested from appropriate specialists and consultants inside and outside the Federal Government.

After a decision has been reached either to disapprove or not to fund a competing grant application, unsuccessful applicants will be notified in writing of that decision. Successful applicants will be notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is contemplated.

G. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated against the following criteria:

(1) the extent of the youth and family need(s) or problem(s) to be addressed in the community to be served by the proposed project and the unavailability of other services to adequately address these need(s) or problem(s), as evidenced by the documentation that is provided;

(2) the extent to which the proposed project shows substantial promise of being able to demonstrate innovative methods (directly by the applicant agency itself and/or through linkages or other coordinative efforts established with relevant service providers) for addressing a broader range of youth and family problems beyond those specific target populations (runaway or otherwise homeless youth and their families) served under the Runaway Youth Act project grants;

(3) the soundness of the proposed procedures and methods which, if well executed, will be capable of achieving the intended results of the project;

(4) the project personnel are or will be well qualified and the applicant agency has or will have adequate facilities and resources;

(5) the estimated cost of the project to the Government is reasonable considering the anticipated results;

(6) the potential replicability of the demonstration in terms of being able to use it as a model for other communities with similar needs and goals for youth and families in crisis; and,

(7) the applicant has included all necessary formal agreements with cooperating agencies and assurances to cooperate with the Youth Development Bureau-funded evaluation of the Youth Demonstration Program.

H. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is August 4, 1978. Applications received after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed and evaluated. The competitive review process is scheduled to be completed and grant awards made in September 1978.

An application sent by mail will be considered to be received on time by ACYF if:

(a) the application was sent by registered or certified mail not later than August 1, 1978 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or on the original receipt from the U.S. Postal Service; or

(b) the application is received on or before the closing date by 5:30 p.m. by the DHEW mail rooms in both the appropriate Regional Office and in Washington, D.C.

An application delivered by hand must be taken to both the Grants Management Office in the appropriate DHEW Regional Office and to the Youth Development Bureau in Washington, D.C. on or before August 4, 1978 at 5:30 p.m. Applications will be accepted daily between the hours of 9:00 a.m. and 5:30 p.m. except Saturdays, Sundays, and Federal holidays.

(Catalog of Federal Domestic Assistance Program Number: 13.608—Child Welfare Research and Demonstration)

Dated: June 9, 1978.

BLANDINA CARDENAS,
Commissioner for Children, Youth and Families.

Dated: June 20, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-17414 Filed 6-22-78; 8:45 am]

federal register

FRIDAY, JUNE 23, 1978
PART VIII



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

■

MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Modular Homes Exempt from Federal Regulations

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[24 CFR Part 3282]

[Docket No. R-78-553]

MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

"Modular Homes" Exempt from Federal Regulations

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Proposed Rule.

SUMMARY: The National Mobile Home Construction and Safety Standards Act of 1974 (Title VI) as amended by the Housing and Community Development Act of 1977 requires the Secretary to exclude from coverage of the Act any structures with respect to which manufacturers make the certifications as set forth in this part which includes the certification that those structures are not mobile homes. This rule sets forth the certifications required to be made by manufacturers of modular homes homes in order to exempt the structures from coverage under the Act.

DATE: Comments are due on or before August 7, 1978. Comments received after this deadline will be considered if time permits.

ADDRESS: Comments should be sent to: Rules Docket Clerk, Office of the Secretary, Room 5218, Dept. of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Russell H. Dawson, Director, Mobile Home Standards Division, Room 4224, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, Phone 202-755-5595.

SUPPLEMENTARY INFORMATION: On October 12, 1977, the President signed the Housing and Community Development Act of 1977, § 902 of which amends § 604 of the National Mobile Home Construction and Safety Standards Act of 1974 (Title VI) by adding a new paragraph (h). Under that paragraph the Secretary is required to exclude from the coverage of Title VI structures with respect to which manufacturers make the certifications set out in the paragraph. This section was enacted at the request of the Department in order to resolve a problem which had arisen with respect to what are commonly considered to be "modular homes" as distinct from "mobile homes".

After substantial discussion within the Department and consideration of public comment on the question, the Department determined that certain structures commonly considered to be modular homes nevertheless fell within the definition of "mobile home" at § 603(6) of Title VI because they were built on a permanent chassis and and designed to be used as a dwelling with or without a permanent foundation. This resulted in the modular homes being required to meet the Federal mobile home standards, a result which the Department did not believe had been contemplated by Congress. To eliminate this requirement, the Department requested the passage of what became § 902 of the Housing and Community Development Act of 1977.

The purpose of this regulation is to provide for the means by which manufacturers may make the certifications provided for by § 902.

Paragraph (a) of the proposed section 3282.12 defines various terms so that manufacturers may understand the requirements and impact of the certification. The manufacturer must first certify that the structure in question is "designed only for erection or installation on a site-built permanent foundation." Paragraph (a)(1) of § 3282.12 explains how a structure will meet that criterion and defines a "site-built permanent foundation."

The second aspect of the certification is that the structure is "not designed to be moved once erected or installed on a site-built permanent foundation." Paragraph (a)(2) explains how a structure may meet that criterion.

The third aspect of the certification is that the structure is "designed and manufactured to comply with a nationally recognized model building code or an equivalent code or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to Title 2 of the national Housing Act." Paragraph (a)(3) sets out a number of building codes which the Secretary accepts as nationally recognized model building codes, provides for the acceptance by the Secretary of other nationally recognized codes, and establishes a means by which manufacturers may determine which State or local codes they may certify to in order to obtain the exclusion provided for by § 902. Subject to review by the Secretary as set out at paragraph (f), a State or local code will be considered equivalent to a nationally recognized code if the State or locality and the manufacturer so certify and if the manufacturer submits a copy of the State or local code. The certification and request for acceptance will be considered accepted if acceptance is not deferred or denied within 30 days after the request is submitted to the Department.

The fourth point certified by the manufacturer is that, to the manufacturer's knowledge, this structure is not intended to be used other than on a site-built permanent foundation. This is set out at paragraph (a)(4).

Paragraphs (b) and (c) set out the language of the certification and the manner in which it must be made. The language closely follows that of the statute, and the manufacturer is required to affix the certification in a permanent manner near the electrical panel, on the inside of a kitchen cabinet door, or any other readily accessible and visible location.

Under the form prescribed in paragraph (b), the manufacturer must include the serial number of the structure in the certification. Paragraph (d) provides that as part of the certification the manufacturer must identify each structure with a permanent serial number, and the serial numbers of homes that are certified under this section must be distinct and easily distinguishable from the serial numbers of structures which are certified as mobile homes under section 3282.205 and 3282.262(c). There must be a separate record of the serial numbers of the structures certified under this section, and that record must be available to the Secretary or an SAA for review. Serial numbers applied under this section 3282.12 must be applied at the first stage of production of the structure.

Paragraph (e) of section 3282.12 provides for the circumstances in which a manufacturer, after designating a structure on the assembly line as a modular home to be certified under this section, determines that for some reason the manufacturer would like to build the structure as a mobile home and provide it with the certification label under section 3282.205 and 3282.362(c). In that circumstance, where the structure did not begin as a mobile home and may not have been in the normal inspection process, paragraph (e) allows the manufacturer to certify the structure as a mobile home with the written consent of the IPIA after a thorough inspection of the structure in at least one stage of the production and any tear down and inspection that the IPIA determines to be necessary to assure that the structure meets the mobile home standards.

Finally, paragraph (f) makes it clear that all certifications made under this section are subject to review by the Secretary to determine their accuracy. While this paragraph is not limited to statements which certify that State or local codes are equivalent to national-

ly recognized codes, it explicitly states that those certifications are subject to review, and if they are false or invalid, the certifications under section 3282.12 are invalid, and the structures are subject to the Federal standards and regulations. Further, where the Secretary notifies a manufacturer that the Secretary considers a certification to be false or inaccurate, the certification will not serve to exclude any structures from the Act or regulations, and sale by the manufacturer of any structures subject to the certification is illegal unless the structures meet all the requirements of the Act or regulations.

COMMENTS REQUESTED

The Department requests any relevant comments on this proposed rule. Specifically, the Department requests comments with respect to whether those building codes identified at paragraph (a)(3)(i) are the appropriate codes to be recognized as nationally recognized building codes and whether there are others that should be specifically included in that list.

The Department is also concerned that its definition of "site-built permanent foundations" be adequate for all reasonably accepted foundations for the modular homes. Therefore, comment is requested on the definitions at paragraph (a)(1)(ii).

Finally, the Department is concerned that there be adequate assurance that State of local codes are actually equivalent to nationally recognized codes. The proposed approach is set out at paragraph (a)(3)(ii). The Department requests comment on whether this procedure will provide adequate assurance and on whether some other procedure would be better.

A Finding of Inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. It is available for public inspection in the Office of Rules Docket Clerk, Room 5218, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, during normal business hours.

Accordingly, it is proposed that 24 CFR Part 3282 be amended as follows:

§ 3282.8 [Amended]

1. By deleting paragraph (m) of § 3282.8.

2. By adding a new § 3282.12 as follows:

§ 3282.12 Exempted structures—Modular homes.

(a) Any structure that meets the definition of "mobile home" at 24 CFR 3282.7(u) is excluded from the coverage of the National Mobile Home Construction and Safety Standards Act of 1974, 42 USC 5401 et seq., if the manufacturer certifies as prescribed in paragraph (b) of this section that:

(1) The structure is designed only for erection or installation on a site-built permanent foundation.

(i) A structure meets this criterion if erection or installation on a temporary foundation would be impracticable or if all written materials and communications relating to installation of the structure, including but not limited to designs, drawings, and installation or erection instructions, indicate that the structure is to be installed on a permanent foundation and is not designed for installation on temporary supports, including the type of supports commonly used for mobile homes.

(ii) A site-built permanent foundation is a system of supports, including piers, either partially or entirely below grade which is:

(A) capable of transferring all loads imposed by or upon the structure into soil or bedrock without failure,

(B) placed at an adequate depth below grade to prevent frost damage, and

(C) constructed of concrete, steel, treated lumber, or grouted masonry; and

(2) The structure is not designed to be moved once erected or installed on a site-built permanent foundation.

(i) a structure meets this criterion if all written materials and communications relating to erection or installation of the structure, including but not limited to designs, drawings, calculations, and installation or erection instructions, indicate that the structure is not intended to be moved after it is erected or installed and if the towing hitch or running gear, which includes axles, brakes, wheels and other parts of the chassis that operate during transportation, are removable and designed to be removed prior to erection or installation on a site-built permanent foundation; and

(3) The structure is designed and manufactured to comply with the currently effective version of one of the following:

(i) one of the following nationally recognized building codes:

(A) that published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA) and made up of the following:

(*1*) BOCA Basic Building Code,

(*2*) BOCA Basic Industrialized Dwelling Code,

(*3*) BOCA Basic Plumbing Code,

(*4*) National Electrical Code, or

(B) that published by the Southern Building Code Congress (SBCC) and the NFPA and made up of the following:

(*1*) Standard Building Code,

(*2*) Standard Gas Code,

(*3*) Standard Mechanical Code,

(*4*) Standard Plumbing Code, and

(*5*) National Electrical Code, or

(C) that published by the International Conference of Building Officials (ICBO), the International Association of Plumbing and Mechanical Officials (IAPMO), and the NFPA and made up of the following:

(*1*) Uniform Building Code,

(*2*) Uniform Mechanical Code,

(*3*) Uniform Plumbing Code, and

(*4*) National Electrical Code, or

(D) the codes included in subparagraphs (A), (B), or (C) in connection with the One- and Two-Family Dwelling Code, or

(E) any combination of the codes included in subparagraphs (A), (B), (C), and (D), that is approved by the Secretary, or

(F) any other building code accepted by the Secretary as a nationally recognized model building code, or

(ii) any local code or State or local modular building code which the Secretary accepts as generally equivalent to the codes included under subparagraph (a)(3)(i). Acceptance shall be based on a written certification by the maufacturer and the State or local jurisdiction that to the best of their knowledge and belief the code is equivalent to one of the codes included under subparagraph (a)(3)(i). The certification shall be accompanied by a copy of the code to which it relates. A code will be considered to be accepted under this provision 30 days after the certification and request for acceptance is received by the Department unless the Department defers or denies acceptance or grants acceptance at an earlier date. However, the Secretary may revoke acceptance based on information which indicates that the certification is false or in error. The Secretary may also revoke acceptance if subsequent revisions to the codes listed in subparagraph (a)(3)(i) are not reflected in revisions of the local code or State or local modular building code.

(iii) the minimum property standards adopted by the Secretary pursuant to Title II of the National Housing Act; and

(4) to the manufacturer's knowledge, the structure is not intended to be used other than on a site-build permanent foundation.

(b) When a manufacturer makes a certification provided for under paragraph (a) of this section, the certification shall state as follows:

"The manufacturer of this structure,

NAME _____

ADDRESS _____

certifies that this structure (Ser. No. ———) is not a mobile home and is—

(1) designed only for erection or installation on a site-build permanent foundation,

(2) not designed to be moved once so erected or installed,

(3) designed and manufactured to comply with _____ (Here state which code included in paragraph (a)(3) of this section has been followed), and

(4) to the manufacturer's knowledge, not intended to be used other than on a site-build permanent foundation."

(c) This certification shall be affixed in a permanent manner near the electrical panel, on the inside of a kitchen cabinet door, or in any other readily accessible and visible location.

(d) As part of this certification, the manufacturer shall identify each certified structure by a permanent serial number. If the manufacturer also manufactures mobile homes that are certified under §§ 3282.205 and 3282.362(c), the series of serial numbers for those structures certified under this section shall be distinct and easily distinguishable from the series of serial numbers for the mobile homes that are certified under §§ 3282.205 and 3282.362(c). Manufacturers shall keep a separate record of the serial numbers of structures certified under this section and shall make that record available to the Secretary or an SAA upon request. The serial numbers shall be applied to the certified structure at the first stage of production.

(e) If a manufacturer wishes to certify a structure as a mobile home under §§ 3282.205 and 3282.362(c) after having applied a serial number identifying it as exempted under this section, the manufacturer may do so only with the written consent of the IPIA after a thorough inspection of the structure by the IPIA at at least one stage of production and such removal of equipment, components, or materials as the IPIA may require to perform inspections to assure that the structure conforms to the Federal mobile home standards.

(f) All certifications made under this section are subject to review by the Secretary to determine their accuracy. If these certifications are false or inaccurate, the certification under this section is invalid, and the structures that have been or may be the subject of the certification are not excluded from the coverage of the Act, the mobile home standards, or these regulations. Further, where the Secretary has notified a manufacturer that the Secretary considers a certification to be false or invalid, that certification will not serve to exclude any structure from the Act or 24 CFR Parts 280 and 3282 unless the manufacturer satisfies the Secretary that the certification is not false or invalid.

(Secs. 604(h) and 625, National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5403 and 5424, and Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Issued at Washington, D.C., June 19, 1978

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 78-17524 Filed 6-21-78; 11:44 am]

federal register

FRIDAY, JUNE 23, 1978
PART IX



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

ENFORCEMENT POLICY FOR CERTAIN COMPLIANCE CORRESPONDENCE

Notices of Adverse Findings—Regulatory Letters

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 7]

[Docket No. 75N-0358]

ENFORCEMENT POLICY FOR CERTAIN COMPLIANCE CORRESPONDENCE

Notices of Adverse Findings—Regulatory Letters

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes regulations describing the practices and procedures for two forms of compliance correspondence for judicially and administratively enforced sanctions. A "Notice of Adverse Findings" or a "Regulatory Letter" is issued by the Food and Drug Administration (FDA) to advise an individual or firm that its products or operations are in violation of one or more of the laws FDA administers. Issuance of such notice indicates that FDA expects prompt correction of the violative conditions reported. Furthermore, a notice that is conspicuously headed "Regulatory Letter" indicates that FDA has completed its review and is prepared to take administrative action or recommend court enforcement proceedings if the violations identified are not rectified or, when appropriate, corrective action is not initiated within the time prescribed.

The proposed regulations will not affect letters advising of actions taken with respect to new drug applications (NDA's) or letters granting or denying emergency food processing permits. Neither will they apply to or affect letters that do not address specific existing violative practices, conditions, or products, e.g., responses to inquiries, scheduling or meetings, confirmation of discussions, and letters stating the agency's official position on a regulatory or legal matter.

DATES: Written comments on or before August 22, 1978. The agency will continue to operate as it has in the past during the comment period with respect to the issuance of Regulatory Letters.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Assistant to Director, Compliance Coordination Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: In a proposal published in the FEDERAL REGISTER of September 3, 1975 (40 FR 40682) governing FDA adminstrative practices and procedures, the Commissioner announced his conclusion "* * * that a thorough review of agency practices and procedures should be undertaken, and that comprehensive regulations should be adopted to codify existing requirements, establish new requirements where none currently exist, and conform present regulations so that practices and procedures will be applied consistently throughout the agency." The regulations proposed in this notice would codify one important segment of the agency's enforcement practices and procedures. Regulations governing informal hearings before reports for criminal prosecution have been published in the FEDERAL REGISTER of February 4, 1977 (42 FR 6801). Proposed recall policy and procedures were published in the FEDERAL REGISTER of June 30, 1976 (41 FR 26924), and final regulations on recall policy and procedures were published in the FEDERAL REGISTER of June 16, 1978 (43 FR 26202), and proposed regulations relating to the issuance of publicity were published in the FEDERAL REGISTER of March 4, 1977 (42 FR 12436).

Subpart N of Part 2, under which the final regulations concerning the procedures for informal hearings before report for criminal prosecution and the proposed recall and publicity regulations were published, was recodified under Part 7—Enforcement Policy in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553). All issuances on enforcement policy published subsequent to recodification appear, therefore, under the newly established Part 7.

LEGAL AUTHORITY AND FDA POLICY

The primary mission of FDA, protection of consumer health and safety, is accomplished by administering and enforcing provisions of several Federal statutes, including: the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq. (hereafter "the act")); the Federal Caustic Poison Act (15 U.S.C. 401-411); the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.); and provisions of the Public Health Service Act relating to human biologics, including blood and blood products and the control of communicable diseases (42 U.S.C. 262 and 263), electronic product radiation control (42 U.S.C. 263b through 263n), and interstate travel food sanitation, including milk and food service sanitation and shellfish sanitation (42 U.S.C. 264). Each of these statutes provides FDA with one or more judicially or administratively enforceable sanctions against violative products, firms, or individuals; these sanctions include seizure, injunction, license revocation, civil fines, and criminal prosecution.

FDA is under no legal obligation to warn firms or individuals that they or their products are in violation of the law before taking formal regulatory action. Responsible corporate officials who voluntarily assume positions of authority in regulated business enterprises that provide services and products vitally affecting the public health have a primary legal duty to implement, in the first instance, whatever measures are necessary to ensure that their products, facilities, and/or operations are at all times in compliance with the law. In addition, the law presumes that these individuals are fully aware of their responsibilities.

If FDA had unlimited resources, it would seek to pursue all violations vigorously. Practically, of course, unlimited resources are not available. Consequently, decisions must be made regarding the relative priority of industry-wide compliance programs. Similar decisions must be made as to which individual offenders and violative products should be proceeded against and the type of regulatory action to be taken. In some cases it may be sufficient simply to notify individuals and firms that they are in violation of the law. In other cases it may be necessary to invoke administrative and/or judicial sanctions. The Commissioner believes that in enacting section 306 of the act (21 U.S.C. 336), Congress fully intended the FDA exercise such judgment.

A basic precept of FDA enforcement policy is the belief that the majority of persons desire to comply with the law, and that voluntary compliance will be fostered by providing information as to what is required and by pointing out violations as soon as they occur.

Congress recognized that immediate resort to formal judicial or administrative process does not always protect the consumer efficiently because of the amount of time and resources necessary to institute and complete court or other formal enforcement proceedings. Indeed, under section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 336) and section 360C(d) of the Public Health Service Act regarding electronic product radiation control (42 U.S.C. 263k(d)), the Commissioner in certain circumstances has specific discretionary authority to provide written notification to firms or individuals that they or their products are in violation of the law.

Notification of violations is given in several ways. Probably the most important is the use of letters to bring adverse findings to the attention of management. In addition, the agency publishes regulations, holds instruc-

tional workshops and meetings, works with individual firms in identifying critical areas in production and quality control, provides written guidance through advisory opinions, publishes various instructional materials and aids, and publicizes requirements for compliance.

Since 1972, the agency has used two types of letters: The Regulatory Letter and the Report of Inspectional Finding (also known as Information Letter). While the primary purpose of both letters was to solicit prompt correction by management, neither letter was intended to commit the agency to take legal action if the necessary remedial measures were not undertaken. Over the years, the criteria and procedures governing their issuance, the nature of the followup conducted by FDA, and the agency's policy with respect to inadequate responses became more detailed and formalized (refs. 1 through 3). The agency's current regulatory philosophy is reflected in FDA Compliance Policy Guide No. 7153-04 (ref. 4), which provides that seizure and/or injunction would be obviated by adequate voluntary corrective action, but that correction would not necessarily preclude criminal prosecution, or civil penalties, under the Radiation Control for Health and Safety Act of 1968.

Revised Nomenclature and Policy

The Commissioner has reviewed the agency's current policy and procedures relating to Regulatory and Information Letters and has concluded that they should be clarified and modified. Therefore, the Commissioner is proposing to redefine and establish new nomenclature for correspondence designed to stimulate voluntary remedial action. Notices of Adverse Findings will generally replace Information Letters; the terminology for Regulatory Letters will remain the same. Under the new policy, when the agency issues a Regulatory Letter and voluntary corrective action is not promptly taken, judicial and/or administrative proceedings will generally be instituted.

Notice of Adverse Findings

Surveillance is maintained over firms and organizations subject to FDA jurisdiction in a variety of ways. These include inspection, product analyses, application/petition review, advertisement review, cooperative arrangements with State and local officials, and solicitation of consumer and trade complaints. As a result of any one of these activities, the agency may discover violations of the acts and regulations which it is responsible for enforcing. It is the policy of the agency that, once uncovered, a violation should be promptly brought to the attention of management officials responsible for the unlawful practice, condition, or product. Although the first notification may be a seizure, injunction, or publication of a Federal Register notice (e.g., notice of opportunity for hearing), it is most often conveyed to responsible management by means of official correspondence. It is important, therefore, that responsible individuals understand that a Notice of Adverse Findings indicates FDA's awareness of a violation that must be corrected. It also indicates that the agency is requesting voluntary correction without having made any final decision on whether to commence administrative or legal action.

Each Notice of Adverse Findings will be conspicuously titled "Notice of Adverse Findings," will specify which section(s) of the law and/or regulations have been violated, and will briefly describe the facts establishing the violation. The notice will be addressed to named individuals who, to the extent that can be readily ascertained by FDA, are believed responsible for the violation. These individuals are expected to provide a full response to a designated agency official within a stated time period. The response must specifically describe each step being taken to effect complete correction of each identified violation. Complete correction, in this context, includes measures taken to prevent the recurrence of similar violations. For example, notice of inadequate recordkeeping under the good manufacturing practice regulations (21 CFR 210.3 et seq.) with respect to one or more products should alert the firm to review all records for all of its products for similar violations. Similarly, an indication of rodent or insect infestation in one warehouse of a firm should cause the firm to intensify its rodent control program in all its food storage facilities. It may also require complete removal of a violative product from the marketplace.

While the time for response specified in a Notice of Adverse Findings will depend on the nature of the violation, the content of the response is the same: the designated agency official must be informed of each step that has been taken or is being taken to correct the violation and prevent its recurrence.

If a response is not timely or is otherwise unsatisfactory, FDA will conduct a suitable followup investigation. Also, FDA may conduct a followup investigation even though the response is judged adequate, to verify that the promised corrective action has occurred. Since Notices of Adverse Findings are intended to produce immediate correction, recipients of these letters will be expected to give them the highest priority. The only adequate response to this type of letter is immediate and complete correction of the violation. Whenever a followup is conducted, a report will be filed specifying the nature (e.g., plant inspection, labeling check) and results of the followup.

All Notices of Adverse Findings will be filed for public inspection with the Hearing Clerk upon their issuance. Any response to a Notice of Adverse Findings will be posted with the Hearing Clerk upon receipt.

Regulatory Letter

A Notice of Adverse Findings leaves the agency with flexibility in determining whether or not to proceed with administrative or legal action. Because of the varying nature and seriousness of violations that may occur, the agency may in some cases conclude that, in the absence of prompt and effective correction, administrative action and/or judicial enforcement action should be instituted immediately. In such instances, a Regulatory Letter represents a "promise to sue" on the part of FDA. Regulatory Letters are most likely to be issued to bring about prompt correction of violations posing a hazard to health and violations involving economic deception. A Regulatory Letter will not be issued when the agency has reason to believe the violation is intentional, flagrant, part of a history of similar or substantially similar conduct, or indicates a callous disregard for potential consequences to the health or safety of the consumer. In these instances, the agency will move immediately to institute administrative action and/or request court enforcement action.

The salient characteristic of the Regulatory Letter is its unequivocal message to the recipient that, unless adequate corrective action is taken promptly, FDA is committed to seek administrative and/or judicial sanctions to effect correction, i.e., seizure, injunction, license suspension/revocation, civil fines, and/or criminal prosecution. Although the usual period allowed for reply to a Regulatory Letter will be 10 days, some situations, e.g., recall of a hazardous product, require that the response time be considerably shortened. Only in the most unusual circumstances will a longer time for response be provided.

All Regulatory Letters will be filed for public inspection with the Hearing Clerk upon their issuance. Any response to a Regulatory Letter will be posted with the Hearing Clerk upon receipt.

Summary

Responsible individuals and firms must not assume that they will automatically receive any kind of written warning before the agency seeks administrative or judicial relief. Furthermore, recipients of a Notice of Adverse Findings letter may or may not receive a Regulatory Letter before FDA initi-

ates court enforcement or administrative proceedings. A Regulatory Letter may be issued even if no Notice of Adverse Findings has previously been issued. Each type of letter addresses a different type of specific violation that the agency expects to be corrected. Complete and prompt voluntary correction of the violation ordinarily will forestall seizure and/or injunction concerning that violation so long as it remains corrected, but such action will not preclude the institution of administrative or criminal proceedings (except under the Fair Packaging and Labeling Act, which contains no criminal sanctions) or impositions of civil fines under the Radiation Control for Health and Safety Act of 1968. The promptness and completeness of a voluntary correction may, however, be taken into account with other factors in considering the need for and appropriateness of such subsequent administrative sanctions, civil or criminal sanctions, or civil fines.

If a response is unsatisfactory, FDA will conduct a followup investigation. In addition, FDA may conduct followup investigations even where the response is found adequate.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration. This proposal establishes agency operating procedures that, by their very nature, will not have any economic impact. However, proposals utilizing these procedures may have an economic impact. They will be evaluated for economic impact separately.

The Commissioner proposes to make the final regulation effective 60 days after the date of its publication in the FEDERAL REGISTER. The agency will continue to operate as it has in the past during the comment period with respect to the issuance of regulatory letters.

REFERENCES

A copy of the following references cited in this document is on file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm.4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between the hours of 9 a.m. and 4 p.m., Monday through Friday:

1. Policy Guidance Statement, August 1972;

2. Regulatory Letter Experimental Procedure, 1973;

3. Regulatory Procedures Manual Revision, October 1974;

4. FDA Compliance Policy Guide No. 7153-04, October 1974; and

5. FDA Regulatory Letter Study, May 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), Pub. L. 717, 52 Stat. 1055 (21 U.S.C. 371(a)); sec. 360C(d), Pub. L. 410, 82 Stat. 1184-1185 (42 U.S.C. 263k(d))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 7 as follows:

1. By amending § 7.3 in Subpart A by adding new paragraphs (q) and (r) to read as follows:

§ 7.3 Definitions.

* * * * *

(q) "Notice of Adverse Findings" means correspondence addressed to the management of a firm from FDA, intended to effect prompt and complete correction of a violative product and/or condition.

(r) "Regulatory Letter" means correspondence addressed to the management of a firm from FDA, intended to effect prompt and complete correction of a violative and product and/or condition. In the absence of responsive action, such correspondence is a direct prelude to the institution of judicial or administrative proceedings.

2. By establishing new Subpart B, consisting at this time of §§ 7.20 through 7.34, to read as follows:

Subpart B—Notice of Adverse Findings and Regulatory Letter

Sec.

7.20 Policy regarding Notice of Adverse Findings and Regulatory Letter.
7.25 Criteria for issuance of Notice of Adverse Findings.
7.26 Format of Notice of Adverse Findings.
7.28 Response to Notice of Adverse Findings.
7.29 Public disclosure of Notice of Adverse Findings.
7.30 Criteria for issuance of Regulatory Letter.
7.31 Format of Regulatory Letter.
7.33 Response to Regulatory Letter.
7.34 Public display of Regulatory Letter.

Subpart B—Notice of Adverse Findings and Regulatory Letter

§ 7.20 Policy regarding Notice of Adverse Findings and Regulatory Letter.

(a) The Food and Drug Administration is under no legal obligation to warn firms or individuals that they or their products are in violation of the law before initiating formal regulatory action. Responsible corporate officials who voluntarily assume positions of authority in regulated business enterprises that provide services and products vitally affecting the public health have a primary legal duty to implement, in the first instance, whatever measures are necessary to ensure that their products, facilities, and operations are at all times in compliance with the law. In addition, the law presumes that these individuals are fully aware of their responsibilities. Accordingly, responsible individuals should not assume they will receive a Notice of Adverse findings or Regulatory Letter before the agency initiates an administrative action or recommends an injunction, seizure, and/or criminal proceedings.

(b) The primary purpose of Notices of Adverse Findings and Regulatory Letters is to provide responsible persons in regulated firms an opportunity promptly to bring themselves, their firms, and/or products into complete compliance with the law. When individuals promptly and adequately respond to the letters and correct not only those violations specifically identified, but also those reasonably related thereto, the agency will ordinarily refrain from initiating seizure or injunction proceedings with respect to the corrected violation so long as it remains corrected. Although prompt and complete correction will not preclude the possibility of subsequent criminal proceedings for that violation, such correction may be considered by the agency as an important, but not dispositive, factor in evaluating the appropriateness of prosecution.

§ 7.25 Criteria for issuance of Notice of Adverse findings.

When the Food and Drug Administration has evidence that any firm, product, and/or individual is in violation of the law, and after application of the following criteria, a Notice of Adverse Findings may issue:

(a) A violation of the law has occurred or there is evidence that an existing practice may lead to a violation if left uncorrected;

(b) The history of the individuals and/or firm or other circumstances indicate that there is a likelihood of prompt and complete correction; and

(c) The agency has elected to request voluntary action and has not made a final decision to seek formal administrative or judicial relief in the event immediate and complete correction is not effected.

§ 7.26 Format of Notice of Adverse Findings.

A Notice of Adverse Findings shall:

(a) Be titled "Notice of Adverse Findings."

(b) Be issued by a regional food and drug director or district director, director of a bureau compliance office or the Associate Commissioner for Regulatory Affairs.

(c) Be issued to the most readily identifiable responsible individuals, including the individual most closely related to the violation (in the case of licensed biologics, that person designated pursuant to § 600.10 of this chapter), his superior, and the highest known official in the enterprise. The

failure to name a specific business entity or individual(s) in a Notice of Adverse Findings shall not preclude the agency from naming that entity or individual(s) as a party in any subsequent administrative or judicial proceeding.

(d) Specify which section(s) of the law and/or regulations alleged by the agency have been violated, and provide a brief description of the facts that establish the violation. The failure to name a specific section of the law and/or regulation or the failure to include a specific fact shall not preclude the agency from citing such authority or fact in a subsequent administrative or judicial proceeding.

(e) Request a detailed written response within a definite period of time, which response sets forth each step that has been taken or is being taken to correct the violation(s) completely, including, where appropriate, recall, reconditioning, and/or destruction of violative products. The letter shall also request an explanation of each step being taken to prevent the recurrence of similar violations in the future. The letter shall provde that when corrective action is not completed within the time provided, the respondent shall state the time within which the correction(s) will be completed and the reason for the delay.

(f) Designate a specific agency official to whom the response shall be sent.

(g) Be sent by certified mail, return receipt requested. When other means of written notification are used, appropriate measures will be used to ensure and document receipt.

§ 7.28 Response to Notice of Adverse Findings.

A response to a Notice of Adverse Findings shall:

(a) Be made within the stated period of time.

(b) Specifically identify each corrective step taken and/or intended to be taken, including measures to prevent the recurrence of the violation and all similar violations and, where applicable, all steps being taken to recall, recondition, and/or destroy violative products. Where the corrective action will take longer than the time allowed for response, the respondent shall state the time within which the corrective measure is to be completed and the reason for the delay.

(c) Explain the reason for the violation or why the respondent does not believe a violation exists.

(d) Be directed to the agency official designated in the letter.

(e) Represent a single institutional reply.

(f) Be signed by a responsible individual from the firm.

§ 7.29 Public disclosure of Notice of Adverse Findings.

Notices of Adverse Findings shall be available for public review in the office of the Hearing Clerk, Food and Drug Administration, at the time of issuance. Responses to such letters shall also be posted upon receipt.

§ 7.30 Criteria for issuance of a Regulatory Letter.

When the Food and Drug Administration has evidence that any firm, product, and/or individual is in violation of the law, and after application of the criteria set forth in paragraphs (a) and (b) of this section, a Regulatory Letter may issue.

(a) Except as provided in paragraph (c) of this section, a Regulatory Letter may issue when all of the following conditions exist:

(1) The violation warrants the application of judicial or administrative sanction(s);

(2) The agency is committed to initiate administrative action or seek judicial relief if complete correction is not promptly achieved; and

(3) The history of the individual(s) or firm indicates that there is a strong likelihood of prompt and complete correction.

(b) A Regulatory Letter may issue for the purpose of effecting an FDA-requested recall.

(c) The agency may initiate an administrative action or recommend court enforcement proceedings without previously issuing a Regulatory Letter whenever it deems the Regulatory Letter inappropriate. For example, the agency will not issue a Regulatory Letter when:

(1) The violation reflects a history of repeated or continuous conduct of a similar or substantially similar nature; an intentional or flagrant act; or a lack of appreciation or regard for the potential consequences for consumer health or safety.

(2) The firm and/or individual(s) have been notified at any time previously of a similar or substantially similar violation.

§ 7.31 Format of Regulatory Letter.

A Regulatory Letter shall:

(a) Be titled "Regulatory Letter."

(b) Be issued by: (1) A regional food and drug director or district director when direct reference authority exists; when such authority does not exist, with prior approval from the director of the appropriate bureau, director of bureau compliance office, or when necessary, the Associate Commissioner for Regulatory Affairs; or

(2) An appropriate bureau director, the Commissioner or their desingees.

(c) Be issued to the most readily identifiable responsible individuals, including the individual most closely related to the violation (in the case of licensed biologics, that person designated pursuant to § 600.10 of this chapter), his or her superior, and the highest known official in the enterprise. The failure to name a specific business entity or individual(s) in a Regulatory Letter shall not preclude the agency from naming that entity or individual(s) as a party in any subsequent administrative or judicial proceeding.

(d) Specify which sections(s) of the law and/or regulations have been violated, and provide a brief description of the facts that establish the violation. The failure to name a specific section of the law and/or regulation or the failure to include a specific fact shall not preclude the agency from citing such authority or fact in a subsequent administrative or judicial proceeding.

(e) Request a detailed written response within a definite period of time, usually 10 days, which sets forth each step that has been taken or is being taken to correct the violation(s) completely including, when appropriate, recall, reconditioning, and/or destruction of violative products. The letter shall also request an explanation of each step being taken to prevent the recurrence of similar violations in the future. The letter shall provide that when corrective action is not completed within the time provided, the respondent shall state the time within which the correction(s) will be completed and the reason for the delay.

(f) Designate a specific agency official to whom the response must be sent.

(g) Be sent by certified mail, return receipt requested. When other means of written notification are used, appropriate measures will be used to ensure and document receipt.

§ 7.33 Response to Regulatory Letter.

A response to a Regulatory Letter shall:

(a) Be made within the stated period of time.

(b) Specifically identify each corrective step taken and/or intended to be taken, including measures to prevent the recurrence of the violation and all similar violations and, where applicable, steps being taken to recall, recondition, and/or destroy violative products. Where the corrective action will take longer than time allowed for response, the respondent shall state the time within which the corrective measure is to be completed and the reason for the delay.

(c) Be directed to the agency official designated in the letter.

(d) Represent a single institutional reply.

(e) Be signed by a responsible individual from the firm.

§ 7.34 Public display of a Regulatory Letter.

(a) Except as noted in paragraph (b) of this section, a copy of the Regulatory Letter shall be sent to the office of the Hearing Clerk, Food and Drug Administration, at the time of issuance and shall be available for public review. Responses to such letters will also be sent to the Hearing Clerk upon receipt.

(b) A Regulatory Letter requesting product recall will be posted upon receipt of the response.

Interested persons may, on or before August 22, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the hearing Clerk, Food and Drug Administration.

Dated: June 15, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-17591 Filed 6-22-78; 8:45 am]

FRIDAY, JUNE 23, 1978
PART X



federal register

OFFICE OF MANAGEMENT AND BUDGET

■

PROPOSED PLAN FOR STUDY OF FEDERAL ASSISTANCE PROGRAMS

Required by the Federal Grant and Cooperative Agreement Act (Pub. L. 95–224)

OFFICE OF MANAGEMENT AND BUDGET

Proposed Plan for Study of Federal Assistance Programs

AGENCY: Office of Management and Budget.

ACTION: Notice of proposed plan for the study of Federal assistance programs and practices required by the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224).

SUMMARY: The Federal Grant and Cooperative Agreement Act of 1977 requires the Director of OMB to study alternative means of implementing Federal assistance programs and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. A report to Congress is required by February 3, 1980. In conducting this study, OMB intends to consult and, to the extent practicable, involve representatives of the executive agencies, Congress, General Accounting Office, State and local governments, other recipients, and interested members of the public.

This notice is to solicit comments on the proposed scope of work for the study. Comments which address the following are particularly solicited:

1. Adequacy of the scope of the planned study issues;
2. Specific issues that should be added to or deleted from the study design;
3. The relative priority to be assigned to the analysis of specific issues;
4. Identification of specific issues in the study plan for which the respondent anticipates providing further information, analyses, or comment.

On the basis of comments received, the plan will be revised and is expected to be published in the FEDERAL REGISTER by mid-September 1978.

The Act also requires Federal agencies to take specific actions by February 3, 1979. These include use of procurement contracts for procurement transactions, and grants or cooperative agreements for certain types of assistance transactions. On May 19, 1978, OMB published in the FEDERAL REGISTER a notice of its proposed guidance for implementing these requirements. It is anticipated that the final guidance will be published in July 1978.

DATE: Written comments on the proposed study plan must be received by August 23, 1978.

ADDRESS: Comments should be sent in duplicate to Vincent Puritano, Deputy Associate Director for Intergovernmental Affairs, Office of Management and Budget, Room 9025, NEOB, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Hadd, Intergovernmental Affairs Division, Office of Management and Budget, Room 9026, NEOB, Washington, D.C. 20503, telephone 202-395-5156.

I. REQUIREMENTS OF THE ACT

Section 8 of Pub. L. 95-224 requires the Director of OMB to conduct a comprehensive study of Federal assistance programs and related administrative practices. This preliminary plan is a basic statement of scope for the study and highlights the major questions and issues to be addressed. Given the breadth of the statutory mandate, further refinement of the plan will be necessary after comments are received.

Section 8 of the Act says of the study scope and content:

> The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. * * * The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

In addition to these specific legislative requirements, there is an extensive legislative history including recommendations on the content and conduct of the study which have been taken into consideration in this proposed plan.

The study offers an opportunity to investigate many specific issues and problems in the Federal assistance area called to OMB's attention by State and local officials, the Congress, GAO, executive agency officials, and to review systematically the proper Federal role in assistance activities. It is consistent with the President's objective and recent actions to simplify programs. A significant number of issues related to the Federal assistance system and reflected in this plan are addressed by the President's September 9, 1977, memoranda on cutting red tape, ongoing presidential reorganization activities, and recommendations of the Commission on Government Procurement. The results of these and other reform initiatives will be integrated with the study effort as it progresses. The "comprehensive system of guidance" may prove to be an effective way to consolidate the results of these and other government activities into an integrated body of policy.

The Act requires the results of the study to be reported to Congress two years after the date of enactment or February 3, 1980. While additional follow-on study and developmental work are anticipated, the two-year statutory requirement is to allow Congress to give timely attention to an executive branch progress report. The study will consider optional organizational arrangements to assure that Federal assistance management issues will be considered on a continuing basis throughout the executive branch.

The study is viewed as a developmental as well as an analytical effort. Thus, during the course of the study, agreement on specific issues may be achieved or specific changes in administrative practice found to be both feasible and desirable. It is anticipated in such instances that implementation would begin immediately rather than await submission of the study report. The report would include both discussions of any actions taken and analysis and recommendations for the future.

The proposed study plan includes three major task areas. Each of these is outlined below. Where possible, prior studies by Congress and executive branch agencies will be utilized.

II. PROPOSED OMB STUDY

The OMB Study effort will primarily address the three major report elements required by the Act. The major study elements described below provide a preliminary framework to begin action to consider the numerous specific subject areas and to identify major activities necessary to achieve the statutory objectives. Specific issues under Task C were derived from the legislative history, analysis of the Act, and recent discussions with Federal agencies. The criteria established in Sections 4, 5, and 6 of the Act are a beginning in clarifying the meaning of the terms "procurement contract," "grant," and "cooperative agreement." They provide a framework of relationships for government-wide guidance in assistance programs. The intent of the study requirement is to provide for further actions to improve assistance processes.

Task A—Feasibility of a comprehensive system of guidance for Federal assistance programs. By a "comprehensive system of guidance," this Act can mean a government-wide set of assistance guidance or regulations somewhat analogous to the functions of the Federal Acquisition Regulations being developed by the Office of Federal Procurement Policy for procurement. This might consist of a centrally developed set of regulations for direct use

without substitution or duplication by agencies administering assistance programs.

Some observers of Federal assistance activities believe that the existing system of statutes, lead agency regulations (e.g., those for compliance with civil rights and environmental policies), OMB circulars, and agency assistance regulations is adequate, and that a more formal or integrated system could lead to increased cost and rigidity. Others believe a more integrated system of guidance is required.

The primary questions to be addressed and more fully clarified under this task are:

1. What are the distinctions between procurement and assistance activities?

2. What is the need for a comprehensive system of guidance for assistance activities as viewed by the various participants in the process?

What would be the efficiency and effectiveness benefits?

What effect would the system have on Federal, State, and local officials and other recipients?

3. How should a comprehensive system of guidance be organized and structured, and how much of the assistance spectrum should it encompass? For example,

Should it include direct Federal assistance to firms and individuals?

Should it apply to non-financial types of assistance such as property, advice, and data or information?

4. What should be its scope for:

Managerial requirements (e.g., competition for awards, reporting requirements, and agency involvement in assisted activities);

General government-wide statutory crosscutting requirements (e.g., civil rights, environmental protection, and provision for the handicapped);

Substantive program requirements?

5. How would a comprehensive system of guidance:

Provide policymakers with choices about decreasing or increasing Federal involvement in managing assistance programs?

Help define Federal and recipient accountability?

Lead to a clarification of Federal and recipient roles?

Assist in the choice of the appropriate Federal role for each assistance relationship?

Permit participation of recipients both public and private in determination of roles?

Guide the choice of techniques and legal instruments to support the appropriate Federal role for each assistance relationship?

Reduce paperwork and uncertainty about Federal requirements?

The major subtasks will be:

1. Define the term "assistance." This will include an analysis of the various statutory definitions of the term. The implications of various alternative definitions will also be examined. The selected definition will be the basis for consideration of a comprehensive system of guidance.

2. Identify the full range of assistance programs by type, e.g., grants, cooperative agreements, loans, loan guarantees, direct payments to individuals, subsidies, insurance, technical assistance, and property donations.

3. Conduct selected crosscut analyses of assistance programs by recipient, intermediary, function, activity, and purpose. In each analysis, identify existing similarities and differences in managerial, general crosscutting (i.e., policy), and selected substantive program requirements. The product of this step will be findings and recommendations on the degree of standardization that does or perhaps should exist.

4. Analyze the existing system of program guidance and how the various elements are relayed to programs recipients and intermediaries. These elements include the Code of Federal Regulations, OMB circulars, Presidential memoranda, uncodified agency procedures, and instructions to recipients or intermediaries.

5. Analyze how a comprehensive system of guidance would relate to State and local governments:

Would standard definitions of various assistance terms be used by other levels of government in handling their own as well as Federal funds?

Would a comprehensive system of guidance enhance predictability in Federal-recipient relationships?

6. Identify what choices are suggested by moving to a comprehensive system of guidance that would further simplify assistance program administration, reduce or increase the level of Federal involvement, or eliminate paperwork requirements.

Task B—Alternative means for implementing Federal assistance programs. This requirement is open ended. At a minimum, it is clear the Act intends for the choice between grants and cooperative agreements to be analyzed. Two subtasks are proposed:

1. Study the factors to consider when choosing between grant and cooperative agreement instruments. This would lead to a better understanding of the choices that agencies can make in selecting the appropriate level of Federal involvement during performance. The subtask includes the following factors:

Determining the normal extent of Federal involvement in performance of the assisted activity;

Increasing or decreasing the level of involvement during the life of a project;

Assessing alternative types of grants and cooperative agreements;

Determining the rights of various parties under different degrees of Federal involvement. This will include resolution of disputes, the legal remedies available, and what should constitute due process;

Ascertaining how various degrees of Federal involvement can affect the accountability and potential liabilities of the various parties.

Describing the anticipated degree of Federal involvement and the instruments to be used in the contents of a program announcement and implementing regulations.

Identifying other elements of distinction between grants and cooperative agreements.

2. Develop a model analysis of appropriated uses of alternative assistance types such as direct payments to individuals, industry subsidies, or grants to local governments to accomplish a given public purpose. The objective would be to illustrate the type of analysis such a choice should have as its basis.

Task C—Study of specific issues. The legislative history, preliminary discussions with the agencies, and our general understanding of the impacts of the Act have led to a list of specific issues selected for inclusion in this study. In addition, the experience derived from implementing Sections 4, 5, and 6 of the Act can be expected to yield additional issues. Other study tasks may also produce issues that can best be handled as discrete subtasks. The list of presently recognized issues to be addressed in the study includes:

1. How does the Act relate to funding research?

Whether a restriction against rendering assistance in an agency's legislation should force it to view all research funding as procurement.

In the absence of any such legislative restrictions, what are the beneficial or adverse effects on mission agencies which fund required research as assistance transactions?

Whether the normal rules for procurement are suited to funding basic research.

Whether there are any distinctions that should be made in funding research at educational institutions as opposed to funding research in general.

How funding basic research compares with funding applied research.

2. What are the various existing and proposed types of cooperative agreements? How would these types of cooperative agreements relate to the existing structure of generally applicable assistance policy standards?

3. Can cooperative agreements be used to pioneer entirely new types of

Federal leadership or assistance techniques that would be a departure from the traditional approaches of most agencies?

4. Can basic agreements on an agency-by-agency basis, master agreements on a government-wide basis, or some combination be used to simplify administrative requirements for State and local governments, universities, or other recipients? Would, for example, State certification to comply with such requirements as civil rights or minimum wage rates on all assisted projects be simpler for both the Federal and State governments than the present inclusion of such provisions in each assistance instrument?

5. Can improvements be made in the way various crosscutting (policy) statutes are applied to assistance programs?

6. What should be the Federal policy on competitive selection of recipients for discretionary awards of assistance?

For what types of programs should the recipient be selected on a competitive basis?

What is the significance of selecting recipients on a competitive basis? For the agencies? For the recipients?

What forms can applicant competition take?

To what degree should the competitive selection of recipients be mandatory?

7. What should be the Federal policy on the eligibility of for-profit organizations for Federal assistance? The Act requires, in the absence of explicit statutory prohibition, agencies to use a grant or cooperative agreement when the purpose of a transaction is to stimulate or support an activity as opposed to procuring something for the agencies' own use. This requirement raises the question of whether a government-wide policy is needed on the eligibility of for-profits to participate in assistance programs?

8. What should be the Federal policy on participation of potential recipients in development of assistance programs that may impact them?

To what degree should recipients such as State and local governments be allowed to contribute to the development of a Federal assistance program?

To what degree should ultimate beneficiaries be allowed to participate?

How do the Federal Advisory Committee Act and its various interpretations affect this participation?

9. What should be the distinction between Federal advice or technical assistance and "substantial Federal involvement during performance"? When should guidance, advice, or technical assistance to the recipient of financial aid be considered enough involvement to require use of a cooperative agreement instead of a grant? Can technical assistance be employed to reduce Federal involvement?

10. What are the problems of volunteer organizations in receiving Federal assistance? Many volunteer organizations receive Federal funding as subgrantees of other primary recipients. What special problems do these and other sub-grantees face? What special problems stem from non-profit status?

11. Are there features or provisions of the procurement system that should be made applicable to assistance transactions?

12. What potential is there for the concept of fixed-price assistance awards? Under this concept, an agency would provide a fixed level of funding and only review the performance of the recipient. It is suggested that where usable, this concept could significantly reduce accounting, reporting, and review requirements.

13. Should the Intergovernmental Cooperation Act provisions for cost reimbursement by State and local governments for technical assistance provided by Federal agencies be revised?

14. Should there be a government-wide policy for cost sharing in assistance transactions?

15. Are there types of Federal relationships covered by the Act which cannot be classified as either procurement or assistance? Examples of such relationships might be:

Mutual service agreements where, for example, a Federal agency and other levels of government agree to assist each other in fighting forest fires.

Joint ventures such as combined efforts of Federal and non-Federal personnel working side by side in a laboratory.

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