Vol. 43—No. 175
9-8-78
PAGES
39951-40195

federal register

FRIDAY, SEPTEMBER 8, 1978

highlights

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202-523-5240.**

FEDERAL REGISTER, Daily Issue:

Subscription orders (GPO)	202-783-3238
Subscription problems (GPO)	202-275-3050
"Dial - a - Reg" (recorded summary of highlighted documents appearing in next day's issue).	
Washington, D.C.	202-523-5022
Chicago, Ill	312-663-0884
Los Angeles, Calif	213-688-6694
Scheduling of documents for publication.	202-523-3187
Photo copies of documents appearing in the Federal Register.	523-5240
Corrections	523-5237
Public Inspection Desk	523-5215
Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235

PUBLIC LAWS:

Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

PRIVACY ACT

CSC, FTC, PS publishes notices of annual compilations (3 documents) (Part II of this issue) **40106, 40110, 40122**

FEDERAL PROCUREMENT REGULATIONS

GSA promulgates temporary regulation that changes provisions and delegations of authority applicable to agency procurement; effective 10-2-78 ..... **40015**

MEETINGS—

USDA/REA: Draft environmental impact statement and public information meetings, 9-26, 9-27, and 9-28-78 ..... **40046**

NIH: Conference on the Decline in Coronary Heart Diseases, 10-24 and 10-25-78 ..... **40060**

Dental Caries Program Advisory Committee, 10-5 and 10-6-78 ..... **40060**

National Advisory Neurological and Communicative Disorders and Stroke Council, 10-5 and 10-6-78 ..... **40060**

National Advisory Research Resources Council, 9-18 and 9-19-78 ..... **40060**

Workshop for Chairmen of Institutional Biosafety Committees, 11-20 and 11-21-78 ..... **40062**

HEW/NIE: Panel for the Review of Laboratory and Center Operations, 9-23 and 9-24-78 ..... **40059**

Labor/BLS: Business Research Advisory Council's Committee on Economic Growth, 9-28-78 ..... **40069**

National Commission on the International Year of the Child, 1979: Meetings 9-28 and 9-29-78 ..... **40082**

CANCELED MEETINGS—

Advisory Council on Historic Preservation: Public Information, 9-7-78 ..... **40046**

RESCHEDULED HEARINGS—

HEW/SSA: Conformity of Public Assistance Plan of the State of Virginia with the Social Security Act, 9-6-78 changed to 9-28-78 ..... **40062**

Interior/FWS: Public hearings on the proposed regulations governing importation, exportation, and transportation of wildlife, 10-2-78 changed to 10-12-78 ..... **40045**

SEPARATE PARTS OF THIS ISSUE

contents

CONTENTS

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

Treasury/CS—Antidumping investigation procedures under Antidumping Act, 1921 ... 35262; 8-9-78

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

[Last Listing: August 31, 1978]

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

5 CFR

213 (9 documents) 39951–39953

7 CFR

2 39953
330 39953
910 39954
1133 39955

PROPOSED RULES:

918 40027
948 40027
965 40028
1079 40028
1126 40030
1701 40036

9 CFR

94 39956

PROPOSED RULES:

92 40037

10 CFR

PROPOSED RULES:

430 40192

17 CFR

1 39956

18 CFR

1 39982

PROPOSED RULES:

1 40037

21 CFR

PROPOSED RULES:

436 40038
469 40038

24 CFR

1917 (8 documents) 39983–39987

30 CFR

41 39988

32 CFR

42 39988

33 CFR

161 39994

39 CFR

111 39995

40 CFR

2 39997
51 40009
52 (2 documents) 40009–40011
65 40015

PROPOSED RULES:

52 (4 documents) 40038–40040
65 40041

41 CFR

Ch. I 40015
Ch. 18 40018
Ch. 101 40019

49 CFR

1033 40020

50 CFR

32 (documents) 40021–40024
216 40025

PROPOSED RULES:

230 40045

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*
39069-39317	Sept. 1
39319-39560	5
39561-39738	6
39739-39950	7
39951-40195	8

rules and regulations

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the name of the Coast and Geodetic Survey, presently listed under § 213.3114(c), to National Ocean Survey and places it under the National Oceanic and Atmospheric Administration, § 213.3114(j). This amendment also changes the name of the Office of Communications and Information to National Telecommunications and Information Administration. These changes to Schedule A reflect current organizational names.

EFFECTIVE DATE: August 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3114(c) is revoked, (j)(4) is added, and the headnote of (1) is amended as follows:

§ 213.3114 Department of Commerce.

* * * * *

(c) [Revoked.]

* * * * *

(j) *National Oceanic and Atmospheric Administration.* * * *

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Survey. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

* * * * *

(1) *National Telecommunications and Information Administration.*

(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. 78-25023 Filed 9-7-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Defense, Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Defense and the Department of Housing and Urban Development because they are confidential in nature.

EFFECTIVE DATE: August 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(27) is added and 213.3384(m)(3) is amended as set out below:

§ 213.3306 Department of Defense.

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

(27) One Private Secretary to the Under Secretary of Defense for Policy.

* * * * *

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(m) *Office of Legislation and Intergovernmental Relations.* * * *

(3) Three Senior Assistants for Congressional Relations.

(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. 78-25024 Filed 9-7-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy, Export-Import Bank of the United States

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position in the Department of Energy, and (2) reestablishes a position under Schedule C at the Export-Import Bank of the United States because these positions are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: Department of Energy—August 8, 1978; Export-Import Bank of the United States—August 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3331(c)(8) and 213.3342(m) are added as set out below:

§ 213.3331 Department of Energy.

* * * * *

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

(8) One Staff Assistant to the Director of Pipeline and Producer Regulations.

* * * * *

§ 213.3342 Export-Import Bank of the United States.

* * * * *

(m) One Secretary (Steno) to the General Counsel.

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

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

[FR Doc. 78-25025 Filed 9-7-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment reflects organizational transfers of two positions of Staff Assistant, Congressional Affairs, which were originally excepted under Schedule C in the Federal Energy Administration and subsequently transferred to the Department of Energy on September 30, 1977. Both positions are now located in the Office of the Assistant Secretary for Intergovernmental and Institutional Relations. This is the first official publication for both positions at the Department of Energy.

EFFECTIVE DATE: August 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3331(m)(6) is amended as set out below:

§ 213.3331 Department of Energy.

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.*

(6) Four Staff Assistants, Congressional Affairs.

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

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

[FR Doc. 78-25026 Filed 9-7-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

International Trade Commission, Equal Employment Opportunity Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of a position at the International Trade Commission to more appropriately reflect the duties of the position, (2) excepts under Schedule C a position at the Equal Employment Opportunity Commission because it is confidential in nature.

EFFECTIVE DATE: August 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3339(d) is amended and 213.3377(e) is added as set out below:

§ 213.3339 International Trade Commission.

* * * * *

(d) One Staff Assistant (Legal), and two Staff Assistants to a Commissioner.

* * * * *

§ 213.3377 Equal Employment Opportunity Commission.

* * * * *

(e) One Public Information Officer.

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

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

[FR Doc. 78-25027 Filed 9-7-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

ACTION

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts one position of special assistant to the assistant director for policy and planning at ACTION because it is confidential in nature and (2) revokes one position of Staff Assistant to the Assistant Director for Policy and Planning.

EFFECTIVE DATE: July 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3359(o) is amended and (y) is revoked as set out below:

§ 213.3359 ACTION.

* * * * *

(o) Three special assistants to the assistant director for policy and planning.

* * * * *

(y) [Revoked.]

(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. 78-25028 Filed 9-7-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Positions of legal intern at grades GS-5 and 7 are excepted under schedule A because it is impracticable to hold an examination for them. The positions must be filled by bona fide students at recognized law schools who are candidates for J.D. or LL.B. degrees. Appointments under this authority may not exceed 1 year but may be extended for period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's graduation from law school.

EFFECTIVE DATE: August 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3102(jj) is added as set out below:

§ 213.3102 Entire executive civil service.

* * * * *

(jj) Legal intern positions. Appointments under this paragraph shall be confined to bona fide students at recognized law schools who are candidates for J.D. or LL.B. degrees. Appointments under this authority may not exceed 1 year, but may be extended for additional period(s) not to exceed 1 year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's graduation from law school.

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

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

[FR Doc. 25160 Filed 9-7-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities, Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the National Foundation on the Arts and the Humanities and the Department of Housing and Urban Development because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: August 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3382(s) is amended and 213.3384(m)(13) is added as set out below:

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * *

(s) One staff assistant and one secretary (steno) to the Deputy Chairman for the Federal Council on the Arts and the Humanities.

* * * * *

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(m) *Office of Legislation and Intergovernmental Relations.* * * *

(13) One Director, Senate/House Liaison.

* * * * *

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

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

[FR Doc. 78-25161 Filed 9-7-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The positions of Director, Deputy Director, Challenge Grants Officer and Special Projects Officer in the Division of Special Programs, National Endowment for the Humanities, are excepted under schedule B because it is impracticable to hold competitive examinations for them.

EFFECTIVE DATE: August 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3282(b) (20), (21), and (22) are added as set out below:

§ 213.3282 National Foundation on the Arts and the Humanities.

* * * * *

(b) *National Endowment for the Humanities.* * * *

(20) Until September 30, 1980, one Director and one Deputy Director, Division of Special Programs.

(21) Until September 30, 1980, one Challenge Grants Officer, Division of Special Programs.

(22) Until September 30, 1980, one Special Projects Officer, Division of Special Programs.

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

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

[FR Doc. 78-25162 Filed 9-7-78; 8:45 am]

[3410-11]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Reservations in Authority To Approve Herbicides

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The reservations of authority by the Assistant Secretary for Conservation, Research, and Education in 7 CFR 2.60 are amended by adding an additional reservation concerning the use of herbicides on national forests by the Forest Service.

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Norman Gould, Director of Timber Management, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-6893.

In accordance with exceptions to rulemaking procedures in 5 U.S.C. 553 and Department of Agriculture policy (36 FR 13804) it has been determined that advance notice and request for comments are unnecessary.

Accordingly, 7 CFR 2.60 is amended by adding a new paragraph (b)(9) to read as follows:

§ 2.60 Chief, Forest Service.

* * * * *

(b) *Reservations.* The following authorities are reserved to the Assistant Secretary of Agriculture for Conservation, Research, and Education: * * *

(9) Approving the use of 2,4,5-T, Silvex, and any other dioxin-contaminated herbicides on the national forests.

(5 U.S.C. 301.)

Dated: September 5, 1978.

M. RUPERT CUTLER,
Assistant Secretary.

[FR Doc. 78-25291 Filed 9-7-78; 8:45 am]

[3410-34]

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

PART 330—FEDERAL PLANT PEST REGULATIONS: GENERAL: PLANT PESTS: SOIL, STONE, AND QUARRY PRODUCTS: GARBAGE

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends that section of the Federal plant pest regulations which was designed to control garbage, on or unloaded from certain means of conveyance arriving in the United States, that poses a threat of introducing injurious plant pests and livestock or poultry diseases. This amendment clarifies the intent of that section, amends the definitions of "Continental United States" and "United States," and makes certain editorial and style changes for clarity and ease of understanding.

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

E. E. Crooks, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, Md. 20782, 301-436-8249.

SUPPLEMENTARY INFORMATION: On June 30, 1978, the Animal and Plant Health Inspection Service published a proposed rule in the FEDERAL REGISTER (43 FR 28507) proposing to amend §§ 330.100 and 330.400 of the Federal plant pest regulations (7 CFR Part 330). Interested persons were given until July 20, 1978, to submit data, views, and arguments regarding the proposed rule. No comments were received during this comment period and, therefore, the proposed amendments to §§ 330.100 and 330.400 of the Federal plant pest regulations, are hereby adopted without change as set forth below, except for reference to a footnote, which was inadvertently omitted.

It does not appear that further public participation in rulemaking proceedings on these amendments would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedures concerning these amendments are unnecessary.

This amendment should be put into effect immediately in order to protect the United States from the introduction and dissemination of injurious plant pests and livestock or poultry diseases. Therefore, 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 31st day of August 1978.

NOTE.—The Plant protection and quarantine programs, 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 No. 11821, as amended, and OMB Circular A-107.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

1. In § 330.100, paragraphs (i) and (j) are amended to read as follows:

§ 330.100 Definitions.

* * * * *

(i) *United States.* The States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

(j) *Continental United States.* The 49 States located on the continent of North America and the District of Columbia.

2. In § 330.400, the second sentence in paragraph (a) is deleted and the following inserted in lieu thereof:

§ 330.400 Garbage; quarantine, regulations on storage, and movement on certain means of conveyance.

(a) * * * Garbage which is on or unloaded from any means of conveyance arriving in the places listed below is subject to general surveillance for compliance with this section by Animal and Plant Health Inspection Service inspectors and to such disposal measures as authorized by section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), section 10 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 164a), section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111), and section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), to prevent the dissemination of plant pests and livestock or poultry diseases:

(1) The United States from any place outside thereof (except garbage derived from stores obtained only in the continental United States or Canada on board vessels or aircraft that move solely between continental United States ports or between continental United States ports and Canadian ports); (2) The continental United States from Hawaii or any territory or possession; (3) Any territory or possession from any other territory or possession or from Hawaii; and (4) Hawaii from any territory or possession.

(Sec. 106, 71 Stat. 33 (7 U.S.C. 150ee); secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sec. 102, 58 Stat. 735, as amended (7 U.S.C. 147a); sec. 306, 46 Stat. 689, as amended (19 U.S.C. 1306); sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); sec. 11, 23 Stat. 32, as added at 58 Stat. 734, as amended (21 U.S.C. 114a); 76 Stat. 663 (7 U.S.C. 450); secs. 101, 102, 83 Stat. 852, 853 (42 U.S.C. 4331, 4332); 39 FR 32319-32321; 37 FR 28464, 28477; 38 FR 19141.)

[FR Doc. 78-25433 Filed 9-7-78; 8:45 am]

[3410-02]

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

[Lemon Reg. 162]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period September 10-16, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: September 10, 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, 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 September 5, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good on 140's and larger, easier on 165's and smaller.

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 is 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. It is necessary to effectuate the declared purposes of the act to make these reg-

ulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.462 Lemon regulation 162.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period September 10, 1978, through September 16, 1978, is established at 235,000 cartons.

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

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

Dated: September 6, 1978.

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

[FR Doc. 78-25590 Filed 9-7-78; 12:06 pm]

[3410-02]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 133]

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for September, October, and November 1978 the limit on the amount of milk not needed for bottling use that may be moved (diverted) directly from farms to manufacturing plants and still be priced under the order. The suspension is based on a cooperative association's request considered at a public hearing held for this order on July 27, 1978, in Spokane, Wash. The action will enable members of the cooperative who have been regularly associated with the fluid market to continue to have their milk pooled and priced under the order pending a decision on the proposed order amendments that were considered at the hearing.

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of hearing issued July 10, 1978, published July 13, 1978 (43 FR 30066).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Inland Empire marketing area.

It is hereby found and determined that for the months of September through November 1978 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1133.13(c) (1) and (2), the words "50 percent in any of the months of September through March and."

STATEMENT OF CONSIDERATION

This action, based on a public hearing held for this order on July 27, 1978, at Spokane, Wash., suspends for September, October, and November 1978 the limit on the amount of producer milk that may be diverted from pool plants to nonpool plants by a cooperative association or a proprietary handler operating a pool plant.

At the hearing, Northwest Dairymen's Association, a cooperative which handles most of the market's reserve milk supplies, proposed an increase in the limit on the amount of producer milk that may be diverted from pool plants to nonpool plants during the months of September through March. The proposal would increase the present 50-percent limit to 90 percent and permit unlimited diversions during April through August (when a 70-percent limit now applies). The cooperative proposed that emergency action be taken to effectuate its proposed amendments to the order. It indicated, however, that if the order could not be amended in time to accommodate its handling of reserve milk this September, the diversion limits should then be suspended, beginning with September, until final disposition is made of the hearing proceeding.

The need for the suspension stems from the adverse impact on the proponent cooperative that otherwise would occur beginning September 1978 when the basis of determining proponent's allowable diversions under the order will change. In the past, proponent's allowable diversions have been determined under the optional method provided by the order whereby two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk of their member producers. This option for computing allowable diversions permitted the proponent cooperative to perform its reserve supply function in the market and still maintain producer status for all its dairy farmer members who are associated with the fluid milk market.

At the hearing, proponent indicated that the present agreement with three other cooperatives for computing allowable diversions on a combined basis will not be renewed on its September 1, 1978, expiration date. As a result, beginning in September, the present order's diversion limits that are applicable to a single cooperative will not accommodate the quantity of milk that proponent must divert in handling the market's reserve supplies. Thus, the producer status of some of its member producers who have been regularly associated with the fluid market would be in jeopardy.

Whether or not the diversion provisions should be amended and to what extent is a matter to be determined after the hearing record and post-hearing briefs have been fully reviewed. In the interim, the suspension for the 3-month period is warranted, as it will tend to assure orderly marketing pending the outcome of the hearing proceeding. It is unlikely that suspension of the diversion limitations over this short period will have any appreciable effect on the availability of milk for the market. This action, however, will eliminate the possibility of producers who are regular suppliers of milk for the fluid market losing their producer status because of the present diversion limits and thus not having their milk priced under the order. Accordingly, this temporary suspension will permit the orderly disposal of the market's reserve milk supplies pending the completion of the hearing proceeding.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The need for changing the diversion limits was considered at a public hearing held on July 27, 1978, where all interested parties had an opportunity to participate in this rulemaking proceeding.

It is therefore ordered that the aforesaid provisions of the order are hereby suspended for the months of September, October, and November 1978.

Effective date: September 9, 1978.

Signed at Washington, D.C., on: September 1, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-25233 Filed 9-7-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

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

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

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

Garbage

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends that section of Veterinary Services' regulations which was designed to control garbage, on or unloaded from certain means of conveyance arriving in the United States, that poses a threat of introducing injurious plant pests and livestock or poultry diseases. This amendment clarifies the intent of that section, amends the definitions of "Continental United States" and "United States," and makes certain editorial and style changes for clarity and ease of understanding.

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On June 30, 1978, the Animal and Plant Health Inspection Service published a proposed rule in the FEDERAL REGISTER (43 FR 28516-28517) proposing to amend § 94.5 of the regulations (9 CFR 94.5). Interested persons were given until July 20, 1978, to submit data, views, and arguments regarding the proposed rule. One comment, which was favorable to the proposal as written, was received, therefore, the proposed amendments to § 94.5 are hereby adopted without change as set forth below, except for reference to a footnote, which was inadvertently omitted.

It does not appear that further public participation in the rulemaking proceedings on these amendments would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedures concerning these amendments are unnecessary.

These amendments should be put into effect immediately in order to protect the United States from the introduction and dissemination of injurious plant pests and livestock or poultry diseases. Therefore, good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 31st day of August 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.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

1. In § 94.5, paragraph (a) is amended to read:

§ 94.5 Garbage; regulations on storage and movement on certain means of conveyance.

(a) Garbage which is on or unloaded from any means of conveyance arriving in the places listed below is subject to general surveillance for compliance with this section by Animal and Plant Health Inspection Service inspectors and to such disposal measures as authorized by section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), section 10 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 164a), section 2 of the act of February 2, 1903, as amended (21 U.S.C. 111), and section 306 of the act of June 17, 1930, as amended (19 U.S.C. 1306), to prevent the dissemination of plant pests and livestock or poultry diseases:

(1) The United States from any place outside thereof (except garbage derived from stores obtained only in the continental United States or Canada on board vessels or aircraft that move solely between continental United States ports or between continental United States ports and Canadian ports);

(2) The continental United States from Hawaii or any territory or possession;

(3) Any territory or possession from any other territory or possession or from Hawaii; or

(4) Hawaii from any territory or possession.[3]

* * * * *

§ 94.5 [Amended]

2. In § 94.5(d), subparagraphs (7) and (8) are amended by inserting "the Northern Mariana Islands," immediately after "Guam," and before "Puerto Rico".

3. In § 94.5(d), a new subparagraph (9) is added to read as follows:

(d) * * *

(9) "Continental United States" means the 49 States located on the continent of North America and the District of Columbia.

(Sec. 106, 71 Stat. 33 (7 U.S.C. 150ee); secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sec. 102, 58 Stat. 735, as amended (7 U.S.C. 147a); sec. 306, 46 Stat. 689, as amended (19 U.S.C. 1306); sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); sec. 11, 23 Stat. 32, as added at 58 Stat. 734, as amended (21 U.S.C. 114a); 76 Stat. 663 (7 U.S.C. 450); secs. 101, 102, 83 Stat. 852, 853 (42 U.S.C. 4331, 4332); 39 FR 32319-32321; 37 FR 28464, 28477; 38 FR 19141.)

[FR Doc. 78-25432 Filed 9-7-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Minimum Financial Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The rules (i) amend the minimum financial and related reporting requirements imposed upon futures commission merchants (FCM's) and change the computational formula used to determine whether a futures commission merchant meets the minimum financial requirements; (ii) establish an early warning system designed principally to give notice of a futures commission merchant's financial deterioration; and (iii) require all self-regulatory organizations under the jurisdiction of the Commodity Futures Trading Commission to adopt minimum financial and related reporting requirements with respect to their member futures commission merchants. The rules permit the responsibility for monitoring and auditing any FCM which is a member of more than one self-regulatory organization to be delegated to a single self-regulatory organization. The regulations are intended to accomplish the Commission's goal of establishing industry

self-regulation while (i) insuring adequate customer protection, (ii) safeguarding the integrity of the futures market system, (iii) increasing regulatory efficiency, (iv) eliminating the burden of undue multiple financial monitoring, auditing, and reporting imposed upon FCM's which are members of more than one self-regulatory organization, and (v) facilitating the development of a registered futures association under section 17 of the Commodity Exchange Act, as amended.

EFFECTIVE DATES: Amendments to §§ 1.3, 1.10, 1.17, and 1.18 and adoption of §§ 1.12 and 1.16—December 20, 1978; § 1.52 paragraphs (a) and (c) through (1)—January 31, 1979; § 1.52 paragraph (b)—June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

John L. Manley, Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-5218.

SUPPLEMENTAL INFORMATION: Notice is hereby given that the Commodity Futures Trading Commission has amended title 17, chapter I, part 1 of the Code of Federal Regulations to add new §§ 1.12, 1.16, and 1.52, and amend §§ 1.3, 1.10, 1.17, and 1.18 ("Minimum Financial Regulations"). In adopting these rules and rule changes, the Commission acted pursuant to the Commodity Exchange Act ("Act") and particularly sections 4c, 4f, 4g, 5a, 8a, 15, and 17 thereof. Before adopting the minimum financial regulations, the Commission considered all of the comments submitted which included comments from public participants in the futures markets, members of the futures industry, public accounting firms, professional associations, and each contract market.

I. Introduction

A. Background

The Commission proposed in four parts substantial revisions to its financial regulatory structure applicable to FCM's and self-regulatory organizations. On October 6, 1976, the Commission proposed extensive revisions in the financial reporting requirements imposed upon FCM's under Commission regulations. 41 FR 45706 (October 15, 1976). On May 17, 1977, the Commission proposed substantial amendments to the minimum financial standards to which FCM's are subject under its regulation 1.17. 42 FR 27166 (May 26, 1977). On June 14, 1977, the Commission proposed an improved early warning system based upon the proposed amendments to its regulation 1.17. 42 FR 31740 (June 22, 1977). On July 27, 1977, the Commission proposed a regulation which would require each self-regulatory organization to adopt minimum financial and related reporting requirements with respect to its member FCM's and would permit the responsibility for monitoring and auditing the financial status of any FCM which is a member of more than one self-regulatory organization to be delegated to a single self-regulatory organization. 42 FR 39036 (August 1, 1977). In October 1977, the Commission held public hearings on these proposals.[1] In view of the extent and complexity of these proposed rules and to afford maximum opportunity for public comment on them, the Commission republished the proposals, as amended, and invited further public comment thereon for an additional 60 days. 43 FR 15072 (April 10, 1978).[2]

B. Purpose of the Minimum Financial Regulations

The Commission finds that its responsibility to protect the integrity of the marketplace and the funds of customers who use that marketplace necessarily encompasses a duty to monitor developments in the commodity futures industry to determine whether the Commission's regulatory approach is adequate in light of recent and anticipated changes in the industry. The Commission believes that with the rapid and substantial increase in the number of registrants, the volume of commodity business that such registrants are doing, and the increased volatility of the futures markets in recent years, it is faced with the necessity of shifting its regulatory approach from direct regulation, relying primarily on direct auditing, to oversight regulation. In order to establish a structure under which oversight regulation may function effectively, the Commission has determined that substantial revisions to its regulations are necessary. The Commission further finds that to maximize the effectiveness of independent public accountants in this regulatory structure it is necessary to establish uniform computational criteria to determine the FCM's compliance with the Commission's minimum financial regulations.

In reaching the conclusion that this shift in regulatory approach is necessary, the Commission carefully considered a number of recommendations, including the recommendations of the Commission's staff. The Report of the Comptroller General of the United States to Congress on Improvements Needed in Regulation of Commodity Futures Trading (the "GAO Report")[3] recommended that the exchanges be delegated the primary responsibility for audits of FCM's and that the Commission "require FCM's to engage independent public accountants to make the required audits and to furnish reports on the results of these audits to the appropriate exchanges and to the Commission."[4] Similarly, the Commission's Advisory Committee on Commodity Futures Trading Professionals[5] recommended that the Commission "require that the yearend financial statements submitted by FCM's be certified by independent public accountants."[6] In addition, the Commission's Advisory Committee on Definition and Regulation of Market Instruments[7] recommended that any financial reports required of persons dealing in commodity option transactions and leverage transactions in gold or silver be certified annually by an independent public accountant.[8]

The Commission also finds that substantial revisions in the minimum financial regulations are necessary for reasons in addition to the need to change to an oversight role in the financial regulation of FCM's. At present the Commission, the Chicago Board of Trade (CBOT) and the Chicago Mercantile Exchange (CME) all have different requirements with respect to financial regulations and related reporting requirements of FCM's, and many FCM's are subject to more than one set of such requirements. In addition, over 50 FCM's, representing approximately 50 percent of all commodity customer business in the futures industry, are also registered with the Securities and Exchange Commission (SEC) as securities broker-dealers and are, therefore, subject to the minimum financial rules of that agency. As a result, many of these FCM's/broker-dealers are subject to as many as three different sets of financial regulations and corresponding audits to enforce these regu-

[1] In the matter of: Proposed Minimum Financial and Related Reporting Requirements, October 5 and 6, 1977.

[2] The comment period was subsequently extended for an additional 15 days. 43 FR 23729 (June 1, 1978).

[3] Report of the Comptroller General of the United States to Congress on Improvements Needed in Regulation of Commodity Futures Trading (June 24, 1975).

[4] Id., at 46.

[5] 40 FR 50558 (Oct. 30, 1975).

[6] Report of Commodity Futures Trading Commission Advisory Committee on Commodity Futures Trading Professionals (Aug. 5, 1976).

[7] 40 FR 50557 (Oct. 30, 1975).

[8] Report of the Advisory Committee on the Definition and Regulation of Market Instruments to the Commodity Futures Trading Commission: Recommended Policies on Commodity Option Transactions (July 6, 1976); Report of Advisory Committee on Definition and Regulation of Market Instruments to the Commodity Futures Trading Commission: Recommended Policies on Futures, Forward and Leverage Contracts and Transactions (July 16, 1976).

lations. The Commission finds that these duplicative financial and related reporting requirements impose unnecessary burdens upon FCM's; therefore, it is adopting revised minimum financial regulations that would establish uniform computational criteria for use in the commodities futures industry.

Another purpose for the revised financial regulations is to correct substantial deficiencies which have heretofore existed in the Commission's minimum capital rule. One such major deficiency has been that the computational criteria permitted FCM's to finance their operations almost exclusively with nonsubordinated, long-term debt; thus, an FCM could actually have been insolvent and have satisfied the Commission's rule as it existed prior to the revisions which the Commission is hereby adopting. Other deficiencies in the capital rule included the safety factors on open futures contracts, the definition of proprietary account, and the length of time unsecured deficits were allowed to be outstanding and be included as current assets. The safety factors for high-dollar value, low volatility, open futures contracts provided in regulation 1.17, were disproportionately high in terms of the risks involved in trading in such contracts compared to the safety factors on more volatile, low-dollar value contracts. The definition of the term "proprietary" as it was used in the minimum financial regulations resulted in unrealistic additional charges to capital of FCM's in relationship to the actual risk involved to these FCM's. Unsecured deficits were permitted to be outstanding up to 30 days and still be included as part of the firm's assets in calculating its capital position.

C. DELETION OF REFERENCES TO EXCHANGE-TRADED OPTIONS

The minimum financial regulations as proposed contained certain provisions relating to domestic exchange-traded commodity options. In view of the Commission's recently imposed restrictions with respect to transactions in commodity options and the fact that the Commission has not yet taken final action on the proposed regulations to govern domestic exchange programs for the trading of such options, reference to these options has been deleted from the regulations as adopted. The references to nontransferable commodity options have been retained.

In the event Congress authorizes exchange-traded commodity options, and rules are adopted relating to such options, the financial regulations as here adopted will be amended as necessary to reflect this development. Thus, in adopting the instant regulations, it is the Commission's intention to promulgate general financial provisions which may from time-to-time have to be amended to take into account specific developments (such as the initiation of exchange options programs) in the futures industry.

II. SECTION-BY-SECTION EXPLANATION AND DISCUSSION OF CERTAIN PORTIONS OF THE MINIMUM FINANCIAL REGULATIONS (INCLUDING, WHERE APPROPRIATE, COMMENTS THEREON)

A. § 1.3—GENERAL DEFINITIONS

§ 1.3(ff)—"DESIGNATED SELF-REGULATORY ORGANIZATION"

This term is defined to mean a self-regulatory organization ("SRO") of which a futures commission merchant is a member or, if the futures commission merchant is a member of more than one self-regulatory organization and such futures commission merchant is the subject of an approved plan under § 1.52, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such futures commission merchant and for receiving the necessary financial reports as required pursuant to the minimum financial and related reporting requirements of the self-regulatory organizations. One contract market commented that the term "designated self-regulatory organization" should be defined to mean a self-regulatory organization which has been delegated responsibility pursuant to § 1.52 of these regulations.

This definition has been drafted to make it clear that if no cooperative plan is in effect pursuant to § 1.52 of these regulations, each self-regulatory organization of which the FCM is a member will have the obligations for requiring such FCM's compliance with its financial regulations; however, if such a plan is in effect, then these responsibilities will be delegated to one SRO. The Commission believes that this approach is necessary to ensure that if no cooperative plan is in effect, each SRO of which the FCM is a member will receive the necessary financial reports to carry out its obligations under these regulations. This approach, however, will permit the avoid- ance of duplicative reporting, auditing, and monitoring in the event a cooperative plan is adopted. Therefore, the Commission has determined to adopt the definition as proposed.

B. § 1.10—APPLICATION FOR REGISTRATION AND FINANCIAL REPORTS OF FUTURES COMMISSION MERCHANTS

§ 1.10(b)—FILING OF FINANCIAL REPORTS

A number of commentators felt that the CFTC and the SEC should agree upon one financial report and one net capital rule and designate a single regulator for each FCM/broker-dealer.

As was indicated in the FEDERAL REGISTER notices which accompanied the proposed amendments to § 1.17,[9] the Commission's staff and representatives of the SEC have initiated cooperative efforts in connection with their respective financial regulations. In part, as a result of such efforts, the Commission is, for example, incorporating by reference the SEC's safety factors or "haircuts" on securities. In addition, the Commission understands that the SEC's staff plans to recommend that its own Commission incorporate by reference the CFTC's safety factors on futures. If this step is taken, it will provide the requisite uniformity to permit those FCM's which are also registered with the SEC as securities broker-dealers to comply with the Commission's financial reporting requirements by simply filing copies of the SEC's FOCUS Report [10] with the self-regulatory organizations and the CFTC.[11] Inasmuch as it lacks the authority to enforce SEC regulations, the Commission does not believe that, consistent with its obligations under the Act, it could establish a program whereby this agency or the SEC would be delegated the sole regulator of an FCM/broker-dealer.

As proposed, § 1.10(b) would have required quarterly submission of a Form 1-FR by each person registered with the Commission as an FCM. While some of comments expressed support for this concept, the majority of commentators took the position that the requirement of four reports per year

---

[9] 42 FR 27168 (May 26, 1977), 43 FR 15076 (April 10, 1978).

[10] Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934.

[11] The Commission believes that, after these revisions are made, the few differences which might remain between its rule and that of the SEC would impact only those FCM's which also engage in a cash commodity, manufacturing or cooperative business/businesses in which few, if any, FCM/broker-dealers engage. In the case of each such difference of which the Commission is aware, the SEC's minimum financial requirements would be higher than the CFTC requirements; therefore, and FCM may be assured of compliance with the regulations of both agencies if it is in compliance with the SEC's. For example, under the Commission's proposed rule, unsecured receivables resulting from the marketing of commodities may, in certain circumstances, be included in an FCM's net capital; under the SEC's current rule, such receivables may not be so included. Therefore, provided the SEC amends its net capital rule as discussed above, if this difference should remain, an FCM/broker-dealer whose net capital satisfies the minimum requirements of the SEC would also satisfy those of the Commission in that net capital computed without including the unsecured receivables referred to above can never be greater than net capital computed by including such receivables.

was unnecessary, would be excessively costly to FCM's, and might serve to divert regulatory resources from firms experiencing financial difficulties to those in perfectly good financial standing.

In part, in response to the comments and consistent with its objective of shifting to an oversight role insofar as possible with respect to enforcement of the minimum financial regulations, the Commission has its regulations to permit each designated self-regulatory organization to determine the number of reports it receives from the FCM's that it regulates, so long as such organizations require at least two reports each year (at 6-month intervals) from each such FCM. The Commission believes that this approach is appropriate in light of the other surveillance and regulatory programs which have been established by self-regulatory organizations to govern their members. These programs include the daily monitoring of clearing member positions and the additional audits conducted by self-regulation organizations to determine their members' compliance with such organizations' rules. The quarterly reporting requirement has been retained with respect to those FCM's which are not members of any self-regulatory organization and subject only to the Commission's jurisdiction.

Pursuant to § 1.10(b) uncertified form 1-FR's must be filed within 45 days after the date for which the report is made. One commentator suggested that 45-day-old financial data might not be sufficiently current to form the basis of an effective regulatory system and that since most of the information required by form 1-FR must be prepared in conjunction with the required monthly capital computation,[12] a 30-day time period would not seem to be impractical. The Commission recognizes the virture of current financial reporting, and, in fact, originally proposed a 30-day period within which unaudited financial reports were to be filed. However, in response to numerous commentators who felt that this time frame was unduly burdensome the Commission amended its proposal,[13] and rather than return to its original proposal, the Commission has determined to retain the 45-day requirement. If, however, based upon experience with the minimum financial regulations, it becomes apparent that, because of the 45-day time period for filing financial information is not sufficiently timely to be used as intended the Commission may find it necessary to reduce the time within which unaudited financial reports may be filed.

[12] § 1.18, 17 CFR 1.18.

[13] 42 FR 15076 (Apr. 10, 1978).

§ 1.10(d)—CONTENTS OF FINANCIAL REPORTS

This section, among other things, describes the contents of various financial reports which must be submitted by an FCM.

One contract market noted in its comments that pursuant to this paragraph, FCM's will be required to submit a schedule of segregation requirements and funds on deposit in segregation in conjunction with their submission of financial statements. Designed self-regulatory organizations would, of course, receive these reports from their member or designated FCM's, and the commentator expressed the view that, because such organizations have no responsibility to enforce segregation requirements, (to which these reports pertain), they should not be required to verify the accuracy of these reports.

The Commission at present does not intend to require SRO's to enforce the Commission's segregation rules. However, since the information contained in the reports mentioned above is necessary to develop a statement of financial condition, the self-regulatory organizations will need such information to establish the FCM's compliance with the net capital requirements. Therefore, the Commission has determined to retain the requirements that FCM's submit this report to the designated self-regulatory organization.

Several commentators submitted their views with respect to the requirement of proposed § 1.10(d) which would have made it mandatory to file a quarterly statement of income (loss) with the Commission and the designated self-regulatory organization. In general, the comments were that the income statement would add an unwarranted expense for FCM's and could result in making confidential information concerning the operation of the firm available to the public.

As the section states, income statements will, except in certain specified circumstances, be treated as nonpublic by the Commission for purposes of the Freedom of Information Act and the Commission's rules promulgated thereunder.[14] With respect to the additional cost that might result from requiring FCM's to prepare quarterly income statements, the Commission has, in part, in response to the views, of the commentators, amended § 1.10(d) to eliminate all but the annual audited income statement, which the Commission believes is the minimum that can be required consistent with an effective regulatory program. Finally, the Commission wishes to emphasize that even though this section will become effective as of December 20, 1978, FCM's are not required thereby to submit income statements, certified or otherwise, for periods prior to the effective date of § 1.10.

It was further pointed out to the Commission that each certified form 1-FR filed pursuant to proposed § 1.10(d)(2), must contain certain financial statements which are not required to be included in the unaudited form 1-FR filed quarterly pursuant to proposed § 1.10(d)(1). Statements of changes in (1) financial position, (2) ownership equity, and (3) liabilities subordinated to claims of general creditors must be filed with the certified form 1-FR, but statements (2) and (3) above may be omitted from unaudited form 1-FR's. One commentator expressed the view that by requiring these two statements with the unaudited form 1-FR, the Commission's ability to monitor FCM's would be enhanced.

The Commission originally proposed that these two statements be included in the quarterly unaudited form 1-FR, and in response to the comments eliminated this requirement. However, in light of the further comments as to the value of the statement of changes in ownership equity and the fact that the inclusion of this statement would create no added burden for FCM's, since it is a reconciliation from the previous balance sheet (which would already have been prepared and filed as required under this section) to the current one, the final regulations will require (as originally proposed) the filing of this statement on a quarterly basis.

§ 1.10(f)—EXTENSION OF TIME FOR FILING FINANCIAL REPORTS

This section as proposed would have required that extension requests be

[14] The Freedom of Information Act, 5 U.S.C. 552, requires that the Commission make its records available upon request to members of the public, unless such records fall within any of the exemptions therein. Included among those exemptions are "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. 552(b)(4). This language forms the basis upon which nonpublic treatment of income statements generally will be accorded. The Commission will shortly publish for comment proposed revisions to Form 1-FR and in that context will also propose necessary revisions to its Freedom of Information Act rules.

submitted to the Commission 15 days prior to the date that reports were due and provided that the Commission would respond to such requests within 10 days. Two commentators believe, among other things, that FCM's might not be in a position to determine, 15 days prior to the filing deadline whether they would require an extension. One commentator felt that the 15-day requirement might therefore provide an incentive for FCM's to file routinely (and possibly unnecessarily) for extensions to provide for unforeseen time delays. Another commentator expressed the view that the section should be amended to provide for an automatic stay upon application to the Commission for an extension of the time within which an FCM must file its financial reports.

The Commission agrees in part with these comments, and has amended the section as adopted to eliminate the 15-day requirement. It has further amended the section to provide that within 10 calendar days after receipt of the application for an extension of time the Commission shall: (i) Notify the applicant or registrant of the grant or denial of the requested extension; or (ii) indicate to the applicant or registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified. In view of these amendments and the fact that the Commission intends to grant extensions under this section only in those rare situations where an applicant or registrant is able to demonstrate that undue hardship will be incurred in making a timely filing, the Commission does not believe that it would be appropriate to permit an automatic stay (upon application for extension) of the time for filing.

§ 1.10(g)—CONFIDENTIALITY OF REPORTS

As mentioned above, the section provides that income statements submitted pursuant to these regulations generally will be treated as nonpublic; however, three commentators felt that the provisions of the section were inadequate in that they failed to provide complete confidentiality for all financial data. The Commission disagrees. Section 1.10(g) is intended to implement the Freedom of Information Act, by permitting disclosure of information which by the terms of the FOIA is to be made public but generally providing for nonpublic treatment of financial information obtained which is entitled to exemption from mandatory disclosure under the Act.[15]

Another commentator wished to insure that independent accountants' reports regarding material inadequacies of FCM's internal control systems will also be deemed confidential if bound separately from the form 1-FR. The Commission, therefore, wishes to make clear its intention that such reports generally will be treated as nonpublic and considered "other statements and schedules" as provided in § 1.10(g).

C. § 1.12—MAINTENANCE OF MINIMUM FINANCIAL REQUIREMENTS BY FUTURES COMMISSION MERCHANTS

The early warning system set forth in § 1.12 (which replaces § 1.18(c)) is straightforward and does not, in general, require elaborate explanation. However, a brief clarification of certain aspects of the rule may prove helpful.

Initially, and perhaps most importantly, it should be pointed out that there would be no independent penalty for triggering the early warning system. In fact, in many instances, the occurrences which would trigger the provisions of § 1.12 would not constitute violations of the Act or any regulation thereunder. For example, under § 1.12(b), an FCM whose adjusted net capital drops below $150,000 ($75,000 for FCM's which are members of a self-regulatory organization) or 8⅓ percent of its aggregate indebtedness, but remains about $100,000 ($50,000 for member FCM's) and 6⅔ percent of its aggregate indebtedness (the minimum requirements of § 1.17), will be required to file notice of that fact with the Commission within 5 business days. However, the FCM would not be in violation of § 1.17, or any other Commission regulation, and no administrative sanction by the Commission would be possible. Further, when the early warning system is triggered by a violation of the Act or the regulations (e.g., when the FCM fails to maintain its books and records in a current status), prompt notification of the Commission in accordance with these regulations might be an indication that the FCM was attempting to comply with the regulations and could mitigate against the imposition of a sanction by the Commission in response to such violations.[16]

The fact that no independent penalty is provided for triggering the proposed early warning system is due to the basic nature and purpose of the system itself. In short, the system is designed to afford the Commission and the appropriate industry self-regulatory organizations sufficient advance notice of an FCM's problems to make possible such protective, or remedial as opposed to enforcement, action as may be needed to insure the safety of the FCM's customer's funds and the integrity of the marketplace. If, however, an FCM fails to give the notice requried by the proposed early warning system, effective protective action by the Commission and industry self-regulatory organizations may be precluded, and the risks to the FCM's customers and the futures market system may be increased. In such cases of failure to give notice, enforcement, as well as protective action would be appropriate. Accordingly, it is the Commission's intention to prosecute violations of the proposed early warning system vigorously.

§ 1.12(a)—NOTICE TO COMMISSION OF UNDERCAPITALIZATION

Pursuant to § 1.12(a) each FCM which knows or should have known that its adjusted net capital is at any time less than the minimum required by § 1.17, must give telegraphic notice of such fact to the Commission and the designated self-regulatory organization within 24 hours. And after giving such notice, the FCM must file certain financial statements with the Commission and the self-regulatory organization.

One contract market commented that the language "knows or should have known" is too harsh and should be changed to "knows or has reason to believe." The Commission wishes to point out that as originally proposed, this section would have been subject to the interpretation that a continuous determination of adjusted net capital would have been required. The present language amended the original proposal when the Commission republished its financial regulations for comment and makes clear that while the Commission does not intend to require continuous computations of adjusted net capital, it does expect FCM's to keep the necessary records and otherwise control the operation of their businesses so that they will be able to know when their adjusted net capital is below the minimum required by § 1.17. The Commission appreciates that pursuant to this requirement, those firms which may be close to falling below the minimum capital requirements will be required to make more frequent computations than those firms which are safely above such requirements, and believes that this result is consistent with the objective of attempting to insure the financial integrity of FCM's.

§ 1.12(c)—CURRENT BOOKS AND RECORDS REQUIREMENT

This paragraph requires notification of the Commission and the self-regulatory organization in the event an FCM

[15] See e.g., discussion supra with respect to general nonpublic treatment of income statements.

[16] However, the mere fact that an FCM notifies the Commission immediately upon the occurrence of such violations would not preclude the Commission from taking appropriate enforcement action against the FCM, especially in the face of repeated or intentional violations.

does not keep current books and records required by the Commission's regulations.

Two commentators felt that the word current should be defined in this paragraph. The Commission does not believe it necessary to define this term within the financial regulations. However, to provide some guidance for individuals working with these rules the Commission interprets this term to mean that the books and records of original entry should be maintained in a form which will facilitate: (i) Posting of the general ledger as frequently as necessary to enable the FCM to make the computations necessary to ascertain compliance with the net capital rule and the segregation requirements of the Act and the Commission's regulations, and (ii) the recall and availability of required information on a timely basis.

D. § 1.16—QUALIFICATIONS AND REPORTS OF ACCOUNTANTS

Pursuant to § 1.10 the initial form 1-FR filed by an applicant for registration as an FCM and the form 1-FR filed each fiscal year thereafter must be certified by an independent public accountant. Section 1.16 details qualifications required of such independent public accountants and sets certain guidelines which must be followed in the conduct of the examination of an FCM's form 1-FR.

Accountants who certify financial statements which are to be filed with the Commission must adhere to the standards the Commission promulgates for such filings, and failure to do so can lead to withdrawal of the accountant's right to practice before the Commission pursuant to 17 CFR Part 14. Any accountant who has been barred from practicing before the Commission pursuant to 17 CFR Part 14 for this or any other reason will not be considered a qualified accountant for purposes of § 1.16.

Accountants should be aware that in order to conduct a proper audit under these rules, they must be familiar with the Act and the rules and regulations of the Commission and in particular with the segregation requirements, the recordkeeping requirements, and the minimum financial regulations applicable to FCM's. The accountant must assure himself that the daily computations of the segregation requirements are being made in accordance with such requirements. In addition, the accountant must ascertain that the periodic computations of the minimum capital requirements are being done in accordance with § 1.17 and are being computed monthly in accordance with § 1.18. The Commission anticipates that it will selectively review the FCM audits conducted by independent public accountants to monitor compliance with the auditing standard set forth in § 1.16.

§ 1.16(b)(2)—QUALIFICATIONS OF ACCOUNTANTS

Among other things, § 1.16(b)(2) requires that public accountants performing audits of FCM's be independent and states that an accountant will not be considered independent if he or his firm or a member thereof performs manual or automated bookkeeping services or assumes responsibility for maintenance of the accounting records, including accounting classification decisions, of an applicant or registrant or any of its affiliates. Two commentators felt that this requirement was inappropriate in that the standards and guidelines maintained by the accounting profession (which the commentators thought were adequate) do not include such a provision and because, in the opinion of the two commentators, an accountant who assumes responsibility for maintaining an FCM's accounting records could be considered independent for the purposes of submitting a certified form 1-FR. The Commission notes, on the other hand, that the regulation is designed to prohibit situations in which the same accountant would be auditing the records which he has also prepared for the FCM. The Commission believes that this standard is reasonable and after considering the comments thereon, has determined to retain this prohibition in the final rule.

§ 1.16(c)(5)—ACCOUNTANT'S REPORT OF MATERIAL INADEQUACIES

This paragraph would require that the independent public accountant give the Commission and the self-regulatory organization(s) a report of any material inadequacies found in the FCM's internal control systems. One contract market commented that material inadequacies found by the accountant which have already been corrected by the firm should not be required to be reported; from a regulatory point of view inadequacies which have been identified and remain uncorrected, should be the focal point of concern, rather than those which have occurred in the past but which have been corrected. The commentator went on to say that a firm may require more than 5 business days after giving notice of material inadequacies to file a written report stating corrective measures which have been or will be taken. It was noted that a firm may not even be able to identify the cause of the inadequacy within this time frame and, moreover, might be hardpressed to take corrective measures in so short a time. A time frame of 20 business days was therefore suggested.

The Commission believes, on the contrary, that material inadequacies which have already been corrected should nonetheless be reported because the agency and the self-regulatory organizations have an obligation in the interest of the customers of the FCM's to evaluate these corrective measures to insure that they are sufficient. With respect to the 5 business day requirement for corrective measures, the Commission appreciates the problems that firms might encounter in meeting this schedule for certain material inadequacies; therefore, it wishes to make clear that its primary interest is to be informed of such inadequacies and of the steps which are being taken to correct them. In the event that corrective measures are in progress or that such measures have to be altered subsequent to the 5 business days, the Commission would expect to be provided this information and to be informed of subsequent developments.

§ 1.16(e)(2)—EXTENT AND TIMING OF AUDIT PROCEDURES

This section, among other things, requires an independent accountant who determines that any material inadequacies exist in the accounting system of the FCM to call such inadequacies to the attention of the FCM. The firm, in turn, has the responsibility to bring such matters to the attention of the Commission and the designated self-regulatory organization.

One commentator expressed the view that this section should contain clear guidelines as to what will constitute the calling of an applicant's or a registrant's attention to the problems listed in § 1.16(e)(2). The commentator also felt that the section should be clarified to specify the standards to be used in determining material inadequacies in the areas of the accounting system, internal accounting controls, procedures for safeguarding customer or firm assets, or the general auditing objectives contained in the section.

After considering this comment, the Commission has determined to retain the language of the section as proposed. The Commission believes that it is appropriate to give the accountant discretion based upon the facts which are available to him. This would appear to be true because the accountant is the closest independent person to the situation, and he should have the latitude to make such determinations. Further, the Commission believes that rather than making any elaborate attempt to define each situation that might arise, it is more appropriate to develop on a case-by-case basis a body of opinion as to what constitutes a material inadequacy.

E. § 1.17—MINIMUM FINANCIAL REQUIREMENTS—FUTURES COMMISSION MERCHANTS

As proposed this section would have required each FCM to maintain adjusted net capital equal to or in excess of: (i) The greater of $150,000 ($50,000 for a member of a designated self-regulatory organization) or 6⅔ percent of aggregate indebtedness, or (ii) in the case of a registrant electing to operate pursuant to the alternate capital requirement the greater of $150,000 ($50,000 for a member of a designated self-regulatory organization) or 4 percent of the funds required to be segregated pursuant to the Act and these regulations plus, for securities brokers and dealers, 4 percent of the aggregate debit items computed in accordance with the formula for determination of the reserve requirements of the SEC. The Commission received numerous comments with respect to various aspects of this proposal.

Section 15 of the Act basically requires the Commission in adopting any regulation to consider the public interest to be protected by the antitrust laws and to endeavor to take the least anticompetitive means of achieving the objectives and purposes of the Act. Several commentators objected to the distinction between members and nonmembers in the proposal as being anticompetitive. These commentators were most concerned that the proposed higher adjusted net capital requirement of a $150,000 (vis-a-vis $50,000 for members) would drive small nonmember FCM's out of business and establish a substantial barrier to entry into the futures business.

On the other hand, many exchanges and exchange members commented that any net capital requirement which did not make such a distinction would place exchange members at a competitive disadvantage (because of the cost of membership and the dues and fees members pay for self-regulation). They further contended that the distinction would be an express recognition of the advantages to the public and to marketplace that results from contract market membership. Advantages cited by the commentators included: (i) The frequency of full financial audits performed by self-regulatory organizations; (ii) daily monitoring of clearing member positions; (iii) audits of FCM's to determine compliance with exchange margin requirements; (iv) the speed and flexibility of a self-regulatory organization compared to a Federal agency; and (v) the surveillance and other regulatory programs for monitoring compliance with exchange rules. The contract markets and their members also pointed out that member firms contribute further to the self-regulatory effort through the time and effort by their officers or principals devoted to serving on self-regulatory organization committees (e.g., business conduct committees), which are concerned with the compliance effort of self-regulatory organizations.

A number of commentators also stated their views concerning the appropriate minimum dollar level for adjusted net capital. Many commentators recommended a substantially higher minimum level than that proposed by the Commission while others thought the proposed level was too high.

The Commission has carefully considered each of these comments and finds that, due to the risk related to the business of being an FCM and the obligations which a firm assumes by virtue of its handling the funds of customers, a certain minimum level of capital must be maintained by an FCM. Further, even though comprehensive computational criteria are provided in the minimum financial regulations, there are many unforeseen risks which cannot be measured by a capital rule. In addition, after carefully considering its obligations under section 15 of the Commodity Exchange Act, the Commission has concluded that a distinction between contract market members and nonmembers in the minimum financial regulations is justified. The Commission recognizes that this distinction may have anticompetitive implications. However, section 15 does not require the Commission to take the least anticompetitive regulatory approach if the purposes and objectives of the Act would be better served in some other way. Section 4f(2) of the Act expressly contemplates that adequately financed FCM's are necessary in order to assure customer protection. For this purpose, the self-policing role of self-regulatory organizations is an important adjunct to Commission oversight of the FCM community and can serve to minimize the dangers to the public resulting from financially unstable FCM's. In this connection, the Commission notes that § 1.52 specifically will require self-regulatory organizations to exercise their self-regulatory authority over the FCM members, through the adoption and enforcement of rules, incorporating those of the Commission. However, in order to ameliorate the impact of the new regulation on nonmember FCM's, the Commission has narrowed the proposed difference to adjusted net capital between members and nonmembers. The regulations as adopted reduce the dollar minimum for nonmembers from $150,000 (as proposed) to $100,000. Further, the Commission has elected to phase in the $100,000 dollar minimum for nonmembers; therefore, until June 30, 1979, such minimum will be $50,000 and, thereafter, such minimum will be $100,000. The Commission intends to reevaluate the size of this differential from time to time to determine whether a further narrowing of the differential, or indeed a widening in the differential, is warranted.

In taking this step, the Commission has also determined to raise the levels at which an FCM would be required to report its financial condition on a monthly basis to the Commission and the self-regulatory organizations in accordance with § 1.12(b). This reporting requirement will now be triggered when the FCM's adjusted net capital falls below 150 percent (instead of 120 percent as proposed) of the appropriate minimum dollar requirements.

A substantial number of commentators objected to the provision of § 1.17(a) which required firms computing capital under the alternative capital rule to add 4 percent of commodity funds required to be segregated to 4 percent of aggregate debit items computed in accordance with SEC regulations.[17] The commentators felt that this provision would, in effect, require FCM/broker-dealers to have more capital than any other FCM's in the futures industry placing them at a competitive disadvantage. The Commission believes that this comment has merit and, accordingly, has amended the final version of this section to permit registrants operating under the alternate capital rule to maintain the greatest of the minimum dollar amount required, 4 percent of the funds required to be segregated, or 4 percent of aggregate debit items computed pursuant to SEC requirements.[18]

§ 1.17(A)(4)—PROCEDURES WHEN NOT IN COMPLIANCE WITH § 1.17

Regulation 1.17(a)(4) required a registrant which cannot demonstrate compliance with the requirements of § 1.17 to transfer immediately all customer accounts and cease doing business (except transactions for liquidation purposes). However, if such registrant immediately demonstrates to the satisfaction of the Commission or the designated self-regulatory organization the ability to get into compliance, the Commission or the designated self-regulatory organization may allow the registrant up to 10 days in which to do so without having to transfer accounts and cease doing business. This paragraph is intended to provide a specific procedure in the event a registrant fails to comply with the requirement

[17] 15c3-3, 17 CFR 240.15c3-3.

[18] The other sections of the minimum financial regulations which provide for FCM's operating under § 1.17(g) have been revised to make them consistent with this revision of § 1.17(a)(1). See §§ 1.12(b), 1.12(d), 1.17(e), 1.17(g), and 1.17(h).

of paragraph (a)(4), and is not intended to limit or preclude action by the Commission or the designated self-regulatory organization for violations of any of the provisions of § 1.17. Thus, for example, the Commission or the designated self-regulatory organization might deem it appropriate to take action against a registrant which has not been in compliance with the requirements of § 1.17 regardless of the fact that such registrant is able to get into compliance within 10 business days.

§ 1.17(b)(1)—REFERENCE TO SEC REGULATIONS

Section 1.17(b)(1) provides that where an asset or liability is defined in the SEC's regulations and is not specifically defined in the CFTC's regulations the inclusion or exclusion of all or part of such asset or liability from the net capital computation shall be in accordance with the SEC's regulations. One contract market commented that this provision should apply only to those FCM's which are also registered with the SEC as broker-dealers so that FCM's who are not so registered would not be confused or unduly restricted by requirements tailored to the securities industry. The Commission notes that firms which are registered only as FCM's may well have assets or liabilities defined in SEC regulations (e.g., common stock) and sees no reason not to defer to that agency in matters relating to areas of its expertise. Consequently, the Commission does not believe that reference to the SEC's regulations will create confusion for those firms which are registered only as FCM's; in fact, the Commission believes that there is a greater potential for confusion in not doing so. Therefore, the provision of this section is adopted as proposed.

One commentator felt that the word value as used in §§ 1.17(c)(1) (iii) and (iv) should be further explained to differentiate between long and short positions in nontransferable commodity options and unlisted security options. The commentator also stated that the examples provided in the proposed regulations relate to long positions only and should be expanded to encompass the value attributable to commodity and security options held short in the account of the FCM. The Commission wishes to make clear that the word value as used in these two sections is intended to refer to both long and short option positions. Thus, the term has reference to the valuation of a "liability" (e.g., in the case of a short in-the-money option position) as well as the valuation of an asset.

§ 1.17(c)(2)—DEFINITION OF CURRENT ASSETS

The provision of § 1.17(c)(2)(i) excludes from current assets in computing net capital any unsecured [19] commodity futures or options account containing a deficit or debit ledger balance except for those which are the subject of margin calls outstanding one business day or less. One commentator felt that this section should be amended to be consistent with § 1.17(c)(5)(viii) which would permit the application of calls of margin and other required deposits which are outstanding 5 business days or less until December 31, 1979; 4 business days or less until December 31, 1980; and 3 business days or less thereafter. The Commission notes that a deficit as referred to in paragraph (c)(2)(i) arises when the equity in an account is depleted to the point that a receivable results. It is the Commission's belief that the risks posed to the firm by accounts which liquidate to a deficit are substantially different than the risks posed by accounts which have fallen below maintenance margin requirements (thereby necessitating a call for margin), but in which some equity remains. It should be noted in this connection, that other commentators felt that the 1-day provision of paragraph (c)(2)(i) was overly generous in view of the risks to the firm posed by unsecured deficits. Thus, the Commission has decided to retain the 1-day provision with respect to these accounts as proposed.

One commentator suggested that § 1.17(c)(2)(i) be amended to indicate that only the "net deficit" is to be excluded from current assets. The Commission believes that the language of this section as drafted is sufficiently clear to so indicate.

Finally, with respect to the comments concerning § 1.17(c)(2)(i), one commentator felt that a statement should be added to the regulation which would prohibit an FCM from including in current assets, accounts which are, in essence, "recalled". The commentator felt that the regulation as proposd would allow an FCM to call for margin when an account liquidated to a deficit; and, for the first business day or less thereafter, such account would be considered a current asset. Should the account be liquidated, resulting in an unsecured debit ledger balance, and FCM could call for margin again (it was argued) and still consider such unsecured account as a current asset for the first business day or less thereafter. While the Commission does not believe that additional language in the regulation is necessary it wishes to make clear that the intent is not to permit a "recall" for margin to restart the time period provided in this section or §§ 1.17(c)(5) (viii) and (ix).

The language is § 1.17(c)(2)(ii)(A) as proposed would have excluded from current assets all unsecured receivables, advances, and loans, except for receivables resulting from the marketing of inventories commonly associated with the business activities of the FCM and advances on fixed price purchase commitments which are outstanding in excess of 75 days from the date that they arise. One commentator noted that normal and accepted accounting procedures "age" accounts receivable by the month in which the transaction occurred. The commentator further noted that for the firm to attempt to "age" a substantial number of active accounts from the actual date of the transaction would be an extremely difficult task. The Commission appreciates the problem which the commentator has raised and, accordingly, has amended this section to provide for exclusion of receivables outstanding beyond 3 calendar months from the date on which they are accrued.

The language of § 1.17(c)(2)(ii)(B) as proposed would have excluded from net capital interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers, mutual fund concessions receivable and management fees receivable from registered investment companies in commodity pools which had been outstanding more than 30 days from the date they had arisen. Two commentators pointed out that a literal reading of the regulation as proposed would cause interest receivable on notes and bonds that pay interest semiannually and other accrued income (in the categories set forth in the regulation) not yet due, to be deducted from net capital. This was not the intent of the Commission in proposing this regulation and accordingly the language in the final version has been revised to

[19] Regulation 1.17(c)(3) provides that a receivable may be considered "secured" for purposes of including that receivable in current assets where the receivable is secured by collateral which is otherwise unencumbered and which can be readily converted into cash equal to or in excess of that part of the receivable which is shown in the FCM's records as secured and where one of the following items is present: (a) The collateral is in the possession or control of the FCM; or (b) the FCM has a legally enforceable, written security agreement, signed by the debtor, and has a perfected security interest in the collateral within the meaning of the laws of the State in which the collateral is located. The question of which collateral is readily marketable or can be readily converted into cash should be determined on a case-by-case basis, although the following should not be considered as readily convertible into cash: real estate, buildings, furniture and fixtures, exchange membership, goodwill, prepaid items, and securities without a ready market.

provide that such receivables be excluded if they are outstanding more than 30 days from the date they are due rather than (as proposed) from the date they arise.

The Commission wishes to make clear, however, that in so revising this paragraph it does not intend to create a different standard from the standard utilized by the SEC in its regulations. It is the Commission's understanding, in this connection, that the language in the corresponding SEC regulations contain the "30 days from the date they arise" language, but that this language has been interpreted to mean "when due" in circumstances like the ones described by the commentators.

§ 1.17(c)(5)—SAFETY FACTORS

The safety factors on inventory, fixed price commitments, and forward contracts are set out in § 1.17(c)(5)(ii). One contract market recommended that receipted (registered) inventory which meets the contract specifications of the underlying futures be allowed at full market value (not subject to a safety factor) where the receipted inventory is fully "covered" by such futures. It was noted that such receipted inventory is specifically required to meet contract specifications and is readily available for delivery on futures contracts. Additionally, there is added assurance of deliverability from the registration and inspection requirements of the contract market which employs such a system.

The Commission believes that this comment has merit and, accordingly, has added a new subsection (A) to § 1.17(c)(5)(ii) to provide that no safety factor for the purpose of computing net capital be charged against inventory which is currently registered as deliverable and covered by an open futures contract. The subsequent sections under paragraph (c)(5)(ii) have been relettered accordingly.

Several commentators expressed the view that the safety factor provided in proposed § 1.17(c)(5)(ii) for inventory and forward contracts in foreign currencies that are "covered" by futures contracts was too high in relation to the risks associated with these positions. Based upon the information presently available to it, the Commission agrees with these commentators and has removed the safety factors for such positions, from the final regulation.

One commentator noted that under current SEC rules all Government National Mortgage Association positions, including futures, carry a 3 percent "haircut" on the net position, and if the 5 percent safety factor (on inventory) provided in § 1.17(c)(5)(ii) were charged to capital in addition to the 3 percent SEC charge, a totally unfair capital charge would result. The Commission wishes to make clear that for purposes of this section securities that are "haircutted" under SEC regulations are not to be counted as inventory. Thus, there will be a double "haircut" or safety factor.

Under § 1.17(c)(5)(vi) the safety factor to be used by an applicant or registrant in computing adjusted net capital in the case of securities options is the same as that specified in appendix A of the SEC's net capital rule (15c3-1, 17 CFR 240.15c3-1). One commentator noted that all FCM's engaged in market making or specialist activities in securities options would be subject to the provisions of subparagraph (A)(6) or (C)(2)(x), and not appendix A of the SEC's net capital rule. Accordingly, it was suggested that the CFTC regulations be revised to incorporate the applicable deductions specified in the SEC's rule and that a reference to appendix A be deleted. Paragraph (c)(5)(vi) is included in § 1.17 primarily for those FCM's purchasing or selling options for speculative or cover purposes rather than for market makers. The Commission believes that the situation referred to by the commentator is adequately provided for in the CFTC financial regulations as currently drafted and refers the commentators to § 1.17(b)(1) which states that in the case of an asset or liability defined in the SEC net capital rule (15c3-1, 17 CFR 240.15c3-1) all or part of such asset or liability shall be included or excluded for purposes of computing adjusted net capital and aggregate indebtedness in accordance with such rule unless specifically stated otherwise in § 1.17. The commentator is further directed to § 1.17(c)(5)(xiv) which states that for securities broker-dealers the deductions specified in rule 15c3-1 (17 CFR 240.15c3-1) are applicable. In consideration of the above, the Commission has determined to adopt § 1.17(c)(5)(vi) as proposed.

The Commission has received a number of comments with respect to § 1.17(c)(5)(viii) which requires a safety factor for under-margined customer futures accounts to the extent of the amount of funds required in each such account to meet the maintenance margin requirement of the applicable board of trade after application of calls for margin or other required deposits which are outstanding 5 business days or less until December 31, 1979, 4 business days or less until December 31, 1980, and 3 business days or less thereafter.

A number of commentators disagree with the scaling down of the length of time margin calls would be allowed to remain outstanding before a charge is made to net capital. While these commentators generally support the 5-day requirement, they believe the transition to 3 days is too severe and would not allow sufficient time for firms to collect margins through the mails. In part, in response to these commentators and to insure that the futures industry and, where applicable, the banking industry has ample time in which to perfect the capability to comply with this requirement, the Commission has lengthened the time for phasing in the reduction in the number of days for the collection of margin. Thus, margin could remain uncollected before a charge is made to net capital for up to 5 business days until December 31, 1980, 4 business days until December 31, 1982, and 3 business days thereafter.

Based upon the comments received in response to this section (§ 1.17(c)(5)(viii)), it is apparent that some commentators may not be entirely clear as to the appropriate method for counting days provided in this section. While the Commission believes the language of the regulation is sufficiently clear, it wishes to provide the following example of how such counting would be done. On Monday, market action occurs against a customer position, which results in a determination that the customer's account is under-margined, and the margin call must be sent on Tuesday. In this situation, Wednesday would be the first day the margin call would be outstanding; Thursday would be the second day; Friday the third; the following Monday the fourth; and the following Tuesday would be the fifth day. Thus, if no margin were received by the close of business on the second Tuesday, the firm would be required (on that day) to make a charge to capital. In this example, if the margin call were not made until Thursday, the firm would still be required to make a charge to capital if the funds are not received by the close of business on the second Tuesday. Of course, if a margin call is not made, a charge to capital for the under-margined amount is made immediately.

One contract market pointed out that, generally, FCM's are not accustomed to "aging" calls for margin. The commentator went on to state that it had discussed the length of time necessary to allow for reprograming the firm computers and service bureaus and had found that the necessary programs can probably be completed within 3 months. It was urged that the Commission take this time period into account when considering the promulgation of any final rule. The Commission has done this and is hereby adopting the minimum financial regulations but postponing their effective date until December 20, 1978.

Pursuant to § 1.17(c)(5)(ix) a safety factor charge to capital would be re-

quired for omnibus and noncustomer accounts to the extent that they are under-margined in excess of 2 days. The Commission received two comments in response to this section. The first comment was from an FCM which felt that omnibus accounts should be included within § 1.17(c)(5)(viii) (customer under-margined safety factors) and thereby given a longer period of time to allow margin to go uncollected before a charge is made to net capital. The second comment from a contract market which expressed the view that a call for margin, with respect to these types of accounts, should be permitted to be outstanding for no more than 1 day before a charge to the firm's net capital would be required. The contract market based its view on the belief that a clearing member's settlements with his correspondent should be no slower than his settlements with clearing associations. In view of these conflicting comments and its own belief that the 2-day requirement as proposed is a reasonable one, the Commission has determined to adopt the regulation as proposed.

The provisions of § 1.17(c)(5)(x) require certain reductions from net capital for proprietary futures held by the FCM which are not "covered" (as defined in § 1.17(j)). Three contract markets commented that the concept of covered transactions in the provisions governing safety factors on open futures contracts held in proprietary accounts should be expanded to include straddles, spreads, and arbitrage transactions; because, this would take into account the reduced risks associated with such transactions. The Commission wishes to point out that this paragraph is keyed to the margin requirements of the contracts markets; therefore, if an exchange wished to recognize the reduced risks of such transactions by lowering its margin requirements, it would be free to do so.

It should be noted that one exchange felt that it would be impractical to expect clearing organizations to lower margin requirements regarding these positions; since it is virtually impossible to monitor positions on other exchanges on a daily basis, which would be necessary in order for the clearing organizations to lower their margin requirements to recognize such transactions. On the contrary, the Commission believes than an exchange may, in its rules, provide for special recognition of these transactions in the margin calculation, and require their members as a condition for such special margin treatment, to provide the necessary information to monitor straddles, spreads, and arbitrage transactions, in other markets. Based upon the foregoing, the Commission is not inclined at present to amend its definition of the term "cover".

§ 1.17(c)(6)—AGGREGATE INDEBTEDNESS

The language of § 1.17(c)(6) defines the term aggregate indebtedness. Two contract markets urged the Commission to exclude noncustomer accounts from the definition of aggregate indebtedness. It was argued that these funds served to protect the customers of the firm and that their inclusion in aggregate indebtedness would be detrimental to the financial strength of the industry. It was also argued that these accounts would be moved to other firms (thereby becoming customer segregated funds on the books of those other firms) to avoid the additional capital charge that would be made necessary if such accounts were included in the FCM's own liabilities.

The Commission believes that since these funds in noncustomer accounts are not segregated and are clearly debt of the firm, there is no justification to exclude such funds from the definition of aggregate indebtedness. It should also be noted, that transfers of accounts (as described above) might create additional expenses for the FCM's and this factor could serve as a counter-incentive with respect to such transfers. Therefore, after considering these comments, the Commission has determined to adopt the regulations as proposed.

§ 1.17(d)—DEBT-EQUITY RATIO

As set forth in proposed § 1.17(d) an FCM was not to permit the total amount of its satisfactory subordination agreements to exceed 70 percent of its debt-equity total, as defined. Several commentators took the position that it would be inappropriate to penalize a firm that maintains capital in the form of satisfactory subordination agreements, which is in excess of the minimum required by the regulations. The Commission believes this comment has merit. Accordingly, the language in this section has been revised to provide that the required debt-equity total means equity capital (as defined) including the outstanding principal amount of satisfactory subordination agreements meeting the requirements of equity capital less the excess of the applicant's or registrant's adjusted net capital over the minimum required by (and computed in accordance with) § 1.17.

§ 1.17(e)—WITHDRAWAL RESTRICTIONS ON EQUITY CAPITAL

For purposes of calculating net captial of an FCM which does business as a partnership, the proposed regulations would have excluded the commodity and securities trading accounts of partners from the equity of the partnership. Some of the contract markets and FCM's took the position that this regulation could have a very detrimental impact upon partnership FCM's which hold sizable amount of their equity in the form of partners' trading accounts. They stated that since the equity contained in such trading accounts is available to satisfy the claims of general creditors of an FCM, it should be given the same treatment as capital invested in firm trading accounts for purposes of the minimum financial requirements.

The Commission believes that these comments have merit and has amended the final regulation as adopted to permit partners to include their trading accounts in partnership capital. However, if an FCM chooses to include partnership trading accounts in firm capital, the regulations require the partnership trading accounts to be considered as equity capital for all purposes of the financial regulations including the withdrawal restrictions on equity capital in § 1.17(e).

§ 1.17(h)—SATISFACTORY SUBORDINATION AGREEMENTS

The content of § 1.17(h) details the requirements for satisfactory subordination agreements. Two commentators felt that nonbroker-dealer FCM's should be permitted to use warehouse receipts as security for secured demand notes. While the Commission feels that this comment possibly has merit, it does not feel that the commentators provided sufficient information to form the basis for making changes in the section as proposed. However, as experience with the financial regulations is grained and/or in light of further information, the Commission is willing to consider this suggestion further with a possible view to later amendment of the financial regulations. For the present, it seems desirable to promulgate the financial regulations as proposed and avoid possible delay in their implementation pending resolution of this matter.

Several commentators raised questions with respect to § 1.17(h)(3)(vi) concerning the filing requirements for proposed subordination agreements. The commentators held differing opinions on this subject, and after considering their comments, the Commission has determined to adopt the section largely as proposed. There has, however, been one revision to make it clear, consistent with the Commission's philosophy of assuming an oversight role with respect to enforcement of financial regulations for members of self-regulatory organizations, that proposed subordination agreements are to be submitted to and examined by either the Commission or the designated self-regulatory organization. Thus, in the case of FCM's which are members of designated self-regulatory

organizations, a satisfactory subordination agreement would be one which the designated self-regulatory organization has found acceptable and which has become effective in the form found acceptable. It should be noted, that in no event could such subordination agreements contain provisions which are contrary to the Act or the regulations thereunder.

Pursuant to § 1.17(h)(4) a registrant is permitted (under certain circumstances to utilize "debt" in computing its net capital which is not subordinated debt meeting the requirements of § 1.17(h).

This exemption is to permit an applicant whose net capital is less than the required minimum (under these regulations or the applicable rules of the designated self-regulatory organization) to provide for an infusion of new funds in the form of non-subordinated debt.[20] One commentator expressed the view that this objective was not entirely clear from the language of the proposed rules. The Commission believes this comment has merit and has, therefore, added clarifying language to § 1.17(h)(4).

F. § 1.18—RECORDS FOR AND RELATING TO FINANCIAL REPORTING AND REQUIRED MONTHLY COMPUTATION

This section has been revised to provide a new § 1.18(b) which requires each applicant or registrant to make and keep as a record in accordance with § 1.31, formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 as of the close of business each month. Some commentators objected to the monthly requirement on the basis of cost. The Commission believes that it is imperative that an early warning system be established in the commodity futures industry, and it further believes that the monthly computations provide the basis for the early warning system proposed in § 1.12. It should be pointed out, in this context, that the Commission previously amended § 1.18 (as proposed) in response to comments received following initial publication of this regulation by extending the time within which the monthly computations were to be completed from 10 business days to 30 calendar days.[21]

G. § 1.52—SELF-REGULATORY ORGANIZATION ADOPTION AND SURVEILLANCE OF MINIMUM FINANCIAL REQUIREMENTS

This section requires all self-regulatory organizations to adopt minimum financial and related reporting requirements with respect to their member FCM's. The regulation also permits the responsibility for monitoring and auditing an FCM which is a member of more than one self-regulatory organization to be delegated to a single self-regulatory organization.

The Commission wishes to emphasize that in order for a plan (delegating regulatory responsibility pursuant to § 1.52(b)) submitted by two or more self-regulatory organizations to be approved, it would not be necessary for that plan to cover all FCM's which are members of more than one of these self-regulatory organizations. For example, assume that self-regulatory organizations A and B have 25 members in common, 5 of which are also members of self-regulatory organization C. If agreements could be reached between A and B on only 15 of their 25 joint members, and among A, and B, and C for only 3 of their 5 members in common, then a plan could be submitted covering those 18 FCM's on which agreement was reached. In addition, if self-regulatory organization C would not agree to a plan for the delegation of responsibility for the two remaining FCM's it has in common with A and B, but A and B could agree on such a plan, then self-regulatory organizations A and B could submit their plan for those two FCM's.

One contract market expressed the view that, even in light of the delegation provision of § 1.52, because of the relationship between the contract market and the clearing organization, each exchange must retain its right to review its members on a nonroutine basis. It was pointed out, for example, that this relationship gives rise to financial risks to a contract market in the event a member firm fails to meet its obligation to the clearing organization. The Commission agrees with this comment but notes that one objective of the minimum financial regulations is to eliminate unwarranted duplication of regulation. Accordingly, the Commission intends to monitor this area to insure that self-regulatory organizations do not abuse their positions by unduly subjecting their membership to multiple regulation.

One contract market suggested that in light of the self-regulatory requirements to be imposed pursuant to § 1.52, exchanges should be permitted to charge surveillance fees of their members who do not adequately support such contract market through business conducted thereon. The Commission expects that the cost of surveillance will be allocated among self-regulatory organizations in accordance with the plans for establishing designated self-regulatory organizations. The Commission, of course, would expect self-regulatory organizations to fund their surveillance programs as necessary, and this might include the charging of fees to their members. The Commission does not believe that this practice would be inconsistent with the requirements of the Act and the regulations thereunder, provided such fees are reasonably related to the services provided and do not discriminate to an unjustifiable degree among categories of an exchanges' members.

Another contract market suggested that § 1.52 be amended to provide that responsibility for administering a joint enforcement or auditing program may be delegated to any type of responsible organization. The regulation, as adopted, does not preclude self-regulatory organizations from cooperating to utilize the services of a single auditing group or CPA firm. Similarly, the self-regulators would be free to establish a centralized surveillance or monitoring program. The Commission, however, wishes to emphasize that such joint efforts cannot shift the responsibility of insuring enforcement of a designated self-regulatory organization's rules, and cannot alter such organization's obligations under the financial regulations. Only a delegation, in accordance with a plan submitted to and approved by the Commission pursuant to § 1.52, to another contract market or a registered futures association under section 17 of the Act may relieve a contract market of its affirmative action responsibilities for enforcement of its minimum financial regulations.

One exchange again expressed the view that the Commission lacks the authority to require a contract market to adopt and enforce financial and related reporting requirements for its FCM members. Basically, the exchange contended that § 1.52 is: (1) Contrary to the provisions of sections 4f(2) and 5a(9) of the Act, (2) beyond the Commission's general rulemaking authority conferred by section 8a(5) of the Act, and (3) inconsistent with the letter and spirit of section 8a(7) of the Act. The Commission disagrees.

Section 8(a)(5) of the Act broadly empowers the Commission to make and promulgate such rules and regulations as in the Commission's judgment "are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of (the) Act." The exchange asserts that this provision is simply procedural in nature and does not provide independent authority for the promulgation of substantive regulations such as rule 1.52. To the contrary, section 8a(5) enables the Commission not only to adopt regulations to effectuate a particular statutory provision but also to impose requirements to accomplish the Act's purposes even in the absence of a specific statutory source.[22]

---

[20] See 43 FR 15072, at 15076 (Apr. 10, 1976)

[21] See 43 FR 15072, at 15080 (Apr. 10, 1978).

[22] See *Ames* v. *Merrill Lynch*, 567 F. 2d 1174, 1177-8 (2d Cir. 1977). See also *Board of Trade Clearing Corporation* v. *United States*, Comm. Fut. L. Rep. (CCH) ¶20,534, pp. 22,206-22 207 (D.D.C. 1978), appeal pending, No. 78-1263 (D.C. Cir. 1978).

A fundamental purpose of the Act is to protect the national public interest in transactions involving contracts for the future delivery of a commodity. Section 3 of the Act, 7 U.S.C. 5. For this purpose, the Act imposes certain requirements both on boards of trade which wish to provide a marketplace for trading commodity futures contracts and futures commission merchants who solicit and accept customer funds for trading. For example, sections 4 and 4h of the Act provide that futures trading may lawfully take place only through the facilities of boards of trade that the Commission has designated as contract markets. Under section 5(g) of the Act, designation may only be achieved if the board of trade demonstrates that trading in the commodity for which designation is sought will not be contrary to the public interest. Futures commission merchants are required to be registered with the Commission and to refrain from fraudulent conduct in executing customer orders. Sections 4b and 4d(1) of the Act.

The Act specifically seeks to protect the public from financially irresponsible futures commission merchants who handle customers funds. Section 4d(2) requires that futures commission merchants segregate customer funds from the funds of the firm. And, to assure that future commission merchants have adequate capital resources, section 4f(2) expressly empowers the Commission to prescribe minimum financial requirements for futures commission merchants as a condition to registration. That section further provides that the financial requirements imposed by the Commission will be considered met if the futures commission merchant is a member of a contract market and conforms to those financial standards and related reporting requirements set by contract market rules that have been approved by the Commission as adequate to effectuate the purposes of section 4f(2). Under section 5a(9) of the Act, the contract market is required to enforce these rules.[23] Thus, section 4f(2) explicitly contemplates that contract markets have a role to effectuate the public interest considerations to be served by assuring the financial responsibility of FCM's.

The exchange suggests that since section 4f(2) permits contract markets to impose financial standards on their member FCM's, the Commission may not require contract markets to do so. But this interpretation implies a limitation on the Commission's power that is contrary to the express provisions of section 8a(5). As institutions operating under the aegis of federal law, contract markets have not only the responsibilities made explicit by the Act, but are required to comply with those which the Commission imposes as necessary to effectuate the purposes of the Act. Thus, § 1.52 will further the Act's express purposes of assuring that FCM's remain financially sound by requiring that contract markets monitor and enforce against their members exchange rules incorporating the Commission's financial requirements.[24] As the Commission has stated previously:

> The most important theoretical basis for exchange self-regulation is that exchanges can move more promptly and more effectively in certain situations than can an agency of the Government.[25]

The exchange also argued that adoption of § 1.52 would be inconsistent with section 8(a)(7) of the Act. That section empowers the Commission to alter or supplement the rules of any contract market under certain conditions. The exchange contends that since its present financial rules have been approved by the Commission under section 4f(2), the Commission in effect would be attempting by rulemaking to alter existing contract market rules and to supplement other contract market rules without complying with the procedural requirements set forth in section 8a(7). However, Commission approval of a rule of a particular contract market, whether under section 4(f)(2) or under section 5(a)(12), does not preclude the Commission in the future from adopting a rule applicable to all contract markets which would impose additional or different requirements than those set forth in the exchange rule that the Commission had previously approved. To view the matter differently would subordinate the Commission's general rulemaking authority to that of the governing board of a single exchange whose judgment may differ from that which the Commission may subsequently make in discharging its responsibilities under the Act.

Timing of Implementation of the Minimum Financial Regulations

The Commission has received a number of comments with respect to a timetable for implementing the financial regulations, and after carefully considering all such comments has determined that the following schedule for such implementation will be followed.

December 20, 1978—Effective date of §§ 1.3, 1.10, 1.12, 1.16, 1.17, and 1.18. This will mean that all FCM's with a fiscal year end coinciding with the calendar year will have to file certified financial statements as of December 31, 1978.

January 31, 1979—Effective date for all of § 1.52 except paragraph (b). This will mean that all self-regulatory organizations must submit minimum financial and related reporting rules to the Commission for approval on or before January 31, 1979.

March 31, 1979—Commission target date for approval of regulations submitted by self-regulatory organizations and all self-regulatory organization plans for delegation of responsibility of FCM's who are members of more than one SRO to one designated SRO. § 1.52.

June 30, 1979—Effective date for paragraph (b) of § 1.52. Self-regulatory organizations plans and regulations must be effective.

In consideration of the foregoing, the Commission hereby amends 17 CFR Part 1 as follows:

1. By amending § 1.3 to include new paragraphs (ee) and (ff) to read as follows:

§ 1.3 Definitions.

* * * * *

(ee) *Self-regulatory organization.* This term means a contract market (as defined in § 1.3(h)), or a registered futures association under section 17 of the Act.

(ff) *Designated self-regulatory organization.* This term means a self-regulatory organization of which a futures commission merchant is a member or, if the futures commission merchant is a member of more than one self-regulatory organization and such futures commission merchant is the subject of an approved plan under § 1.52, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such futures commission merchant for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the futures commission merchant is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such futures commission merchant.

2. By revising § 1.10 to read as follows:

§ 1.10 Application for registration and financial reports of futures commission merchants.

(a) *Application for registration.* (1) Application for registration as a futures commission merchant shall be

[23] Contract market rules adopted under § 1.52 are to be submitted for Commission approval under section 4f(2). Upon approval the contract market would be required to enforce the rules in accordance with section 5a(9). Futures association rules would also be submitted for Commission approval and enforced under section 17 of the Act.

[24] As contemplated by section 4f(2), rule 1.52 permits contract markets to impose additional requirements on their members, subject to Commission approval.

[25] Commission guideline II, CCH, Comm. Fut. L. Rep. ¶20,042.

filed on form 7-R in accordance with the instructions contained therein. The initial application for registration shall be accompanied by a form 8-R executed and filed by each sole proprietor and by each natural person who is a general partner, officer, director, or branch office manager of the applicant, or who performs similar functions, or is any other controlling person of the applicant; except that an accompanying form 8-R need not be filed by an individual who is registered as a floor broker or an associated person or has applied for registration as a floor broker or an associated person and such application has not been withdrawn or denied. Any natural person (other than a floor broker or associated person) who subsequently becomes a general partner, officer, director, or branch office manager of the registrant, or performs similar functions, or becomes any other controlling person of the registrant, shall promptly execute and file a form 8-R. Each form 8-R shall be filed in accordance with the instructions contained therein. Individuals who were previously required to submit biographical information on form 94 or who have filed a form 8-R as required by this section shall file a current form 8-R, upon request by the Commission.

(2) Except as provided in paragraph (a)(3) of this section, each person who files an application for registration as a futures commission merchant, and who is not so registered at the time of such filing, must, concurrently with the filing of such application file either: (i) A form 1-FR certified by an independent public accountant in accordance with § 1.16 as of a date not more than 45 days prior to the date on which such report is filed, or (ii) a form 1-FR as of a date not more than 45 days prior to the date on which such report is filed and a form 1-FR certified by an independent public accountant in accordance with § 1.16 as of a date not more than 1 year prior to the date on which such report is filed. Each such person must include with such financial report a statement describing the source of his current assets and representing that his capital has been contributed for the purpose of operating his business and will continue to be used for such purpose.

(3) The provisions of paragraph (a)(2) of this section do not apply to any person succeeding to and continuing the business of another futures commission merchant. Each such person who files an application for registration as a futures commission merchant and who is not so registered at the time of such filing must file a form 1-FR as of the first monthend following the date on which his registration is approved. Such report must be filed with the Commission and the designated self-regulatory organization, if any, not more than 45 days after the date for which the report is made.

(b) *Filing of financial reports.* (1) Except as provided in paragraph (b)(3) of this section, each person registered as a futures commission merchant must file a form 1-FR for each fiscal quarter of each fiscal year unless the registrant elects pursuant to paragraph (e)(2) of this section to file a form 1-FR for each calendar quarter of each calendar year. Each form 1-FR must be filed no later than 45 days after the date for which the report is made: *Provided, however,* That any form 1-FR which must be certified by an independent public accountant pursuant to paragraph (b)(2) of this section must be filed no later than 90 days after the close of each registrant's fiscal year. This paragraph (b)(1) will be applicable to all fiscal quarters ending after the effective date of this section but in no event more than 90 days after such effective date.

(2) The form 1-FR filed pursuant to paragraph (b)(1) of this section as of the close of the registrant's fiscal year must be certified by an independent public accountant in accordance with § 1.16. A registrant who has elected to file its forms 1-FR for each calendar quarter of each calendar year pursuant to paragraph (e)(2) of this section, must nonetheless file a form 1-FR so certified as of the close of such registrant's fiscal year.

(3) The provisions of paragraphs (b)(1) and (b)(2) of this section may be met by any person registered as a futures commission merchant who is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated self-regulatory organization in its bylaws, rules, regulations, or resolutions and approved after the effective date of these regulations by the Commission pursuant to section 4f(2) of the Act and § 1.52: *Provided, however,* That each such registrant shall promptly file with the Commission a true and exact copy of each financial report which it files with such designated self-regulatory organization.

(4) Upon receiving written notice from any representative of the Commission or any self-regulatory organization of which it is a member, an applicant or registrant must, monthly or at such times as specified, furnish the Commission and the self-regulatory organization, if any, requesting such information with a form 1-FR and/or such other financial information as requested by the representative of the Commission or the self-regulatory organization. Each such form 1-FR or such other information must be furnished within the time period specified in the written notice.

(c) *Where to file reports.* The reports provided for in this § 1.10 will be considered filed when received by the regional office of the Commission nearest the principal place of business of the applicant or registrant and by the designated self-regulatory organization, if any; *Provided, however,* That information required of an applicant or registrant pursuant to paragraph (b)(4) of this section need be furnished only to the self-regulatory organization requesting such information and the Commission.

(d) *Contents of financial reports.* (1) Each form 1-FR filed pursuant to this § 1.10 which is not required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain: (i) A statement of financial condition as of the date for which the report is made; (ii) a statement of changes in ownership equity for the period between the date of the most recent statement of financial condition filed with the Commission (or the beginning of the fiscal quarter immediately following the effective date of this rule but in no event more than 90 days after such effective date) and the date for which the report is made; (iii) a statement of the computation of the minimum capital requirements pursuant to § 1.17 and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made; and (iv) in addition to the information expressly required, such further material information as may be necessary to make the required statements and schedules not misleading.

(2) Each form 1-FR filed pursuant to this § 1.10 which is required to be certified by an independent public accountant must be completed in accordance with the instructions to the form and contain: (i) A statement of financial condition as of the date for which the report is made; (ii) statements of income (loss), changes in financial position, changes in ownership equity, and changes in liabilities subordinated to claims of general creditors, for the period between the date of the most recent certified statement of financial condition filed with the Commission (or the beginning of the fiscal year immediately following the effective date of this rule but in no event more than 1 year after such effective date) and the date for which the report is made: *Provided,* That for an applicant filing pursuant to paragraph (a)(2) of this section the period must be the year ending as of the date of the statement of financial condition; (iii) a statement of the computation of the minimum capital requirements pursuant to § 1.17

and a schedule of segregation requirements and funds on deposit in segregation, as of the date for which the report is made; (iv) appropriate footnote disclosures; and (v) in addition to the information expressly required, such further material information as may be necessary to make the required statements not misleading.

(3) The statements required by paragraphs (d)(2)(i) and (d)(2)(ii) of this section may be presented in accordance with generally accepted accounting principles in the certified reports filed as of the close of the registrant's fiscal year pursuant to paragraph (b)(2) of this section or accompanying the application for registration pursuant to paragraph (a)(2) of this section, rather than in the format specifically prescribed by these regulations: *Provided,* the statement of financial condition is presented in a format as consistent as possible with the form 1-FR and a reconciliation is provided reconciling such statement of financial condition to the statement of the computation of the minimum capital requirements pursuant to § 1.17. Such reconciliation must be certified by an independent public accountant in accordance with § 1.16.

(4) Attached to each form 1-FR filed pursuant to this § 1.10 must be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the form 1-FR is true and correct. If the applicant or registrant is a sole propreitorship, then the oath or affirmation must be made by the proprietor; if a partnership, by a general partner; or if a corporation, by the chief executive officer or chief financial officer.

(e) *Election of fiscal year.* (1) Any applicant or registrant wishing to establish a fiscal year other than the calendar year may do so by notifying the Commission and the designated self-regulatory organization, if any, of its election of such fiscal year in writing, concurrently with the filing of the form 1-FR pursuant to paragraph (a)(2) of this section or within 90 days of the effective date of this section, but in no event may such fiscal year end more than one year from the date of the form 1-FR filed pursuant to paragraph (a)(2) of this section or more than one year from the effective date of this regulation. An applicant or registrant which does not so notify the Commission and the designated self-regulatory organization, if any, will be deemed to have elected the calendar year as its fiscal year. A registrant must continue to use its elected fiscal year, calendar or otherwise, unless a change in such fiscal year is approved upon written application to the principal office of the Commission in Washington, D.C., and written notice of such change is given to the designated self-regulatory organization, if any.

(2) Any applicant or registrant may elect to file its form 1-FR for each calendar quarter in lieu of each fiscal quarter by notifying the Commission and the designated self-regulatory organization, if any, of its election, in writing, concurrently with the filing of the form 1-FR pursuant to paragraph (a)(2) of this section or within 90 days after the effective date of this section. Any registrant wishing to change such election or to make such election other than concurrently with the filing of the form 1-FR pursuant to paragraph (a)(2) of this section or within 90 days of the effective date of this section may do so only if such change or election is approved by the Commission upon written application to the principal office of the Commission in Washington, D.C., and written notice of such change is given to the designated self-regulatory organization, if any.

(f) *Extension of time for filing reports.* In the event any applicant or registrant finds that it cannot file its report for any period within the time specified in paragraphs (b)(1), or (b)(4) of this section or paragraph (b) of § 1.12 without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for an extension of time to a specified date which may not be more than 90 days after the date as of which the financial statements were to have been filed. The application must state the reasons for the requested extension and must contain an agreement to file the report on or before the specified date. The application must be received by the Commission before the time specified in paragraphs (b)(1), or (b)(4) of this section or paragraph (b) of § 1.12 for filing the report. Notice of such application must be given to the designated self-regulatory organization, if any, concurrently with the filing of such application with the Commission. Within 10 calendar days after receipt of the application for an extension of time, the Commission shall: (i) Notify the applicant or registrant of the grant or denial of the requested extension; or (ii) indicate to the applicant or registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified. (See § 1.16(f) for extension of the time for filing certified financial statements.)

(g) *Nonpublic treatment of reports.* All of the forms 1-FR filed pursuant to this section will be public: *Provided, however,* That if the statement of financial condition, the computation of the minimum capital requirements pursuant to § 1.17, and the schedule of segregation requirements and funds on deposit in segregation are bound separately from the other financial statements (including the statement of income (loss)), footnote disclosures and schedules of form 1-FR, trade secrets and certain other commercial or financial information on such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and part 145 of this chapter. All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, by any self-regulatory organization of which the person filing such report is a member, and by any other person to whom the Commission believes disclosure of such information is in the public interest. Nothing in this paragraph (g) will limit the authority of any self-regulatory organization to request or receive any information relative to its members' financial condition. the independent accountant's opinion filed pursuant to this § 1.10 will be deemed pubic information.

3. By adopting a new § 1.12 to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants.

(a) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than the minimum required by § 1.17 or by the capital rule of any self-regulatory organization to which such person is subject, if any, must:

(1) Give telegraphic notice as set forth in paragraph (f) of this section that such applicant's or registrant's adjusted net capital is less than is required by § 1.17 or by such other capital rule, identifying the applicable capital rule. This notice must be given within 24 hours after such applicant or registrant knows or should have known that its adjusted net capital is less than required by any of the aforesaid rules to which such applicant or registrant is subject; and (2) within 24 hours after giving such notice file a statement of financial condition, a statement of the computation of the minimum capital requirements pursuant to § 1.17 (computed in accordance with the applicable capital rules), and a schedule of segregation requirements and funds on deposit in segregation, all as of the date such applicant's or registrant's adjusted net capital is less than the minimum required.

(b) Each person registered as a futures commission merchant, or who files an application for registration as

a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than (1) the greater of 150 percent of the appropriate minimum dollar amount required by §1.17 or 8⅓ percent of aggregate indebtedness or (2) if the applicant or registrant is operating pursuant to §1.17(g), the greatest of 150 percent of the appropriate minimum dollar amount required by § 1.17(g), or 6 percent of the funds required to be segregated pursuant to section 4d(2) of the act and these regulations, or for securities brokers or dealers, 6 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements (§ 240.15c3-3 of this title); such applicant or registrant must file written notice to that effect as set forth in paragraph (f) of this section within five (5) business days of such event. Such applicant or registrant must also file a form 1-FR or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

(c) If an applicant or registrant at any time fails to make or keep current the books and records required by these regulations, such applicant or registrant must, on the same day such event occurs, give telegraphic notice of such fact, specifying the books and records which have not been made or which are not current, and within 5 business days after giving such notice file a written report stating what steps have been and are being taken to correct the situation.

(d) Whenever any applicant or registrant discovers or is notified by an independent public accountant, pursuant to § 1.16(e)(2) of these regulations, of the existence of any material inadequacy, as specified in § 1.16(d)(2) of these regulations, such applicant or registrant must give telegraphic notice of such material inadequacy within 3 business days, and within 5 business days after giving such notice file a written report stating what steps have been and are being taken to correct the material inadequacy.

(e) Whenever any self-regulatory organization learns that a member registrant has failed to file a notice or written report as required by this § 1.12, such self-regulatory organization must immediately report such failure as provided in paragraph (f) of this section.

(f) Every notice and written report required to be given or filed by this section must be filed with the regional office of the Commission for the region in which the applicant or registrant has its principal place of business, with the designated self-regulatory organization, if any, and with the Securities and Exchange Commission, if such applicant or registrant is a securities broker or dealer. In addition, every notice required to be given by this section must also be filed with the principal office of the Commission in Washington, D.C. Each statement of financial condition, each statement of the computation of the minimum capital requirements pursuant to § 1.17, and each schedule of segregation requirements and funds on deposit in segregation required by this section must be filed in accordance with the provisions of § 1.10(d) of these regulations, unless otherwise indicated.

4. By adding a new § 1.16 as follows:

§ 1.16 Qualifications and reports of accountants.

(a) *Definitions*—(1) *Accountant's report.* The term "accountant's report," when used in regard to financial statements and schedules, means a document in which an independent licensed or certified public accountant indicates the scope of the audit (or examination) which he has made and sets forth his opinion regarding the financial statements and schedules taken as a whole or an assertion to the fact that an overall opinion cannot be expressed. When an overall opinion cannot be expressed, the reasons therefore must be stated.

(2) *Audit or examination.* The terms "audit" and "examination," when used in regard to financial statements and schedules, mean an examination of the statements and schedules by an accountant in accordance with generally accepted auditing standards for the purposes of expressing an opinion thereon.

(3) *Certified.* The term "certified," when used in regard to financial statements and schedules, means audited and reported upon with an opinion expressed by an independent certified public accountant or independent licensed public accountant.

(b) *Qualifications of accountants.* (1) The Commission will recognize any person as a certified public accountant who is duly registered and in good standing as such under the laws of the place of his residence or principal office. The Commission will recognize any person as a licensed public accountant who was duly licensed on or before December 31, 1970, and is in good standing as such under the laws of the place of his residence or principal office.

(2) The Commission will not recognize any certified public accountant or licensed public accountant as independent who is not in fact independent. For example, an accountant will not be considered independent with respect to any applicant or registrant or any parent, subsidiary, or other affiliate of such applicant or registrant (i) in which, during the period of his professional engagement to examine the financial statements and schedules being reported on or at the date of his report, he or his firm or a member thereof had, or was committed to acquire, any direct financial interest or any material indirect financial interest, or (ii) with which, during the period of his professional engagement to examine the financial statements and schedules being reported on, at the date of his report or during the period covered by the financial statements, he or his firm or a member thereof was connected as a promoter, underwriter, voting trustee, director, officer, or employee, except that a firm will be deemed independent with respect to an applicant or registrant and its affiliates if a former employee or officer of such applicant or registrant or any such affiliate is employed by the firm and such individual has completely disassociated himself from the applicant or registrant and its affiliates and does not participate in auditing financial statements and schedules of the applicant or registrant or its affiliates covering any period of his employment by the applicant or registrant or its affiliates. An accountant will not be considered independent if he or his firm or a member thereof performs manual or automated bookkeeping services or assumes responsibility for maintenance of the accounting records, including accounting classification decisions, of such applicant or registrant or any of its affiliates. For the purposes of this § 1.16(b), the term "member" means all partners in the firm and all professional employees participating in the audit or located in the office of the firm participating in a significant portion of the audit.

(3) In determining whether an accountant may in fact not be independent with respect to a particular applicant or registrant, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that applicant or registrant or any affiliate thereof, and will not confine itself to the relationship existing in connection with the filing of reports with the Commission.

(c) *Accountant's reports.*—(1) *Technical requirements.* The accountant's report (i) must be dated, (ii) must be signed manually, (iii) must indicate the city and State where issued and (iv) must identify without detailed enumeration the financial statements covered by the report.

(2) *Representations as to the audit.* The accountant's report (i) must state whether the audit was made in accordance with generally accepted auditing standards, and (ii) must designate any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which have been omitted and the reasons for their omission. However, nothing in this paragraph (c)(2) shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit made for the purposes of expressing the opinion required by paragraph (c)(3) of this section.

(3) *Opinion to be expressed.* The accountant's report must state clearly: (i) The opinion of the accountant with respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected therein and (ii) the opinion of the accountant as to the consistency of the application of the accounting principles, or as to any changes in such principles which have material effect on the financial statements and schedules.

(4) *Exceptions.* Any matters to which the accountant takes exception must be clearly identified, such exceptions specifically and clearly stated, and to the extent practicable, the effect of each exception on related financial statements and schedules given.

(5) *Accountant's report on material inadequacies.* A registrant must file concurrently with the annual audit report a supplemental report by the accountant describing any material inadequacies found to exist or found to have existed since the date of the previous audit. An applicant must file concurrently with the audit report a supplemental report by the accountant describing any material inadequacies found to exist as of the date of the form 1-FR being filed. The supplemental report must indicate any corrective action taken or proposed by the applicant or registrant in regard thereto. If the audit did not disclose any material inadequacies, the supplemental report must so state.

(d) *Audit objectives.* (1) The audit must be made in accordance with generally accepted auditing standards and must include a review and appropriate tests of the accounting system, the internal accounting control, and the procedures for safeguarding customer and firm assets in accordance with the provisions of the Act and the regulations thereunder, since the prior examination date. The audit must include all procedures necessary under the circumstances to enable the independent licensed or certified public accountant to express an opinion on the financial statements and schedules. The scope of the audit and review of the accounting system, the internal controls, and procedures for safeguarding customer and firm assets must be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination in (i) the accounting system, (ii) the internal accounting controls, and (iii) the procedures for safeguarding customer and firm assets (including the segregation requirements of section 4d(2) of the Act and these regulations) will be discovered. Additionally, as specified objectives the audit must include reviews of the practices and procedures followed by the registrant in making (*a*) periodic computations of the minimum financial requirements pursuant to § 1.17 and (*b*) daily computations of the segregation requirements of section 4d(2) of the Act and these regulations.

(2) A material inadequacy in the accounting system, the internal accounting controls, the procedures for safeguarding customer and firm assets, and the practices and procedures referred to in paragraph (d)(1) of this section which is to be reported in accordance with paragraph (e)(2) of this section includes any conditions which contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to:

(i) Inhibit an applicant or registrant from promptly completing transactions or promptly discharging his responsibilities to customers or other creditors;

(ii) Result in material financial loss;

(iii) Result in material misstatement of the applicant's or registrant's financial statements and schedules; or

(iv) Result in violations of the Commission's segregation, recordkeeping or financial reporting requirements to the extent that could reasonably be expected to result in the conditions described in paragraphs (d)(2)(i), (ii), or (iii) of this section.

(e) *Extent and timing of audit procedures.* (1) The extent and timing of audit procedures are matters for the independent public accountant to determine on the basis of his review and evaluation of existing internal controls and other audit procedures performed in accordance with generally accepted auditing standards and the audit objectives set forth in paragraph (d) of this section. In determining the extent of testing, consideration must be given to the materiality of an area and to the possible effect on the financial statements and schedules of a material misstatement in a related account.

(2) If during the course of an audit or interim work, the independent public accountant determines that any material inadequacies exist in the accounting system, in the internal accounting control, in the procedures for safeguarding customer or firm assets, or as otherwise defined in paragraph (d) of this section, he must call such inadequacies to the attention of the applicant or registrant, who has the responsibility to inform the Commission and the designated self-regulatory organization, if any, in accordance with paragraph (d) of § 1.12. The applicant or registrant must also furnish the accountant with a copy of said notice to the Commission within 3 business days. If the accountant fails to receive such notice from the applicant or registrant within 3 business days, or if he disagrees with the statements contained in the notice of the applicant or registrant, the accountant must inform the Commission and the designated self-regulatory organization, if any, by reporting the material inadequacy within 3 business days thereafter. Such report from the accountant must, if the applicant or registrant failed to file a notice, describe the material inadequacies found to exist. If the applicant or registrant filed a notice, the accountant must file a report detailing the aspects, if any, of the applicant's or registrant's notice with which the accountant does not agree.

(f) *Extension of time for filing audited reports.* (1) In the event any applicant or registrant finds that it cannot file its certified financial statements and schedules for any year within the time specified in § 1.10 without substantial undue hardship, it may file with the principal office of the Commission in Washington, D.C., an application for extension of time to a specified date not more than 90 days after the date as of which the certified financial statements and schedules were to have been filed. Notice of such application must be sent to the designated self-regulatory organization, if any. The application must be made by the applicant or registrant and must: (i) State the reasons for the requested extension; (ii) indicate that the inability to make a timely filing is due to circumstances beyond the control of the applicant or registrant, if such is the case, and describe briefly the nature of such circumstances; (iii) be accompanied by the latest available formal computation of his adjusted net capital and minimum financial requirements computed in accordance with § 1.17; (iv) be accompanied by the latest available computation of re-

quired segregation and by a computation of the amount of money, securities, and property segregated on behalf of customers as of the date of the latest available computation; (v) contain an agreement to file the report on or before the date specified by the applicant or registrant in the application; (vi) be received by the principal office of the Commission in Washington, D.C., and by the designated self-regulatory organization, if any, prior to the date on which the report is due; and (vii) be accompanied by a letter from the independent public accountant answering the following questions:

A. What specifically are the reasons for the extension request?

B. On the basis of that part of your audit to date, do you have any indication that may cause you to consider commenting on any material inadequacies in the accounting system, internal accounting controls or procedures for safeguarding customer or firm assets?

C. Do you have any indication from the part of your audit completed to date that would lead you to believe that the firm was or is not meeting the minimum capital requirements specified in § 1.17 or the segregation requirements of section 4d(2) of the Act and these regulations, or has any significant financial or recordkeeping problems?

(2) Within 10 calendar days after receipt of an application for extension of time, the Commission shall: (i) Notify the applicant or registrant of the grant or denial of the requested extension; or (ii) Indicate to the applicant or registrant that additional time is required to analyze the request, in which case the amount of time needed will be specified.

(3) On the written request of any designated self-regulatory organization, or an applicant or registrant, or on its own motion, the Commission may grant an extension of time or an exemption from any of the certified financial reporting requirements of this chapter either unconditionally or on specified terms and conditions.

(g) *Replacement of accountant.* (1) In the event (i) the independent public accountant who was previously engaged as the principal accountant to audit an applicant's or registrant's financial statements resigns (or indicates he declines to stand for re-election after the completion of the current audit) or is dismissed as the applicant's or registrant's principal accountant, (ii) another independent accountant is engaged as principal accountant, or (iii) an independent accountant on whom the principal accountant expresses reliance in his report regarding a subsidiary resigns (or formally indicates he declines to stand for re-election after completion of the current audit) or is dismissed or another independent public accountant is engaged to audit that subsidiary, the applicant or registrant shall file written notice of such occurrence with the Commission at its principal office in Washington, D.C., and with the designated self-regulatory organization, if any, not more than 15 business days after such occurrence.

(2) Such notice must state (i) the date of such resignation (or declination to stand for re-election, dismissal or engagement) and (ii) whether, in connection with the audits of the two most recent fiscal years and any subsequent interim period preceding such resignation, dismissal or engagement, there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statements disclosure, auditing scope or procedures, or compliance with the applicable rules of the Commission, which, if not resolved to the satisfaction of the former accountant, would have caused him to make reference in connection with his report to the subject matter of the disagreements (if so, describe such disagreements). The disagreements required to be reported in this paragraph (g)(2) include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this paragraph (g)(2) are those which occur at the decision-making level, i.e., between personnel of the registrant responsible for presentation of its financial statements and schedules and personnel of the accounting firm responsible for rendering its report. The notice must also state whether the accountant's report on the financial statements and schedules for any of the past 2 years contained an adverse opinion or a disclaimer of opinion or was qualified as to uncertainties, audit scope, or accounting principles (if so, describe the nature of each such adverse opinion, disclaimer of opinion, or qualification). The applicant or registrant must also request the former accountant to furnish the applicant or registrant with a letter addressed to the Commission stating whether he agrees with the statements contained in the notice of the applicant or registrant and, if not, stating the respects in which he does not agree. Each copy of the notice and accountant's letter must be manually signed by the sole proprietor or a general partner or a duly authorized corporate officer of the applicant or registrant, as appropriate, and by the accountant.

(3) If (i) within the 24 months prior to the date of the most recent audited financial statement, a notice has been filed pursuant to paragraph (g)(1) of this section reporting a change of accountants, (ii) included in such filing there is a reported disagreement on any matters of accounting principles or practices, financial statements disclosure, auditing scope, or noncompliance with the applicable rules of the Commission, (iii) during the fiscal year in which the change in accountants took place or during the subsequent fiscal year, there have been any transactions or events similar to those which involved a reported disagreement, and (iv) such transactions or events are material and were accounted for or disclosed in a manner different from that which the former accountant apparently would have concluded was required, the existence and nature of the disagreements and also the effect on the financial statements must be stated in a written notice to the Commission at its principal office in Washington, D.C., and the designated self-regulatory organization, if any, if the method which the former accountant apparently would have concluded was required had been followed. These disclosures need not be made if the method asserted by the former accountant ceases to be generally accepted because of authoritative standards or interpretations subsequently issued. The notice required by this paragraph (g)(3) must be filed by the applicant or registrant concurrently with the financial statements and schedules to which it pertains.

5. By amending § 1.17 to read as follows:

§ 1.17 Minimum financial requirements—futures commission merchants

(a)(1) Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of (i) the greater of $50,000 (after June 30, 1979, $100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization) or 6⅔ percent of aggregate indebtedness, or, (ii) in the case of a registrant electing to operate pursuant to paragraph (g) of this section, the greatest of $50,000 (after June 30, 1979, $100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or 4 percent of the funds required to be segregated pursuant to the Act and these regulations, or for securities brokers and dealers, 4 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements (exhibit A to rule 15c3-3, 17 CFR 240.15c3-3).

(2) The requirements of paragraph (a)(1) of this section shall not be applicable if the registrant is a member of a designated self-regulatory organization and conforms to minimum financial standards and related reporting requirements set by such designated

self-regulatory organization in its bylaws, rules, regulations or resolutions approved by the Commission pursuant to section 4f(2) of the Act and § 1.52 after the effective date of this regulation.

(3) No person applying for registration as a futures commission merchant shall be so registered unless such person affirmatively demonstrates to the satisfaction of the Commission that it complies with the financial requirements of this § 1.17. Each registrant must be in compliance with this § 1.17 at all times and must be able to demonstrate such compliance to the satisfaction of the Commission and/or the designated self-regulatory organization.

(4) A registrant who is not in compliance with this § 1.17 or unable to demonstrate compliance with this § 1.17 as required by paragraph (a)(3) of this section, must transfer all customer accounts and immediately cease doing business as a futures commission merchant until such time as the registrant is able to demonstrate such compliance. *Provided, however,* The registrant may trade for liquidation purposes only unless otherwise directed by the Commission and/or the designated self-regulatory organization. *Provided, further,* That if such registrant immediately demonstrates to the satisfaction of the Commission or the designated self-regulatory organization the ability to achieve compliance, the Commission or the designated self-regulatory organization may allow such registrant up to a maximum of 10 business days in which to achieve compliance without having to transfer accounts and cease doing business as required above. Nothing in this paragraph (a)(4) shall be construed as preventing the Commission or the designated self-regulatory organization from taking action against a registrant for non-compliance with any of the provisions of this section.

(b) For the purposes of this section:

(1) Where the applicant or registrant has an asset or liability which is defined in Securities Exchange Act rule 15c3-1 (§ 240.15c3-1 of this title) the inclusion or exclusion of all or part of such asset or liability for the computation of adjusted net capital and aggregate indebtedness shall be in accordance with § 240.15c3-1 of this title, unless specifically stated otherwise in this § 1.17.

(2) "Customer" means customer (as defined in § 1.3(k)) and option customer (as defined in § 32.1(c)).

(3) "Proprietary account" means a commodity futures or options account carried on the books of the applicant or registrant for the applicant or registrant itself, or for general partners in the applicant or registrant.

(4) "Noncustomer account" means a commodity futures or option account carried on the books of the applicant or registrant which is not included in the definition of customer (as defined in § 1.17(b)(2)) or proprietary account (as defined in § 1.17(b)(3)).

(5) "Commodity option", "options customer", and, "striking price", have the same meaning as in part 32 of these regulations.

(6) "Business day" means any day other than a Sunday, Saturday, or holiday.

(c) Definitions: For the purposes of this section:

(1) "Net capital" means the amount by which current assets exceed liabilities. In determining "net capital":

(i) Unrealized profits shall be added and unrealized losses shall be deducted in the accounts of the applicant or registrant, including unrealized profits and losses on fixed price commitments and forward contracts;

(ii) All long and all short positions in listed security options shall be marked to their market value and all long and all short securities and commodities positions shall be marked to their market value;

(iii) The value attributed to any nontransferable commodity option shall be the difference between the option's striking price and the market value for the actual commodity or futures contract which is the subject of the option. In the case of a call commodity option, if the market value for the actual commodity or futures contract which is the subject of the option is less than the striking price of the option, it shall be given no value. In the case of a put commodity option, if the market value for the actual commodity or futures contract which is the subject of the option is more than the striking price of the option, it shall be given no value; and

(iv) The value attributed to any unlisted security option shall be the difference between the option's exercise value or striking value and the market value of the underlying security. In the case of an unlisted call, if the market value of the underlying security is less than the exercise value or striking value of such call, it shall be given no value; and, in the case of an unlisted put, if the market value of the underlying security is more than the exercise value or striking value of the unlisted put, it shall be given no value.

(2) The term "current assets" means cash and other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold during the next 12 months. "Current assets" shall:

(i) Exclude any unsecured commodity futures or option account containing a ledger balance and open trades, the combination of which liquidates to a deficit or containing a debit ledger balance only: *Provided, however,* deficits or debit ledger balances in unsecured customers', non-customers' and proprietary accounts, which are the subject of calls for margin or other required deposits which are outstanding one business day or less, may be included in current assets;

(ii) Exclude all unsecured receivables, advances and loans except for:

(A) Receivables resulting from the marketing of inventories commonly associated with the business activities of the applicant or registrant and advances on fixed price purchases commitments: *Provided,* Such receivables or advances are outstanding no longer than 3 calendar months from the date that they are accrued;

(B) Interest receivable, floor brokerage receivable, commissions receivable from other brokers or dealers (other than syndicate profits), mutual fund concessions receivable and management fees receivable from registered investment companies and commodity pools: *Provided,* Such receivables are outstanding no longer than thirty (30) days from the date they are due; and dividends receivable outstanding no longer than thirty (30) days from the payable date;

(C) Receivables from "clearing organizations," option clearing organizations, foreign clearing organizations and securities clearing organizations;

(D) Receivables from registered futures commission merchants or brokers, resulting from commodity futures or option transactions, except those specifically excluded under paragraph (c)(2)(i) of this section;

(E) Insurance claims which arise from a reportable segment of the applicant's or registrant's overall business activities, as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security and security option segments of the applicant's or registrant's business activities which are not outstanding more than 3 calendar months after the date they are recorded as a receivable;

(F) All other insurance claims not subject to paragraph (c)(2)(ii)(E) of this section, which are not older than seven (7) business days from the date the loss giving rise to the claim is discovered; insurance claims which are not older than twenty (20) business days from the date the loss giving rise to the claim is discovered and which are covered by an option of outside counsel that the claim is valid and is covered by insurance policies presently in effect; insurance claims which are older than twenty (20) business days from the date the loss giving rise to the claim is discovered and which are covered by an opinion of outside coun-

sel that the claim is valid and is covered by insurance policies presently in effect and which have been acknowledged in writing by the insurance carrier as due and payable: *Provided,* Such claims are not outstanding longer than twenty (20) business days from the date they are so acknowledged by the carrier;

(iii) Exclude all prepaid expenses and deferred charges;

(iv) Exclude all inventories except for:

(A) Readily marketable spot commodities; or spot commodities which "adequately collateralize" indebtedness under paragraph (c)(7) of this section;

(B) Securities which are considered "readily marketable" (as defined in § 240.15c3-1(c)(11) of this title) or which "adequately collateralize" indebtedness under paragraph (c)(7) of this section;

(C) Work in process and finished goods which result from the processing of commodities at market value;

(D) Raw materials at market value which will be combined with spot commodities to produce a finished processed commodity; and

(E) Inventories held for resale commonly associated with the business activities of the applicant or registrant;

(v) Include fixed assets and assets which otherwise would be considered noncurrent to the extent of any indebtedness excluded in accordance with paragraph (c)(6)(v) of this section: *Provided,* Such liabilities are not excluded from liabilities in the computation of net capital under paragraph (c)(4)(v) of this section;

(vi) Exclude all assets doubtful of collection or realization less any reserves established therefor;

(vii) Include, in the case of future income tax benefits arising as a result of unrealized losses, the amount of such benefits not exceeding the amount of income tax liabilities accrued on the books and records of the applicant or registrant, but only to the extent such benefits could have been applied to reduce accrued tax liabilities on the date of the capital computation, had the related unrealized losses been realized on that date;

(viii) Include guarantee deposits with clearing organizations and stock in clearing organizations to the extent of its margin value; and

(ix) Exclude exchange memberships.

(3) A loan or advance or any other form of receivable shall not be considered "secured" for the purposes of paragraph (c)(2) of this section unless the following conditions exist:

(i) The receivable is secured by readily marketable collateral which is otherwise unencumbered and which can be readily converted into cash equal to or in excess of that part of the receivable which is shown in the applicant's or registrant's records as secured; and

(ii)(A) The readily marketable collateral is in the possession or control of the applicant or registrant; or

(B) The applicant or registrant has a legally enforceable, written security agreement, signed by the debtor, and has a perfected security interest in the readily marketable collateral within the meaning of the laws of the State in which the readily marketable collateral is located.

(4) The term "liabilities" means the total money liabilities of an applicant or registrant arising in connection with any transaction whatsoever, including economic obligations of an applicant or registrant that are recognized and measured in conformity with generally accepted accounting principles. "Liabilities" also include certain deferred credits that are not obligations but that are recognized and measured in conformity with generally accepted accounting principles. For the purposes of computing "net capital", the term "liabilities":

(i) Excludes liabilities of an applicant or registrant which are subordinated to the claims of all general creditors of the applicant or registrant pursuant to a satisfactory subordination agreement, as defined in paragraph (h) of this section;

(ii) Excludes the amount of money, securities and property due to commodity futures or option customers which is held in segregated accounts in compliance with the requirements of the Act and these regulations: *Provided, however,* That such exclusion may be taken only if such money, securities and property held in segregated accounts have been excluded from current assets in computing net capital;

(iii) Includes, in the case of an applicant or registrant who is a sole proprietor, the excess of liabilities which have not been incurred in the course of business as a futures commission merchant over assets not used in the business;

(iv) Excludes the lesser of any deferred income tax liability related to the items in (A), (B), and (C) below, or the sum of (A), (B), and (C) below:

(A) The aggregate amount resulting from applying to the amount of the deductions computed in accordance with paragraph (c)(5) or paragraph (g) of this section, the appropriate Federal and State tax rate(s) applicable to any unrealized gain on the asset on which the deduction was computed;

(B) Any deferred tax liability related to income accrued which is directly related to an asset otherwise deducted pursuant to this section;

(C) Any deferred tax liability related to unrealized appreciation in value of any asset(s) which has been otherwise excluded from current assets in accordance with the provisions of this section; and

(v) Excludes liabilities which would be classified as long term in accordance with generally accepted accounting principles to the extent of the net book value of plant, property and equipment which is used in the ordinary course of any trade or business of the applicant or registrant which is a reportable segment of the applicant's or registrant's overall business activities, as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security and security option segments of the applicant's or registrant's business activities: *Provided,* That such plant, property and equipment is not included in current assets pursuant to paragraph (c)(2)(v) of this section: *And provided further,* That the exclusion provided for in this paragraph (c)(4)(v) does not apply when computing aggregate indebtedness pursuant to paragraph (c)(6) of this section.

(5) The term "adjusted net capital" means net capital less:

(i) The amount by which any advances paid by the applicant or registrant on cash commodity contracts and used in computing net capital exceeds 95 percent of the market value of the commodities covered by such contracts;

(ii) In the case of all inventory, fixed price commitments and forward contracts, except for inventory and forward contracts in those foreign currencies which are purchased or sold for future delivery on or subject to the rules of a contract market and covered by an open futures contract for which there will be no charge, the applicable percentage of the net position specified below:

(A) Inventory which is currently registered as deliverable on a contract market and covered by an open futures contract.—No charge.

(B) Inventory which is covered by an open futures contract or commodity option.—5 percent of the market value.

(C) Inventory which is not covered.—20 percent of the market value.

(D) Fixed price commitments (open purchases and sales) and forward contracts which are covered by an open futures contract or commodity option.—10 percent of the market value.

(E) Fixed price commitments (open purchases and sales) and forward contracts which are not covered by an open futures contract or commodity option.—20 percent of the market value.

(iii) [Reserved]

(iv) [Reserved]

(v) In the case of securities and obligations used by the applicant or registrant in computing net capital, and in the case of securities in segregation pursuant to section 4d(2) of the act

and these regulations which were not deposited by customers, the percentages specified in § 240.15c3-1(c)(2)(vi) of this title ("securities haircuts") and 100 percent of the value of "nonmarketable securities" as specified in § 240.15c3-1(c)(2)(vii) of this title, or where appropriate, for securities brokers or dealers the percentages specified in § 240.15c3-1(f) of this title;

(vi) In the case of securities options used by the applicant or registrant in computing net capital, the deductions specified, in § 240.15c3-1 appendix A of this title, after effecting certain adjustments to net capital for listed and unlisted options as set forth in such appendix;

(vii) In the case of an applicant or registrant who has open contractual commitments, as hereinafter defined, the deductions specified in § 240.15c3-1(c)(2)(viii) of this title;

(viii) For undermargined customer commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding 5 business days or less until December 31, 1980, four business days or less until December 31, 1982, and three business days or less thereafter. If there are no such maintenance margin requirements or clearing organization margin requirements on such accounts, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding five days or less until December 31, 1980, 4 days or less until December 31, 1982, and 3 days or less thereafter to restore original margin when the original margin has been depleted by 50 percent or more. Provided, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) of this section such amount shall not also be deducted under this paragraph (c)(5)(viii);

(ix) For undermargined non-customer and omnibus commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding 2 business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding two days or less to restore original margin when the initial margin has been depleted by 50 percent or more. Provided, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) of this section such amount shall not also be deducted under this paragraph (c)(5)(ix);

(x) In the case of open futures contracts held in proprietary accounts carried by the applicant or registrant which are not covered by a position held by the applicant or registrant or which are not the result of a "changer trade" made in accordance with the rule of a contract market:

(A) For an applicant or registrant which is a clearing member of a contract market for the positions on such contract market cleared by such member, the applicable margin requirement of the applicable clearing organization;

(B) For an applicant or registrant which is a member of a contract market 150 percent of the applicable maintenance margin requirement of the applicable board of trade or clearing organization, whichever is greater;

(C) For all other applicants or registrants, 200 percent of the applicable maintenance margin requirement of the applicable board of trade or clearing organization whichever is greater; or

(D) For open contracts for which there is no applicable maintenance margin requirements, 200 percent of the applicable initial margin requirement.

Provided, The equity in any such proprietary account shall reduce the deduction required by this paragraph (c)(5)(x) if such equity is not otherwise includable in adjusted net capital;

(xi) In the case of an applicant or registrant which is a taker of a commodity option, the amount of any commodity option premium which has been used to increase adjusted net captial (however, in the case of an applicant or registrant which is a grantor of a commodity option, the safety factor may be reduced by the amount of any commodity option premium which has not been previously recognized as income); and

(xii) In the case of a commodity option which is carried long by the applicant or registrant as a taker of a commodity option which has value and such value is used to increase adjusted net capital, ten percent of the market value of the commodity which is the subject of such option but in no event more than the value attributed to such option.

(xiii) Five percent of all unsecured receivables includable under paragraph (c)(2)(ii)(D) of this section used by the applicant or registrant in computing "net capital" and which are not receivable from (A) a registered futures commission merchant, or (B) a broker or dealer which is registered as such with the Securities and Exchange Commission.

(xiv) For securities brokers and dealers, all other deductions specified in § 240.15c3-1 of this title.

(6) The term "aggregate indebtedness" means "liabilities" as defined in paragraph (c)(4) of this section excluding:

(i) Indebtednesss adequately collateralized by spot commodities which are carried long by the applicant or registrant and indebtedness adequately collateralized by securities which are carried long by the applicant or registrant and which have not been sold, or by securities which collateralize a secured demand note pursuant to paragraph (h) of this section;

(ii) Indebtedness arising in connection with an advance to a non-proprietary account when such indebtedness is adequately collateralized by spot commodities eligible for delivery on a contract market and when such spot commodities are "covered";

(iii) Advances received by the applicant or registrant against bills of lading issued in connection with the shipment of commodities sold by the applicant or registrant;

(iv) Equity balances in the accounts of general partners;

(v) Long-term debt adequately collateralized by assets acquired for use in the ordinary course of the trade or business of an applicant or registrant, but no other long-term debt adequately collateralized by assets of the applicant or registrant shall be excluded unless the sole recourse of the creditor for nonpayment of such liability is to such asset;

(vi) Liabilities which are effectively subordinated to the claims of creditors (but which are not subject to a satisfactory subordination agreement as defined in paragraph (h) of this section) by other than customers of the applicant or registrant prior to such subordination, and such subordinations by customers as may be approved by the applicable designated self-regulatory organization or if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission; and

(vii) Deferred tax liabilities, not already excluded in paragraph (c)(4)(iv) of this section.

(7) "Liabilities" are "adequately collateralized" when, pursuant to a legally enforceable written instrument, such liabilities are secured by identified assets that are otherwise unencumbered and the market value of which exceeds the amount of such liabilities.

(8) The term "contractual commitments" shall include underwriting, when issued, when distributed, and delayed delivery contracts; and the writ-

ing or endorsement of security puts and calls and combinations thereof; but shall not include uncleared regular way purchases and sales of securities. A series of contracts of purchase or sale of the same security, conditioned, if at all, only upon issuance, may be treated as an individual commitment.

(d) Each applicant or registrant shall have equity capital (inclusive of satisfactory subordination agreements which qualify under this paragraph (d) as equity capital) of not less than 30 percent of the required debt-equity total, provided, an applicant or registrant may be exempted from the provisions of this paragraph (d) for a period not to exceed 90 days or for such longer period which the Commission may, upon application of the applicant or registrant, grant in the public interest or for the protection of investors. For the purposes of this paragraph (d):

(1) Equity capital means a satisfactory subordination agreement entered into by a partner or stockholder which has an initial term of at least 3 years and has a remaining term of not less than 12 months if: (A) It does not have any of the provisions for accelerated maturity provided for by paragraphs (h)(2) (ix)(A), (h)(2)(x)(A), or (h)(2)(x)(B) of this section, and is maintained as capital subject to the provisions restricting the withdrawal thereof required by paragraph (e) of this section, or (B) the partnership agreement provides that capital contributed pursuant to a satisfactory subordination agreement as defined in paragraph (h) of this section shall in all respects be partnership capital subject to the provisions restricting the withdrawal thereof required by paragraph (e) of this section, and

(i) In the case of a corporation, the sum of its par or stated value of capital stock, paid in capital in excess of par, retained earnings, unrealized profit and loss, and other capital accounts.

(ii) In the case of a partnership, the sum of its capital accounts of partners (inclusive of such partners' commodity and securities accounts subject to the provisions of paragraph (e) of this section), and unrealized profit and loss.

(iii) In the case of a sole proprietorship, the sum of its capital accounts of the sole proprietorship and unrealized profit and loss.

(2) Debt-equity total means equity capital as defined in paragraph (d)(1) of this section plus the outstanding principal amount of satisfactory subordination agreements.

(3) Required debt-equity total means debt-equity total as defined in paragraph (d)(2) of this section, less the excess of the applicant's or registrant's adjusted net capital over the minimum required by this § 1.17.

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated pursuant to paragraph (f) of this section, whether in the form of capital contributions by partners (including amounts in the commodities and securities trading accounts of partners which are treated as equity capital but excluding amounts in such trading accounts which are not equity capital and excluding balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par or stated value, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any payments of payment obligations (as defined in paragraph (h) of this section) under satisfactory subordination agreements and any payments of liabilities excluded pursuant to paragraph (c)(4)(v) of this section which are scheduled to occur within 6 months following such withdrawal, advance or loan, either adjusted net capital of any of the consolidated entities would be less than: (1) The greater of 120 percent of the appropriate minimum dollar amount required by § 1.17, or 10 percent of aggregate indebtedness, or (2) if the applicant or registrant is operating pursuant to § 1.17(g) the greatest of 120 percent of the appropriate minimum dollar amount required by § 1.17(g) or 7 percent of the amount required to be segregated pursuant to the Act and these regulations or for securities brokers or dealers, 7 percent of the aggregate debit items computed pursuant to § 240.15c3-3 of this title, or in the case of any applicant or registrant included within such consolidation, if equity capital of the applicant or registrant (inclusive of satisfactory subordination agreements which qualify as equity under paragraph (d) of this section) would be less than 30 percent of the required debt-equity total as defined in paragraph (d) of this section. *Povided,* That this provision shall not preclude an applicant or registrant from making required tax payments or preclude the payment to partners of reasonable compensation. The Commission may, upon application of the applicant or registrant, grant relief from this paragraph (e) if the Commission deems it to be in public interest or for the protection of nonproprietary accounts.

(f)(1) Every applicant or registrant, in computing its net capital and aggregate indebtedness pursuant to this section must, subject to the provisions of paragraphs (f)(2) and (f)(4) of this section, consolidate in a single computation, assets and liabilities of any subsidiary or affiliate for which it guarantees, endorses, or assumes directly or indirectly the obligations or liabilities. The assets and liabilities of a subsidiary or affiliate whose liabilities and obligations have not been guaranteed, endorsed, or assumed directly or indirectly by the applicant or registrant may also be so consolidated if an opinion of counsel is obtained as provided for in paragraph (f)(2) of this section.

(2)(i) If the consolidation, provided for in paragraph (f)(1) of this section, of any such subsidiary or affiliate results in the increase of the applicant's or registrant's adjusted net capital and/or increases the applicant's or registrant's percentage of adjusted net capital to aggregate indebtedness or increases the applicant's or registrant's adjusted net capital and/or decreases the minimum adjusted net capital requirement called for by paragraph (g)(1) of this section and an opinion of counsel called for in paragraph (f)(2)(ii) of this section has not been obtained, such benefits shall not be recognized in the applicant's or registrant's computation required by this section.

(ii) Except as provided for in paragraph (f)(2)(i) of this section, consolidation shall be permitted with respect to any subsidiaries or affiliates which are majority owned and controlled by the applicant or registrant and for which the applicant or registrant can demonstrate to the satisfaction of the Commission, and the designated self-regulatory organization, if any, by an opinion of counsel that the net asset values, or the portion thereof related to the parent's ownership interest in the subsidiary or affiliate, may be caused by the applicant or registrant or an appointed trustee to be distributed to the applicant or registrant within 30 calendar days. Such opinion must also set forth the actions necessary to cause such a distribution to be made, identify the parties having the authority to take such actions, identify and describe the rights of other parties or classes of parties, including but not limited to customers, general creditors, subordinated lenders, minority shareholders, employees, litigants, and governmental or regulatory authorities, who may delay or prevent such a distribution and such other assurances as the Commission or the designated self-regulatory organization by rule or interpretation may require. Such opinion must be current and periodically renewed in connection with the applicant's or regis-

trant's annual audit pursuant to § 1.10 or upon any material change in circumstances.

(3) In preparing a consolidated computation of adjusted net capital and/or aggregate indebtedness pursuant to this section, the following minimum and nonexclusive requirements shall be observed:

(i) Consolidated adjusted net capital shall be reduced by the estimated amount of any tax reasonably anticipated to be incurred upon distribution of the assets of the subsidiary or affiliate.

(ii) Liabilities of a consolidated subsidiary or affiliate which are subordinated to the claims of present and future creditors pursuant to a satisfactory subordination agreement shall be deducted from consolidated adjusted net capital unless such subordination extends also to the claims of present or future creditors of the parent applicant or registrant and all consolidated subsidiaries.

(iii) Subordinated liabilities of a consolidated subsidiary or affiliate which are consolidated in accordance with paragraph (f)(3)(ii) of this section may not be prepaid, repaid, or accelerated if any of the entities included in such consolidation would otherwise be unable to comply with the provisions of paragraph (h) of this section.

(iv) Each applicant or registrant included within the consolidation shall at all times be in compliance with the adjusted net capital requirement to which it is subject.

(4) No applicant or registrant shall guarantee, endorse, or assume directly or indirectly any obligation or liability of a subsidiary or affiliate unless the obligation or liability is reflected in the computation of adjusted net capital and/or aggregate indebtedness pursuant to this section except as provided in paragraph (f)(2)(i) of this section.

(g) A registrant may elect not to be subject to the limitations of paragaph (a) of this section respecting aggregate indebtedness as defined in paragraph (c)(6) of this section. *Provided*, That in order to qualify to operate under this paragraph (g), such registrant must at all times maintain adjusted net capital equal to the greatest of $50,000 (after June 30, 1979, $100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or 4 percent of the funds required to be segregated by the act and these regulations or for securities brokers or dealers, 4 percent of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (exhibit A to Securities Exchange Act Rule 15c3-3, § 240.15c3-3 of this title), and shall notify the designated self-regulatory organization, if any, and the Regional Office of the Commission in which the registrant has its principal place of business, in writing, of its election to operate under this provision. Once a registrant has determined to operate pursuant to the provisions of this paragaph (g), it must continue to do so unless a change in such election is approved by the Commission upon application thereto.

(1) A broker or dealer electing to operate pursuant to this paragraph (g) shall be subject to § 240.15c3-1(f) of this title in lieu of paragraph (c)(5)(v) of this section.

(2) A broker or dealer who is registered as such with the Securities and Exchange Commission and who is exempt from the provisions of § 240.15c3-3 of this title pursuant to paragraph (k)(1) or (k)(2)(i) of that section may not elect to use the alternative contained in this paragraph (g).

(h) The term satisfactory subordination agreement ("subordination agreement") means an agreement which contains the minimum and nonexclusive requirements set forth below.

(1) Certain definitions for purposes of this section:

(i) A subordination agreement may be either a subordinated loan agreement or a secured demand note agreement.

(ii) The term "subordinated loan agreement" means the agreement or agreements evidencing or governing a subordinated borrowing of cash.

(iii) The term "collateral value" of any securities pledged to secure a secured demand note means the market value of such securities after giving effect to the percentage deductions specified in paragraph (c) of this section.

(iv) The term "payment obligation" means the obligation of an applicant or registrant in respect to any subordination agreement: (A) To repay cash loaned to the applicant or registrant pursuant to a subordinated loan agreement; or (B) to return a secured demand note contributed to the applicant or registrant or to reduce the unpaid principal amount thereof and to return cash or securities pledged as collateral to secure the secured demand note; and (C) "payment" shall mean the performance by an applicant or registrant of a payment obligation.

(v) (A) The term "secured demand note agreement" means an agreement (including the related secured demand note) evidencing or governing the contribution of a secured demand note to an applicant or registrant and the pledge of securities and/or cash with the applicant or registrant as collateral to secure payment of such secured demand note. The secured demand note agreement may provide that neither the lender, his heirs, executors, administrators, or assigns shall be personally liable on such note and that in the event of default the applicant or registrant shall look for payment of such note solely to the collateral then pledged to secure the same.

(B) The secured demand note shall be a promissory note executed by the lender and shall be payable on the demand of the applicant or registrant to which it is contributed: *Provided, however*, That the making of such demand may be conditioned upon the occurrence of any of certain events which are acceptable to the designated self-regultory organization and the Commission.

(C) If such note is not paid upon presentment and demand as provided for therein, the applicant or registrant shall have the right to liquidate all or any part of the securities then pledged as collateral to secure payment of the same and to apply the net proceeds of such liquidation, together with any cash then included in the collateral, in payment of such note. Subject to the prior rights of the applicant or registrant as pledgee, the lender, as defined in § 1.17(h)(i)(v)(F) may retain ownership of the collateral and have the benefit of any increases and bear the risks fo any decreases in the value of the collateral and may retain the right to vote securities contained within the collateral and any right to income therefrom or distributions thereon, except the applicant or registrant shall have the right to receive and hold as pledgee all dividends payable in securities and all partial and complete liquidating dividends.

(D) Subject to the prior rights of the applicant or registrant as pledgee, the lender may have the right to direct the sale of any securities included in the collateral, to direct the purchase of securities with any cash included therein, to withdraw excess collateral or to substitute cash or other securities as collateral: *Provided*, That the net proceeds of any such sale and the cash so substituted and the securities so purchased or substituted are held by the applicant or registrant as pledgee, and are included within the collateral to secure payment of the secured demand note: *And provided further*, That no such transaction shall be permitted, if, after giving effect therto, the sum of the amount of any cash, plus the collateral value of the securities, then pledged as collateral to secure the secured demand note would be less than the unpaid principal amount of the secured demand note.

(E) Upon payment by the lender, as distinguished from a reduction by the lender which is provided for in paragraph (h)(2)(vi)(C) of this section or reduction by the applicant or registrant as provided for in paragraph (h)(2)(vii) of this section, of all or any

part of the unpaid principal amount of the secured demand note, the applicant or registrant shall issue to the lender a subordinated loan agreement in the amout of such payment (or in the case of an pplicant or registrant that is a partnership, credit a capital account of the lender), or issue preferred or common stock of the applicant or registrant in the amount of such payment, or any combination of the foregoing, as provided for in the secured demand note agreement.

(F) The term "lender" means the person who lends cash to an applicant or registrant pursuant to a subordinated loan agreement and the person who contributes a secured demand note to an applicant or registrant pursuant to a secured demand note agreement.

(2) Minimum requirements for subordination agreements:

(i) Subject to paragraph (h)(1) of this section, a subordination agreement shall mean a written agreement between the applicant or registrant and the lender, which:

(A) Has a minimum term of 1 year, except for temporary subordination agreements provided for in paragraph (h)(3)(v) of this section, and

(B) Is a valid and binding obligation enforceable in accordance with its terms (subject as to enforcement to applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws) against the applicant or registrant and the lender and their respective heirs, executors, administrators, successors, and assigns.

(ii) *Specific amount.* All subordination agreements shall be for a specific dollar amount which shall not be reduced for the duration of the agreement except by installments as specifically provided for therein and except as otherwise provided in this paragraph (h)(2) of this section.

(iii) *Effective subordination.* The subordination agreement shall effectively subordinate any right of the lender to receive any payment with respect thereto, together with accrued interest or compensation, to the prior payment or provision for payment in full of all claims of all present and future creditors of the applicant or registrant arising out of any matter occurring prior to the date on which the related payment obligation matures, except for claims which are the subject of subordination agreements which rank on the same priority as or junior to the claim of the lender under such subordination agreements.

(iv) *Proceeds of subordinated loan agreements.* The subordinated loan agreement shall provide that the cash proceeds thereof shall be used and dealt with by the applicant or registrant as part of its capital and shall be subject to the risks of the business.

(v) *Certain rights of the borrower.* The subordination agreement shall provide that the applicant or registrant shall have the right to:

(A) Deposit any cash proceeds of a subordinated loan agreement and any cash pledged as collateral to secure a secured demand note in an account or accounts in its own name in any bank or trust company;

(B) Pledge, repledge, hypothecate and rehypothecate, any or all of the securities pledged as collateral to secure a secured demand note, without notice, separately or in common with other securities or property for the purpose of securing any indebtedness of the applicant or registrant; and

(C) Lend to itself or others any or all of the securities and cash pledged as collateral to secure a secured demand note.

(vi) *Collateral for secured demand notes.* Only cash and securities which are fully paid for and which may be publicly offered or sold without registration under the Securities Act of 1933, and the offer, sale, and transfer of which are not otherwise restricted, may be pledged as collateral to secure a secured demand note. The secured demand note agreement shall provide that if at any time the sum of the amount of any cash, plus the collateral value of any securities, then pledged as collateral to secure the secured demand note is less than the unpaid principal amount of the secured demand note, the applicant or registrant must immediately transmit written notice to that effect to the lender, the designated self-regulatory organization, if applicable, and the Commission. The secured demand note agreement shall also require that following such transmittal:

(A) The lender, prior to noon of the business day next succeeding the transmittal of such notice, may pledge as collateral additional cash or securities sufficient, after giving effect to such pledge, to bring the sum of the amount of any cash plus the collateral value of any securities, then pledged as collateral to secure the secured demand note, up to an amount not less than the unpaid principal amount of the secured demand note; and

(B) Unless additional cash or securities are pledged by the lender as provided in (A) above, the applicant or registrant at noon on the business day next succeeding the transmittal of notice to the lender must commence sale, for the account of the lender, of such of the securities then pledged as collateral to secure the secured demand note and apply so much of the net proceeds thereof, together with such of the cash then pledged as collateral to secure the secured demand note as may be necessary to eliminate the unpaid principal amount of the secured demand note: *Provided, however,* That the unpaid principal amount of the secured demand note need not be reduced below the sum of the amount of any remaining cash, plus the collateral value of the remaining securities, then pledged as collateral to secure the secured demand note. The applicant or registrant may not purchase for its own account any securities subject to such a sale; and

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by (B) above, the lender with the prior written consent of the applicant or registrant and the designated self-regulatory organization or if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission may reduce the unpaid principal amount of the secured demand note: *Provided,* That after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than 10 percent of aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, adjusted net capital would not be less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations, or for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3-3 of this title. *Provided, further,* That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No designated self-regulatory organization shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, adjusted net capital would be less than 120 percent of the appropriate minimum dollar amount required by this section.

(vii) *Permissive prepayments.* An applicant or registrant at its option but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of 1 year from the date such subordination agreement became effective: *Provided, however,* That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of subparagraph (h)(3)(v) of this section. No prepayment shall be made, if, after giving effect thereto (and to all payments of payment obligations under

any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within 6 months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, either the adjusted net capital of the applicant or registrant is less than 10 percent of its aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, its adjusted net capital is less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations or for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3-3 of this title or its adjusted net capital is less than 120 percent of the appropriate minimum dollar amount required by this section. Notwithstanding the above, no prepayment shall occur without the prior written approval of the designated self-regulatory organization and the Commission.

(viii) *Suspended repayment.* (A) The payment obligation of the applicant or registrant in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the applicant or registrant under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation), either the adjusted net capital of the applicant or registrant would be less than 8⅓ percent of aggregate indebtedness, or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, adjusted net capital would be less than the greater of 6 percent of the funds required to be segregated pursuant to the Act and these regulations or for securities brok- ers or dealers, 6 percent of the aggregate debit items computed in accordance with § 240.15c3-3 of this title, or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by this section: *Provided,* That the subordination agreement may provide that if the payment obligation of the applicant or registrant thereunder does not mature and is suspended as a result of the requirement of this paragraph (h)(2)(viii) of this section for a period of not less than 6 months, the applicant or registrant shall then commence the rapid and orderly liquidation of its business, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

(B) Whenever a subordination agreement provides that an applicant or registrant shall commence a rapid and orderly liquidation, as permitted in paragraph (h)(2)(viii)(A), the date on which the liquidation commences shall be the maturity date for each subordination agreement of the applicant or registrant then outstanding, but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

(ix) *Accelerated maturity.* Obligation to repay to remain subordinate:

(A) Subject to the provisions of paragraph (h)(2)(viii) of this section, a subordination agreement may provide that the lender may, upon prior written notice to the applicant or registrant and the designated self-regulatory organization or if applicant or registrant is not a member of a designated self-regulatory organization, then the Commission, given not earlier than 6 months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the borrower, together with accrued interest or compensation, is scheduled to mature to a date not earlier than 6 months after giving of such notice, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this paragraph (h)(2) of this section.

(B) Notwithstanding the provisions of paragraph (h)(2)(viii) of this section, the payment obligation of the applicant or registrant with respect to a subordination agreement, together with accrued interest and compensation, shall mature in the event of any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to the bankruptcy laws, or any other marshalling of the assets and liabilities of the applicant or registrant, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section.

(x) *Accelerated maturity of subordination agreements on event of default and event of acceleration.* Obligation to repay to remain subordinate:

(A) A subordination agreement may provide that the lender may, upon prior written notice to the applicant or registrant and the designated self-regulatory organization or, if the applicant or registrant is not a member of a designated self-regulatory organization, the Commission, of the occurrence of any event of acceleration (as hereinafter defined) given no sooner than 6 months after the effective date of such subordination agreement, accelerate the date on which the payment obligation of the applicant or registrant, together with accrued interest or compensation, is scheduled to mature, to the last business day of a calendar month which is not less than 6 months after notice of acceleration is received by the applicant or registrant and the designated self-regulatory organization, or if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission. Any subordination agreement containing such events of acceleration may also provide that, if upon such accelerated maturity date the payment obligation of the applicant or registrant is suspended as required by paragraph (h)(2)(viii) of this section and liquidation of the applicant or registrant has not commenced on or prior to such accelerated maturity date, notwithstanding paragraph (h)(2)(viii) of this section, the payment obligation of the applicant or registrant with respect to such subordination agreement shall mature on the day immediately following such accelerated maturity date and in any such event the payment obligations of the applicant or registrant with respect to all other subordination agreements then outstanding shall also mature at the same time but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section. Events of acceleration which may be included in a subordination agreement complying with this paragraph (h)(2)(x) of this section shall be limited to:

(*1*) Failure to pay interest or any installment of principal on a subordination agreement as scheduled;

(*2*) Failure to pay when due other money obligations of a specified material amount;

(*3*) Discovery that any material, specified representation or warranty of the applicant or registrant which is included in the subordination agreement and on which the subordination agreement was based or continued was inaccurate in a material respect at the time made;

(*4*) Any specified and clearly measurable event which is included in the subordination agreement and which the lender and the applicant or registrant agree, (a) is a significant indication that the financial position of the applicant or registrant has changed materially and adversely from agreed upon specified norms; or (b) could materially and adversely affect the ability of the applicant or registrant to conduct its business as conducted on the date the subordination agreement was made; or (c) is a significant change in the senior management of the ap-

plicant or registrant or in the general business conducted by the applicant or registrant from that which obtained on the date the subordination agreement became effective;

(5) Any continued failure to perform agreed covenants included in the subordination agreement relating to the conduct of the business of the applicant or registrant or relating to the maintenance and reporting of its financial position; and

(*B*) Notwithstanding the provisions of paragraph (h)(2)(viii) of this section, a subordination agreement may provide that, if liquidation of the business of the applicant or registrant has not already commenced, the payment obligation of the applicant or registrant shall mature, together with accrued interest or compensation, upon the occurrence of an event of default (as hereinafter defined). Such agreement may also provide that, if liquidation of the business of the applicant or registrant has not already commenced, the rapid and orderly liquidation of the business of the applicant or registrant shall then commence upon the happening of an event of default. Any subordination agreement which so provides for maturity of the payment obligation upon the occurrence of an event of default shall also provide that the date on which such event of default occurs shall, if liquidation of the applicant or registrant has not already commenced, be the date on which the payment obligation of the applicant or registrant with respect to all other subordination agreements then outstanding shall mature but the rights of the respective lenders to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of paragraph (h)(2) of this section. Events of default which may be included in a subordination agreement shall be limited to:

(1) The making of an application by the Securities Investor Protection Corporation for a decree adjudicating that customers of the applicant or registrant are in need of protection under the Securities Investor Protection Act of 1970 and the failure of the applicant or registrant to obtain the dismissal of such application within 30 days;

(2) Failure to meet the minimum capital requirements of the designated self-regulatory organization, or of the Commission, throughout a period of 15 consecutive business days, commencing on the day the borrower first determines and notifies the designated self-regulatory organization, if any, of which he is a member and the Commission; or any self-regulatory organization or the Commission first determines and notifies the applicant or registrant of such fact;

(3) The Commission shall revoke the registration of the applicant or registrant;

(4) The self-regulatory organization shall suspend (and not reinstate within 10 days) or revoke the applicant or registrant's status as a member thereof;

(5) Any receivership, insolvency, liquidation pursuant to the Securities Investor Protection Act of 1970 or otherwise, bankruptcy, assignment for the benefit of creditors, reorganization whether or not pursuant to bankruptcy laws, or any other marshalling of the assets and liabilities of the applicant or registrant. A subordination agreement which contains any of the provisions permitted by this subparagraph (2)(x) shall not contain the provision otherwise permitted by paragraph (h)(2)(ix)(A) of this section.

(3) *Miscellaneous provisions*—(i) *Prohibited cancellation.* The subordination agreement shall not be subject to cancellation by either party; no payment shall be made with respect thereto and the agreement shall not be terminated, rescinded or modified by mutual consent or otherwise if the effect thereof would be inconsistent with the requirements of paragraph (h) of this section.

(ii) *Notice of maturity or accelerated maturity.* Every applicant or registrant shall immediately notify the designated self-regulatory organization and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following 6 months without reference to any projected profit or loss of the applicant or registrant, either the aggregate indebtedness of the applicant or registrant would exceed 8⅓ percent of its adjusted net capital, or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by § 1.17 or in the case of an applicant or registrant who is operating pursuant to paragraph (g) of § 1.17, its adjusted net capital would be less than the greater of 6 percent of the funds required to be segregated pursuant to the Act and these regulations or for securities brokers or dealers, 6 percent of the aggregate debit items computed in accordance with § 240.15c3-3 of this title.

(iii) *Certain legends.* If all the provisions of a satisfactory subordination agreement do not appear in a single instrument, then the debenture or other evidence of indebtedness shall bear on its face an appropriate legend stating that it is issued subject to the provisions of a satisfactory subordination agreement which shall be adequately referred to and incorporated by reference.

(iv) *Legal title to securities.* All securities pledged as collateral to secure a secured demand note must be in bearer form, or registered in the name of the applicant or registrant or the name of its nominee or custodian.

(v) *Temporary subordinations.* To enable an applicant or registrant to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the adjusted net capital requirements of this section, an applicant or registrant shall be permitted, on no more than three occasions in any 12-month period to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective. *Provided,* That this temporary relief shall not apply to any applicant or registrant if the adjusted net capital of the applicant or registrant is less than 10 percent of its aggregate indebtedness or in the case of an applicant or registrant operating pursuant to paragraph (g) of this section, its adjusted net capital is less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations or for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3-3 of this title, or its adjusted net capital is less than 120 percent of the appropriate minimum dollar amount required by this section, or the amount of equity capital as defined in paragraph (d) of this section is less than the limits specified in paragraph (d) of this section. Such temporary subordination agreement shall be subject to all the other provisions of this section.

(vi) *Filing.* Two copies of any proposed subordination agreement (including nonconforming subordination agreements) shall be filed with the Commission at least 10 days prior to the proposed execution date of the agreement or at such other time as the Commission for good cause shall accept such filing. Copies of the proposed agreement shall be filed in such quantities and at such time as the designated self-regulatory organization may require with the designated self-regulatory organization, if any, of which the applicant or registrant is a member. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carried funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined at the Commission or the designated self-regulatory organization with whom such agreements are required to be filed prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the designated self-regulatory organization or the Commission has found the agreement acceptable and such agreement has become effective in the form found acceptable.

(vii) *Subordination agreements in effect prior to adoption.* Any subordination agreement which has been entered into prior to the effective date of

this section and which has been deemed to be satisfactorily subordinated pursuant to this section previously in effect or the adjusted net capital rules of a self-regulatory organization shall continue to be deemed a satisfactory subordination agreement until the maturity of such agreement. *Provided,* That no renewal of an agreement which provides for automatic or optional renewal by the applicant or registrant or lender shall be deemed to be a satisfactory subordination agreement unless such renewal agreement meets the requirements of this section, within 6 months of the effective date of this section. *Provided further,* That all subordination agreements must meet the requirements of this rule within 5 years of the effective date of this section.

(4) A designated self-regulatory organization and the Commission may allow debt with a maturity date of 1 year or more to be treated as meeting the provisions of this paragraph (h): *Provided,* (i) Such exemption shall only be given when the registrant's adjusted net capital is less than the minimum required by this § 1.17 or by the capital rule of the designated self-regulatory organization to which such registrant is subject;

(ii) That such debt did not exist prior to its use under this paragraph (h)(4);

(iii) Such exemption shall be for a period of 30 days or such lesser period as the designated self-regulatory organization and the Commission may determine;

(iv) Such exemption shall not be allowed more than once in any 12 month period; and

(v) At all times during such exemption the registrant shall make a good faith effort to comply with the provisions of this § 1.17 or the capital rule of the designated self-regulatory organization to which such registrant is subject exclusive of any benefits derived from this paragraph (h)(4).

(i) [Reserved]

(j) For the purposes of this section "cover" is defined as follows:

(1) *General definition.* Cover shall mean transactions or positions in a contract for future delivery on a board of trade or a commodity option where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel, and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise, and where they arise from:

(i) The potential change in the value of assets which a person owns, produces, manufactures, processes, or merchandises or anticipates owning, producing, manufacturing, processing, or merchandising.

(ii) The potential change in the value of liabilities which a person owes or anticipates incurring, or

(iii) The potential change in the value of services which a person provides, purchases or anticipates providing or purchasing. Notwithstanding the foregoing, no transactions or positions shall be classified as cover for the purposes of this section unless their purpose is to offset price risks incidental to commercial cash or spot operations and such positions are established and liquidated in accordance with sound commercial practices and unless the provisions of paragraphs (j)(2) and (3) of this section have been satisfied.

(2) *Enumerated cover transactions.* The definition of covered transactions and positions in paragraph (j)(1) of this section includes, but is not limited to, the following specific transactions and positions:

(i) Ownership or fixed-price purchase of any commodity which does not exceed in quantity the sales of the same commodity for future delivery on a board of trade or the purchase of a put commodity option of the same commodity for which the market value for the actual commodity or futures contract which is the subject of the option is less than the striking price of the option.

(ii) Fixed-price sale of any commodity which does not exceed in quantity the purchase of the same commodity for future delivery on a board of trade or the purchase of a call commodity option of the same commodity for which the market value for the actual commodity or futures contract which is the subject of such option is more than the striking price of the option; and

(iii) Ownership or fixed price contracts of a commodity described in paragraphs (j)(2)(i) and (j)(2)(ii) of this section may also be covered other than by the same quantity of the same cash commodity, provided that the fluctuations in value of the position for future delivery or commodity option are substantially related to the fluctuations in value of the actual cash position.

(3) *Nonenumerated cases.* Upon specific request, the Commission may recognize transactions and positions other than those enumerated in paragraph (j)(2) of this section as cover in amounts and under the terms and conditions as it may specify. Any applicant or registrant who wishes to avail itself of the provisions of this paragraph (j)(3) must apply to the Commission in writing at its principal office in Washington, D.C. giving full details of the transaction including detailed information which will demonstrate that the transaction is economically appropriate to the reduction of risk exposure attendant to the conduct and management of a commercial enterprise.

6. By amending § 1.18 to read as follows:

§ 1.18 Records for and relating to financial reporting and monthly computation.

* * * * *

(b) Each applicant or registrant must make and keep as a record in accordance with § 1.31, formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. Such computations must be completed and made available for inspection by any representative of the Commission or designated self-regulatory organization, if any, within 30 days after the date for which the computations are made, commencing the first month-end after the date the application for registration is filed or the first month-end after the effective date of this section.

(c) [Revoked]

7. By adding a new § 1.52, to read as follows:

§ 1.52 Self-regulatory organization adoption and surveillance of minimum financial requirements.

(a) Each self-regulatory organization must adopt and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all its members who are registered futures commission merchants and shall submit for Commission approval any modification or other amendments to such rules. Such requirements must be the same as, or more stringent than, those contained in §§ 1.10 and 1.17, and the definition of adjusted net capital must be the same as that prescribed in § 1.17(c): *Provided, however,* A designated self-regulatory organization may determine the number of form 1-FR's it receives from its member registrants so long as it requires at least semiannual form 1-FR's, one of which must be certified in accordance with § 1.16 for each such registrant.

(b) Each self-regulatory organization shall have in effect and enforce rules submitted to the Commission pursuant to paragraph (a) of this section and approved by the Commission.

(c) Any two or more self-regulatory organizations may file with the Commission a plan for delegating to a designated self-regulatory organization, for any registered futures commission

merchant which is a member of more than one such self-regulatory organization, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial and related reporting requirements adopted by such self-regulatory organizations in accordance with paragraph (a) of this section; and

(2) Receiving the financial reports necessitated by such minimum financial and related reporting requirements.

Such a plan may also delegate the responsibility of examining the books and records kept by such registered futures commission merchant relating to its business of dealing in commodity futures and cash commodities, insofar as such business relates to its dealing on contract markets, as required by § 1.51(a)(3).

(d) Any plan filed under this § 1.52 may contain provisions for the allocation of expenses reasonably incurred by the designated self-regulatory organization among the self-regulatory organizations participating in such a plan.

(e) A plan's designated self-regulatory organization must report to that plan's other self-regulatory organizations any violation of such other self-regulatory organizations' rules and regulations for which the responsibiity to monitor, audit or examine has been delegated to such designated self-regulatory organization under this § 1.52.

(f) The self-regulatory organizations may, among themselves, establish programs to provide access to any necessary financial or related information.

(g) After appropriate notice and opportunity for comment, the Commission may, by written notice, approve such a plan, or any part of the plan, if it finds that the plan, or any part of it: (1) Is necessary or appropriate to serve the public interest; (2) is for the protection and in the interest of customers; (3) reduces multiple monitoring and auditing for compliance with the minimum financial rules of the self-regulatory organizations submitting the plan for any futures commission merchant which is a member of more than one self-regulatory organization; (4) reduces multiple reporting of the financial information necessitated by such minimum financial and related reporting requirements by any futures commission merchant which is a member of more than one self-regulatory organization; (5) fosters cooperation and coordination among the contract markets; and (6) does not hinder the development of a registered futures association under section 17 of the Act.

(h)(1) Upon the approval of a plan or part of one under § 1.52(g), a self-regulatory organization which is included in such a plan shall be considered to have met its affirmative action responsibilities under § 1.51 to the extent that such responsibilities have been delegated to a designated self-regulatory organization.

(2) After the Commission has approved a plan or part of one under § 1.52(g), a self-regulatory organization relieved of responsibility must notify each of its members which is subject to such a plan: (i) Of the limited nature of its responsibility for such a member's compliance with its minimum financial and related reporting requirements; and (ii) of the identity of the designated self-regulatory organization which has been delegated responsibility for such a member.

(i) The Commission may at any time, after appropriate notice and opportunity for hearing, withdraw its approval of any plan or part of one established under this § 1.52, if such plan or part of one ceases to effectuate adequately the purposes of section 4f(2) of the Act or of this § 1.52.

(j) Whenever a registered futures commission merchant holding membership in a self-regulatory organization ceases to be a member in good standing of that self-regulatory organization, such self-regulatory organization must, on the same day that event takes place, give telegraphic notice of that event to the principal office of the Commission in Washington, D.C., send a copy of that notification to such futures commission merchant.

(k) Nothing in this § 1.52 shall preclude the Commission from examining any futures commission merchant for compliance with the minimum financial and related reporting requirements to which such futures commission merchant is subject.

(l) In the event a plan is not filed and/or approved for each registered futures commission merchant which is a member of more than one self-regulatory organization, the Commission may design and, after notice and opportunity for comment, approve a plan for those futures commission merchants which are not the subject of an approved plan (under paragraph (g) of this section), delegating to a designated self-regulatory organization the responsibilities described in paragraph (c) of this section.

(7 U.S.C. 6c, 6d, 6f, 6g, 7a, 12a, 19, and 21.)

The foregoing adoption by the Commission of the amendments to §§ 1.3, 1.10, 1.17, and 1.18 and of new §§ 1.12 and 1.16 shall become effective December 20, 1078; the foregoing adoption by the Commission of § 1.52 (other than paragraph (b) thereof) shall become effective January 31, 1979; the foregoing adoption by the Commission of § 1.52(b) shall become effective June 30, 1979.

Issued in Washington, D.C., on September 1, 1978, by the Commission.

WILLIAM T. BAGLEY, *Chairman, Commodity Futures Trading Commission.*

[FR Doc. 78-25180 Filed 9-7-78; 8:45 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM78-20]

PART 1—RULES OF PRACTICE AND PROCEDURE

References to the Record in Briefs Filed With the Commission

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its procedural regulations relating to briefs on exceptions. In addition to existing requirements, briefs on exceptions shall contain specific references to the pages of the record or exhibits which support arguments or allegations of error.

EFFECTIVE DATE: August 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Baum, Deputy General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4333.

SUPPLEMENTAL INFORMATION: Commission rules currently require that briefs on exceptions contain "* * * appropriate references to the record and legal authorities." (18 CFR 1.31(b)). Despite this requirement many briefs on exceptions do not contain such references. This failure causes significant delays in Commission review of the briefs and in the writing of proposed orders for Commission action.

Accordingly, the Commission now amends its rules to include an express requirement that briefs on exceptions cite the pages of the record or exhibit that support the contentions made. Briefs that fail to comply with this requirement may be rejected or disregarded. The Director, Office of Opin-

ions and Reviews, is authorized to require supplemental briefs in cases where briefs filed with the Commission do not conform to this requirement.

Since this rule deals with a matter of agency procedure and practice, notice and public procedure thereon is unnecessary pursuant to 5 U.S.C. 553(b). Moreover, because of the need to expedite Commission proceedings and because all parties to proceedings before the Commission will be given adequate time to file supplemental briefs in conformance with the requirement, the Commission finds that good cause exists for making the rule effective upon publication.

(Federal Power Act, as amended (16 U.S.C. 792 et seq.); Natural Gas Act, as amended (15 U.S.C. 717 et seq.); Interstate Commerce Act, as amended (49 U.S.C. 1 et seq.); Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, part 1 of title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.

KENNETH F. PLUMB,
Secretary.

1. Section 1.31 is amended by revising clause (iv) of subparagraph (1) of paragraph (b) to read as follows:

§ 1.31 Exceptions to intermediate decisions, briefs; briefs and oral arguments before the Commission.

* * * * *

(b) *Nature and service of briefs on exceptions and of briefs opposing exceptions.* * * *

(1) * * *

(iv) the argument in support with references to the pages of the record or exhibits where the evidence appears. Briefs not in compliance with this requirement may be rejected or disregarded. The Director, Office of Opinions and Reviews is authorized to require supplemental briefs in cases where briefs filed with the Commission on and after the effective date of this amendment, do not conform to this requirement.

* * * * *

[FR Doc. 78-25178 Filed 9-7-78; 8:45 am]

[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-3745]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of McAlester, Pittsburg County, Okla.

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 McAlester, Pittsburg, County, Okla. 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 McAlester, Pittsburg County, Okla.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of McAlester, Pittsburg County, Okla. are available for review at the City Engineer's Office, Municipal Building, Box 578, McAlester, Okla. 74501.

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 McAlester, Pittsburg County, Okla.

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 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
Tributary A of Mud Creek.	Just downstream of County Road near Fish Hatchery.	710
Tributary AA of Mud Creek.	Just downstream of the east lane of U.S. Highway 69 Bypass.	705
Tributary B of Sandy Creek.	Approximately 150 feet upstream of C Street.	694
	Just upstream of South Main Street.	709
Tributary C of Mud Creek.	Just downstream of Electric Avenue.	657
	Just upstream of Polk Avenue.	674
Tributary D of Sandy Creek.	Just downstream of West Street.	680
	Just upstream of C Street.	688
	Just upstream of South Main Street.	699
	Just downstream of 6th Street.	701
	Approximately 100 feet downstream of Miami Avenue.	715
Tributary DD of Sandy Creek.	Just downstream of 10th Street.	710
Tributary E of Sandy Creek.	Just upstream of the downstream coporate limit.	658

(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: July 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24984 Filed 9-7-78; 8:45 am]

[4210-01]

[Docket No. FI-4127]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Grant County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Grant 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 Grant County, Oreg.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Grant County, Oreg., are available for review at the Bulletin Board in the Courthouse, Canyon City, 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 Grant 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 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
John Day River.....	(From below Mount Vernon to above John Day) 1,200 feet upstream of U.S. Highway 26 crossing west of Mount Vernon.	2,803
	Downstream Corporate Limits of Mount Vernon.	2,833
	Upstream Corporate Limits of Mount Vernon.	2,845
	Road leading to Luce School (upsteam side).	2,956
	Western Corporate Limits of John Day.	3,045
	Projection of East end of County Fair Grounds Track within John Day.	3,074
	1,350 feet downstream from confluence of Little Pine Creek.	3,112

(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: August 10, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-24985 Filed 9-7-78; 8:45 am]

[4210-01]

[Docket No. FI-4121]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Middletown, Delaware County, Pa.

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 Middletown, Delaware County, Pa. 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 Middletown, Delaware County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Middletown, Delaware County, Pa., are available for review at the office of the township manager, Lima, Pa.

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 Township of Middletown, Delaware County, Pa.

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 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
Ridley Creek.....	Downstream corporate limits.	70
	Fox Rd. (extended).....	99
	Media Station Rd. (upstream).	113
	Baltimore Pike (downstream).	117
	Baltimore Pike (upstream).	120
	Media Bypass (upstream).	129
	Rose Tree Rd. (upstream).	129
	Confluence of Spring Run.	129
	Approximately 160 ft downstream of confluence of Dismal Run.	140
Chester Creek.....	Dutton Mill Rd. (downstream corporate limits).	49
	ConRail crossing approximately 2,850 ft upstream of Dutton Mill Rd. (upstream).	55

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Knowlton Rd. (upstream).	62
	Confluence of Crum Run.	63
	Mount Alverno Rd. (upstream).	67
	Confluence of Chrome Run.	68
	Pennel Run (Pennsylvania Route 452) (upstream).	83
	ConRail crossing approximately 770 ft upstream of Pennel Rd. (upstream).	85
	Convent Rd. (upstream).	105
	Hollow Hill Rd. (confluence of west branch Chester Creek) (upstream).	106
	Lenni Rd. (upstream)	115
	ConRail crossing approximately 700 ft downstream of Station Rd. (upstream).	134
	Station Rd. (upstream) ..	135
	Baltimore Pike (upstream).	141
	Confluence of Rocky Run.	141
	ConRail crossing approximately 2,050 ft downstream of Darlington Rd. (upstream).	148
	Darlington Rd. (upstream).	149
	Forge Rd. (upstream)	168
	Dam approximately 1,320 ft upstream of Forge Rd. (downstream).	176
	Dam approximately 290 ft downstream of upstream corporate limits (downstream).	189
	Upstream corporate limits.	204
Rocky Run	Approximately 200 ft upstream of Old Forge Rd.	255
	Forge Rd. (downstream)	283
	Forge Rd. (upstream)	288
	Brook Lane (upstream) ..	294
	Upstream corporate limits.	302
Chrome Run	Confluence with Chester Creek.	68
	St. Andrews Dr. (downstream).	74
	St. Andrews Dr. (upstream).	80

(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: August 18, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24986 Filed 9-7-78; 8:45 am]

[4210-01]

[Docket No. FI-4122]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Borough of Punxsutawney, Jefferson County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Borough of Punxsutawney, Jefferson County, Pa. 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 Borough of Punxsutawney, Jefferson County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Borough of Punxsutawney, Jefferson County, Pa., are available for review at the Civic Center, Punxsutawney, Pa.

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 Borough of Punxsutawney, Jefferson County, Pa.

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 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
Mahoning Creek ...	Corporate limits (east) ...	1,237
	P. C. R. R. (ConRail) (Abandoned).	1,228
	Corporate limits (west) ..	1,227

(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: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24987 Filed 9-7-78; 8:45 am]

[4210-01]

[Docket No. FI-4131]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Township of Ralpho, Northumberland County, Pa.

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 Ralpho, Northumberland County, Pa. 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 Ralpho, Northumberland County, Pa.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the township of Ralpho, Northumberland County, Pa., are available for review at the Municipal

Building, Intersection of Market and Valley Avenue, Elysburg, Pa.

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 township of Ralpho, Northumberland County, Pa.

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 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
Shamokin Creek ...	Route 61 bridge (upstream).	596
	Irish Valley Rd. bridge (upstream).	604
	Bridge No. 1 (750 ft downstream of corporate limits) (upstream).	613
	Dam No. 1 (500 ft downstream of corporate limits) (upstream).	616
	Upstream corporate limits.	617
Pocahontas Creek.	Downstream corporate limits (Route 242).	540
	L. R. 49134 (upstream) ...	559
	Pine View Rd. (upstream).	572
	Market St. (upstream)....	586
	Footbridge (250 ft upstream of Market St.) (upstream).	588
	Dam No. 1 (1,000 ft above Market St.) (upstream).	590
	Township Route 509 (upstream).	593
	Dam No. 2 (1,000 ft above township Route 509) (upstream).	597
	State Route 487 (upstream).	600
South Branch Roaring Creek.	Downstream corporate limits.	604
	Footbridge No. 1 (1,000 ft above corporate limits) (upstream).	609
	Footbridge No. 2 (1,100 ft above corporate limits) (upstream).	610
	Footbridge No. 3 (1,550 ft above corporate limits) (upstream).	610
	Footbridge No. 4 (1,850 ft above corporate limits) (upstream).	613
	Township Route 804 (upstream).	647
	Bear Hollow Rd. (upstream).	661
	Township Route 802 (upstream).	676
	Township Route 459 (downstream).	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: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24988 Filed 9-7-78; 8:45 am]

[4210-01]

[Docket No. FI-4104]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the City of West Columbia, Lexington County, S.C.

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 West Columbia, Lexington County, S.C. 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 West Columbia, Lexington County, S.C.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of West Columbia, Lexington County, S.C., are available for review at City Hall, 1053 Center Street, West Columbia, S.C. 29169.

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 West Columbia, Lexington County, S.C.

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 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
Congaree River	Intersection of Gervais St. and corporate limits.	157
Saluda River	Natchez Ter. (extended)	162

(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: July 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24989 Filed 9-7-78; 8:45 am]

[4210-01]

[Docket No. FI-3347]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for the Village of Woodstock, Windsor County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the village of Woodstock, Windsor County, Vt. 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 village of Woodstock, Vt.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the village of Woodstock, are available for review at Town Hall, Route 4, Woodstock, Vt.

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 village of Woodstock, Vt.

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 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
Ottaquechee River.	U.S. Route 4 Bridge	696
	Union Street Covered Bridge.	691
	Elm Street Bridge	684
Kedron Brook	Cross Street Bridge	702
	Central Street Bridge	700
	Pleasant Street Bridge	692

(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: August 9, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24990 Filed 9-7-78; 8:45 am]

[4210-01]

[Docket No. FI-3603]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for Cumberland County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in Cumberland County, 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 Cumberland County, Va.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for Cumberland County, Va., are available for review at the Clerk's Office of Cumberland, Cumberland, 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 Cumberland County, 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 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
James River	Downstream corporate limits.	198
	State Route 45	200
	State Route 603	210
	State Route 690	215
	Upstream corporate limits.	224

(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: August 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-24991 Filed 9-7-78; 8:45 am]

[4510-43]

Title 30—Mineral Resources

CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 41—NOTIFICATION OF LEGAL IDENTITY

Deferral of Effective Date of Rule

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The effective date of the rules for reporting the legal identity of mine operators is deferred to October 15, 1978. It appears that MSHA will be unable to supply form 2000-7 in time for operators to comply with the timetable set forth in the rule. The 40-day extension of the effective date will provide sufficient opportunity for MSHA to complete the necessary clearance process and to supply the forms to all operators and MSHA field offices.

EFFECTIVE DATES: This amendment is effective on September 8, 1978. The rules contained in part 41 are effective on October 15, 1978.

ADDRESS: Mine Safety and Health Administration, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, telephone 703-235-1910.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, telephone 703-235-1910.

SUPPLEMENTARY INFORMATION: On July 7, 1978, the Secretary of Labor published final rules in the FEDERAL REGISTER (43 FR 29510), which require each operator of a coal or other mine to file specified information with the Mine Safety and Health Administration (MSHA) and set forth the procedures for filing such notification of legal identity. Section 41.20 of those rules require each mine operator to file the notification of legal identity and any subsequent changes on MSHA form 2000-7, which was to be provided by MSHA for this purpose. The date upon which the rule was to become effective was September 5, 1978, and each operator was to have filed the first report within 30 days of that date under § 41.11(a).

It appears that MSHA will be unable to supply form 2000-7 in time for operators to comply with the timetable set forth in the rule. The 40-day extension of the effective date will provide sufficient opportunity for MSHA to complete the necessary clearance process and to supply the forms to all operators and MSHA field offices.

This amendment is issued under the authority of sections 103(h), 109(d), and 508 of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164). In view of the circumstances stated above, it is determined that good cause exists for omitting notice and comment rulemaking procedures. This amendment is effective on date of publication.

DRAFTING INFORMATION

The principal person responsible for drafting this document is Frank A. White, Office of Standards, Regulations and Variances, MSHA.

Dated: September 5, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-25342 Filed 9-7-78; 8:45 am]

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

[DOD Directive 5200.24]

PART 42—INTERCEPTION OF WIRE AND ORAL COMMUNICATIONS FOR LAW ENFORCEMENT PURPOSES

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule revises and updates established policies, procedures, and restrictions governing interception of wire and oral communications, and the use of pen registers and related devices for law enforcement purposes, both in the United States and abroad.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gil Kujovich, Special Assistant to the General Counsel, the Pentagon, Room 3E987, Washington, D.C. 20301, telephone 202-695-3657.

SUPPLEMENTARY INFORMATION: This part was previously published as a final rule in FR Doc. 67-11134 on September 22, 1967 (32 FR 13380). This revision expands and clarifies procedures.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 5, 1978.

Accordingly, title 32, chapter I, is amended by a revision of part 42, reading as follows:

Sec.
42.1 Reissuance and purpose.
42.2 Applicability and scope.
42.3 Policy.
42.4 Waivers.
42.5 Responsibilities.
42.6 Definitions.
42.7 Procedures, record administration, and reports.
42.8 Information to be included in reports of interceptions and pen register operations.

AUTHORITY: 5 U.S.C. 301.

§ 42.1 Reissuance and purpose.

This part reissues part 42 to update established policies, procedures, and restrictions governing interception of wire and oral communications and the use of pen registers and related devices for law enforcement purposes, both in the United States and abroad, in accordance with 47 U.S.C. 605 and 18 U.S.C. 2510-2520.

§ 42.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the military departments, the Organization of the Joint Chiefs of Staff, the defense agencies, and the unified and specified commands (hereafter referred to collectively as "DOD components").

(b) This part does not affect status of forces or other specific agreements that may otherwise limit implementation of its provisions in any particular geographical area abroad.

§ 42.3 Policy.

(a) The interception of wire and oral communications for law enforcement purposes is prohibited unless conducted in accordance with this part and applicable law.

(b) The only DOD components authorized to intercept wire and oral communications and conducts pen register operations under this part are the Departments of the Army, Navy, and Air Force. Within these components, authority to use this technique shall be limited to those offices specifically designated in writing by the head of the component.

(c) Interception of wire and oral communications is a special technique which shall not be considered as a substitute for normal investigative procedures and shall be authorized only in

those circumstances where it is demonstrated that the information is necessary for a criminal investigation and cannot reasonably be obtained in some other, less intrusive manner.

(d) Nonconsensual interception of wire and oral communications is prohibited unless there exists probable cause to believe that:

(1) In the case of interceptions within the United States, a criminal offense listed in 18 U.S.C. 2516(1) has been, is being, or is about to be committed;

(2) In the case of interceptions abroad conducted pursuant to an order issued by a military judge under § 42.7(a)(1)(ii)(A), one of the following violations of the Uniform Code of Military Justice has been, is being, or is about to be committed by a person subject to the Uniform code of Military Justice under article 2, 10 U.S.C. 802:

(i) The offense of murder, kidnapping, gambling, robbery, bribery, extortion, espionage, sabotage, treason, fraud against the Government, or dealing in narcotic drugs, marihuana, or other dangerous drugs; or

(ii) Any other offense dangerous to life, limb, or property, and punishable by death or confinement for 1 year or more; or

(iii) Any conspiracy to commit any of the foregoing offenses.

(3) In the case of other interceptions abroad, one of the following offenses has been, is being, or is about to be committed:

(i) An offense listed in 18 U.S.C. 2516(1); or

(ii) Fraud against the Government or any other offense dangerous to life, limb, or property and punishable under Title 18 of the United States Code by death or confinement for more than 1 year; or

(iii) Any conspiracy to commit any of the foregoing offenses.

(e) Consensual interceptions of wire and oral communications shall be undertaken only when at least one of the parties to the conversation has consented to the interception and when the investigation involves:

(1) A criminal offense punishable, under the United States Code or Uniform Code of Military Justice, by death or confinement for 1 year or more; or

(2) A telephone call involving obscenity, harassment, extortion, bribery, bomb threat, or threat of bodily harm that has been made to a person authorized to use the telephone of a subscriber-user on an installation, building, or portion thereof, under Department of Defense jurisdiction or control, and when the subscriber-user has also consented to the interception.

(f) The prohibitions and restrictions of this part apply regardless of the official use or dissemination of the intercepted information. Any questions as to whether the use of a particular device may involve prohibited wire or oral interception shall be submitted with supporting facts through channels to the general counsel of the Department of Defense for resolution.

(g) No otherwise privileged wire or oral communication intercepted in accordance with this part shall lose its privileged character.

§ 42.4 Waivers.

Waivers of the requirements enunciated in this part will be authorized on a case-by-case basis only when directed in writing by the Secretary of Defense. Waivers will be authorized only under the most limited circumstances and when consistent with applicable law.

§ 42.5 Responsibilities.

(a) The Department of Defense General counsel or a single designee, shall:

(1) Determine whether to approve or deny requests for authorization to conduct nonconsensual interceptions under this part. (§ 42.7(a)(1) (i) and (ii).)

(2) Determine whether to seek Attorney General authorization for emergency nonconsensual interceptions. (§ 42.7(a)(1)(iii).)

(3) In the absence of the Secretary of the military department concerned, or a designee, determine whether to approve or deny requests to conduct consensual interceptions. (§ 42.7(a)(2)(i).)

(4) Provide overall policy guidance for the implementation of this part.

(b) The Assistant Secretary of Defense (Comptroller) (ASD(C)), or a designee, shall:

(1) In consultation with the DOD General Counsel, act for the Secretary of Defense to insure compliance with the provisions of this part.

(2) Receive, process, and transmit to the DOD General Counsel all requests from the heads of the DOD components, or their designees, for authority to conduct nonconsensual interception of wire and oral communications.

(3) Furnish to the Attorney General those reports required by § 42.7(f)(1) and provide a copy of such reports to the DOD General Counsel.

(4) Receive those reports required by § 42.7(f)(1) and provide a copy of such reports to the DOD General Counsel.

(c) The head of each DOD component or a designee shall insure compliance with the policies and procedures set forth or referenced in this part.

(d) The secretary of each military department, or a designee, shall:

(1) Determine whether to approve or deny requests to conduct consensual interceptions. (§ 42.7(a)(2)(i).) This approval authority shall not be delegated to an official below the level of assistant secretary or assistant to the secretary of the military department.

(2) Review requests for nonconsensual interception of wire or oral communications. (§ 42.7(a)(1).)

(3) Designate a control point of contact and so advise the DOD General Counsel and the ASD(C) for:

(i) Interception activities and related applications covered by this part.

(ii) Compilation of reports and forwarding other submissions to the ASD(C) as required by the provisions of this part.

(iii) Maintaining a file of information regarding all interceptions of wire and oral communications by any element of the Department.

(4) Furnish to the ASD(C) the reports required by § 42.7(f)(2).

(e) The judge advocate general of each military department shall assign military judges, certified in accordance with the provisions of article 26(b) of the Uniform Code of Military Justice, 10 U.S.C. 826(b):

(1) To receive applications for intercept authorization orders and to determine whether to issue such orders in accordance with § 42.7(a)(1)(ii)(A). The authorization of such military judges to issue intercept authorization orders shall be limited to interceptions occurring abroad and targeted against persons subject to the Uniform Code of Military Justice.

(2) To receive applications to conduct pen register operations and to issue orders authorizing such operations in accordance with § 42.7(b)(1). The authority of such military judges to issue orders authorizing pen register operations shall be limited to operations conducted on a military installation and targeted against persons subject to the Uniform Code of Military Justice.

§ 42.6 Definitions.

(a) *Abroad.* Outside the United States. An interception takes place abroad when the interception device is located and operated outside the United States and the target of the interception is located outside the United States.

(b) *Application for court order.* A document containing specified information prepared for and forwarded to a judge of the U.S. district court or the U.S. court of appeals, or a military judge.

(c) *Consensual interception.* An interception of a wire or oral communication after verbal or written consent for the interception is given by one or more of the parties to the communication.

(d) *Court order.* An order issued by a judge of a U.S. district court or a U.S. court of appeals or by a military judge authorizing a wire or oral interception or a pen register operation.

(e) *Electronic, mechanical, or other device.* Any device or apparatus that can be used to intercept a wire or oral communication other than any telephone equipment furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and used by the subscriber or user in the ordinary course of its business or used by an investigative or law enforcement officer in the ordinary course of duty. 18 U.S.C. 2510(5).

(f) *Interception.* The aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device. 18 U.S.C. 2510(4). The term "contents" includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication. 18 U.S.C. 2510(8).

(g) *Oral communication.* Any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception, under circumstances justifying such expectation. 18 U.S.C. 2510(2).

(h) *Pen register.* A device connected to a telephone instrument or line that permits the recording of telephone numbers dialed from a particular telephone instrument. "Pen register" also includes decoder devices used to record the numbers dialed from a touch-tone telephone. "Pen register" does not include equipment used to record the numbers dialed for and duration of long-distance telephone calls when the equipment is used to make such records for an entire telephone system and for billing or communications management purposes.

(i) *Telephone tracing.* A technique or procedure to determine the origin, by telephone number and location, of a telephone call made to a known telephone instrument. The terms "lockout" and "trapping" may also be used to describe this technique.

(j) *United States.* For the purposes of this part, the term "United States" includes the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k) *United States person.* For purposes of this part the term "United States person" means a United States citizen, an alien admitted to the United States for permanent residence, a corporation incorporated in the United States, an unincorporated association organized in the United States and substantially composed of United States citizens or aliens admitted to the United States for permanent residence.

(l) *Wire communication.* Any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications. 18 U.S.C. 2510(1).

§ 42.7 Procedures, record administration and reports.

(a) *Procedures governing interception of wire and oral communications*—(1) *Nonconsensual interception*—(i) *Nonconsensual interception in the United States.* When an interception is deemed necessary for a criminal investigation, the following procedures are applicable:

(A) The requesting component shall prepare and forward through channels a "request for authorization" to the Assistant Secretary of Defense (Comptroller), or an official designated by the ASD(C). This application shall be transmitted by expeditious means and protected to preclude unauthorized access or any danger to the officials or other persons cooperating in the case. Each request for authorization will contain the following information:

(*1*) The identity of the DOD investigative or law enforcement official making the application;

(*2*) A complete description of the facts and circumstances relied upon by the applicant to justify the intended interception, including:

(*i*) The particular offense that has been, is being, or is about to be committed;

(*ii*) A description of the nature and location of the facilities from which or the place where the communication is to be intercepted;

(*iii*) A description of the type of communication sought to be intercepted with a statement of the relevance of that communication to the investigation; and

(*iv*) The identity of the person, if known, committing the offense and whose communications are to be intercepted;

(*3*) A statement as to whether other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(*4*) An identification of the type of equipment to be used to make the interception;

(*5*) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the interception will not terminate automatically when the described type of communication has been first obtained, a description of the facts establishing probable cause to believe that additional communications of the same type will occur thereafter;

(*6*) The procedures to minimize the acquisition, retention, and dissemination of information unrelated to the purpose of the interception;

(*7*) A complete statement of the facts concerning each previous application for approval of interceptions of wire or oral communications known to the applicant and involving any of the same persons, facilities or places specified in the application and the action taken thereon; and

(*8*) When the application is for an extension of an order, a statement setting forth the results thus far obtained from the interception, or an explanation of the failure to obtain such results.

(B) The ASD(C), or an official designated by the ASD(C), will recommend to the DOD General Counsel that the request be approved or disapproved. Approval or disapproval of all requests for authorization will be made in writing by the DOD General Counsel, or a single designee.

(C) If the request is approved by the DOD General Counsel, the official making the request will coordinate directly with an attorney from the Department of Justice or from a U.S. Attorney's office for preparation of documents necessary to obtain a court order in accordance with 18 U.S.C. 2518. These documents will be forwarded by the Department of Justice attorney to the Attorney General, or to the designated Assistant Attorney General, for approval in accordance with 18 U.S.C. 2516.

(D) Upon approval by the Attorney General, or the designated Assistant Attorney General, formal application for a court order will be made by the appropriate attorney from the Department of Justice, assisted by the appropriate military lawyer.

(ii) *Nonconsensual interceptions abroad.* Unless otherwise authorized by direction of the President or the Attorney General, the following procedures are applicable to interceptions for law enforement purposes when the interception takes place abroad and when a DOD component, or members thereof, conduct or participate in the interception; or when the interception takes place abroad, is targeted against a U.S. person, and is conducted pursuant to a request by a DOD component:

(A) When the target of the interception is a person subject to the Uniform Code of Military Justice under Article 2, U.S.C. 802.

(*1*) The request for authorization shall include the information required by § 42.7(a)(1)(i)(A), and shall be forwarded through channels to the Assistant Secretary of Defense (Comp-

troller), or the ASD(C)'s, designee. The ASD(C), or a designee, shall recommend to the DOD General Counsel that the request be approved or disapproved. Approval or disapproval of all Requests for Authorization shall be made in writing by the DOD General Counsel, or a single designee.

(2) Upon written approval of the DOD General Counsel, the DOD investigative or law enforcement officer shall prepare a formal application for a court order in accordance with the procedures of 18 U.S.C. 2518(1). The application shall be submitted to a military judge assigned to consider such applications pursuant to § 42.5(e).

(3) Only military judges assigned by the Judge Advocate General of their service to receive applications for intercept authorization orders shall have the authority to issue such orders. The authority of military judges to issue intercept authorization orders shall be limited to interceptions conducted abroad and targeted against persons subject to the Uniform Code of Military Justice.

(i) A military judge shall be ineligible to issue an order authorizing an interception if, at the time of application, the judge (A) is involved in any investigation under Article 32 of the Uniform Code of Military Justice, 10 U.S.C. 832; or (B) is engaged in any other investigative or prosecutorial function in connection with any case; or if the judge has previously been involved in any investigative or prosecutorial activities in connection with the case for which the intercept authorization order is sought.

(ii) No military judge who has issued an order authorizing interceptions may act as the accuser, be a witness for the prosecution, or participate in any investigative or prosecutorial activities in the case for which the order was issued. A military judge who has issued an order authorizing interceptions is not disqualified from presiding over the trial in the same case.

(iii) A military judge otherwise qualified under § 42.7(a)(1)(ii)(C)(i) and (ii) enclosure shall not be disqualified from issuing orders authorizing interceptions because the judge is a member for a service different from that of the target of the interception or from that of the investigative or law enforcement officers applying for the order.

(4) The military judge may enter an ex parte order, as requested or as modified, authorizing or approving an interception of wire or oral communications if the judge determines on the basis of the facts submitted by the applicant that:

(i) There is probable cause to believe that a person subject to the Uniform Code of Military Justice is committing, has committed, or is about to commit a particular offense enumerated in § 42.3(d)(2);

(ii) There is probable cause to believe that particular communications concerning that offense will be obtained through such interception;

(iii) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(iv) There is probable cause to believe that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person; and

(v) The interception will not violate the relevant status of forces agreement or the applicable domestic law of the host nation.

(5) Each order authorizing an interception shall specify:

(i) The identity of the person, if known, whose communications are to be intercepted;

(ii) The nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(iii) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(iv) The identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(v) The period of time during which such interception is authorized, including a statement as to whether the interception shall terminate automatically when the described communication has been first obtained.

(6) Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this part, , and shall be terminated upon attainment of the authorized objective.

(7) No order entered by a military judge may authorize an interception for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than 60 days. Extensions of an order may be granted, but only upon application for an extension made in accordance with the procedures of 18 U.S.C. 2518(1), and after the military judge makes the findings required by § 42.7(a)(1)(ii)(A)(4). The period of extension shall be no longer than is necessary to achieve the purpose for which it was granted and in no event for longer than 60 days.

(8) The contents of communications intercepted pursuant to an order issued by a military judge shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of such communications shall be done in such a way as will protect the recording from editing or other alterations. Custody of the recording shall be wherever required by the regulations promulgated under § 42.7(e)(1) and it shall not be destroyed except pursuant to § 42.7(e)(4).

(a) The contents of a communication intercepted abroad, or evidence derived therefrom, shall be inadmissible in any court-martial proceeding, in any proceeding under Article 15 of the Uniform Code of Military Justice, 10 U.S.C. 815, or in any other proceeding if the:

(i) Communication was intercepted in violation of this part or applicable law;

(ii) Order of authorization under which it was intercepted is insufficient on its face; or

(iii) Interception was not made in conformity with the order of authorization.

(B) When the target of an interception conducted abroad is a person who is not subject to the Uniform Code of Military Justice:

(1) The request for authorization shall be prepared and forwarded for approval in accordance with the procedures in § 42.7(a)(1)(i) (A) and (B).

(2) The DOD General Counsel shall determine whether to approve the request and what further approval is required by law to conduct the interception.

(iii) *Emergency nonconsensual interceptions in the United States and abroad.* If, in the judgment of the head of the DOD component concerned, or a designee, the emergency need for a nonconsensual interception precludes obtaining the advance written approval and court order required by § 42.7(a)(1) (i) and (ii), the component head or designee shall notify the DOD General Counsel who shall determine whether to seek the authorization of the Attorney General for an emergency nonconsensual interception in accordance with the procedures of 18 U.S.C. 2518(7).

(iv) *Time limits.* Nonconsensual interceptions within the United States may be approved for a period not to exceed 30 days. Nonconsensual interceptions outside the United States may be approved for a period not to exceed 60 days. Renewal requests for specified periods of not more than 30 days each (60 days for interceptions outside the United States), may be submitted to the approving authority for consideration. The interception in all instances shall be terminated as soon as the desired information is ob-

tained, or when the interception proves to be nonproductive.

(2) *Consensual interceptions.* (i) The following procedures are applicable to all consensual interceptions of oral or wire communications:

(A) When one of the parties to the conversation consents to an intended interception of a communication, the DOD investigative or law enforcement official shall prepare a request containing the following information:

(*1*) A description of the facts and circumstances requiring the intended interception, the means by which it would be conducted, the place in which it would be conducted, and its expected duration;

(*2*) The names of all the persons whose conversations are expected to be intercepted and their roles in the crime being investigated. When the name of the nonconsenting party or parties is not known at the time the request is made, the official making the request shall supply such information within 30 days after termination of the interception. If such information is not known at the end of this period, it shall be supplied whenever it is later discovered;

(*3*) A statement that in the judgment of the person making the request the interception is warranted in the interest of effective law enforcement.

(B) An application for a court interception order is not necessary in this situation. Written approval of the request shall be made by the Secretary of a military department, or a designee, or, in their absence, the DOD General Counsel. This approval authority shall not be delegated to an official below the level of Assistant Secretary or Assistant to the Secretary of a military department.

(C) The Secretaries of the military departments shall designate an official to act upon telephonic requests when emergency needs preclude advance written approval. A written record of such requests shall be made.

(ii) The following restrictions are applicable to all consensual interceptions of oral or wire communications:

(A) Within the United States, approval shall be granted for a period of no more than 30 days. Abroad, approval may be granted for 60 days. Renewal requests for specified periods of not more than 30 days each (60 days for interception outside the United States) may be submitted to the approving authority for consideration. The interception in all instances shall be terminated as soon as the desired information is obtained, or when the interception proves to be nonproductive.

(B) The authorization for consensual interception of communications shall define clearly the manner in which the interception is to be accomplished. A "consensual interception" shall not involve the installation of equipment in violation of the constitutionally protected rights of any nonconsenting person whose communications will be intercepted.

(b) *Procedures governing the use of pen registers and similar devices or techniques.* The procedures of this section apply to the use of pen registers, touch-tone telephone decoders, and similar devices. Unless otherwise authorized by direction of the President or the Attorney General, pen register and similar operations shall be conducted only upon probable cause and pursuant to a court order.

(1) *Operations conducted on a military installation and targeted against persons subject to the Uniform Code of Military Justice.* Except as provided in § 42.7(b)(3), when a pen register operation is conducted on a military installation, in the United States or abroad, and when the target of the operation is a person subject to the Uniform Code of Military Justice, the following procedures apply:

(i) The application for a court order authorizing the operation shall be made in writing upon oath or affirmation and shall be submitted to a military judge assigned by the Judge Advocates General, pursuant to § 42.7(f)(5), to receive such applications. An application shall include the following information:

(A) The identity of the DOD investigative or law enforcement officer making the application;

(B) A complete statement of the facts and circumstances relied upon by the application to justify the applicant's belief that there exists probable cause to believe that the operation will produce evidence of a crime, including a description of the particular offense involved, a description of the nature and location of the facilities from which the intercepted information originates, and the identity of the person, if known, who has committed, is about to commit, or is committing the offense and who is the target of the operation;

(C) A statement of the period of time for which the operation is required to be maintained.

(ii) Subject to the limitations of § 42.7(a)(1)(ii)(C) (i), (ii), and (iii), a military judge assigned to receive applications for orders authorizing operations covered by this subsection may enter an order authorizing the operation upon finding that the target of the operation is a person subject to the Uniform Code of Military Justice, that the operation will be conducted on a military installation, and that there exists probable cause to believe that the operation will produce evidence of a crime. Each order shall specify the:

(A) Identity of the person, if known, who is the target of the operation;

(B) Location of the facilities from which the intercepted information originates and of the facilities on which the operation will take place;

(C) Period of time during which such operation is authorized.

(iii) When the application is for an operation conducted abroad, the military judge may not authorize the operation if it would violate the relevant Status of Forces Agreement or the applicable domestic law of the host nation.

(2) *Other pen register operations.* (i) When the target of a pen register operation abroad is a person who is not subject to the Uniform Code of Military Justice:

(A) The application for authority to conduct a pen register operation shall include the information in § 42.7(b)(1)(i) and shall be forwarded to the DOD General Counsel.

(B) The DOD General Counsel shall determine whether to approve the request and what further approval is required by law to conduct the pen register operation.

(ii) Except as provided in § 42.7(b)(3), all other pen register and similar operations in the United States shall be conducted pursuant to a search warrant (or other judicial order authorizing the operation) issued by a judge of competent jurisdiction.

(3) *Pen register operations which include nonconsensual interceptions of wire communications.* When an operation under this section is to be conducted in conjunction with a nonconsensual interception of a wire communication under § 42.7(a)(1), procedures of § 42.7(a)(1) shall apply to the entire operation.

(c) *Procedures governing telephone tracing.* When prior consent of one or more parties to a telephone tracing operation has been obtained, the use of telephone tracing equipment and techniques shall be authorized only after coordination with appropriate judge advocate personnel or other component legal counsel. The local military facility commander may approve consensual telephone tracing operations on military facilities. For use outside military jurisdiction, the local military commanders, in coordination with judge advocate personnel, shall coordinate with local civilian or host country authorities when appropriate. In all cases, use of this technique must comply with the provisions of DOD directive 5200.27.[1]

(d) *Interception equipment*—(1) *Control of interception equipment.* (i)

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120, attention code 301.

DOD Components other than the military departments are not authorized to procure or maintain equipment primarily useful for the interception of wire and oral communications described in this part. The heads of military departments shall establish controls to insure that only the minimum quantity of interception equipment required to accomplish assigned missions is procured and retained in inventories.

(ii) Interception equipment shall be safeguarded to prevent unauthorized access or use, with appropriate inventory records to account for all equipment at all times. Storage shall be centralized to the maximum extent possible consistent with operational requirements. When equipment is withdrawn from storage a record shall be made as to the times of withdrawal and of its return to storage. Equipment should be returned to storage when not in actual use, except to the extent that returning the equipment would interfere with its proper utilization. The individual to whom the equipment is assigned shall account fully, in a written report, for the use made of the equipment during the time it was removed from storage. Copies of the completed inventories of equipment, the times of withdrawal and return and the written reports of the agents specifying the uses made of the equipment shall be retained for at least 10 years.

(2) *Disposal of interception equipment.* (i) Federal law prohibits the sale or possession of any device by any person who knows or has reason to know that "the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications * * *." Accordingly, disposal outside the Government of such interception equipment is prohibited.

(ii) If there is any question as to what purpose an item of equipment is primarily useful for, then the officials involved should, in the exercise of due caution, prohibit its sale pending referral to the DOD General Counsel for a determination as to the proper classification of such devices under the law.

(e) *Records administration*—(1) *General.* All recordings and records of information obtained through interception activities conducted under the provisions of this part shall be safeguarded to preclude unauthorized access, theft, or use. Both the interest of the Government and the rights of private individuals involved shall be considered in the development of safeguarding procedures. The Secretaries of the military departments shall promulgate regulations specifying storage and access requirements for applications, orders, recordings, and other records of information obtained through interception activities. These regulations shall include provisions for storage and access while the case is active and after the case has become inactive and the records have been transferred to a centralized facility. Copies of all issuances and revisions shall be provided to the DOD General Counsel and the ASD(C) as promulgated.

(2) *Indexing*—(i) *Interceptions.* The records of consensual and nonconsensual interceptions shall be prepared and maintained to provide for centralized, readily accessible records or indices that include the following:

(A) Names, citizenship, and other available identifying data for each reasonably identifiable person intercepted (intentionally or otherwise), whether a case subject or not. If available, the social security account number and the date and place of birth of the individuals intercepted and identified;

(B) The telephone numbers of radio telephone call signs involved in the interception;

(C) The case number or other identifier for the interception;

(D) The address of the location of the interception;

(E) The inclusive dates of the interception.

(ii) *Denied interception applications.* Records of all applications submitted to and disapproved by a Federal or military judge for authorization to conduct a nonconsensual interception of a wire or oral communication shall be prepared and maintained in a separate, centralized index which shall include the following information:

(A) Names and other available identifying data for each reasonably identifiable target of the interception applied for;

(B) The telephone numbers or radio telephone call signs involved in the application;

(C) The address of the location of the interception applied for;

(D) The case number or other identifier for the application; and

(E) A statement of the other facts concerning the application and the reason that the application was refused.

(3) *Dissemination Controls.* (i) The index and records maintained pursuant to § 42.7(e)(2)(ii), shall be used only as required to satisfy the requirements of 18 U.S.C. 2518(1)(e), § 42.7(a)(1)(i) (A)(7), § 42.7(a)(1)(ii) (A) and (B) (statement of prior applications) and § 42.7(f) (1) and (2).

(ii) In all cases, access to information obtained by interception activities conducted under the provisions of this part shall be restricted to those individuals having a defined need-to-know clearly related to the performance of their duties.

(iii) The information may be disseminated outside the Department of Defense only when:

(A) Required for the purposes described in 18 U.S.C. 2517;

(B) Required by law (including the Privacy Act of 1974, as amended, and the Freedom of Information Act of 1967, as amended, or order of a Federal court;

(C) Requested by a committee of the Congress and approved for release by the DOD General Counsel; or

(D) Required by the provisions of Status of Forces or other international agreements.

(iv) Secretaries of the military departments shall promulgate regulations, policies and procedural controls and designate responsible officials for both internal and external dissemination of the information described above. Procedures shall include sufficient records reflecting dissemination of this information. Copies of all issuances and revisions for these purposes shall be provided the DOD General Counsel and the ASD(C) as promulgated.

(4) *Retention and disposition of records.* Records and recordings of interception shall be retained for 10 years after termination of the interception and then disposed of in accordance with component records retirement procedures. If the interception was conducted in the United States under the provisions of 18 U.S.C. 2516, the records may be destroyed only pursuant to order of the court involved.

(f) *Reports.*—(1) *By the Assistant Secretary of Defense (Comptroller).* The ASD(C), or a designee, shall submit the following reports to the Attorney General:

(i) *Quarterly.* For the quarters ending in March, June, September, and December, to be submitted by the end of each following month, a report of all consensual interceptions of oral communications by DOD components in the United States and abroad. This report shall specify for each interception the means by which the interception was conducted, the place in which it was conducted, its duration, and the use made of the information acquired. This report shall also contain the names and positions of persons authorized to approve consensual interceptions of oral communications, including those persons authorized to approve emergency, telephonic requests.

(ii) *Annually.* (A) By January 31, a report of all nonconsensual interceptions of wire or oral communications conducted for investigative or law enforcement purposes abroad by DOD components during the preceding year and of all unsuccessful applications for orders to conduct such interceptions during the preceding year. This

report shall contain the information required in 18 U.S.C. 2519(2).

(B) By July 31, an inventory of all DOD electronic or mechanical equipment primarily useful for interception of wire or oral communications.

(2) *By the Secretaries of the military departments.* The Secretaries of the military departments, or their designees, shall submit the following reports to the ASD(C):

(i) *Quarterly.* For the quarters ending in March, June, September, and December, to be received by the 15th day of each following month, a report of all interceptions of wire and oral communications, pen register operations, and unsuccessful applications for nonconsensual interceptions conducted by the military departments in the United States and abroad. This report shall include the information listed in § 42.8.

(ii) *Annually.* By July 15, a complete inventory of all devices in the DOD component that are primarily useful for interception of wire or oral communications or for operations covered by § 42.7(b). This report shall include a statement that the amount of equipment is being maintained at the lowest level consistent with operational requirements.

§ 42.8 Information to be included in reports of interceptions and pen register operations.

(a) *Consensual interceptions.* (1) Identity of DOD component making this report.

(2) Indicate whether the report is a wire or oral interception operation and whether the interception included the use of a pen register. (If more than one operation is authorized, a separate entry should be made for each.)

(3) Purpose or objective of operation. Specify offense being investigated and included a brief synopsis of the case.

(4) Investigative case number or identifier for the operation.

(5) Location of the operation.

(6) Type of equipment used and method of installation.

(7) Identity of the performing organizational unit. (Indicate if the interception was conducted for a DOD component other than the component making the report or for a non-DOD activity.)

(8) Identity of DOD investigative or law enforcement officer who requested or applied for the interception.

(9) Approval authority and date of approval.

(10) Length and dates for which operation was approved.

(11) Actual date operation was initiated, and date terminated.

(12) If operation was extended, state name of authority approving extension and dates to which extended.

(13) State where tapes, transcripts, and notes are stored.

(14) Evaluation of results of operations, including the use made of the information in subsequent investigation or prosecution.

(15) The names and positions of persons authorized to approve consensual interceptions, including those persons authorized to approve emergency, telephonic requests.

(16) Indicate whether the interception took place in the United States or abroad.

(b) *Nonconsensual interceptions in the United States.* In addition to items (1)-(14) in § 42.8(a), include the following:

(1) Identity of court and judge who issued the intercept authorization order and date of order.

(2) Nature and frequency of incriminating communications intercepted (specify dates and approximate duration of each communication).

(3) Nature and frequency of other communications intercepted.

(4) Number of persons whose communications were intercepted. Indicate number of U.S. persons known to have been intercepted and whether such persons were targets or incidentals.

(c) *Nonconsensual interceptions abroad.* In addition to items (1)-(14) in § 42.8(a) and (1)-(4) in § 42.8(b), include the following:

(1) Number of persons located in the United States whose communications were intercepted.

(2) In the report for the last quarter of each calendar year, include: (i) The number of arrests and trials resulting from each interception conducted during the year. Indicate the offense for each interception.

(ii) The number of convictions resulting from the interceptions conducted during the year and the offenses for which convictions were obtained.

(d) *Pen register operations.* Pen register operations conducted in conjunction with nonconsensual interceptions should be included in § 42.8 (a) and (b). For all other pen register operations include items (1)-(15) from § 42.8(a), items (1)-(4) from § 42.8(b), and indicate whether the operation was conducted in the United States or abroad.

(e) *Unsuccessful applications for nonconsensual interception authorization orders.* (1) Identity of applying organizational unit. (Indicate if the application was on behalf of a DOD component other than the component making the report or on behalf of a non-DOD activity.)

(2) Investigative case number or identifier for the application.

(3) Identity of applying DOD investigative or law enforcement officer.

(4) Approval authority and date of approval of DOD request.

(5) Identity of judge who denied the application and date of denial.

(6) Offense specified in the application.

(7) Whether the application was for a wire or oral interception order, and whether the application was for an interception in the United States or abroad.

(8) Purpose or object of the interception applied for. Include a brief synopsis of the case.

(9) If the application was for an extension, indicate the dates, duration, and results of the previous interception.

(10) Specific location of the interception applied for.

(11) Number of U.S. persons named as targets in the application.

(12) Reason why the application was denied.

[FR Doc. 78-25203 Filed 9-7-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-040b]

PART 161—VESSEL TRAFFIC MANAGEMENT

Puget Sound

AGENCY: Coast Guard, DOT.

ACTION: Extension of interim navigation rule.

SUMMARY: This amendment extends the Puget Sound interim navigation rule. The interim rule was issued on March 14, 1978, as a temporary emergency measure for 180 days pending Coast Guard rulemaking governing tanker operations in Puget Sound and surrounding waters. This amendment is necessary in order to keep the interim rule in effect until completion of the Coast Guard rulemaking proceeding.

EFFECTIVE DATE: This amendment is effective August 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander James L. MacDonald, Office of Marine Environment and Systems (G-WLE/73), Room 7315, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590; 202-426-1934.

SUPPLEMENTARY INFORMATION: An opportunity to comment on the extension as a proposed rule has not been provided. A determination has been made that to provide notice and

public comment would be both impracticable and contrary to the public interest. The term of the extension was not decided until the Coast Guard was able to assess how much time was needed to complete the rulemaking process. Once the decision was made, there was not sufficient time to allow an opportunity to comment on the extension. Similarly, a determination has been made that good cause exists not to delay its effective date. Following either of these procedures would have caused the interim rule to lapse for a period of time after the end of its current 6-month term, and this circumstance would have thwarted the purpose of the interim navigation rule.

DRAFTING INFORMATION

The principal persons involved in drafting this amendment are Lieutenant Commander James L. MacDonald, Project Manager, Office of Marine Environment and Systems, U.S. Coast Guard, and Mr. Edward Gill and Mr. William Register, Project Attorneys, Office of the Chief Counsel, U.S. Coast Guard.

DISCUSSION AND BACKGROUND

On March 2, 1978, the U.S. Supreme Court, in the case of *Ray* v. *Atlantic Richfield Co., Inc.*, 46 U.S.L.W. 4200 (1978), declared portions of the State of Washington tanker law invalid based on constitutional grounds involving Federal preemption of State law. Part of the State law declared invalid was a provision banning tankers of over 125,000 deadweight tons in Puget Sound. An interim navigation rule prohibiting entry of oil tankers in excess of 125,000 deadweight tons into the U.S. waters of Puget Sound east of Discovery Island Light and New Dungeness Light was issued by the Secretary of Transportation on March 14, 1978 (43 FR 12257, March 23, 1978). The interim rule was to remain in effect until September 9, 1978. The rule was issued, pending possible preparation of additional navigation regulations, in order to provide a continuing scheme for controlling vessel operation in Puget Sound and to avert a reduction in environmental protection. The interim rule was based on the State provision. The Federal regulatory scheme, in conjunction with the State statute, while it remained valid, provided for protection of the waters of the Puget Sound area and its resources from environmental harm. The concern that invalidation of the State statute could diminish the effectiveness of the existing scheme for controlling vessel operation (and, thus, cause a reduction in environmental protection in Puget Sound) necessitated the taking of temporary action to avert this possibility.

When the interim navigation rule was issued, comments were requested on its contents to determine whether the rule should be modified or supplemented. Approximately 90 comments were received, most of which were in favor of the rule. A petition for rulemaking raising various legal questions concerning the interim navigation rule was also received. The petition was denied and copies of the action taken on the petition have been placed in the Coast Guard rulemaking dockets on the interim rule.

The Coast Guard was directed to institute rulemaking proceedings while the interim navigation rule remained in effect. The Coast Guard issued an advanced notice of proposed rulemaking (ANPRM) on March 22, 1978 (43 FR 12840, March 27, 1978), seeking public input concerning regulations governing the operation of tank vessels in the Puget Sound area. The Coast Guard set out several possible regulatory approaches and requested comments concerning these approaches, or any others that would provide an equivalent level of safety and environmental protection. Interested persons were given until May 12, 1978, to submit comments. Public hearings were held on April 20 and 21, 1978 in Seattle, Wash.

The Coast Guard is presently analyzing the comments received concerning the ANPRM and the interim rule. In conjunction with the analysis of the comments, the Coast Guard is conducting simulator tests and actual tests using tank vessels in order to determine a suitable regulatory approach. Additionally, a draft Environmental Impact Statement (EIS) is being prepared. Due to the time required to prepare and publish the EIS for public comment, as well as the complexity of issues and the volume of comments received, it is expected that the Coast Guard rulemaking proceeding will not be completed until June 1979. An extension of the interim navigation rule is necessary to maintain the current de facto level of protection of the navigable waters of Puget Sound pending completion of the Coast Guard rulemaking proceeding. Thus, the interim navigation rule is extended until June 30, 1979, so that the Coast Guard may have adequate time to complete the rulemaking process.

Accordingly, paragraph (c) of Appendix A to Part 161 of Title 33 of the Code of Federal Regulations is amended to read as follows:

APPENDIX A—PUGET SOUND INTERIM NAVIGATION RULE

* * * * *

(c) This rule is effective immediately and shall remain in effect until June 30, 1979.

(33 U.S.C. 1224.)

Dated: August 31, 1978.

BROCK ADAMS,
Secretary.

[FR Doc. 78-25288 Filed 9-7-78; 8:45 am]

[7710-12]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Bulk-Rate Third Class Presort Requirements

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends the Postal Service Manual to give mailers of bulk-rate third class a simplified presorting option for certain parcels that can be processed on bulk mail center parcel sorters. For mailings of parcels that qualify, the rule will permit mailers to sort first to five-digit ZIP Code and then to bulk mail center destinations, in place of the more demanding five-stage presorting process generally required.

EFFECTIVE DATE: September 7, 1978. Written comments should be received on or before October 11, 1978.

ADDRESS: Comments on these regulations are solicited and will be considered with a view toward making any changes that may be needed. Comments should be sent to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Room 1610, 475 L'Enfant Plaza SW., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Office of Mail Classification, Room 1610, 475 L'Enfant Plaza SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Mr. Ashley Lyons, 202-245-4767.

SUPPLEMENTARY INFORMATION: Presort requirements for third-class bulk-rate mail currently provide that mailers must separate and wrap or tie together 10 or more individually addressed pieces directed to the same five-digit ZIP Code delivery unit. The same requirements applies, in successive stages, to 10 or more remaining pieces directed to a multi-ZIP Coded post office, then to a sectional center facility, and then to a State. The remainer is combined in a mixed-State

package. See Postal Service Manual 134.436.

A number of mailers have suggested that a simplified form of presorting should be permitted for those parcels that can be proceeds on parcel sorters at the Postal Service bulk mail centers. The Postal Service believes that this adjustment is appropriate. Accordingly, this rule adopts a new section 134.437 of the Postal Service Manual to authorize the simplified presorting option.

The new section specifies the kinds of machinable parcels that will be eligible for the simplified presorting treatment. For eligible pieces, mailers will be authorized to substitute sorts to bulk mail centers destinations for the generally required sorts to multi-ZIP Coded post offices, sectional center facilities, and States. In addition, the quantity necessitating sacking at each stage will be 20 pounds or 1,000 cubic inches of mail, rather than 10 or more individually addressed pieces. Each separation will be sacked but the pieces will not have to be wrapped or tied together.

Although exempt from the notice and comment requirement of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service ordinarily invites comments from the public whenever it proposes a new or amended regulation such as this, which would or might have a substantial effect on the public. In this case, however, publishing these rules as proposals, with a comment period of 30 days, would delay implementation of an optional provision which will permit some mailers to choose simplified and less burdensome mail preparation procedures.

Accordingly, the Postal Service finds it unnecessary and contrary to the public interest to follow its customary practice by publishing these rules are proposed rules for comments before they become effective. See 5 U.S.C. 553(d). However, we reiterate that comments are welcomed on the published rules (which we anticipate may be interim rules), and that any proposed changes will be considered and acted upon as appropriate.

In view of the considerations discussed above, the Postal Service hereby adopts the following revision of the Postal Service Manual:

PART 134—THIRD CLASS

In 134.4, add new .437 reading as follows:

§ 134.4 Preparation—Payment of Postage.

* * * * *

.437 Optional Preparation Procedures Machinable (Regular) Third-Class Parcels.

a. *General.* Mailers may, at their option, sort machinable (regular) parcels to 5-digit and BMC destinations rather than the destinations prescribed in 134.436. Third-class parcels meeting the following criteria can be processed on bulk mail center parcel sorters and are referred to as machinable (regular) parcels.

(1) Weight: At least 8 ounces. Exception: Pieces weighing between 6 and 8 ounces are machinable if all sides are rectangular in shape.

(2) Length: At least 6 inches, but not over 34 inches.

(3) Width: At least 3 inches, but not over 17 inches.

(4) Height/Thickness: At least 1/4 inch, but not over 17 inches.

The following items are not considered machinable:

(1) Rolls and tubes.

(2) Unwrapped, paper wrapped, or sleeve wrapped articles.

(3) Merchandise samples that are not individually addressed.

(4) Enveloped materials not reinforced with tape.

(5) Articles not securely wrapped.

In some instances sackable parcels which do not meet all of the machinable (regular) parcel criteria may be successfully sorted on BMC parcel sorters. When this occurs the BMC general manager may notify the mailer that the subject parcels are machinable and may be entered under the optional preparation procedures of 134.437 b, c, and d, sorted to five-digit and BMC destinations.

b. *Five-digit sacks.* Pieces addressed to the same five-digit ZIP Code area must be sacked when there are 20 pounds or sufficient pieces to fill one-third of a No. 2 postal sack (1,000 cubic inches). These sacks must be labeled in the following manner:

```
PHILADELPHIA PA  19118      .....City, State and 5-Digit
                                   Destination
3C REG P                    .....Contents
FR JC COMPANY BOSTON MA     .....Mailer, Office of Mailing
```

c. *Destination bulk mail center (BMC) sacks.* After the required five-digit ZIP Code area sacks have been prepared, the remaining pieces must be placed in sacks labeled to destination BMC areas, when there are 20 pounds or sufficient pieces to a BMC area to fill one-third of a No. 2 postal sack (1,000 cubic inches). These sacks must be labeled in the following manner:

```
BMC CHICAGO IL  605         .....Destination BMC
3C REG P                    .....Contents
FR RD MAILINGS ATLANTA GA   .....Mailer, Office
                                   of Mailing
```

d. Mixed BMC sacks. After the required five-digit ZIP Code area and destination BMC sacks have been prepared, the remaining pieces must be placed in sacks labeled to the origin BMC in the following manner:

```
BMC KANSAS CITY MO  647      .....Origin BMC
3C REG P                     .....Contents
FR WRIGHT CO TOPEKA KS       .....Mailer, Office
                                  of Mailing
```

A post office services (domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2), 403.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-25265 Filed 9-5-78; 2:19 pm]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 947-3]

PART 2—PUBLIC INFORMATION

General Provisions; Confidential Business Information

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule makes changes in the Environmental Protection Agency (EPA) procedures for handling requests under the Freedom of Information Act and for treatment of business information submitted to EPA. In particular, the rule sets forth specific modifications to the basic procedures for treatment of business information under specific statutes, including the Toxic Substances Control Act and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976. This rule makes no changes in EPA's basic policy concerning treatment of business information that is determined to be confidential or claimed as confidential by the submitter.

DATE: This rule is effective October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

James Nelson, Office of General Counsel, Contracts and General Administration Branch (A-134), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 202-426-8830.

SUPPLEMENTARY INFORMATION: On September 1, 1976, the Environmental Protection Agency (EPA) published its regulations for handling requests under the Freedom of Information Act (FOIA) and for the treatment of business information claimed as confidential (41 FR 36902). On January 18, 1978, EPA published proposed amendments to those regulations (43 FR 2637). In response to the proposed amendments EPA has received comments from 21 persons. Appendix A of this notice summarizes and responds to the significant issues raised in these comments. The general changes in the final regulations in response to the comments are discussed below.

CHANGES TO SUBPART A

Subpart A of the regulations sets forth the basic rules that apply to the handling of FOIA requests by EPA. Several changes have been made to these procedures in response to comments.

During the development of the inventory reporting regulations for the Toxic Substances Control Act (TSCA) in 40 CFR Part 710, EPA realized that if the mere existence of certain records is a confidential trade secret, a denial of a FOIA request which acknowledged the existence of the records might itself be a disclosure of confidential information. In responding to comment 101 in the final inventory regulations (December 23, 1977, 42 FR 64592), EPA indicated that it would develop a method of responding to FOIA requests that would not disclose the existence of certain information if its existence were confidential. Accordingly, §§ 2.113 and 2.116 are amended to require that a denial of a FOIA request or a denial of a FOIA appeal not reveal the existence or nonexistence of records when that existence or nonexistence is confidential. The Agency anticipates that very few types of records will qualify for this type of denial. The only known example is the confidential chemical substance identities that will be included under the TSCA inventory reporting regulations. EPA will rely upon each affected business to identify specific records whose mere existence is claimed as confidential. If this type of claim is not made, EPA will not consider the existence of the records to be confidential. EPA believes that this approach to making FOIA denials is legal because it gives a requester a final denial that can be reviewed by a Federal court.

Sections 2.115 and 2.120 are amended to reflect the change in title from the Office of Public Affairs to the Office of Public Awareness. Section 2.118 is amended to reflect the change in the language of 5 U.S.C. 552(b)(3).

Section 2.120 is amended to provide that requesters who fail to pay fees generated by responses to FOIA requests will be placed on a delinquent list after 60 days. FOIA requests from a person on the delinquent list will not be honored until the overdue fees are paid. Under the proposal, a requester specifying an affiliation with an organization would have bound that organization. In response to comment, this provision has been modifed to allow an organization to show that the request was not in fact a request on behalf of the organization. If this can be shown, the organization would be removed from the delinquent list; the individual would remain on the list.

CHANGES TO SUBPART B

The amendments to subpart B of the regulations do not change EPA's basic approach to the treatment of confidential business information. EPA's policy remains that it will not disclose business information that has been determined to be entitled to confidential treatment except as specifically required or authorized by statute under which the information was or could have been acquired.

Four new sections are being added to subpart B. New § 2.214 sets forth the policy and procedures EPA will follow when a suit is filed by a requester under FOIA for information which EPA has denied on the basis that it is confidential business information. Under these procedures, when EPA is sued it will inform each affected business within 10 days after service of the complaint. EPA will not oppose a motion by an affected business to intervene in the suit. In some cases EPA may ask the business to assist in preparation of materials for the defense of the suit. EPA expects that affected businesses will cooperate to the fullest extent possible since EPA is defending the business' interests. EPA will defend its final confidentiality determination.

New § 2.215 specifies that no EPA officer, employee, contractor, or subcontractor can make any promises to an affected business about confidentaility

unless those promises are consistent with subpart B. In addition, it provides a mechanism for EPA to enter into agreements with other agencies that would require EPA to keep information furnished by the other agency confidential. This may be necessary as a condition of EPA's being able to acquire confidential business information from another agency. This section is discussed more fully in the January 18, 1978, proposal (43 FR 2638).

New § 2.305 provides special rules for certain business information under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976. These rules provide for disclosure to authorized representatives, when relevant in proceedings under the act, and discuss the applicability of the general rules in subpart B to this information. This section is similar to existing §§ 2.301 and 2.302, makes no major changes in approach, and is discussed in detail in the January 18, 1978, notice.

New § 2.306 provides special rules for confidential business information under TSCA. These rules provide for the following specific authorized disclosures set forth in section 14 of TSCA (15 U.S.C. 2613): To other Federal agencies; to contractors and subcontractors performing work under TSCA; when relevant in proceedings under TSCA; when necessary to protect health or the environment against an unreasonable risk of injury; and to Congress and its committees. The new section also defines "health and safety data" for the purposes of section 14(b) of TSCA. Under section 14(b) health and safety data may not be withheld from disclosure as confidential business information. Changes have been made in paragraph (h) to reflect changes made in § 2.209. Section 2.306 is discussed in more detail in the January 18, 1978 notice.

Some of the definitions in paragraph (a) of § 2.306 have been changed from the proposed version. Several definitions have been eliminated as unnecessary. The new definition of "manufacture or process for commercial purposes" replaces the two separate definitions in the proposal. This new definition is intended to clarify the scope of the definition of "health and safety data."

Under section 14(b) of TSCA, "data from health and safety studies" for chemical substances or mixtures "offered for commercial distribution" or for which testing is required under section 4 or notification is required when section 5 may not be withheld from disclosure by EPA as confidential business information under 5 U.S.C. 552(b)(4). The Agency interprets the term "offer for commercial distribution" to include the term "manufactured or processed for commercial purposes." The congressional policy behind section 14(b) of TSCA is that the public must have access to data about health and safety for those chemicals that are in commerce because the public may be exposed to those substances. Any chemical substance included in the inventory of chemical substances under TSCA section 8(b) can be distributed in commerce, and, therefore, the public may be exposed to it. Accordingly, the definition "manufactured or processed for commercial purposes" in these regulations combines the definitions in the inventory regulations (42 FR 64592). In this way, data about health and safety of any substance appearing on the inventory will be available to the public. Health and safety data for some chemical substances which are not included on the inventory will also be made available to the public under this section. The term "manufactured or processed for commercial purposes" in these regulations includes distribution in commerce for use in research and development. The definition has been expanded to include data for these types of chemical substances because once the chemical substance is distributed in commerce for any purpose it is covered by section 14(b). EPA has no reason to believe Congress intended any other definition for section 14(b).

A number of persons commented that EPA should notify any affected business before confidential business information is disclosed outside of EPA and proposed various methods of notice. The Agency's confidentiality regulations, published September 1, 1976, recognized that affected businesses should have notice before a public disclosure of information claimed as confidential. The regulations provided for 10 days notice before any public disclosure (§§ 2.204(d)(2) and 2.205(f)). In addition, in the case of disclosures to contractors, § 2.301(h)(2)(iii) provided for notice to affected businesses at least 5 days in advance of disclosure unless the program office determined that notice would seriously hamper the conduct of EPA activities. The regulations also provided for notice of contemplated disclosures in proceedings under several of EPA's specific statutes (see § 2.301(g)) and in certain circumstances of disclosures to State and local government agencies (see § 2.301(h)(3)(ii)). Sections 2.301 (g) and (h) have been incorporated by reference into other sections.

The September 1, 1976, regulations did not require any notice when EPA furnished confidential information to another Federal agency, to Congress or the Comptroller General, or to any other person pursuant to the order of a Federal court. Since disclosures to Congress or other Federal agencies are not public disclosures, EPA believes that notice prior to disclosure is not required. TSCA is the only statute where Congress specifically considered notice requirements. Section 14(c)(2)(B) of TSCA states that no notice is required prior to disclosure to other Federal agencies. Section 14 does not require any notice prior to disclosures to Congress.

Notwithstanding EPA's position that notice is not legally required in these situations, EPA has decided as a matter of policy to give notice in the case of disclosures to other Federal agencies and Congress, and pursuant to Federal court orders. Accordingly, § 2.209 has been amended to provide advance notice of at least 10 days to each affected business prior to disclosure to Congress or other Federal agencies. In the case of disclosures pursuant to Federal court order, EPA will give advance notice providing such notice does not violate the terms of the court order or other directive of the court.

Other comments urged a change in the EPA position reflected in § 2.209 that when another Federal agency obtains confidential business information from EPA it must agree not to disclose the information further unless it has EPA's consent, the consent of the affected business, or its own statutory authority both to compel production of the information and to make the proposed disclosure. The position of EPA remains that, if the other agency could have acquired the information itself under statutory authority even if EPA had not furnished the information, the other agency should be allowed to treat the information as if acquired under its own statutory authority, and, therefore, subject to the disclosure provisions of its own statute. However, since other agencies may have policies concerning notice to affected businesses that are different from those at EPA, § 2.209 has been amended to provide that the other agency, prior to making a disclosure under its own statutory authority, must give each affected business at least the same notice that would be required under EPA's regulations. This will assure that no information obtained by EPA is disclosed by another agency without the affected business receiving at least the same notice that EPA would have provided.

In providing for notice to affected businesses prior to disclosure to other Federal agencies or Congress, or pursuant to Federal court orders, EPA has reserved a certain flexibility. Comments received suggested many methods and types of notices. Since notice is not legally required but is provided as a courtesy, the type of notice re-

quired by these amendments is less rigid than the notice used in the case of a public disclosure under §§ 2.204 and 2.205. To avoid undue administrative burden on EPA and its program activities and after considering different types and contents of notices, § 2.209 has been amended to specify the contents of the notice and to provide some discretion for the program office answering a request from another Federal agency, Congress, or a Federal court to choose the appropriate method of notice. For example, if EPA entered an interagency agreement to provide a certain type of confidential business information to another Federal agency on a continuing basis, EPA could publish a notice in the FEDERAL REGISTER describing the agreement and the type of information to be provided. This type of notice would be used when there are large numbers of affected businesses and would refer to categories of information. In other cases where only a few affected businesses are involved, notice might be given by a certified letter.

In addition, in certain cases disclosure to employees of another Federal agency is essentially the same as disclosure to EPA employees. This occurs when the employees of the other agency are performing a function on behalf of EPA. For example, when the Department of Justice represents EPA in legal matters or investigates criminal or civil violations of Federal laws relating to EPA activities, it is acting on behalf of EPA. Also, EPA sometimes enters into interagency agreements with other agencies under which the other agency performs a function for EPA under an EPA statute. Since disclosure of information in these types of activities is essentially the same as a disclosure to an EPA employee, no notice will be provided in these situations. This is consistent with the policy that an agency does not have to inform an affected business each time information is made available to a different employee or office within the agency.

The September 1, 1976, regulations did not require notice in all cases where EPA furnished confidential business information to contractors or where EPA disclosed confidential business information to contractors or where EPA disclosed confidential business information because of its relevance in proceedings under particular statutes. EPA believes that notice prior to disclosure to contractors or in proceedings is not required. TSCA is the only statute where Congress specifically considered notice requirements. Section 14(c)(2)(B) of TSCA states that no notice is required prior to disclosure in proceedings or disclosure to contractors.

Notwithstanding EPA's position that notice is not legally required in these situations, EPA has decided as a matter of policy to give notice prior to disclosure in proceedings and disclosure to contractors. The September 1, 1976, regulations already provided for some notice in these situations. These regulations have been modified to provide notice in all such situations. First, § 2.301(g) has been amended to provide notice prior to disclosure of information relevant in proceedings under various EPA statutes. Section 2.301(h)(2)(iii) has been amended to provide notice prior to all disclosures of information to contractors and subcontractors under various EPA statutes. Sections 2.301 (g) and (h) are incorporated by reference into other sections in subpart B.

The additional notice requirements in these regulations will result in additional administrative burdens on EPA's programs. If these burdens begin to hamper the effective implementation of EPA's statutory mandates, the Agency may have to reconsider these notice requirements and further amend these regulations after rulemaking and public comment.

Section 2.301(h) has also been amended to clarify its applicability to both contractors and subcontractors. Section 2.301 has been amended to reflect the recodification of the Clean Air Act as 42 U.S.C. 7401 et seq. and amendments in 1977. Section 2.302 has been amended to include the new name "Clean Water Act."

The remaining changes in subpart B are designed to make the cross-references within the regulations consistent with these amendments.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis statement under Executive Order 12044.

Dated: September 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 2 is amended as follows:

1. By adding new §§ 2.214 and 2.215 to the Table of Sections, Subpart B, and by revising §§ 2.302, 2.305, and 2.306, to read as follows:

Subpart B—Confidentiality of Business Information

Sec.

* * * * *

2.214 Defense of Freedom of Information Act suits; participation by affected business.

2.215 Confidentiality agreements.

* * * * *

2.302 Special rules governing certain information obtained under the Clean Water Act.

* * * * *

2.305 Special rules governing certain information obtained under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976.

2.306 Special rules governing certain information obtained under the Toxic Substances Control Act.

* * * * *

2. By revising "Authority" to read as follows:

AUTHORITY: 5 U.S.C. 301, 552, 553; secs. 114, 208, 301, and 307 of the Clean Air Act, as amended, 42 U.S.C. 7414, 7542, 7601, 7607; secs. 308, 501, and 509(a) of the Clean Water Act, as amended, 33 U.S.C. 1318, 1361, 1369(a); sec. 13 of the Noise Control Act of 1972, 42 U.S.C. 4912; secs. 1445 and 1450 of the Safe Drinking Water Act, 42 U.S.C. 300j-4, 300j-9; secs. 2002 and 3007 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6927; sec. 14 of the Toxic Substances Control Act, 15 U.S.C. 2613; secs. 10, 12, and 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136h, 136j, 136v; sec. 408(f) of the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346(f); and secs. 104(f) and 108 of the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1414(f), 1418.

3. By adding three new sentences to the end of § 2.113(d) to read as follows:

§ 2.113 Initial denials of requests.

* * * * *

(d) * * * However, no initial determination shall reveal the existence or nonexistence of records if identifying the mere fact of the existence or nonexistence of those records would reveal confidential business information, confidential personal information, or a confidential investigation. Instead of identifying the existence or nonexistence of the records, the initial determination shall state that the request is denied because either the records do not exist or they are exempt from mandatory disclosure under the applicable provision of 5 U.S.C. 552(b). No such determination shall be issued without the concurrence of the appropriate EPA legal office.

* * * * *

4. By revising paragraph (b) of § 2.115 to read as follows:

§ 2.115 Appeal determination; by whom made.

* * * * *

(b) Whenever the General Counsel has determined under paragraph (a)(3) of this section that a record is

exempt from mandatory disclosure but legally may be disclosed and the record has not been disclosed by EPA, the matter shall be referred to the Director of the EPA Office of Public Awareness. If the Director of the EPA Office of Public Awareness determines that the public interest would not be served by disclosure, a determination denying the appeal shall be issued by the General Counsel. If the Director of the EPA Office of Public Awareness determines that the public interest would be served by disclosure, the record shall be disclosed unless the Administrator (upon a review of the matter requested by the appropriate Assistant Administrator, Regional Administrator, or the Director of a Headquarters Staff Office) determines that the public interest would not be served by disclosure, in which case the General Counsel shall issue a determination denying the appeal.

* * * * *

5. By adding two new sentences to the end of § 2.116 to read as follows:

§ 2.116 Contents of determination denying appeal.

* * * However, no determination denying an appeal shall reveal the existence or nonexistence of records if identifying the mere fact of the existence or nonexistence of those records would reveal confidential business information, confidential personal information, or a confidential investigation. Instead of identifying the existence or nonexistence of the records, the determination shall state that the appeal is denied because either the records do not exist or they are exempt from mandatory disclosure under the applicable provision of 5 U.S.C. 552(b).

6. By revising paragraph (a)(3) of § 2.118 to read as follows:

§ 2.118 Exemption categories.

(a) * * *

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552(b)): *Provided,* That such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

* * * * *

7. By revising § 2.120 by changing the last sentence of paragraph (d) and by adding a new paragraph (e) to read as follows:

§ 2.120 Fees; payment; waiver.

* * * * *

(d) * * * The Director of the EPA Office of Public Awareness, or the Director's designee in an EPA regional office, shall decide such appeals.

(e) The EPA Freedom of Information Officer shall maintain a record of all fees charged requesters for searching for and reproducing requested records under this section. If after the end of 60 calendar days from the date on which request for payment was made the requester has not submitted payment to the EPA Freedom of Information Officer, the Freedom of Information Officer shall place the requester's name on a delinquent list. If a requester whose name appears on the delinquent list makes a request under this part, the EPA Freedom of Information Officer shall inform the requester that EPA will not process the request until the requester submits payment of the overdue fee from the earlier request. Any request made by an individual who specifies an affiliation with or representation of a corportion, association, law firm, or other organization shall be deemed to be a request by the corporation, association, law firm, or other organization. If an organization placed on the delinquent list can show that the person who made the request for which payment is overdue did not make the request on behalf of the organization, the organization will be removed from the delinquent list but the name of the individual shall remain on the list. A requester shall not be placed on the delinquent list if a request for a reduction or for a waiver is pending under paragraph (d) of this section.

8. By revising paragraph (a) and the first sentence of paragraph (c) of § 2.202 to read as follows:

§ 2.202 Applicability of subpart; priority where provisions conflict; records containing more than one kind of information.

(a) Sections 2.201 through 2.215 establish basic rules governing business confidentiality claims, the handling by EPA of business information which is or may be entitled to confidential treatment, and determinations by EPA of whether information is entitled to confidential treatment for reasons of business confidentiality.

* * * * *

(c) The basic rules of §§ 2.201 through 2.215 govern except to the extent that they are modified or supplanted by the special rules of §§ 2.301 through 2.309. * * *

* * * * *

9. By revising paragraph (e)(4)(viii) of § 2.204 to read as follows:

§ 2.204 Initial action by EPA office.

* * * * *

(e) * * *

(4) * * *

(viii) Whether the business asserts that disclosure of the information would be likely to result in substantial harmful effects on the business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects; and

* * * * *

10. By revising paragraphs (a), (b), (c), and (d) of § 2.209 to read as follows:

§ 2.209 Disclosure in special circumstances.

(a) *General.* Information which, under this subpart, is not available to the public may nonetheless be disclosed to the persons, and in the circumstances, described by paragraphs (b) through (g) of this section. (This section shall not be construed to restrict the disclosure of information which has been determined to be available to the public. However, business information for which a claim of confidentiality has been asserted shall be treated as being entitled to confidential treatment until there has been a determination in accordance with the procedures of this subpart that the information is not entitled to confidential treatment.)

(b) *Disclosure to Congress or the Comptroller General.* Upon receipt of a written request by the Speaker of the House, President of the Senate, chairman of a committee or subcommittee, or the Comptroller General, as appropriate, EPA will disclose business information to either House of Congress, to a committee or subcommittee of Congress, or to the Comptroller General, unless a statute forbids such disclosure. If the request is for information claimed as confidential or determined to be confidential, the EPA office processing the request shall provide notice to each affected business of the type of information to be disclosed and to whom it is to be disclosed. At the discretion of the office, such notice may be given by notice published in the FEDERAL REGISTER at least 10 days prior to disclosure, or by letter sent by certified mail return receipt requested or telegram either of which must be received by the affected business at least 10 days prior to disclosure. At the time EPA discloses the business information, EPA will inform the requesting body of any unresolved business confidentiality claim known to cover the information and of

any determination under this subpart that the information is entitled to confidential treatment.

(c) *Disclosure to other Federal agencies.* EPA may disclose business information to another Federal agency if—

(1) EPA receives a written request for disclosures of the information from a duly authorized officer or employee of the other agency or on the initiative of EPA when such disclosure is necessary to enable the other agency to carry out a function on behalf of EPA;

(2) The request, if any, sets forth the official purpose for which the information is needed;

(3) When the information has been claimed as confidential or has been determined to be confidential, the responsible EPA office provides notice to each affected business of the type of information to be disclosed and to whom it is to be disclosed. At the discretion of the office, such notice may be given by notice published in the FEDERAL REGISTER at least 10 days prior to disclosure, or by letter sent by certified mail return receipt requested or telegram either of which must be received by the affected business at least 10 days prior to disclosure. However, no notice shall be required when EPA furnishes business information to another Federal agency to perform a function on behalf of EPA, including but not limited to—

(i) Disclosure to the Department of Justice for purposes of investigation or prosecution of civil or criminal violations of Federal law related to EPA activities;

(ii) Disclosure to the Department of Justice for purposes of representing EPA in any matter; or

(iii) Disclosure to any Federal agency for purposes of performing an EPA statutory function under an interagency agreement.

(4) EPA notifies the other agency of any unresolved business confidentiality claim covering the information and of any determination under this subpart that the information is entitled to confidential treatment, and that further disclosure of the information may be a violation of 18 U.S.C. 1905; and

(5) The other agency agrees in writing not to disclose further any information designated as confidential unless—

(i) The other agency has statutory authority both to compel production of the information and to make the proposed disclosure, and the other agency has, prior to disclosure of the information to anyone other than its officers and employees, furnished to each affected business at least the same notice to which the affected business would be entitled under this subpart;

(ii) The other agency has obtained the consent of each affected business to the proposed disclosure; or

(iii) The other agency has obtained a written statement from the EPA General Counsel or an EPA Regional Counsel that disclosure of the information would be proper under this subpart.

(d) *Court-ordered disclosure.* EPA may disclose any business information in any manner and to the extent ordered by a Federal court. Where possible, and when not in violation of a specific directive from the court, the EPA office disclosing information claimed as confidential or determined to be confidential shall provide as much advance notice as possible to each affected business of the type of information to be disclosed and to whom it is to be disclosed, unless the affected business has actual notice of the court order. At the discretion of the office, subject to any restrictions by the court, such notice may be given by notice in the FEDERAL REGISTER, letter sent by certified mail return receipt requested, or telegram.

* * * * *

11. By revising the first sentence of paragraph (d) of § 2.211 to read as follows:

§ 2.211 Safeguarding of business information; penalty for wrongful disclosure.

* * * * *

(d) Each contractor or subcontractor with EPA, and each employee of such contractor or subcontractor, who is furnished business information by EPA under §§ 2.301(h), 2.302(h), 2.304(h), 2.305(h), 2.306(j), 2.307(h), or 2.308(i), shall use or disclose that information only as permitted by the contract or subcontract under which the information was furnished. * * *

12. By revising paragraphs (b)(6), (b)(7), and (c) of § 2.213 and adding a new paragraph (b)(8) to read as follows:

§ 2.213 Designation by business of addressee for notices and inquiries.

* * * * *

(b) * * *

(6) Notices concerning modifications or overrulings of prior determinations, under § 2.205(h);

(7) Notices to affected businesses under §§ 2.301(g) and 2.301(h) and analogous provisions in §§ 2.302, 2.303, 2.304, 2.305, 2.306, 2.307, and 2.308; and

(8) Notices to affected businesses under § 2.209.

(c) The Freedom of Information Officer shall, as quickly as possible, notify all EPA offices that may possess information submitted by the business to EPA, the Regional Freedom of Information Offices, the Office of General Counsel, and the offices of Regional Counsel of any designation received under this section. Businesses making designations under this section should bear in mind that several working days may be required for dissemination of this information within EPA and that some EPA offices may not receive notice of such designations.

13. By adding the following two new sections after § 2.213:

§ 2.214 Defense of Freedom of Information Act suits; participation by affected business.

(a) In making final confidentiality determinations under this subpart, the EPA legal office relies to a large extent upon the information furnished by the affected business to substantiate its claim of confidentiality. The EPA legal office may be unable to verify the accuracy of much of the information submitted by the affected business.

(b) If the EPA legal office makes a final confidentiality determination under this subpart that certain business information is entitled to confidential treatment, and EPA is sued by a requester under the Freedom of Information Act for disclosure of that information, EPA will:

(1) Notify each affected business of the suit within 10 days after service of the complaint upon EPA;

(2) Where necessary to preparation of EPA's defense, call upon each affected business to furnish assistance; and

(3) Not oppose a motion by any affected business to intervene as a party to the suit under rule 24(b) of the Federal Rules of Civil Procedure.

(c) EPA will defend its final confidentiality determination, but EPA expects the affected business to cooperate to the fullest extent possible in this defense.

§ 2.215 Confidentiality agreements.

(a) No EPA officer, employee, contractor, or subcontractor shall enter into any agreement with any affected business to keep business information confidential unless such agreement is consistent with this subpart. No EPA officer, employee, contractor, or subcontractor shall promise any affected business that business information will be kept confidential unless the promise is consistent with this subpart.

(b) If an EPA office has requested information from a State, local, or Federal agency and the agency refuses to furnish the information to EPA because the information is or may constitute confidential business information, the EPA office may enter into an agreement with the agency to keep the information confidential, notwith-

standing the provisions of this subpart. However, no such agreement shall be made unless the General Counsel determines that the agreement is necessary and proper.

(c) To determine that an agreement proposed under paragraph (b) of this section is necessary, the General Counsel must find:

(1) The EPA office requesting the information needs the information to perform its functions;

(2) The agency will not furnish the information to EPA without an agreement by EPA to keep the information confidential; and

(3) Either:

(i) EPA has no statutory power to compel submission of the information directly from the affected business, or

(ii) While EPA has statutory power to compel submission of the information directly from the affected business, compelling submission of the information directly from the business would—

(A) Require time in excess of that available to the EPA office to perform its necessary work with the information,

(B) Duplicate information already collected by the other agency and overly burden the affected business, or

(C) Overly burden the resources of EPA.

(d) To determine that an agreement proposed under paragraph (b) of this section is proper, the General Counsel must find that the agreement states—

(1) The purpose for which the information is required by EPA;

(2) The conditions under which the agency will furnish the information to EPA;

(3) The information subject to the agreement;

(4) That the agreement does not cover information acquired by EPA from another source;

(5) The manner in which EPA will treat the information; and

(6) That EPA will treat the information in accordance with the agreement subject to an order of a Federal court to disclose the information.

(e) EPA will treat any information acquired pursuant to an agreement under paragraph (b) of this section in accordance with the procedures of this subpart except where the agreement specifies otherwise.

14. By amending § 2.301 as follows:

(a) By substituting the citation "42 U.S.C. 7401 et seq." for "42 U.S.C. 1857 et seq." in paragraph (a)(1).

(b) By substituting the citation "42 U.S.C. 7542" for "42 U.S.C. 1857f-6" in paragraph (b)(1)(ii).

(c) By substituting the citations "42 U.S.C. 7607(a)" for "42 U.S.C. 1857h-5(a)" in paragraph (b)(1)(iii).

(d) By substituting the citations "42 U.S.C. 7413(a)" and "42 U.S.C. 7413(b)" for "42 U.S.C. 1857c-8(a)" and "42 U.S.C. 1857c-8(b)", respectively, in paragraph (b)(2).

(e) By substituting the citations "42 U.S.C. 7523" for "42 U.S.C. 1857f-3" in paragraph (b)(3).

(f) By substituting the citations "42 U.S.C. 7415(j)" and "42 U.S.C. 7545(b)" for "42 U.S.C. 1857d(j)" and "42 U.S.C. 1857f-6c(b)", respectively, in paragraph (b)(5).

(g) By revising paragraphs (a)(5), (b)(1)(i), (c), (d), and (h)(2) and adding a new sentence to the end of paragraphs (g)(2), (g)(3), and (g)(4) as follows:

§ 2.301 Special rules governing certain information obtained under the Clean Air Act.

(a) * * *

(5) "Manufacturer" has the meaning given it in section 216(1) of the Act, 42 U.S.C. 7550(1).

(b) * * *

(1) * * *

(i) Provided or obtained under section 114 of the Act, 42 U.S.C. 7414, by the owner or operator of any stationary source, for the purpose (A) of developing or assisting in the development of any implementation plan under section 110 or 111(d) of the Act, 42 U.S.C. 7410, 7411(d), any standard of performance under section 111 of the Act, 42 U.S.C. 7411, or any emission standard under section 112 of the Act, 42 U.S.C. 7412, (b) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (C) of carrying out section 303 of the Act, 42 U.S.C. 7603;

* * * * *

(c) *Basic rules which apply without change.* Sections 2.201 through 2.207, § 2.209 and §§ 2.211 through 2.215 apply without change to information to which this section applies.

(d) [Reserved]

* * * * *

(g) * * *

(2) * * * Any affected business shall be given at least 5 days notice by the General Counsel prior to making the information available to the public.

(3) * * * Any affected business shall be given at least 5 days notice by the presiding officer prior to making the information available to the public or to one or more of the parties of record to the proceeding.

(4) * * * Any affected business shall be given at least 5 days notice by the presiding officer prior to making the information available to one or more of the parties of record to the proceeding.

(h) * * *

(2)(i) A person under contract or subcontract to EPA to perform work for EPA in connection with the Act or regulations which implement the Act may be considered an authorized representative of the United States for purposes of this paragraph (h). Subject to the limitations in this paragraph (h)(2), information to which this section applies may be disclosed to such a person if the EPA program office managing the contract or subcontract first determines in writing that such disclosure is necessary in order that the contractor or subcontractor may carry out the work required by the contract or subcontract.

(ii) No information shall be disclosed under the paragraph (h)(2), unless this contract or subcontract in question provides:

(A) That the contractor or subcontractor and the contractor's or subcontractor's employees shall use the information only for the purpose of carrying out the work required by the contract or subcontract, shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office, and shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request by the EPA program office, whenever the information is no longer required by the contractor of subcontractor for the performance of the work required under the contract or subcontract, or upon completion of the contract of subcontract;

(B) That the contractor or subcontractor shall obtain a written agreement to honor such terms of the contract of subcontract from each of the contractor's of subcontractor's employees who will have access to the information, before such employee is allowed such access; and

(C) That the contractor or subcontractor acknowledges and agrees that the contract or subcontract provisions concerning the use and disclosure of business information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having an interest in information concerning it supplied to the contractor or subcontractor by EPA under the contract or subcontract.

(iii) No information shall be disclosed under this paragraph (h)(2) until each affected business has been furnished notice of the contemplated disclosure by the EPA program office and has been afforded a period found reasonable by that office (not less than 5 working days) to submit its comments. Such notice shall include a description of the information to be disclosed, the identity of the contractor or subcontractor, the contract or subcontract number, if any, and the

purposes to be served by the disclosure.

(iv) The EPA program office shall prepare a record of each disclosure under this paragraph (h)(2), showing the contractor or subcontractor, the contract or subcontract number, the information disclosed, the date(s) of disclosure, and each affected business. The EPA program office shall maintain the record of disclosure and the determination of necessity prepared under paragraph (h)(2)(i) of this section for a period of not less than 36 months after the date of the disclosure.

* * * * *

15. By revising the title and paragraphs (a)(1), (c), and (d) of § 2.302 to read as follows:

§ 2.302 Special rules governing certain information obtained under the Clean Water Act.

(a) * * *

(1) "Act" means the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

* * * * *

(c) *Basic rules which apply without change.* Sections 2.201 through 2.207, § 2.209, §§ 2.211 through 2.215 apply without change to information to which this section applies.

(d) [Reserved]

* * * * *

16. By revising paragraphs (c) and (d) of § 2.303 to read as follows:

§ 2.303 Special rules governing certain information obtained under the Noise Control Act of 1972.

* * * * *

(c) *Basic rules which apply without change.* Sections 2.201 through 2.207 and §§ 2.209 through 2.215 apply without change to information to which this section applies.

(d) [Reserved]

* * * * *

17. By revising paragraphs (c) and (d) of § 2.304 to read as follows:

§ 2.304 Special rules governing certain information obtained under the Safe Drinking Water Act.

* * * * *

(c) *Basic rules which apply without change.* Sections 2.201 through 2.207, § 2.209, and §§ 2.211 through 2.215 apply without change to information to which this section applies.

(d) [Reserved]

* * * * *

18. By revising § 2.305 to read as follows:

§ 2.305 Special rules governing certain information obtained under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976.

(a) *Definitions.* For purposes of this section:

(1) "Act" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.

(2) "Person" has the meaning given it in section 1004(15) of the Act, 42 U.S.C. 6903(15).

(3) "Hazardous waste" has the meaning given it in section 1004(5) of the Act, 42 U.S.C. 6903(5).

(4) "Proceeding" means any rulemaking, adjudication, or licensing conducted by EPA under the Act or under regulations which implement the Act, except for determinations under this part.

(b) *Applicability.* This section applies only to information provided to or obtained by EPA under section 3007 of the Act, 42 U.S.C. 6927, by or from any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous wastes. Information will be considered to have been provided or obtained under section 3007 of the Act if it was provided in response to a request from EPA made for any of the purposes stated in section 3007, or if its submission could have been required under section 3007, regardless of whether section 3007 was cited as the authority for any request for the information or whether the information was provided directly to EPA or through some third person.

(c) *Basic rules which apply without change.* Sections 2.201 through 2.207 and §§ 2.209 through 2.215 apply without change to information to which this section applies.

(d) [Reserved]

(e) *Substantive criteria for use in confidentiality determinations.* Section 2.208 applies without change to information to which this section applies; however, no information to which this section applies is voluntarily submitted information.

(f) [Reserved]

(g) *Disclosure of information relevant in a proceeding.* (1) Under section 3007(b) of the Act (42 U.S.C. 6927(b)), any information to which this section applies may be disclosed by EPA because of the relevance of the information in a proceeding under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Disclosure of information to which this section applies because of its relevance in a proceeding shall be made only in accordance with this paragraph (g).

(2–4) The provisions of § 2.301 (g)(2), (g)(3), and (g)(4) are incorporated by reference as paragraphs (g)(2), (g)(3), and (g)(4), respectively, of this section.

(h) *Disclosure to authorized representatives.* (1) Under section 3007(b) of the Act (42 U.S.C. 6927(b)), EPA possesses authority to disclose to any authorized representative of the United States any information to which this section applies, notwithstanding the fact that the information might otherwise be entitled to confidential treatment under this subpart. Such authority may be exercised only in accordance with paragraph (h)(2) or (h)(3) of this section.

(2–3) The provisions of § 2.301 (h)(2) and (h)(3) are incorporated by reference as paragraphs (h)(2) and (h)(3), respectively, of this section.

19. By revising § 2.306 to read as follows:

§ 2.306 Special rules governing certain information obtained under the Toxic Substances Control Act.

(a) *Definitions.* For the purposes of this section:

(1) "Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

(2) "Chemical substance" has the meaning given it in section 3(2) of the Act, 15 U.S.C. 2602(2).

(3)(i) "Health and safety data" means, with respect to any chemical substance or mixture that has been manufactured or processed for commercial purposes or any chemical substance or mixture for which testing is required under section 4 of the Act (15 U.S.C. 2603) or for which notification is required under section 5 of the Act (15 U.S.C. 2604)—

(A) Any study of any effect of a chemical substance or mixture on health, on the environment, or on both, including underlying data and epidemiological studies; studies of occupational exposure to a chemical substance or mixture; and toxicological, clinical, and ecological studies of a chemical substance or mixture;

(B) Any test performed under the Act; and

(C) Any data reported to, or otherwise obtained by, EPA from a study described in paragraph (a)(3)(i)(A) of this section or a test described in paragraph (a)(3)(i)(B) of this section.

(ii) Notwithstanding paragraph (a)(3)(i) of this section, no information shall be considered to be "health and safety data" if disclosure of the information would—

(A) In the case of a chemical substance or mixture, disclose processes used in the manufacturing or processing the chemical substance or mixture, or,

(B) In the case of a mixture, disclose the portion of the mixture comprised by any of the chemical substances in the mixture.

(4) "Manufacture or process for commercial purposes" means to manufacture, import, or process:

(i) For distribution in commerce, including for test marketing purposes and for use in research and development, or

(ii) For use by the manufacturer, importer, or processor, including for use as an intermediate.

(5) "Mixture" has the meaning given it in section 3(8) of the Act, 15 U.S.C. 2602(8).

(6) "Proceeding" means any rulemaking, adjudication, or licensing conducted by EPA under the Act or under regulations which implement the Act, except for determinations under this subpart.

(b) *Applicability.* This section applies to all information submitted to EPA for the purpose of satisfying some requirement or condition of the Act or of regulations which implement the Act, including information originally submitted to EPA for some other purpose and either relied upon to avoid some requirement or condition of the Act or incorporated into a submission in order to satisfy some requirement or condition of the Act or of regulations which implement the Act. Information will be considered to have been provided under the Act if the information could have been obtained under authority of the Act, whether the Act was cited as authority or not, and whether the information was provided directly to EPA or through some third person.

(c) *Basic rules which apply without change.* Sections 2.201 through 2.203, § 2.206, § 2.207, and §§ 2.210 through 2.215 apply without change to information to which this section applies.

(d) *Initial action by EPA office.* Section 2.204 applies to information to which this section applies, except that the provisions of paragraph (e)(3) of this section regarding the time allowed for seeking judicial review shall be reflected in any notice furnished to a business under § 2.204(d)(2).

(e) *Final confidentiality determination by EPA legal office.* Section 2.205 applies to information to which this section applies, except that—

(1) Notwithstanding § 2.205(i), the General Counsel (or his designee), rather than the regional counsel, shall make the determinations and take the actions required by § 2.205;

(2) In addition to the statement prescribed by the second sentence of § 2.205(f)(2), the notice of denial of a business confidentiality claim shall state that under section 20(a) of the Act, 15 U.S.C. 2619, the business may commence an action in an appropriate Federal district court to prevent disclosure.

(3) The following sentence is substituted for the third sentence of § 2.205(f)(2): "With respect to EPA's implementation of the determination, the notice shall state that (subject to § 2.210) EPA will make the information available to the public on the thirty-first (31st) calendar day after the date of the business' receipt of the wirtten notice (or on such later date as is established in lieu thereof under paragraph (f)(3) of this section), unless the EPA legal office has first been notified of the business' commencement of an action in a Federal court to obtain judicial review of the determination and to obtain preliminary injunctive relief against disclosure."; and

(4) Notwithstanding § 2.205(g), the 31 calendar day period prescribed by § 2.205(f)(2), as modified by paragraph (e)(3) of this section, shall not be shortened without the consent of the business.

(f) [Reserved]

(g) *Substantive criteria for use in confidentiality determinations.* Section 2.208 applies without change to information to which this section applies, except that health and safety data are not eligible for confidential treatment. No information to which this section applies is voluntarily submitted information.

(h) *Disclosure in special circumstances.* Section 2.209 applies to information to which this section applies, except that the following two additional provisions apply to § 2.209(c):

(1) The official purpose for which the information is needed must be in connection with the agency's duties under any law for protection of health or the environment or for specific law enforcement purposes; and

(2) EPA notifies the other agency that the information was acquired under authority of the Act and that any knowing disclosure of the information may subject the officers and employees of the other agency to the penalties in section 14(d) of the Act (15 U.S.C. 2613(d)).

(i) *Disclosure of information relevant in a proceeding.* (1) Under section 14(a)(4) of the Act (15 U.S.C. 2613(a)(4)), any information to which this section applies may be disclosed by EPA when the information is relevant in a proceeding under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. However, any such disclosure shall be made in a manner that preserves the confidentiality of the information to the extent practicable without impairing the proceeding. Disclosure of information to which this section applies because of its relevance in a proceeding shall be made only in accordance with this paragraph (i).

(2-4) The provisions of §§ 2.301(g)(2), (g)(3), and (g)(4) are incorporated by reference as paragraphs (i)(2), (i)(3), and (i)(4), respectively, of this section.

(j) *Disclosure of information to contractors and subcontractors.* (1) Under section 14(a)(2) of the Act (15 U.S.C. 2613(a)(2)), any information to which this section applies may be disclosed by EPA to a contractor or subcontractor of the United States performing work under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Subject to the limitations in this paragraph (j), information to which this section applies may be disclosed to a contractor or subcontractor if the EPA program office managing the contract or subcontract, or (in the case of contractors or subcontractors with agencies other than EPA) the General Counsel, determines in writing that such disclosure is necessary for the satisfactory performance by the contractor or subcontractor of the contract or subcontract.

(2-4) The provisions of §§ 2.301 (h)(2)(ii), (h)(2)(iii), and (h)(2)(iv) are incorporated by reference as paragraphs (j)(2), (j)(3), and (j)(4), respectively, of this section.

(5) At the time any information is furnished to a contractor or subcontractor under this paragraph (j), the EPA office furnishing the information to the contractor or subcontractor shall notify the contractor or subcontractor that the information was acquired under authority of the Act and that any knowing disclosure of the information may subject the contractor or subcontractor and its employees to the penalties in section 14(d) of the Act (15 U.S.C. 2613(d)).

(k) *Disclosure of information when necessary to protect health or the environment against an unreasonable risk of injury.* (1) Under section 14(a)(3) of the Act (15 U.S.C 2613(a)(3)), any information to which this section applies may be disclosed by EPA when disclosure is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment. However, any disclosure shall be made in a manner that preserves the confidentiality of the information to the extent not inconsistent with protecting health or the environment against the unreasonable risk of injury. Disclosure of information to which this section applies because of the need to protect health or the environment against an unreasonable risk of injury shall be made only in accordance with this paragraph (k).

(2) If any EPA office determines that there is an unreasonable risk of

injury to health or the environment and that to protect health or the environment against the unreasonable risk of injury it is necessary to disclose information to which this section applies that otherwise might be entitled to confidential treatment under this subpart, the EPA office shall notify the General Counsel in writing of the nature of the unreasonable risk of injury, the extent of the disclosure proposed, how the proposed disclosure will serve to protect health or the environment against the unreasonable risk of injury, and the proposed date of disclosure. Such notification shall be made as soon as practicable after discovery of the unreasonable risk of injury. If the EPA office determines that the risk of injury is so imminent that it is impracticable to furnish written notification to the General Counsel, the EPA office shall notify the General Counsel orally.

(3) Upon receipt of notification under paragraph (k)(2) of this section, the General Counsel shall make a determination in writing whether disclosure of information to which this section applies that otherwise might be entitled to confidential treatment is necessary to protect health or the environment against an unreasonable risk of injury. The General Counsel shall also determine the extent of disclosure necessary to protect against the unreasonable risk of injury as well as when the disclosure must be made to protect against the unreasonable risk of injury.

(4) If the General Counsel determines that disclosure of information to which this section applies that otherwise might be entitled to confidential treatment is necessary to protect health or the environment against an unreasonable risk of injury, the General Counsel shall furnish notice to each affected business of the contemplated disclosure and of the General Counsel's determination. Such notice shall be made in writing by certified mail, return receipt requested, at least 15 days before the disclosure is to be made. The notice shall state the date upon which disclosure will be made. However, if the General Counsel determines that the risk of injury is so imminent that it is impracticable to furnish such notice 15 days before the proposed date of disclosure, the General Counsel may provide notice by means that will provide receipt of the notice by the affected business at least 24 hours before the disclosure is to be made. This may be done by telegram, telephone, or other reasonably rapid means.

20. By revising paragraphs (c) and (f) of § 2.307 to read as follows:

§ 2.307 Special rules governing certain information obtained under the Federal Insecticide, Fungicide, and Rodenticide Act.

* * * * *

(c) *Basic rules which apply without change.* Sections 2.201 through 2.203, § 2.206, § 2.207, and §§ 2.210 through 2.215 apply without change to information to which this section applies.

* * * * *

(f) [Reserved]

* * * * *

21. By revising paragraphs (c) and (g) of § 2.308 to read as follows:

§ 2.308 Special rules governing certain information obtained under the Federal Food, Drug and Cosmetic Act.

* * * * *

(c) *Basic rules which apply without change.* Sections 2.201, 2.202, 2.206, 2.207, and §§ 2.210 through 2.215 apply without change to information to which this section applies.

* * * * *

(g) [Reserved]

* * * * *

22. By revising paragraph (c) of § 2.309 to read as follows:

§ 2.309 Special rules governing certain information obtained under the Marine Protection, Research, and Sanctuaries Act of 1972.

* * * * *

(c) *Basic rules which apply without change.* Sections 2.201 through 2.207 and §§ 2.209 through 2.215 apply without change to information to which this section applies.

* * * * *

APPENDIX A—SIGNIFICANT COMMENTS AND RESPONSES

Comment 1: The exemption under 5 U.S.C. 552(b)(4) concerns "trade secrets and commercial or financial information obtained from a person and privileged or confidential." EPA should address when information would qualify as "privileged" as opposed to "confidential."

Response: The Administrator disagrees with this comment. Trade secrets or commercial or financial information that is "privileged" should also be "confidential." The definition of "privileged" in the context of 5 U.S.C. 552(b)(4) is uncertain. No courts have yet addressed this problem. The current regulations do not preclude a finding that information is "privileged." Any submitter who believes that the information is "privileged" as opposed to "confidential" may make that claim at the time of submission to EPA. EPA will consider a claim of privilege in applying 5 U.S.C. 552(b)(4). "Confidential" has been defined in subpart B because of the specific needs of various EPA statutes.

Comments 2: Section 2.119(b) should be amended to limit discretionary release of documents exempt from disclosure under 5 U.S.C. 552(b)(4) and section 14 of TSCA.

Response: The Administrator disagrees with this comment. Discretionary release of documents that constitute confidential business information is constrained by §§ 2.301 through 2.308 of the regulations. No discretionary release of such information would be made except as authorized by the particular statute under which the information was obtained. Since the Office of General Counsel or Regional Counsel must approve any discretionary disclosure, they will assure that no disclosures take place that would be illegal under one or more of EPA's statutes.

Comment 3: Section 2.120(e) regarding overdues fees should provide that EPA verify an individual's affiliation with an organization prior to treating a request by an individual specifying such an affiliation as a request by the organization.

Response: The Administrator disagrees with this comment. Legally, the Agency cannot investigate persons who make requests under the Freedom of Information Act. If a person writes to EPA on stationery that indicates the person represents an organization, EPA assumes the person has authority to represent that organization. The Agency cannot restrict requests to only officers, directors, partners, associates, or persons designated by an organization to make requests. That would be contrary to the intent of the Freedom of Information Act that any person be entitled to make requests for information. Section 2.120(e) has been changed, however, to provide that if the organization can show that the person who made the request for which payment is overdue did not make the request on behalf of the organization, EPA will remove the organization from the delinquent list and leave the individual on the list until payment is made.

Comment 4: EPA should return the information it acquires from an affected business under § 2.204(e) to substantiate a claim of confidentiality after EPA has made its confidentiality determination. This information is often as confidential or more confidential than the original information. If a new request is made, EPA could request new substantiation.

Response: The Administrator disagrees with this comment. When EPA makes a final confidentiality determination, the legal office relies in part on the substantiating information submitted by the affected business. The final confidentiality determination will be that the information in question is either entitled to confidential treatment or not entitled to confidential treatment. If the information is entitled to confidential treatment, any FOIA request would be denied. If that denial were challenged by suit in Federal court, the Agency would need to be able to defend its decision by showing the court the basis of the finding of confidentiality. If confidentiality were denied, the affected business might bring suit to challenge that decision, and, as in the FOIA suit, the Agency would need to be able to defend its decision by showing the court the basis of the finding of no confi-

dentiality. In addition, EPA will not necessarily make a new determination each time there is a new FOIA request. EPA may continue to rely on the original determination for some time and, therefore, will need the substantiation to defend it. Of course, the regulations (§ 2.205(c)) already state that EPA will treat the substantiating comments as confidential if so claimed by the affected business and if the information in them is not otherwise in EPA's possession.

Comment 5: The present § 2.205(f) does not address advance notification to a submitter of termination of confidential or trade secret status. EPA should provide such a notice.

Response: The present regulations already provide such a notice. Section 2.205(f) provides that each affected business will receive advance notice when its claim of confidentiality is denied in whole or in part. Such a denial is the same as termination of the confidential status. If an affected business has claimed information as confidential, the regulations require that notice be sent to each affected business at least 10 days in advance of any disclosure (30 days in advance under TSCA and FIFRA). During this period, the affected business has the opportunity to seek judicial review. In no case would information that has been claimed as confidential be disclosed to the public or a competitor without advance notice to the submitter.

Comment 6: EPA should make advance confidentiality determinations under § 2.206 whenever requested by an affected business regardless of whether the information would be voluntarily submitted.

Response: The Administrator disagrees with this comment. EPA does not have the resources to make unnecessary confidentiality determinations. The Agency position is that if it can require submission of information it is not required to rule on its confidentiality in advance as a condition of receiving the information. The advance determination is designed to assist EPA in obtaining voluntarily submitted information which the affected business cannot be compelled to supply.

Comment 7: Section 2.208(e) should be eliminated because these substantive criteria for granting confidentiality are too restrictive.

Response: The Administrator disagrees with this comment. The two tests set forth in § 2.208(e) are derived from *National Parks & Conservation Association* v. *Morton*, 498 F. 2d 765 (D.C. Cir. 1974). The Agency follows this case in making judgments whether information is entitled to confidential treatment. This case has been followed by courts and other agencies and has not been overruled. These tests have been applied by courts and other agencies, and EPA has been able to apply them successfully in making final confidentiality determinations under its regulations.

Comment 8: EPA should not confine the use of the test that disclosure of information would impair the Government's ability to get necessary information in the future, in *National Parks & Conservation Association* v. *Morton*, 498 F 2d 765 (D.C. Cir. 1974), to cases where information is voluntarily submitted.

Response: The Administrator disagrees with this comment. The two tests under *National Parks* are set forth in § 2.208(e) as EPA will apply them. The test in paragraph (e)(1) goes to the business' interest where disclosure of the information in question would be likely to cause substantial harm to the business' competitive position. The second test in paragraph (e)(2) goes to the Government's interest in obtaining necessary information in the future. EPA's position is that if it has statutory authority to require submission of business information, it is not pertinent to inquire whether disclosure of the information would impair EPA's ability to get similar information in the future.

Comment 9: Affected businesses should be given notice prior to disclosure by EPA of confidential business information to Congress, other Federal agencies, or Federal courts.

Response: The Administrator agrees with this comment. While there is no legal requirement that EPA notify an affected business prior to disclosing confidential business information to Congress, other Federal agencies, or Federal courts, EPA has decided as a matter of policy that an affected business should know where its confidential business information goes when it leaves EPA. Accordingly, § 2.209 has been amended to provide for 10 days advance notice to affected businesses prior to disclosure of confidential business information to Congress and other Federal agencies. In the case of disclosure under a Federal court order, § 2.209 states that EPA will give advance notice so long as giving advance notice does not violate the court order or some other restriction imposed by the court. Since no advance notice is legally required in these situations, EPA will not follow the restrictive notice procedures used in the case of proposed public disclosures under §§ 2.204 and 2.205. Instead, the EPA office responding to the request has discretion to choose the most appropriate method of notice depending upon the circumstances. This provides adequate notice to affected businesses while at the same time giving EPA administrative flexibility in the method of notification. Section 2.209(c) makes it clear that the notice provision does not apply to disclosures of information to other Federal agencies if those agencies are performing functions on behalf of EPA. In those cases, the other Federal agencies are treated as part of EPA, and no notice is provided.

Comment 10: A final confidentiality determination should be made for any business information that is requested by Congress or another Federal agency prior to disclosure of the information.

Response: The Administrator disagrees with this comment. When business information is furnished to another Federal agency or Congress under § 2.209, EPA informs the other Federal agency or congress which information, if any, has been determined to be confidential or for which there are any unresolved claims of confidentiality. There is no need to make final confidentiality determinations for this information because these are not public disclosures. In addition, under these regulations the affected business will be informed in advance of the proposed disclosure. The Agency has limited resources for making final confidentiality determinations and, accordingly, must reserve those resources for proposed public disclosures.

Comment 11: Section 2.211(d) should be amended to cite the specific criminal provisions that would apply to contractor violations of confidentiality.

Response: The Administrator disagrees with this comment. There are various provisions of the Federal criminal code that might apply to a contractor who violates the obligations of the contract concerning the treatment of confidential business information. Because the circumstances may vary from case to case, the provisions that would apply would vary. For example, 18 U.S.C. 1001 concerning the making of false statements to the Government might apply. In other cases, certain fraud or bribery provisions might apply. It is not possible to produce an exhaustive list of potential criminal provisions that might apply. To produce a partial list might improperly mislead contractors. Accordingly, the Agency believes that a general statement that willful violation of its contract may subject a contractor to criminal prosecution is sufficient to place the contractor on notice and serve as a further deterrent to any improper actions by the contractor.

Comment 12: Section 2.214 should provide that EPA will defend any FOIA suit for disclosure of confidential business information, but that EPA will seek the assistance of the affected business to help in the defense. In some cases it may be burdensome for EPA to require the affected business to intervene, or such intervention might reveal confidential information.

Response: The Administrator agrees with this comment, and § 2.214 has been rewritten accordingly. EPA expects the affected business to cooperate to the fullest extent possible in the defense of such suits.

Comment 13: When EPA proposes to obtain information from another agency under § 2.215, EPA should notify each affected business of the disclosure.

Response: The Administrator disagrees with this comment. Under the approach adopted in these amendments, the burden of notification should fall on the agency proposing to disclose the information, not the agency receiving it. EPA will rely on the agency from whom EPA obtains the information to notify the affected businesses in accordance with that agency's procedures. In general § 2.215 has been amended by adding a new paragraph (e) which states that EPA will treat in accordance with the procedures in these regulations any information obtained from another agency and identified as confidential except where the agreement specifies otherwise. Accordingly, any affected business would receive notice prior to any further disclosure by EPA. This will protect the interests of the affected business without added administrative burden to EPA.

Comment 14: Section 2.215(a) appears to give contractors of EPA authority to make confidentiality determinations. That role should be reserved to EPA.

Response: The Administrator agrees that confidentiality determinations must be reserved to EPA. Section 2.215 does not authorize contractors to make confidentiality determinations. It merely proscribes their ability to make promises of confidentiality that EPA cannot keep. Under § 2.301(h) any contract where EPA furnishes confidential business information to a contractor must include a clause that sets forth the contractor's obligations for handling that information. This clause does not give a contractor any authority to make confidentiality determinations. In addition, EPA has developed an additional clause for use in the situations where an EPA contractor acquires confidential business information directly from an affected business rather than through EPA.

This clause requires the contractor to give the affected business the same notice that EPA gives an affected business when EPA requests information (see § 2.203). Any information claimed as confidential is treated as such by the contractor. Both of these clauses have been published in the FEDERAL REGISTER (Mar. 7, 1978, 43 FR 9278, 41 CFR 15-7.350-1 and 15-7.350-2).

Comment 15: EPA should not ask another agency to submit confidential business information under § 2.215 to EPA unless EPA has legal authority to get that information.

Response: The Administrator disagrees with this comment. There may be occasions where EPA needs information for which it has not statutory authority to compel prodction. This information may be very relevant to EPA's work. Section 2.215 provides that EPA can ask another agency for information and, if that information is confidential, agree to certain restrictions on disclosure. It is up to the other agency to decide whether or not to honor EPA's request.

Comment 16: Section 2.301(g) concerning disclosure of confidential business information relevant in a proceeding should be amended to include the standard used in section 14(a)(4) of TSCA.

Response: The Administrator disagrees with this comment. The procedures as written provide that EPA must judge the relevance of information to a particular proceeding and whether the public interest would be served by disclosure. These provisions are adequate for a balancing of the public interests in a proceeding versus the confidentiality interests of an affected business. Since each affected business is given an opportunity to comment on the proposed disclosure and is given notice prior to actual disclosure, the interests of the affected business are adequately protected.

Comment 17: Any party seeking disclosure of confidential information in a proceeding should be required to seek a court order for disclosure with notice to the affected business so the affected business may oppose access.

Response: The Administrator disagrees with this comment. The purpose of provisions which authorize disclosure of information that is otherwise confidential when it is "relevant in a proceeding" under a particular EPA statute is to allow the Agency discretion to make these disclosures without having to seek Federal court intervention. Agency proceedings are supposed to be resolved before involvement by courts. Since under the amendments to § 2.301(g) each affected business will have an opportunity to comment on any proposed disclosure and will have notice in advance of any disclosure, the interests of the affected business are adequately protected.

Comment 18: Section 114 of the Clean Air Act and section 308 of the Clean Water Act do not authorize EPA to furnish confidential business information to contractors or subcontractors. The term "authorized respresentatives" does not include contractors and subcontractors.

Resonse: The Administrator disagrees with this comment. The Agency has always interpreted and continues to interpret the term "authorized representatives" in these statutes to include contractors and subcontractors. Each of these statutes uses the language "officers, employees, or authorized representatives of the United States" to describe those to whom confidential business information may be disclosed. Clearly, "authorized representatives" does not mean "employees" because that term is already used. It applies to authorized representatives who are not employees of the United States. In the case of these two statutes, authorized representatives include contractors, subcontractors, and State and local agencies.

Comment 19: Section 2.301(h)(2)(iii) should be changed to provide notice to the affected business prior to any disclosure to a contractor or subcontractor.

Response: The Administrator agrees with this comment, and while EPA is not legally required to give such notice, § 2.301(h)(2)(iii) has been changed accordingly.

Comment 20: Contractor, subcontractors, and their employees should be bonded before being allowed to handle confidential business information.

Response: The Administrator disagrees with this comment. First, the protections in the contract clause under § 2.301(h)(2)(ii) are adequate to protect against disclosure of information and to provide a cause of action to an affected business. Second, TSCA provides a specific criminal penalty for contractors, subcontractors, and their employees for unauthorized disclosure of TSCA confidential business information. Third, EPA has made inquires of bonding companies and has been told that they would not sell bonds necessary to bond Government contractors handling confidential business information from many affected businesses. Therefore, to impose such a requirement on contractors and subcontractors would be unnecessary and impractical.

Comment 21: The regulations should require that EPA contractors enter into independent confidentiality agreements with affected businesses when EPA furnishes confidential business information to the contractors.

Response: The Administrator disagrees with this comment. EPA only furnishes confidential business information when authorized by specific statutes such as the Clean Air Act, the Clean Water Act, or TSCA. Since there is legal authority to furnish the information to contractors and EPA places contractural limitations on the contractors' use and disclosure of the information, EPA will not require contractors to enter into independent confidentiality agreements with affected businesses as a condition of obtaining the information. The regulations do not preclude any EPA contractor entering into a confidentiality agreement with an affected business, and EPA contractors have voluntarily entered into such agreements. Section 2.215(a), however, makes it clear that a contractor cannot enter into an agreement that is inconsistent with its contract obligations and these regulations. Section 2.215(a) also provides notice to affected businesses that EPA contractors cannot bind EPA as to how EPA will treat confidential business information except to state that EPA will follow these regulations.

Comment 22: The term "authorized representatives" in section 3007 of the Solid Waste Disposal Act should not include contractors, subcontractors, and State and local government agencies.

Response: The Administrator disagrees with this comment. For the reasons set forth in comment 18 discussing the use of the same term under section 114 of the Clean Air Act and section 308 of the Clean Water Act, EPA's position is that the term "authorized representatives" includes contractors and subcontractors in the Solid Waste Disposal Act (SWDA). As to the inclusion of State and local government agencies, the SWDA has a scheme of State/Federal regulation similar to that in the Clean Air Act and the Clean Water Act. The statute assumes that EPA will work closely with States to regulate hazardous wastes. Accordingly, since there is joint State/Federal regulation and enforcement, EPA's position is that State and local government agencies are authorized representatives under SWDA the same as under the Clean Air Act and the Clean Water Act.

Comment 23: Under § 2.306 the definition of "proceeding" is too broad and should be narrowed to adjudicative proceedings.

Response: The Administrator disagrees with this comment. There is nothing in TSCA that indicates that Congress intended a narrow definition of proceeding. Under the Administrative Procedures Act (5 U.S.C. 551) an agency proceeding is defined as rulemaking, adjudication, or licensing. There is no basis in the statute or legislative history of TSCA to suggest that Congress intended to alter this accepted definition. The presiding officer at any hearing involving confidential information will be an EPA officer or employee who is subject to these regulations.

Comment 24: In § 2.306(i) EPA should define "relevancy" for disclosures of information relevant in a proceeding under TSCA.

Response: The Administrator disagrees with this comment. It is virtually impossible to set out a definition of what information may be relevant in a proceeding because it is impossible to anticipate all the contingencies that might occur. The finding of relevancy is made either by the General Counsel or a presiding officer, as appropriate, under § 2.301(g) which is incorporated into § 2.306(i). This finding will depend upon the particular circumstances of the proceeding. Since § 2.301(g) provides an opportunity for each affected business to comment upon a proposed disclosure in a proceeding and notice before any actual disclosure is made, the affected business has an adequate opportunity to challenge any decision to make such a disclosure.

Comment 25: EPA has no authority to make information available to the public because of its relevance in a proceeding under TSCA as is presently set forth in § 2.301(g)(2).

Response: The Administrator disagrees with this comment. If a public rulemaking proceeding made on the record without opportunity for a hearing and without identifiable parties, EPA interprets section 14(a)(4) of TSCA to allow EPA to make information relevant in the proceeding available to the public so long as the disclosure is made in a manner to preserve confidentiality to the extent practicable without impairing the proceeding. In applying this standard, EPA will weigh the concerns of confidentiality and the effective operation of the proceeding in question. Section 14(a)(4) is designed to allow EPA to use confidential information in proceedings so that EPA can make effective decisions on a complete record with the maximum practicable degree of public participation or participation by interested parties.

Comment 26: EPA should not include confidential business information in the record of a TSCA proceeding.

Response: The Administrator disagrees with this comment. When EPA makes a decision on the record, the record must include all information considered by the Agency in making the decision. If the decision is challenged, the Federal courts require a complete record in order to review the Agency's decision, and the Agency must provide the best possible record to support its decision. This does not mean that EPA will make public all information in a record. EPA may include confidential business information in the record without making the record public. EPA could maintain certain portions of the record in confidence. If the decision resulting from the record were challenged, EPA would make the complete record available to the reviewing Federal court in camera. In addition, if at any time EPA proposed to make confidential business information in the record available to the public, § 2.301(g) would require that EPA give each affected business an opportunity to comment and notice prior to actual disclosure.

Comment 27: Under the proposed special rules for TSCA and the Solid Waste Disposal Act, EPA states that no information covered by those sections is voluntarily submitted. Information can be voluntarily submitted under these statutes.

Response: The purpose of §§ 2.305 and 2.306 is to cover information that is or could have been acquired by EPA under statutory authority of the Solid Waste Disposal Act section 3007 of TSCA. If information is submitted to EPA under the statutory authority of either act, it is not "voluntarily submitted information" as defined in § 2.201(i). This does not mean that EPA would not receive information that relates to those statutes that is voluntarily submitted. However, if the information comes to EPA under statutory authority to compel its production, it is not voluntarily submitted. Information which is voluntarily submitted is covered by the general procedures in §§ 2.201 through 2.215, not the special rules in §§ 2.301 through 2.309.

Comment 28: To discourage unnecessary and spurious requests for complete health and safety studies under section 14(b) of TSCA, EPA should supply the following in response to requests: (1) On first request, a list of studies; (2) On the second request, a summary of the studies to be provided by the companies; (3) On the third request, the entire study.

Response: The Administrator disagrees with this comment. When EPA receives a request under FOIA it must either furnish the requested records or deny the request. Forcing a requester to write three times to obtain a health and safety study is contrary to the intent of FOIA and TSCA.

Comment 29: The definition of health and safety data should not include "any test performed under the Act" because this goes beyond health and safety.

Response: The Administrator disagrees with this comment. TSCA defines a health and safety study in section 3(6) (15 U.S.C. 2602(3)). This definition includes "and any test performed pursuant to this Act." Clearly, Congress intended "health and safety studies" to include all tests conducted under authority of TSCA. EPA will implement TSCA accordingly.

Comment 30: "Raw data" developed for a health and safety study are often trade secrets and should not be treated as disclosable under section 14(b) of TSCA.

Response: The Administrator disagrees with this comment. Section 14(b) states clearly that any study or any data reported to or otherwise obtained by EPA from a study must be disclosed. Congress intended that the term health and safety study be interpreted broadly. The definition in section 3(6) of TSCA includes "underlying data" which clearly would cover "raw data" when that information is submitted to EPA.

Comment 31: There should be a "grandfather" clause that would exempt from disclosure under section 14(b) of TSCA any health and safety data previously "voluntarily" submitted before any requirements such as TSCA existed.

Response: The Administrator disagrees with this comment. Section 14(b) of TSCA states explicitly that health and safety data on chemical substances offered for commercial distribution or subject to testing rules under section 4 or notification under section 5 may not be withheld from disclosure as confidential business information except information that discloses processes used in manufacturing or processing a chemical substance or mixture or the portion of the mixture comprised by any of the chemical substances in the mixture. There is no basis in either the statue or the legislative history to conclude that Congress intended different treatment for data developed at a different time or submitted under different circumstances once those data are covered by TSCA.

Comment 32: The statement in § 2.306(g) that "health and safety data are not eligible for confidential treatment" is inaccurate. Section 14(b) of TSCA states only that the exemption of 5 U.S.C. 552(b)(4) does not apply to health and safety data. Other exemptions under FOIA may apply.

Response: The statement "health and safety data are not eligible for confidential treatment" applies only to confidential treatment as confidential business information under 5 U.S.C. 552(b)(4). This statement appears in subpart B of the regulations that deals exclusively with the exemption for confidential business information. The statement does not limit EPA's ability to use other FOIA exemptions when appropriate. For example, some health and safety data will contain information of a personal nature about individuals the disclosure of which would be an invasion of privacy. This is especially true with medical information. If EPA obtains information of a personal nature in a health and safety study that relates to identifiable individuals, EPA will consider the application of 5 U.S.C. 552(b)(6) when disclosure would constitute "a clearly unwarranted invasion of personal privacy." In other cases, health and safety data may be obtained in the course of an investigation and disclosure of the information might interfere with enforcement proceedings. In that situation EPA might apply 5 U.S.C. 552(b)(7) for investigatory records compiled for law enforcement purposes.

Comment 33: Disclosures to congressional committees under TSCA should be limited to those committees whose official duties include protection of health or the environment and by the requirement that the information be used in connection with those duties. EPA should obtain the committee's written agreement not to disclose the information without the permission of the affected business.

Response: The Administrator disagrees with this comment. Section 14(e) of TSCA states that EPA shall make available upon written request of any duly authorized committee of the Congress any information submitted under TSCA. EPA cannot interpose its judgment for that of congressional committees as to their jurisdiction or need for information. Nor can EPA require a committee to make any promise as a condition of receiving the information. EPA has no reason to believe congressional committees will not respect the confidentiality of this information.

Comment 34: Disclosures to other Federal agencies under TSCA should be limited to those agencies having official duties concerning protection of health or the environment and that the information be used in connection with those duties.

Response: The Administrator disagrees with this comment. Section 14(a)(1) of TSCA states that EPA shall make available any information submitted under TSCA to any officer or employee of the United States in connection with duties under any law for protection of health or the environment or for specific law enforcement purposes. The regulations in § 2.306(h) reflect these requirements. It is clear that Congress did not consider "specific law enforcement purposes" to be a subset of "in connection with duties under any law for protection of health or the environment." The amended § 2.209(c) of these regulations does require that the other agency notify each affected business prior to disclosures of the information.

Comment 35: When EPA furnishes confidential business information to another Federal agency under TSCA, EPA should place limits on the use of that information by the other agency confining the use to the other agency's duties under a law protecting health or the environment.

Response: The Administrator disagrees with this comment. Section 2.306(h) creates a threshold test before another agency can acquire confidential business information from EPA. That test requires that the official purpose of the request must be in connection with the other agency's duties under any law protecting health or the environment or for specific law enforcement purposes. Once the other agency has obtained the information from EPA, EPA should not be required to police the other agency's use of the information and, as a practical matter, would be unable to do so. Any affected business is adequately protected by receiving notice from EPA under § 2.209(c) prior to EPA's disclosure to the other agency and by receiving notice from the other agency prior to any disclosure by the other agency.

Comment 36: TSCA does not allow EPA to disclose confidential information to contractors of other Federal agencies.

Response: The Administrator disagrees with this comment. Section 14 of TSCA states that EPA shall disclose confidential business information under TSCA "to contractors with the United States and employees of such contractors if in the opinion of the Administrator such disclosure is necessary for satisfactory performance by the contractor of a contract with the United States * * * for the performance of work in connection with this act * * *." The Agency interprets this language to mean Congress did not limit disclosures to EPA contractors. The restriction is that disclosure must be to contractors performing work under TSCA.

EPA will give notice prior to these disclosures.

Comment 37: Section 14(a)(2) of TSCA requires the Administrator to make the determination to furnish confidential business information to a contractor.

Response: The Administrator disagrees with this comment. The Administrator has authority under TSCA to delegate functions to officers or employees of EPA. These regulations delegate certain responsibilities to program offices or the General Counsel, including the determinations required by section 14(a)(2).

Comment 38: Before disclosure of confidential business information to contractors under TSCA section 14(a)(2), EPA should require a written request from the contractor setting forth the official purpose of the request.

Response: The Administrator disagrees with this comment. The relationship between the EPA program office and its contractor is such that the EPA project officer will make any decisions concerning the contractor's need for confidential business information. The contractor does not formally request the information. Section 2.301(h) already provides that the program office must make a written determination that disclosure to the contractor is necessary for the contractor to perform its contract work. The contract must include a clause which requires the contractor to treat the information as confidential and disclose it only as permitted by EPA. The clause also provides a third party right of action between any affected business and EPA's contractor if the contractor violates the contract. All information is returned to EPA at the end of performance of the contract. Section 2.306(j) requires that the program office determine in writing that the information is necessary for satisfactory performance of a contract under TSCA. Section 2.301(h) has been amended to provide notice to the affected business prior to any disclosure to a contractor.

Comment 39: These regulations should provide for investigation of violations of the procedures and notification to the affected business of such violations.

Response: The Administrator disagrees with this comment. Violations of EPA regulations are investigated in accordance with EPA's internal procedures. These regulations are not for the purpose of setting out these investigation procedures. Affected businesses will not be notified of violations of these procedures if such notification would interfere with EPA's investigation or prosecution of the violation. In no case is notification to an affected business necessary if no confidential business information has been disclosed to the public. If EPA determines that confidential business information has been or may have been wrongfully disclosed to the public or a competitor, EPA will notify the affected business of the fact of disclosure, the specific information disclosed, and the date of disclosure, if known. This notification will enable the affected business to know that information has been disclosed and to take steps to react to that disclosure. EPA will supply any other information concerning the disclosure, except to the extent that the information would interfere with the ability of EPA or the Department of Justice to successfully investigate and prosecute any violations of Federal statutes or a contract or other agreement.

Comment 40: The regulations should require that EPA assure that contractors, subcontractors, other Federal agencies, Congress and Federal courts have adequate security procedures in place before EPA furnishes them confidential business information.

Response: The Administrator disagrees with this comment.There is no legal requirement that EPA review the security of any person authorized to receive confidential business information. EPA is aware that security is a concern especially with confidential business information submitted under TSCA. EPA is looking at the problem of data security and these issues will be addressed in that context.

Comment 41: Each affected business should be notified every time there is a request by anyone for its confidential business information.

Response: The Administrator disagrees with this comment. The regulations as amended provide for notice to each affected business prior to disclosure of confidential business information outside of EPA. If information is not disclosed in response to a request, a notice to the affected business serves no purpose. The affected business is protected by notice prior to disclosure. Furthermore, once information has been determined not to be entitled to confidential treatment and the affected business has been given advance notice of that determination, the information becomes available to the public. From that point on, notice to the affected business of further requests would also serve no purpose and would unnecessarily burden EPA.

Comment 42: The regulations should include a provision authorizing adoption of "third party" collection procedures whereby a neutral third party would hold confidential business information rather than EPA or its contractors.

Response: The Administrator disagrees with this comment. If EPA has statutory authority to require submission of information, it does not have to agree to have a third party hold the information. The regulations as presently written do not prohibit use of a third party arrangement; however, EPA is not prepared to endorse this approach for general use at this time. EPA will explore use of this approach in specific situations, especially those where information would be voluntarily submitted.

[FR Doc. 78-25341 Filed 9-7-78; 8:45 am]

[6560-01]

SUBCHAPTER C—AIR PROGRAMS

[FRL 962-5]

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Prevention of Significant Air Quality Deterioration; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction to rulemaking.

SUMMARY: On June 29, 1978, the Environmental Protection Agency published final regulations for the prevention of significant air quality deterioration (PSD). Requirements for the preparation, adoption, and submittal of State implementation plans for State PSD programs were published at 43 FR 26380, FR Doc. 78-16889. The EPA also amended its regulations regarding the approval and promulgation of State implementation plans as regarding the EPA-managed PSD programs, 43 FR 26388, FR Doc. 16890. These regulations were published together as a separate part V in the June 19, 1978, issue of the FEDERAL REGISTER. This action makes two corrections to the first document and two corrections to the second document.

EFFECTIVE DATE: September 8,1978.

FOR FURTHER INFORMATION CONTACT:

Darryl D. Tyler, Chief, Standards Implementation Branch, Control Programs Development Division, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711; phone 919-541-5497.

SUPPLEMENTARY INFORMATION: Correction 1. Section 51.24(h) now states that such stack height as exceeds good engineering practice and any other dispersion techniques utilized before 1970 shall not affect State implementation plan controls. To properly reflect the requirements of section 123 of the Clean Air Act, as amended August 1977, § 51.24(h) is corrected to read that such stack height as exceeds good engineering practice and any other dispersion techniques not in existence or implemented before December 31, 1970, shall not be credited in determining emission limits for required State implementation plan revisions for PSD. The similar § 52.21(h), in part 52, is properly written and needs no change.

Correction 2. Section 51.24(n)(2) incorrectly reads that the determination of the adequacy of monitoring data shall be made by the EPA Administrator. With State regulations for a State PSD program, such a determination shall be made by the State, and that paragraph is so corrected. The similar

§ 52.21(n)(2) in part 52 is properly written such that with EPA as the permit reviewing agency, the EPA determines monitoring data adequacy.

Correction 3. At 43 FR 26410, item No. 3 incorporates the part 52 PSD regulations into the individual State implementation plans. The wrong section number was given for the State of Oklahoma. It is corrected.

Correction 4. In order to have uniform language incorporating the PSD regulations into the State implementation plans, repetitive introductory language in § 52.1829 is deleted.

CORRECTIONS

The following corrections should be made to FR Docs. 78-16889 and 78-16890, appearing on pages 26380 and 26388 in the issue for Monday, June 19, 1978:

1. In FR Doc. 78-16889, in § 51.24(h), as published at 43 FR 26385, the word "not" should be inserted after the comma and before the words "in existence" in § 51.24(h)(1), and the word "not" should also be inserted before the word "implemented" in § 52.24(h)(2).

2. In FR Doc. 78-16889, in § 51.24(n)(2), as published at 43 FR 26386, the phrase "demonstrates to the Administrator's satisfaction" should be changed to read "demonstrates to the State's satisfaction" instead.

3. In FR Doc. 78-16890, item No. 3, at 43 FR 26410, published June 19, 1978, should be changed where it reads "52.1919 (OK)" to read "52.1929 (OK)" instead.

4. Also, in FR Doc. 78-16890 where that item No. 3 at 43 FR 26410 reads "paragraphs (a) and (b) are revised to read as follows:" insert a comma after "follows" and add "with the introductory text to § 52.1829 deleted" before the semicolon.

(Sec. 101(b)(1), 110, 114, 123, 125(e), 160-169, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401(b)(1), 7410, 7414, 7423, 7425(e), 7470—7479, 7601(a)).)

Dated: September 1, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 78-25337 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 961-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Massachusetts State implementation plan (SIP) which extends the expiration date of regulation 5.1 for the southeastern Massachusetts Air Pollution control District (APCD), "sulfur content of fuels and control thereof," from May 1, 1978 to July 1, 1979. The regulation, which temporarily relaxed the sulfur limitations for fossil fuels burned by large sources in the southeastern Massachusetts APCD, was approved by EPA as a revision to the SIP in FEDERAL REGISTER notices published on September 2, 1977 and January 12, 1978. No other provisions of the regulation are changed.

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203, 617-223-5609.

SUPPLEMENTARY INFORMATION: On May 12, 1978 the Regional Administrator published in the FEDERAL REGISTER (43 FR 20514) a notice of proposed rulemaking, proposing approval of a revision to the Massachusetts State implementation plan (SIP). The SIP revision, submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Massachusetts Department) on January 31, 1978, changes the expiration date of regulation 5.1 for the southeasten Massachusetts Air Pollution Control District (APCD), "sulfur content of fuels and control thereof," from May 1, 1978 to July 1, 1979. (The southeastern Massachusetts APCD is the same geographic area as the Massachusetts portion of the Metropolitan Providence Interstate Air Quality Control Region.)

Regulation 5.1 permits sources in the APCD with an energy input capacity of one hundred million Btu per hour or more to burn fossil fuel with a sulfur content not in excess of 1.21 pounds per million Btu heat release potential (approximately equivalent to 2.2 percent by weight sulfur content residual fuel oil). Sources of less than one hundred million Btu per hour energy input capacity are required to burn fossil fuel with a sulfur content not in excess of 0.55 pounds per million Btu heat release potential (approximately equivalent to 1.0 percent by weight sulfur content residual fuel oil). This regulation was approved by EPA as a revision to the Massachusetts SIP in FEDERAL REGISTER notices published on September 2, 1977 (42 FR 44235) and January 12, 1978 (43 FR 1793).

The 14-month extension until July 1, 1979 gives the regulation an effective life of 1 year and 10 months. No other provisions of the regulation are changed. All sources must be reviewed by the Massachusetts Department and be granted a permit prior to burning the higher sulfur content fuel. Approval is contingent on a demonstration by the source of its ability to comply with applicable regulations, including the particulate emission limitations (compliance to be determined by emission testing) and the opacity regulations. In no case would a source be allowed to continue burning higher sulfur content fuel if its particulate emissions exceed the regulatory limits of the SIP. Any violation of applicable state regulations or of the national ambient air quality standards (NAAQS) within the area of impact of a source will result in revocation of the permit and a mandatory return by that source to a lower sulfur fuel.

Of the seventeen sources in the size category eligible to burn the higher sulfur content fuel, the Administrator required four sources to continue burning 1.0 per cent sulfur content fuel oil as required by the original SIP. The Administrator's determination was made on the basis of dispersion modeling results which predicted violations of the NAAQS for sulfur dioxide if these sources were to convert to the higher sulfur content fuel; consequently, they are required to continue burning lower sulfur content fuel during the period of the extension.

During the 30-day public comment period, one letter of comment was received. The commenter, one of the sources affected by the revision, supported EPA's proposed approval.

After evaluation of the State's submittal, the Administrator has determined that the Massachusetts revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Massachusetts implementation plan.

(Sec. 110(a) of the Clean Air Act, as amended (42 U.S.C. 7410).)

Dated: August 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

1. In § 52.1120(c), subparagraph (12) is amended by striking the period after "Affairs" and adding the phrase "and on January 31, 1978 by the Commissioner of the Massachusetts De-

partment of Environmental Quality Engineering."

[FR Doc. 78-25181 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 961-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Southeast Desert and Metropolitan Los Angeles Intrastate Air Quality Control Regions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to portions of the California State Implementation Plan (SIP). These changes affect portions of the counties of Los Angeles, Riverside, and San Bernardino that lie within the Southeast Desert Intrastate Air Quality Control Region (AQCR); the South Coast Air Quality Management District (AQMD); and also those portions of Orange and Los Angeles County Air Pollution Control Districts (APCD) that lies within the Metropolitan Los Angeles AQCR. These revisions to the SIP were submitted to EPA by the Governor's designee as part of the California State Implementation Plan (SIP). The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: On September 16, 1977 EPA published a notice of proposed rulemaking on page 46554 of the FEDERAL REGISTER for revisions to air pollution control rules within the Los Angeles, Riverside, San Bernardino, and Orange County area. On July 23, 1973 and July 22, 1975 rules were submitted to EPA for inclusion in the SIP for Los Angeles County (1973), and Orange County (1975). Early in 1977 the South Coast Air Quality Management District (AQMD) was established, completely replacing the Orange County APCD and the western parts of the APCDs of Los Angeles, Riverside, and San Bernardino Counties. The area covered by this unified new district roughly conforms to the federally defined area of the Metropolitan Los Angeles Intrastate AQCR. The three remaining county APCDs now cover only the desert areas of each county, a combined area roughly conforming to the federally defined area of the Southeast Desert Intrastate AQCR.

On June 6, 1977, revised rules of the South Coast AQMD and also the Los Angeles, Riverside, and San Bernardino County APCD's (Southeast Desert) were submitted to EPA and published in the September 16, 1977 issue of the FEDERAL REGISTER (pg. 46554). The Southeast Desert submittals contain extensive revisions which comprise the main body of this notice. These new rules have been compared to rules previously approved as part of the California SIP as well as 40 CFR Part 51.

Under section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove the rules as SIP revisions.

Rules concerning new source review, malfunction, and emergency air episodes are not being acted on at this time. These rules will be addressed in separate FEDERAL REGISTER notices. The State has also submitted rules for Los Angeles, Riverside, and San Bernardino County APCD's concerning new source performance standards and national emission standards for hazardous air pollutants. These rules implement sections 111 and 112 of the Clean Air Act and are not appropriate for inclusion in a State implementation plan under section 110 of the Act.

The air pollution control rules for the districts in the four county area (Los Angeles, Riverside, San Bernardino, and Orange) are divided into functional groups called regulations. Despite major revisions to rules within those regulations, the numbers and titles of regulations have remained unchanged for this area since being adopted as part of the SIP in 1972.

The June 1977 submission, which extensively revises the rules of Los Angeles, San Bernardino, and Riverside County APCD's, is nearly identical for all three counties. These comprehensive new submittals are also very similar to those proposed for the districts within the Metropolitan Los Angeles Intrastate AQCR in the May 26, 1977 issue of the FEDERAL REGISTER (page 27000). Unless otherwise noted, the proposed changes described below apply to the rules of Los Angeles, San Bernardino, and Riverside County APCD's (Southeast Desert area).

General changes to the rules which are being acted upon by this notice include the following: Alteration of the geographical boundaries of the Los Angeles, Riverside, and San Bernardino County APCD's from countywide to only the desert portion of each respective county; renumbering of virtually all rules to correlate the rule numbers with regulation numbers; retitling of many of the rules; and updating changes involving deletion of final compliance dates that have expired, conversion to metric system units, and reference number changes to the revised California Health and Safety Code.

The changes to Regulation I, General Provisions, which are being acted upon by this notice include the following: Expansion of the scope of general provisions, with procedural additions and definition changes to its rules; substitution of existing definitions with a new set more appropriate to the new rules in Los Angeles County; addition of a geographical rule which supplies a definition of the area comprising the Metropolitan Los Angeles area and by deduction, the Southeast Desert area (except San Bernardino County whose geographical rule has been superseded by a more recent submittal and therefore cannot be acted upon in this notice); addition of procedural rules to detail reporting requirements for source test data and to detail compliance schedules (except Riverside County whose compliance rule has been superseded).

The changes to Regulation II, Permits, which are being acted upon by this notice include: Addition of a permit to burn rule (except Los Angeles County which already had such a rule) and addition of a stack monitoring rule in all three counties. Other changes generated from the June 1977 submittal involve new source review which is not being acted upon in this notice.

The changes to Regulation III, Fees, which are being acted upon by this notice include minor changes which update fee rates and detail collection procedures. One of the rules of Regulation III has been replaced in Riverside and Los Angeles Counties by a completely revised, renumbered version. The remainder of Regulation III is little changed and retains the original numbering system. The rules of Regulation III of San Bernardino County have been superseded by later SIP revisions.

The changes to Regulation IV, Prohibitions, which are being acted upon by this notice include the following: Stricter visible emission limits in Riverside County; new fugitive dust controls; exemption of liquid sulfur compounds from the concentration of particulate matter limitations (except San Bernardino County whose particulate matter rule has been superseded by a later submission); changes to the particulate matter-weight rule which es-

tablishes a process weight table but adds an exemption for established sources in Riverside County, and specifies averaging times for calculations in Los Angeles and Riverside Counties; updates to the specific contaminants rules which tighten sulfur emission limits in Riverside County and transfer particulate controls to the combustion contaminants rule in San Bernardino County; elimination of exemptions for sulfur recovery and sulfuric acid units from sulfur emissions limitations in Riverside County; deletion of some nonsulfur controls from the specific air contaminants rules of Riverside and San Bernardino County APCD's; specification of an averaging time for the measurement of carbon monoxide emissions (except San Bernardino County which did not previously have carbon monoxide controls); specification of a minimum averaging time for the combustion contaminant calculation in all three counties and tightening of particulate emissions in only San Bernardino County; exemption of sewage digester gas from sulfur content of fuels in all three counties, and in just San Bernardino County alteration of sulfur limits of natural gas; updating gasoline specifications by referencing new American society for testing and materials methods; addition of a new exemption rule for research operations; consolidation of six solvent usage rules into one; addition of new solvent labeling requirements; increasing controls over open fires by requiring permits for open burning; added clarity to controls over gasoline transfer in Los Angeles County; extension of organic loading controls to cover additional small sources (except San Bernardino County whose rule has been superseded); more detailing of specifications to enhance enforceability and add pressure-vacuum valve requirements to organic liquid storage (except San Bernardino County whose rule has been superseded); redefined lower cutoff point for oil-water separators; slight raising of organic emission limits for vacuum producing devices (except San Bernardino County which previously did not have organic emission control requirements for vacuum devices); addition of a new rule for control of compressors handling organic materials; specification of completely new safety pressure valve requirements; specification of minimum averaging time for sulfur scavenging units; addition of new asphalt equipment controls in Los Angeles County (Riverside County's existing asphalt equipment control rule was expanded); addition of new definitions for the reduction of animal matter; slight increases in emission rate for waste disposal (except San Bernardino County whose present waste disposal rule is not as specific as the proposed new controls); changes to fuel burning equipment which modify the nitrogen oxide emission rate table in Los Angeles and Riverside Counties and add a special rate table for steam generating equipment in Riverside County (San Bernardino County's fuel burning rule has been superseded); addition of new electric and steam generating equipment rules; specification of new but conditional lead limits for gasoline sold within Riverside County; and withdrawal by omission of scavenger plant exemptions in Los Angeles County APCD.

The changes to Regulation V, Procedures Before the Hearing Board, which are being acted upon by this notice include: Changing the number of board members necessary to specify actions; clarifications; changes in the length of grace periods; new address; changes in rule titles and number set; and addition of a new procedural rule outlining the bases of hearing board decisions.

The changes to Regulation VI, Orchard Grove Heaters, which are being acted upon by this notice include total replacement of county rules by California Health and Safety Code sections covering Orchard Heaters.

The changes to Regulation VII, Emergencies, are not being acted upon by this notice. Regulations concerning emergency air episodes will be evaluated in a separate FEDERAL REGISTER notice.

Regulation VIII, Orders for Abatement, is a new regulation which specifies procedural requirements applying to hearings on abatement orders.

The changes to Regulation IX, Standards of Performance for New Stationary Sources, and Regulation X, Emission Standards for Additional Specific Air Contaminants, are not being acted upon by this notice. These regulations concern new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) which will be analyzed in separate FEDERAL REGISTER notices.

Proposed changes to rules in the Metropolitan Los Angeles Intrastate AQCR which are being acted upon by this notice include the following: Reduction of the vapor control requirements for small gasoline dispensing storage containers in the South Coast AQMD (June 1977); new permit fees for open burning in Los Angeles County (submitted July 1973); and updates to the sulfur compounds emission rule in Orange County (submitted June 1975).

Scavenger plant rules were incorrectly proposed in 42 FR 46555 for San Bernardino and Riverside County APCD's. No action will be taken on these rules since revisions have not, in fact, been submitted by the districts.

A listing of rules initially considered for this notice was published as part of the notice of proposed rulemaking and can be found in 42 FR 46554 (September 16, 1977).

The proposed rulemaking notice provided a 30-day public comment period. The South Coast AQMD returned specific remarks concerning EPA's evaluation of the revocation of Regulation VI (Orchard heaters). The District defended their action on the grounds that the revocation, which was done by the Southern California APCD, was procedurally correct. The District also emphasized that the State law superseded district regulations on orchard heater emissions. After further analysis, EPA is approving the revocation of Regulation VI for Los Angeles and Riverside, but not San Bernardino County APCD. That portion of the California Health and Safety Code containing orchard heater emission limitations was found to have been submitted and approved in 1972 as part of the California SIP. However, the emissions limitations of the Health and Safety Code are not as restrictive as those of the San Bernardino County APCD. Therefore, this County's heater emission limitations are being retained.

It is the purpose of this notice to approve changes contained in the July 23, 1973, July 22, 1975, and June 6, 1977 submittals and incorporate them into the California SIP with the exception of the rules discussed below.

Rule 218, Stack Monitoring, submitted on June 6, 1977 is a new rule adopted to implement the continuous monitoring program in accordance with the requirements of 40 CFR 51.19(e). This rule is approved for Los Angeles, Riverside, and San Bernardino County APCD's. However, since the rule does not satisfy all the requirements specified in 40 CFR 51.19(e), appendix P, the SIP will be disapproved in part under 40 CFR Part 52.

No action is being taken on the following rules, submitted on June 6, 1977, because they have been superseded by a later submittal and therefore EPA is legally prevented from acting upon them: Riverside County APCD rules 101, 102, 2, 105, 106, 461, 501, and 502; San Bernardino County APCD rules 101, 102, 2, 103, 105, 301, 42, 43, 44, 404, 405, 53.1, 444, 461, 462, 463, 471, 474, 73, 501, 502, and 509; South Coast AQMD rules 301 and 431.

No action is being taken on the following rules, submitted on June 6, 1977, because they are unchanged from rules already approved: Los Angeles County APCD rules 43, 44, 53, and 462; Riverside County APCD rules 44 and 462.

No action is being taken on part (c) of rule 53-A because it limits emissions

of fluorine, chlorine, and bromine which cannot be enforced by EPA as part of § 110 of the Clean Air Act.

No action is being taken on Rule 430 Breakdown Provisions, submitted on June 6, 1977, by Los Angeles, Riverside, and San Bernardino County APCD's because a disapproval action has already been taken in 43 FR 3275.

Rule 402, Nuisance, is not appropriate for inclusion in the SIP because it is not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards. Therefore, EPA is taking no action on this rule.

Rule 404, Particulate Matter—Concentration, is disapproved for Los Angeles and Riverside County APCD's. This rule, submitted in June 1977, would exempt liquid sulfur compounds from particulate matter emission limitations. This could result in a relaxation of sulfur emission limits. In addition, nonsulfur particulate emissions could also be increased. Sources could be permitted to subtract sulfur compounds from total particulate measurements. Since the emission limit would remain unchanged, the nonsulfur fraction of particulates could be increased by the amount of sulfur compounds subtracted. No demonstration has been presented to show that this less stringent limit will not interfere with attainment and maintenance of the national ambient air quality standards (NAAQS) for particulate matter. Therefore rule 52 in Los Angeles and Riverside Counties, as approved in 37 FR 19812, remains federally enforceable as part of the California SIP.

Rule 405, Solid Particulate Matter-Weight, is disapproved for the Riverside County APCD. This rule, submitted in June 1977, would exempt the Palo Verde and Joshua Tree areas of Riverside County from the stringent emission rates applicable to the other areas of the county. Instead, sources in these exempt areas would be permitted to increase emissions by including processed air as part of the processed weight. No demonstration has been presented to show how this relaxation will not interfere with attainment and maintenance of NAAQS for particulate matter. Therefore rule 54 of Riverside County as approved in 37 FR 10842 remains federally enforceable as part of the California SIP.

Rule 441, Research Operations, is disapproved. This new rule, submitted by the Los Angeles, Riverside, and San Bernardino County APCD's in June 1977, would permit exemptions for research operations. However, it could be used to exempt sources from applicable emission limits, thereby rendering such limits potentially unenforceable. In addition, no control strategy demonstration has been submitted to show that these research exemptions will not interfere with attainment and maintenance of NAAQS.

Rule 444, Open Burning, is disapproved for Los Angeles County APCD. This rule, submitted in June 1977, permits burning without an incinerator of many new types of waste products. Specifically, this new rule permits fires in the following new categories: Disposal of Russian thistle, forest management, range improvement, wildlife habitat improvement, and maintenance of water delivery systems. No demonstration has been presented to show how these new types of fires will not interfere with attainment and maintenance of NAAQS for particulate matter. Therefore, rules 57.1 through 57.4 (Open Fires) of Los Angeles County as approved in 37 FR 19812 remain federally enforceable as part of the California SIP.

Rule 465, Vacuum Producing Devices or Systems, is disapproved for Los Angeles and Riverside County APCD's. This rule, submitted in June 1977, limits organic emissions from vacuum producing devices to 3.3 pounds per hour. This figure is 10 percent higher in allowable emissions than the rules it would replace. No demonstration has been presented to show that this less stringent limit will not interfere with attainment and maintenance of NAAQS for oxidants. Therefore rule 69 in Los Angeles County, and rule 74 in Riverside County, as approved in 37 FR 19812, remain federally enforceable as part of the California SIP.

Rule 473, Disposal of Solid and Liquid Wastes, is disapproved for Los Angeles and Riverside County APCD's. This rule, submitted in June 1977, would permit increased particulate emissions. In Riverside County, the particulate matter emission limit would be raised 20 percent (from 0.25 to 0.3 grains/ft^3). In addition, in both counties the range of affected incinerators has been reduced. Presently, incinerators with a design burn rate greater than 100 lbs/hr must be controlled. This revision would exempt incinerators smaller than 110 lbs/hr, a 10 percent increase. No demonstration has been presented to show that these less stringent limits will not interfere with attainment and maintenance of NAAQS for particulate matter. Therefore rule 58 in Riverside and Los Angeles Counties, as approved in 37 FR 19812, remain federally enforceable as part of the California SIP.

The rescission of Regulation VI, Orchard or Citrus Grove Heaters, is disapproved for the San Bernardino County APCD. This regulation was rescinded in the Desert portions of Los Angeles, Riverside, and San Bernardino Counties in the June 1977 submittal from these county APCD's. Although that portion of the California Health and Safety Code that provides for the control of orchard heater emissions was approved in 1972 as part of the SIP, it is not as restrictive as the rules of Regulation VI of the San Bernardino County APCD. The safety code limits heater emissions to 1 gram per minute solid carbonaceous material. Regulation VI of Los Angeles and Riverside County APCD's have this same limit, but Regulation VI of the San Bernardino County APCD, as approved in 1972, has a special ½ gram/minute limit for "class one" heaters. Because no analysis has been presented to show that this relaxation will not interfere with attainment and maintenance of NAAQS, the rules of Regulation VI of the San Bernardino County APCD, as approved in 1972, will continue to be federally enforceable as a part of the California SIP.

Regulation V, Procedures Before the Hearing Board (Los Angeles, Riverside, and San Bernardino County APCD's), establishes procedures by which variances from emission limits may be obtained. While EPA is approving the changes to Regulation V, each variance still must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

Rule 461, Gasoline Transfer and Dispensing, is disapproved for the South Coast AQMD (part of the Metropolitan Los Angeles Intrastate AQCR). The latest version of this rule, submitted in June 1977, reduces controls on small storage containers by exempting them from previously required submerged fill pipe retrofitting. Because no demonstration has been submitted to show how this relaxation will not interfere with attainment and maintenance of NAAQS for oxidants, rule 461 as submitted in January 1976 by the Southern California APCD and approved in 42 FR 37977 (July 26, 1977), is retained for Federal enforcement as part of the California SIP.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7601(a)).)

Dated: August 31, 1978.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart F—California

1. Section 52.220, paragraphs (c)(21)(xviii) and (c)(28)(xi) are added, paragraphs (c)(39)(ii), (iii), and (iv) are amended, and paragraph (c)(39)(vi) is added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(xviii) Los Angeles County APCD (Metropolitan Los Angeles portion).

(A) Amended rule 45.

* * * * *

(28) * * *

(xi) Orange County APCD (Metropolitan Los Angeles portion).

(A) Amended rule 53.

* * * * *

(39) * * *

(ii) San Bernardino County APCD (Southeast Desert portion).

(A) * * *

(B) * * *

(C) New or amended rules 104, 106, 208, 218, 401, 403, 53-A(a), 407 to 409, 431, 432, 441 to 443, 464 to 470, 472, 473, 475, 476, 503 to 508, 510 to 518, 801 to 817.

(D) Deleted without replacement Regulation VI—Orchard or Citrus Grove Heaters.

(iii) Los Angeles County APCD (Southeast Desert portion).

(A) * * *

(B) * * *

(C) New or amended rules 101, 102, 2, 103 to 106, 208, 218, 301, 42, 401, 403 to 405, 407 to 409, 431, 432, 441 to 444, 461, 463 to 476, 502 to 518, 801 to 817.

(D) Deleted without replacement rule 53.1, and Regulation VI—Orchard or Citrus Grove Heaters.

(iv) Riverside County APCD (Southeast Desert portion).

(A) * * *

(B) * * *

(C) New or amended rules 103, 104, 208, 218, 301, 42, 401, 403 to 405, 53, 56, 407 to 409, 431, 432, 441 to 444, 463 to 476, 73, 503 to 518, 801 to 817.

(D) Deleted without replacement Regulation V—Orchard, Field or Citrus Grove Heaters.

* * * * *

(39) * * *

(vi) South Coast Air Quality Management District.

(A) Amended rule 461.

* * * * *

2. Section 52.228, paragraphs (b)(1)(ii), (iii), and (iv) are added as follows:

§ 52.228 Regulations: Particulate matter, Southeast Desert Intrastate Region.

(a) * * *

(b) * * *

(1) * * *

(ii) Los Angeles County Air Pollution Control District.

(A) Regulation IV, Rule 404 Particulate Matter-Concentration, and rule 473, Disposal of Solid and Liquid Wastes, submitted on June 6, 1977 are disapproved. Rules 52 and 58, titled as above, respectively, and submitted on June 30, 1972 and previously approved under 40 CFR 52.223 are retained.

(iii) Riverside County Air Pollution Control District.

(A) Regulation IV, rules 404 Particulate Matter-Concentration, 405 Particulate Matter-Weight, and Rule 473, Disposal of Solid and Liquid Wastes, submitted on June 6, 1977 are disapproved. Rules 52, Particulate Matter-Weight, 54, Dust and Fumes, and 58, Disposal of Solid and Liquid Wastes, submitted in 1972 and approved under 40 CFR 52.223, are retained.

(iv) The repeal of San Bernardino County APCD Regulation VI, Orchard or Citrus Grove Heaters, submitted on June 6, 1977, is disapproved. This regulation (comprised of rules 101 to 104, 109, 110, 120, and 130 to 137), submitted on February 21, 1972 and approved under 40 CFR 52.223, is retained as part of the SIP.

* * * * *

3. Section 52.229 is amended by adding paragraph (b)(2) as follows:

§ 52.229 Control strategy and regulations: Photochemical oxidants (hydrocarbons), Metropolitan Los Angeles Intrastate Region.

(a) * * *

(b) * * *

(2) South Coast Air Quality Management District.

(i) Regulation IV, rule 461 Gasoline Transfer and Dispensing, submitted on June 6, 1977. The version of this rule by the same number and title submitted on April 21, 1976 and approved under 40 CFR 52.223 is retained.

* * * * *

4. Section 52.234, paragraphs (e)(I) (ii), (iii), and (iv) are added as follows:

§ 52.234 Source surveillance.

* * * * *

(e) * * *

(1) * * *

(ii) Los Angeles County APCD (Southeast Desert portion).

(iii) Riverside County APCD (Southeast portion).

(iv) San Bernardino County APCD (Southeast Desert portion).

* * * * *

5. Section 52.269, paragraph (b)(3) is added as follows:

§ 52.269 Control strategy: Photochemical oxidants (hydrocarbons) and carbon monoxide.

(a) * * *

(b) * * *

(3) Southeast Desert Intrastate AQCR.

(i) Los Angeles County APCD.

(A) Regulation IV, rule 465, Vacuum Producing Devices or Systems, submitted on June 6, 1977, is disapproved. Rule 74 with the same title, submitted on June 6, 1977, is disapproved. Rule 69 with the same title, submitted on June 30, 1972 and approved under 40 CFR 52.223, is retained.

(ii) Riverside County APCD.

(A) Regulation IV, rule 465, Vacuum Producing Devices or Systems, submitted on June 6, 1977, is disapproved. Rule 74 with the same title, submitted on June 30, 1972 and approved under 40 CFR 52.223, is retained.

* * * * *

6. Section 52.272, paragraph (a)(4) is added as follows:

§ 52.272 Research operations exemptions.

(a) * * *

(4) Southeast Desert Intrastate Region.

(i) Los Angeles County APCD.

(A) Rule 441, Research Operations, submitted on June 6, 1977, is disapproved.

(ii) Riverside County APCD.

(A) Rule 441, Research Operations, submitted on June 6 1977, is disapproved.

(iii) San Bernardino County APCD.

(A) Rule 441, Research Operations, submitted on June 6, 1977, is disapproved.

* * * * *

7. Section 52.273 is amended by adding paragraph (b)(5)(ii) as follows:

§ 52.273 Open burning.

(a) * * *

(b) * * *

(5) * * *

(i) * * *

(ii) Los Angeles County APCD.

(A) Rule 444, Open Burning, submitted on June 6, 1977, is disapproved. Rules 57.1 through 57.4 titled Open Fires, submitted on June 30, 1972 and approved under 40 CFR 52.223, are retained.

* * * * *

[FR Doc. 78-25182 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 950-7]

PART 65—AIR QUALITY IMPLEMENTATION PLANS; ENFORCEMENT BY STATE AND FEDERAL GOVERNMENTS AFTER STATUTORY DEADLINES

Delayed Compliance Order for Ohio University, Athens, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA issues a delayed compliance order to Ohio University. The order requires the University to bring air emissions from its boiler house at Athens, Ohio, into compliance with certain regulations contained in the federally approved Ohio State implementation plan (SIP). Ohio University compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the order.

DATES: This rule takes effect September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael G. Smith, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: On June 28, 1978, the Acting Regional Administrator of EPA's region V office published in the FEDERAL REGISTER (43 FR 28006) a notice setting out the provisions of a proposed delayed compliance order for Ohio University. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments and no request for a public hearing were received in response to the proposed notice.

Therefore, a delayed compliance order effective this date is issued to Ohio University by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places Ohio University on a schedule to bring its coal-fired boiler house at Athens, Ohio, into compliance as expeditiously as practicable with regulation AP-3-11, a part of the federally approved Ohio State implementation plan. Ohio University is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the act, and emission monitoring and reporting requirements. If the conditions of the order are met, it will permit Ohio University to delay compliance with the SIP regulations covered by the order until July 1, 1979.

Compliance with the order by Ohio University will preclude Federal enforcement action under section 113 of the act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order, and for violations of the regulations covered by the order which occured before the order was issued by EPA or after the order is terminated. If the Administrator determines that Ohio University is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(9) of the act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the act.

The provisions of the order will be summarized, as set forth below, in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 149876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place Ohio University on a schedule for compliance with the Ohio State implementation plan.

(42 U.S.C. 7413(d), 7601)

Dated: August 21, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

1. By amending § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Ohio University	Athens, Ohio	EPA-5-78-A-19	June 28, 1978	Ohio, AP-3-11.	July 1, 1979.

[FR Doc. 78-25184 Filed 9-7-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Temp. Reg. 46]

APPENDIX—TEMPORARY REGULATIONS

Use of Small Purchase Procedures and Schedule Contracts for Automatic Data Processing (ADP) Requirements

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: The FPR temporary regulation changes provisions and delegations of procurement authority applicable to agency procurement actions for ADP requirements. The changes are required to reduce procurement cycle time and administrative cost and to enhance competition for ADP items. The intended effect is to lower procurement costs and decrease procurement action time for ADP items.

DATES: Effective date: This regulation is effective October 2, 1978. Expiration date: This regulation expires March 31, 1979, unless sooner revised or superseded. Comments due on or before: December 7, 1978.

ADDRESS: Comments should be addressed to: Director, FPR Staff (FV); General Services Administration; Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

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

In 41 CFR Chapter 1, FPR temporary regulation 46 is added to the appendix at the end of the chapter.

Dated: AUGUST 28, 1978.

JAY SOLOMON,
Administrator
of General Services.

[Federal Procurement Regs.; Temporary Reg. 46]

To: Heads of Federal agencies.

Subject: Use of small purchase procedures and schedule contracts for automatic data processing (ADP) requirements.

1. *Purpose.* This FPR temporary regulation prescribes the use of small purchase procedures for ADP procurements, revises agency procurement procedures for competitive procurements which do not exceed a purchase cost of $300,000, and provides interim policies and procedures which replace the provisions in §§ 1-4.1103 and 1-4.1107-6 concerning the use of schedule contracts for ADP.

2. *Effective date.* This regulation is effective October 2, 1978, but may be observed earlier.

3. *Expiration date.* This regulation expires March 31, 1979, unless sooner revised or superseded.

4. *Background.* a. Federal agencies and the ADP industry have a growing concern about the complex, lengthy, and costly ADP procurement process. Much of this concern has been directed to procurement costs and the procurement cycle time for items in the $50,000 to $300,000 value range. The average cost to conduct fully competitive procurements in this value range in about $12,000, and the average procurement cycle time is about 6 months for items in this category. In addition, agency procurement requests in the $50,000 to $300,000 value range represent about 45 percent of the requests received but account for less than 6 percent of the total dollar value of the resulting procurements.

b. The most viable alternative for reducing both the procurement cost and time to procure ADP items in this dollar value range and below is the full use of small purchase procedures and the authorization of revised cirteria for the use of schedule contracts issued by the General Services Administration's automated data and telecommunications service or Federal supply service for FSC Group 70 ADP items. Use of schedule contracts allow order placements to be accomplished in one day and at low expense.

c. Some ADP items covered by schedule contracts also may be available from other sources. When this is true, competition may offer potential cost reductions for the Government. Accordingly, public notice in the Commerce Business Daily prior to ordering against schedule contracts is required for ADPE requirements which exceed $35,000. This threshold is designed to optimize competition, hold-down administrative costs, and minimize delays in satisfying low dollar value requirements. Mandatory use of schedule contracts for ADPE items is being phased out to permit these savings to be realized.

d. With respect to the ADTS/ADP schedules, the consensus among Government users and ADP suppliers, particularly of vendors eligible for schedule contracts, is that the rules on the use of these schedules should be relaxed once there is notice of the intent to order and consideration has been given to the market response. Such a course of action could enhance the user's ability to meet the requirements in the relatively low dollar value range in a more efficient and economical manner; i.e., at the lowest overall cost. In this regard, it is noted that schedule contracts provide economic advantages to the Government when compared with the terms and conditions and/or prices established in the open competitive commercial marketplace for like quantities. When the restrictions on the use of ADTS/ADP schedules are eased, it is anticipated that even better terms and conditions can be negotiated. It is estimated that the additional economies would range from 2 to 6 percent of current ADP schedule prices.

e. On June 23, 1978, the FEDERAL REGISTER (43 FR 27190-1) published a final rule which retitled and restructured certain subchapters of the Federal property management regulations pertaining to ADP. These regulation changes are cross-referenced in various sections of FPR subpart 1-4.11. A subsequent amendment of the FPR will reflect this action.

5. *Explanation of change.* a. Section 1-1.1003-2(a)(5) is amended to remove the paragraph (a) designation in the reference to § 1-4.1107-6.

§ 1-1.1003-2 General requirements.

(a) * * *

(5) Procurements which are made by an order placed under an existing contract except as provided in § 1-4.1107-6 with respect to GSA schedule contracts for ADP items;

* * * * *

b. Section 1-4.1103-1 is amended to incorporate provisions for exercising agency procurement authority with respect to GSA schedule contracts in revised paragraph (c) and to provide raised monetary thresholds for the procurement of ADPE in new paragraph (d).

§ 1-4.1103-1 Automatic data processing equipment.

Except as indicated in § 1-4.1103-4 regarding potential use of the ADP fund and in Federal property management regulations (FPMR) subparts 101-36.3 with respect to the use of excess ADPE and 101-36.14 regarding acquisition of hardware monitors for measuring computer system performance (formerly 101-32.3 and 101-32.14, respectively, see 43 FR 27191, June 23, 1978), agency may procure ADPE without prior approval of GSA provided:

(a) The ADPE is specially designed, as opposed to configured for a specific application. However, commercially available general purpose ADPE shall not be acquired under this authority unless the ADPE is modified to the extent that precludes future use of the equipment for the solution of a variety of problems or the processing of other applications; or

(b) The procurement will occur by placing a purchase/delivery order against an applicable GSA requirements-type contract; or

(c) The procurement will occur by placing a purchase/delivery order against a GSA schedule contract (see 1-4.1107-6) provided that:

(1) The order is placed under the terms and conditions of the contract;

(2) The order is within the maximum order limitation (MOL) of the applicable contract;

(3) When an ADTS/ADP schedule contract is utilized, the total purchase price of the item(s) covered by the order does not exceed $300,000. (Note: Even though the item(s) are to be rented or leased, the purchase price shall be used to determine if the dollar value of the order falls within the $300,000 threshold); and

(4) The requirements set forth in § 1-4.1107-6 on the use of GSA schedule contracts for ADP are met; or

(d) The value of the procurement does not exceed:

(1) $300,000 purchase price or $7,500 basic monthly rental charges for competitive procurements; or

(2) $50,000 purchase price of $1,500 basic monthly rental charges for either sole source or specific make and model procurements.

c. Section 1-4.1103-2 is amended to incorporate provisions for exercising agency procurement authority with respect to ADTS/ADP schedule contracts in revised paragraph (b) and to provide raised monetary thresholds for the procurement of software in revised paragraph (c). The applicability of the provisions is extended to include software performance monitoring packages.

§ 1-4.1103-2 Software.

Except for software available through the Federal Software Exchange Center (FSEC) covered by subpart 101-36.16 of the FPMR (formerly 101-32.16), agencies may procure software, including software performance monitoring packages covered by subpart 101-36.14 of the FPMR (formerly

101-32.14), for use with ADPE without prior approval of GSA or the Federal Computer Performance Evaluation and Simulation Center (FEDSIM) when:

(a) The procurement will occur by placing a purchase/delivery order against an applicable GSA requirements-type contract;

(b) The procurement will occur by placing a purchase/delivery order against an applicable ADTS/ADP schedule contract under the terms and conditions of that contract (see § 1-4.1107-6);

(c) The total value of the procurement for the specific software package(s) does not exceed $10,000 annual lease charges, excluding maintenance or $10,000 purchase price; or

(d) The software is provided by the original equipment manufacturer and is not separately priced from the ADPE.

d. Section 1-4.1103-3 is amended to incorporate provisions for exercising agency procurement authority with respect to ADTS/ADP schedule contracts in revised paragraph (a) and to provide raised monetary thresholds for the procurement of maintenance services in revised paragraph (b).

§ 1-4.1103-3 Maintenance services.

When approved by GSA, the ADP fund may be used by agencies to obtain maintenance services for ADPE leased from GSA through the ADP fund. In addition, agencies may procure maintenance services without prior approval of GSA when:

(a) These services are available from an ADTS/ADP schedule contract and the purchase/delivery order is placed under the terms and conditions of that contract (see 1-4.1107-6); or

(b) The maintenance charges do not exceed $100,000 annually for a fully competitive procurement or $50,000 annually for a sole source procurement.

e. Section 1-4.1107-4 is added to provide for use of small purchases procedures.

§ 1-4.1107-4 Small purchases.

When the aggregate amount of any one procurement of ADPE, software, and maintenance services does not exceed $10,000, it shall be accomplished in accordance with the provisions of subpart 1-3.6—Small purchases, except for FSC group 70 items which are available on schedule contracts.

f. Section 1-4.1107-6 is revised to provide that procurement under FSS schedule contracts for FSC group 70 items will be generally subject to the provisions of subpart 1-4.11. However, existing mandatory ordering provisions representing contractual obligations of the Government will not be disturbed. In addition, the raised monetary thresholds applicable to agency procurement authority are reflected in the ADTS/ADP schedule contract provisions. The requirement for synopsizing prior to placing an order under a schedule contract applies to ADPE requirements which exceed $35,000.

§ 1-4.1107-6 Use of GSA schedule contracts.

(a) *FSS/FSC group 70 ADPE item schedule contracts.* (1) A limited number of general purpose ADPE items (as defined in § 1-4.1102-1) are available under FSS schedule contracts, subject to the maximum order limitations, and the terms and conditions of the applicable contract. For each acquisition of ADPE from this source, the requirement shall be synopsized in accordance with paragraph (c) of this § 1-4.1107-6 and the procurement file documented with the results of the synopsis action (but see paragraph (a)(4) of this § 1-4.1107-6). If affirmative response is received (other than from sources available under the FSS schedule contract program) and the FSS schedule is used, the procurement file shall be documented with evidence that use of the FSS schedule contract, including the method of acquisition; e.g., lease or purchase, is the lowest overall cost alternative available to the agency, price and other factors considered. As a minimum, the other factors to be considered shall be the continued availability of maintenance services and spare parts for the ADPE item.

(2) The procurement file also shall be documented with an appropriate justification (see § 1-4.1104(k)) for procurements on a non-competitive (sole source) or specific make and model basis.

(3) Use of the FSS schedule does not waive applicable acquisition planning requirements. Necessary privacy (see FPMR temporary regulation E-42) and internal agency clearances and/or approvals shall be obtained before acquiring ADPE from FSS schedule contracts. The provisions of the following Federal property management regulations (FPMR) (see § 1-4.1100-1) and Federal Management Circular (FMC) (see § 1-4.1101-1) are also applicable to FSS schedule acquisitions:

(i) FPMR 101-36 13 (formerly 101-32.13), pertaining to Federal Information Processing Standards Publications (FIPS PUBS),

(ii) FPMR 101-36.2 (formerly 101-32.2), pertaining to the sharing exchange program,

(iii) FPMR 101-36.3 (formerly 101-32.3), concerning the reutilization and reporting of excess equipment,

(iv) FPMR 101-37.2 (formerly 101-35.2), when telecommunications are involved, and

(v) The policies contained in paragraph 6a and 6b of FMC 74-5 (redesignated FPMR 101-35.2, see 43 FR 27190, June 23, 1978).

(4) To the extent specific mandatory provisions of the pertinent FSS schedule contract apply to the specific agency requirement to be ordered, the item(s) shall be procured in accordance with procedures applicable to the FSS schedule contract, notwithstanding the provisions of paragraph (a)(1) of this § 1-4.1107-6.

(b) *ADTS/ADP schedule contracts.* (1) The existence of an ADTS/ADP schedule contract shall not preclude or waive the requirement for maximum practicable competition in obtaining ADPE, software, or maintenance services. In addition, the availability of those items under an ADP schedule contract shall not preclude or otherwise detract from procuring components, including peripheral equipment or components for augmenting an existing system from a number of different sources, if this action will be in the best interests of the Government. Suitable equipment must be considered whether or not this equipment is on an ADP schedule contract.

(2) Use of ADP schedule contracts for the initial acquisition of ADPE is subject to the following:

(i) A purchase/delivery order may be placed against the ADP schedule contract provided that the ordering agency has the necessary procurement authority (see §§ 1-4.1103 and 1-4.1105).

(ii) The dollar value of the order does not exceed $300,000 (see § 1-4.1103-1(c)(3)) and is within the maximum order limitation of the applicable ADP schedule contract, and

(iii) Requirements are synopsized in accordance with paragraph (c) of this § 1-4.1107-6 and the procurement file is documented with the results of the synopsis action. If an affirmative response is received (other than from sources available under the ADP schedule contract program), the procurement file also shall be documented with evidence that use of the ADP schedule contract, including the method of acquisition; e.g., lease or purchase is the lowest overall cost alternative to the agency, price and other factors considered. As a minimum, the other factors to be considered shall be the continued availability of maintenance services and spare parts for the ADPE item.

(3) ADP schedule contracts may be used for the continued lease or rental of installed equipment and software except that the continued lease of an installed central processing unit (CPU)

or an ADP system that includes a CPU is subject to the following:

(i) Requirements shall be synopsized in accordance with paragraph (c) of this § 1-4.1107-6, and

(ii) A specific delegation of procurement authority pursuant to § 1-4.1104 is obtained before issuing the renewal order where the schedule purchase price exceeds $300,000 when the equipment is available from a source other than the schedule contract.

(4) Use of ADP schedule contracts for the conversion from lease to purchase of installed ADPE is subject to the following:

(i) Requirements shall be synopsized in accordance with paragraph (c) of this § 1-4.1107-6, and

(ii) A specific delegation of procurement authority is obtained before issuing an order to purchase ADPE with an aggregate list purchase price of more than $300,000 when identical (i.e., specific make and model) or suitable substitute equipment is available from a supplier other than schedule contractor.

(5) The procurement file shall be documented with an appropriate justification (see § 1-4.1104(k)) for procurements on a non-competitive (sole source) or specific make and model basis.

(c) *Synopsis requirements.* (1) ADPE requirements referred to in paragraphs (a)(1), (b)(2), (b)(3), and (b)(4) of this § 1-4.1107-6 which exceed $35,000 shall be synopsized in the "Commerce Business Daily" (CBD) in accordance with subpart 1-1.10, prior to placing an order(s) under an ADTS/ADP or FSS schedule contract. This requirement shall be followed notwithstanding the exemption in § 1-1.1003-2(a)(5).

(i) A synopsis shall be published sufficiently in advance of placing the order to permit potential suppliers to demonstrate their ability to satisfy the Government's requirement (see § 1-1.1003-6). When alternate sources of supply are not expected to be available, the synopsis may be in the form of a notice of intention to procure, without establishment of a solicitation package. If no affirmative responses are received from potential offerors by the due date for responses to the notice, the procurement file shall be so documented and no further use of the CBD is required. If affirmative responses (other than from suppliers available under the schedule contract program) are received, and it is determined that use of the ADTS/ADP or FSS schedule contract is in the best interests of the Government, further synopsizing of the procurement is not required (see paragraph (b)(2) of § 1-4.1107-6 above).

(ii) Publication of contract award information in the CBD is not required when an order is placed against an ADP or FSS schedule contract, whether or not after a competitive solicitation, since the schedule contract was publicized in accordance with § 1-1.1004.

(2) If there is no affirmative response to the synopsis (§ 1-4.1107-6 (c)(1)) and ADPE are to be procured under an ADTS/ADP or FSS schedule at other than the lowest delivered price available under any GSA schedule contract for identical or similar (see § 1-4.1107-6(b)(4)(ii)) equipment, agencies shall justify the action in conformance with §§ 101-26.408-2 and 101-26.408-3 of the FPMR and shall retain the justification and supporting data or submit it to GSA if a specific delegation of procurement authority is required.

6. *Effect on FSS schedule contracts.* To the extent that existing FSS schedule contracts for ADP (FSC group 70 items) contain mandatory ordering provisions applicable to the item and to the agency, such mandatory provisions shall be followed. FSS schedule contracts, extensions, or renewals, for ADP (FSC group 70 items) entered into subsequent to the effective date of this regulation will not contain mandatory ordering provisions.

7. *Solicitation of comments.* Notwithstanding the provisions of this temporary regulation, the views of agencies and other interested parties are invited regarding the policy and procedures that should be adopted in the future. All comments received on or before December 7, 1978, will be considered.

[FR Doc. 78-25278 Filed 9-7-78; 8:45 am]

[7510-01]

CHAPTER 18—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA PROCUREMENT REGULATION (NPR)

Adoption of the 1977 Edition Updated Through July 31, 1978

EDITORIAL NOTE.—The Office of the Federal Register (OFR) has approved the adoption of the NASA procurement regulation in this manner largely because the Department of Defense and the General Services Administration, through the Office of Federal Procurement Policy, is drafting the Federal acquisition regulation (FAR) to replace existing systems of procurement regulations. The FAR will be a simple, uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds. For this reason the approval of this adoption by the OFR is effective only until July 31, 1979, when it will be reviewed in light of the progress made on the new Federal acquisition regulation.

AGENCY: National Aeronautics and Space Administration.

ACTION: Adoption of updated 1977 NASA procurement regulation.

SUMMARY: The National Aeronautics and Space Administration (NASA) and the Office of the Federal Register (OFR) announce the adoption of the 1977 edition of the NASA procurement regulation updated through procurement regulation directive 78-10, into the FEDERAL REGISTER system. NASA and the OFR also announce that, in order to reduce printing costs for this large volume of regulations, the procurement regulation will be published directly in the Code of Federal Regulations rather than in the FEDERAL REGISTER.

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. J. H. Wilson, Policy Division (Code HP-1), NASA Headquarters, Washington, D.C. 20546, telephone 202-755-2237.

SUPPLEMENTARY INFORMATION

BACKGROUND

The NASA procurement regulation is a looseleaf publication that is distributed by NASA to a list of subscribers. The Office of the Federal Register (OFR), in a combined effort with NASA, has accepted the agency's 1977 edition of the procurement regulation, updated through July 31, 1978, for direct publication in the Code of Federal Regulations (CFR) rather than in the FEDERAL REGISTER. This edition also contains procurement regulation directives which affect the procurement regulation but which have not been incorporated into that edition. These directives are outstanding and still in effect. To avoid duplicate typesetting and thus reduce printing costs, the OFR has agreed to photo-offset the looseleaf procurement regulation, including portions of unincorporated procurement regulation directives, as it exists on July 31, 1978.

AVAILABILITY

Both the NASA looseleaf publication of the procurement regulation and the CFR volumes containing it can be purchased from the Government Printing Office. A copy of the NASA publication is on file at the OFR for public inspection, and copies of the 1977 updated procurement regulation and related directives may also be inspected at NASA Headquarters and Centers.

AMENDMENTS

NASA will periodically update the procurement regulation by publishing amendments in the FEDERAL REGISTER which will simultaneously be issued as procurement regulation directives in the NASA looseleaf system.

The 1978 edition of 41 CFR Chapter 18 contains the amendments to the 1977 edition of the procurement regulation which were issued through directives issued prior to July 31, 1978. Where NASA has issued directives prior to the 1978 publication which affect the procurement regulation, but which were not incorporated into that publication, the directives appear in an appendix at the end of 41 CFR Chapter 18.

The following table lists those units of the procurement regulation that are affected by the unincorporated directives printed in the appendix. This table is prepared as a guide only. The user is advised to consult the individual directives to determine the legal effect of the changes listed.

PRD No.	NPR paragraph affected	Action
70-15 (revised	3.801-2	Supplemented.
	3.804	Do.
73-8	12.1005	Do.
75-1	None	Policy statement.
75-9, items I and III	Pt. 12, subpt. 13	Added.
	3.700	Supplemented.
	12.606	Revised.
	12.607	Added.
	15.107	Supplemented.
	15.205-3	Do.
	15.205-35	Do.
76-9	12.805	Do.
77-3	12.807	Do.
77-4, item I	2.201-1(a)(31)	Deleted.
	3.501(b)(1xi)	Do.
	Pt. 12, subpt. 11	Do.
	Affirmative action clause	Added.
77-8, items II, IV, and V	7.104-55	Supplemented.
	12.1302-1	Revised.
	PRD 75-9, item I	Do.
77-11, Items IX and X	3.1208(c)	Supplemented. Policy statement.
77-16	Appendix O	Revised.
77-18	3.1200	Supplemented.
	Pt. 15, Subpt. 2	Revised.
	Pt. 15, Subpt. 5	Do.
78-8	3.804-2	Supplemented.
	3.804-3	Do.
78-10	1.705-4	Amended.
	1.706	Do.
	Pt. 1, subpt. 8	Do.
	Pt. 12, subpt. 6	Do.

ADOPTION

The updated 1977 edition of the NASA procurement regulation is hereby adopted into title 41 CFR, chapter 18, thereby replacing all previous editions of this regulation. The material will be divided into three volumes which will include parts 1 through 52 and appendices.

STUART J. EVANS,
Director of Procurement.

[FR Doc. 78-25276 Filed 9-7-78; 8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Temp. Reg. E-53]

APPENDIX—TEMPORARY REGULATIONS

Instructions for Preparation of GSA Form 1473, Supply Activity Report

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Temporary regulations.

SUMMARY: This regulation provides revised instructions for preparing GSA form 1473, Supply Activity Report. The revised GSA form 1473 will be available for use in reporting for fiscal year 1979. However, by providing the revised instructions in this temporary regulation, agencies will have sufficient time to adopt them when compiling data for the fiscal year 1978 report.

DATES: Effective date: September 8, 1978. Expiration date: December 31, 1978. Comments due: On or before September 20, 1978.

ADDRESS: General Services Administration (FAF), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT:

John I. Tait, Director, Regulations and Management Control Division, 703-557-1914.

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

In 41 CFR chapter 101, the following temporary regulation is listed in the appendix at the end of subchapter E.

[Federal Property Management Regs.; Temporary Reg. E-53]

AUGUST 25, 1978.

To: Heads of Federal agencies.

Subject: Instructions for preparation of GSA form 1473, Supply Activity Report.

1. *Purpose.* This regulation transmits revised instructions for the preparation of GSA form 1473, Supply Activity Report.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER.

3. *Expiration date.* This regulation expires December 31, 1978, unless sooner revised or superseded.

4. *Background.* As a result of suggestions solicited from civilian agencies, GSA form 1473, Supply Activity Report, and the instructions for its preparation need to be revised. The revised GSA form 1473 will be available for use in reporting for fiscal year 1979. However, the revised instructions for preparing the form are contained in the attachment to this regulation to afford agencies sufficient time for use in compiling data for fiscal year 1978.

5. *Agency comments.* Agency comments concerning the instructions for preparing GSA form 1473 may be sent to the General Services Administration (FAF), Washington, D.C. 20406, no later than September 20, 1978, for consideration and possible incorporation into the permanent regulation.

6. *Effect on other directives.* This regulation supersedes the instructions in § 101-25.4902-1473-1 for preparing GSA form 1473.

7. *Reports.* The report required by this regulation has been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number 1220-GSA-AN.

ATTACHMENT A

§ 101-25.4902-1473-1 Instructions for preparation of GSA form 1473, Supply Activity Report.

PART I—INVENTORY

a. *General.*—1. The left column headed "total" on the front of GSA form 1473 is the sum of the line items

and the dollar value of the inventory on hand at the end of the fiscal year. Data by Federal supply classification (FSC) or commodity groups are not currently required and need not be reported. All columns to the right of the "total" column and columns on the back of the form are to be left blank.

2. Inventory values should be reported to the nearest thousand. Commas are not necessary. Thus, $1,256,548 should be shown as $1,257.

3. The pricing method in effect in the reporting agency shall be used to compute inventory values.

4. Items procured for a specific one-time use project (except construction items) shall be reported in part II, acquisition, direct delivery, to preclude distortion of the end-of-year inventory position.

b. *Line entries.* Line entries are made as follows:

1. *On hand.*—(a) *Operations.* Enter the number of line items and the value of end-of-year inventory of supplies, material, and equipment (object classes 26, expendable supplies, and 31, nonexpendable equipment) in the physical custody or under control of the agency which are held in stock for use in normal operations, reserves (standby), or long supply.

(1) *Normal operating.* End-of-year inventory of supplies, materials, and equipment retained in active inventory to meet the normal demands of ongoing programs. Included are economic order quantity (EOQ) and leadtime stock levels, plus stocks held for issue in case the leadtime is not adequate to insure receipt of scheduled stock replenishment shipments (safety stock).

(2) *Reserves (standby).* Reserve (standby) items are defined as supplies, materials, and equipment for which a reserve stock is held to meet emergency needs. Included are mobilization, commission, and other contingency reserves; insurance items; and spare parts and components for emergency replacement.

(3) *Long supply.* That increment of end-of-year inventory which exceeds the stock level criteria (normal operating and reserves) established by the inventory manager.

(b) *Construction.* Enter the value of end-of-year inventory of supplies, materials, and equipment procured against a bill of materials for one-time construction projects and held for future issue from a central distribution point.

(c) *Exchange or repair.* Enter the value of end-of-year inventory of those items being held for exchange or repair, both serviceable and unserviceable units.

2. *Issues.* Enter the value of all materials which have been released or issued from stock during the year for support purposes, whether for immediate use or for stocking by a supported activity. Omit value of stock items dropped from stock records as a result of excess or surplus property transactions, inventory adjustments, or other nonsupport transactions.

3. *Months issues in inventory (operations).* Enter the result on line 3(1) of dividing normal operating inventory values on line 1a(1), part I, by the corresponding entry on line 2a(1), part I, and multiplying by 12, carrying the result to one decimal place. On "long supply," divide the average monthly value of issues for the last 12 months (one-twelfth of the sum of the values reported on lines 2a(1) and (2), part I) into line 1a(3), part I, to determine the number of months issues in inventory.

4. *Items having no issues in last 12 months.* Enter the number of line items and the value of inventory items for which no issues were made during the report year.

PART II—ACQUISITION

a. *General.* Report on the basis of either obligations or accruals. The procurement data required are restricted to expendable supplies (object class 26) and nonexpendable equipment (object class 31). Excluded are professional service contracts, construction contracts, grants, research and development contracts, costs for labor and material for all kinds of repair or maintenance services, and rental or lease agreements.

b. *Line entries.*—1. *Inventory.* Include all procurement orders or requisitions initiated for replenishment for stocking and subsequent re-issue. This block is divided into the following three sections:

(a) *Other Government sources.* Enter the dollar value of all orders or requisitions (object classes 26 and 31) placed with Government supply sources such as GSA, Defense Logistics Agency, Veterans Administration, Federal Prison Industries, and Federal Supply Schedule contracts. This includes long supply but excludes excess material acquired for inventory during the year.

(b) *Commercial sources.* Enter the value of all acquisitions (object classes 26 and 31) from commercial sources for inventory during the year.

(c) *Total.* Enter the total of acquisitions for inventory from other Government sources and commercial sources.

2. *Direct delivery.* Include all procurement orders or requisitions initiated for immediate use, procured for a specific one-time use project, or intended for consumption within 30 days. Enter the dollar value of all acquisitions (object classes 26 and 31) from Government or commercial sources for direct delivery to user during the year.

PART III—STORAGE OPERATIONS

a. *General.* Line entries required in part III pertain only to warehouses, depots, and storerooms with inventory reported in part I.

b. *Line entries.*—1. "Warehouses" or "depots" are facilities maintained primarily for the bulk storage of items of supplies, materials, or equipment prior to distribution to storerooms, to use points beyond the local area, or to ships in port within the local area.

2. "Storerooms" are storage areas at an installation, hospital, reservation, office, or building where supplies, materials, or equipment are maintained for issue to consumers within the local area.

3. "Gross storage space" includes any covered or open area which is being used for any operation concerning storage or in support of storage functions. Gross covered space includes all space between exterior walls without deduction for fire walls and structural losses. Gross open space includes all open space without deduction for trackage and permanent roads.

4. "Net unoccupied space" is that portion of gross storage space where materials can be but are not actually stored, including space occupied by bins and pallet racks. It excludes aisles in bulk areas, structural loss space, and space occupied by other activities (receiving, shipping, packing, etc.) or offices which support the storage operation.

Dated: August 25, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-25226 Filed 9-7-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[Service Order No. 1336]

MISSOURI-KANSAS-TEXAS RAILROAD CO. AUTHORIZED TO OPERATE OVER TRACKS OF ST. LOUIS-SAN FRANCISCO RAILWAY CO.

Decision

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (service order No. 1336).

SUMMARY: Due to deteriorated track conditions between Labette, Kans., and Columbus, Kans., Missouri-Kansas-Texas Railroad Co. is unable to continue operation over this line. Service order No. 1336 authorizes that railroad to operate over tracks of the St. Louis-San Francisco Railway Co. between Oswego, Kans., and Columbus, Kans.

DATES: Effective 11:59 p.m., September 5, 1978. Expires 11:59 p.m., January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

Decided September 1, 1978.

The line of the Missouri-Kansas-Texas Railroad Co. (MKT) between Columbus, Kans., and Labette, Kans., is inoperable because of deteriorated track conditions. MKT operations can be accomplished by use of tracks of St. Louis-San Francisco Railway Co. (SL-SF), between Oswego, Kans., and Columbus, Kans. Operation by the MKT over these tracks of the SL-SF is necessary in the interest of the public and the commerce of the people. The SL-SF has consented to use of its tracks by the MKT. It is the opinion of the Commission that an emergency exists requiring operation of MKT trains over these tracks of the SL-SF in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1033.1336 Car service order No. 1336.

Missouri-Kansas-Texas Railroad Co. authorized to operate over tracks of St. Louis-San Francisco Railway Co. The Missouri-Kansas-Texas Railroad Co. (MKT) is authorized to operate over tracks of the St. Louis-San Francisco Railway Co. (SL-SF) between Oswego, Kans., and Columbus, Kans., a distance of approximately 16 miles.

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

(b) *Rates applicable.* Inasmuch as this operation by the MKT over tracks of the SL-SF is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MKT over the tracks of the SL-SF shall be the rates which were applicable on the shipments at the time of shipments as originally routed.

(c) *Effective date.* This order shall become effective at 11:59 p.m., September 5, 1978.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25300 Filed 9-7-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of the Brigantine National Wildlife Refuge, New Jersey, to Hunting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Brigantine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (September 1, 1978, through February 28, 1979).

FOR FURTHER INFORMATION CONTACT:

Gaylord Inman, Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, N.J. 08231, telephone 609-652-1665.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; individual wildlife refuge areas.

Public hunting of rails, gallinules, waterfowl, and coots on the Brigantine National Wildlife Refuge, New Jersey, is permitted during established State and Federal seasons on those areas designated by signs as open to hunting.

These open areas are delineated as hunting units 1, 2, and 3 on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

1. Steel shotshells are required for 12 gauge shotguns used to hunt migratory waterfowl during the State waterfowl hunting season. Persons may not possess 12 gauge lead shotshells during the State waterfowl hunting season. Lead shotshells of all other gauges may be used to hunt migratory waterfowl. Lead shot in any gauge may be used to hunt rails, coots, and gallinules prior to the waterfowl hunting season in accordance with State laws.

2. Hunters when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment and ammunition.

3. Hunting on unit 3 during the waterfowl season is restricted to certified young waterfowler program trainees only, from designated blind sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

Administrative needs require that the Brigantine Refuge hunting seasons be held concurrent with the New Jersey State hunting season dates. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

NOTE.—The U.S. Fish and Wildife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 30, 1978.

WILLIAM C. ASHE,
Acting Regional Director,
Fish and Wildlife Service.

[FR Doc. 78-25227 Filed 9-7-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Iroquois National Wildlife Refuge, New York, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Iroquois National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: (October 1, 1978 through February 28, 1979).

FOR FURTHER INFORMATION CONTACT:

Edwin Chandler, Iroquois National Wildlife Refuge, RFD 1, Basom, N.Y., telephone 716-948-5445.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of migratory game birds on the Iroquois National Wildlife Refuge, New York, is permitted in designated areas. Information on this program is available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass., 02158. Hunting shall be in accordance with all State and Federal regulations covering the hunting of migratory game birds subject to the following special conditions:

A. *Waterfowl.* (1) Waterfowl hunting is by permit only.

(2) Hunting is permitted on Monday, Tuesday, Thursday and Saturday.

(3) Prior registration is required for opening day and the first two Saturdays. On other hunt days permits are issued on the basis of a daily drawing held prior to legal opening time. On prior registration days, hunters will draw for hunting sites on the morning of the hunt. On other hunt days, hunters will have a choice of available hunting sites as their names are drawn.

(4) All hunting ends each day at 12 noon local time, and all hunters must check out and present harvested game at the permit station on Lewiston Road, not later than 1 p.m. local time.

(5) No loaded guns are permitted beyond a 50-foot radius of the hunting stand marker and no more than two hunter are permitted to each stand.

(6) Hunters will be limited to 15 steel shotshells not larger than No. 1 including participants in the Young water- fowlers program. Possession of lead shotshells is not permitted.

(7) Disorderly conduct, intoxication, "sky busting" or otherwise unsportsmenlike conduct will not be tolerated and the permittee will ejected from the area.

(8) A hunter who leaves his stand must have permission from official personnel to return.

(9) Hunters who have completed the New York State Waterfowl Hunter Training Course will be given preference for permits on Thursday.

(10) No person shall use or hunt from a boat.

(11) Hunters, when requested by Federal or State enforcement officers must display for inspection all game, hunting equipment and ammunition.

(12) A minimum of six (6) decoys will be used at each stand. The decoys will be furnished by the hunter(s).

B. *Woodcock and crow.* Hunting of woodcock and crow on the Iroquois National Wildlife Refuge, New York, is permitted during the regular State open seasons, except on areas designated by signs as closed. Hunting areas are shown on maps available at refuge headquarters. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of woodcock and crow.

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

Public hunting of upland game birds and small game mammals, including foxes, opossums, red squirrels, and woodchucks is permitted during the respective State seasons except on areas designated by signs as closed. This open area comprising 10,383 acres is shown on maps available at refuge headquarters, Basom, N.Y., and from the Regional Director, Fish and Wildlife Service, Newton Corner, Mass. 02158. Hunting shall be in accordance with all applicable State regulations subject to the following special condition:

(1) A seasonal permit is required for the nighttime hunting of raccoon. Permits may be obtained by applying in person at the refuge office.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Iroquois National Wildlife Refuge, New York, is permitted during the regular State open seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters, Basom, N.Y., and from the Regional Director, U.S. Fish and Wildlife Service, Newton Corner, Mass. 02158. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal reqiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 30, 1978.

WILLIAM C. ASHE,
Regional Director,
Fish and Wildlife Service.

[FR Doc. 78-25228 Filed 9-7-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of the Barnegat National Wildlife Refuge, New Jersey, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Barnegat National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1978, through February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Gaylord Inman, Brigantine National Wildlife Refuge, Great Creek Road, P.O. Box 72, Oceanville, N.J. 08231, telephone 609-652-1665.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of rails, gallinules, waterfowl and coots on the Barnegat National Wildlife Refuge, New Jersey, is permitted during established State and Federal seasons on only those areas designated by signs as open to hunting.

These open areas are delineated on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds

subject to the following special conditions:

1. On opening days, Saturdays and holidays a Federal permit will be required.

2. No permanent blinds or pit blinds may be constructed.

3. The use of steel shot ammunition on the refuge hunting area is required—shotshell limit 25 rounds per hunter per day. No person may have more than 25 steel shotshells or any lead shotshells in their possession while hunting waterfowl.

4. Hunters, when requested by Federal or State enforcement officers must display for inspection all game, hunting equipment, and ammunition.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

Administrative needs require that the Barnegat Refuge hunting seasons be held concurrent with the New Jersey State hunting season dates. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 30, 1978.

WILLIAM C. ASHE,
Acting Regional Director,
Fish and Wildlife Service.

(FR Doc. 78-25229 Filed 9-7-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Upper Mississippi River Wild Life and Fish Refuge, Illinois and Certain Other States to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Upper Mississippi River Wild Life and Fish Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: June 30, 1978, through June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager (Jerry J. Schotzko), 122 West Second Street, Winona, Minn. 55987, phone 507-452-4232.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

The public hunting of migratory game birds on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota, and Wisconsin is permitted on the areas designated by signs as "public hunting area." Hunting of migratory game birds is not permitted on the areas designated by signs as "area closed." A new closed area of approximately 5,000 acres above the Lansing Causeway Highway 82, River Mile 663.5-666 will be in effect beginning with the 1978 Iowa and Wisconsin waterfowl seasons.

The "public hunting area" comprising 148,000 acres are delineated on maps available at the refuge headquarters, Winona, Minn. 55987, and from the Regional Director, U.S. Fish and Wildife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be subject to the following conditions: 1. The hunting of migratory game birds shall be in accordance with all applicable State and Federal regulations and seasons which are adopted herein and made a part of this regulation.

2. No person shall hunt migratory game birds on the Upper Mississippi River Wild Life and Fish Refuge during any period in which that person's migratory game bird hunting privileges are suspended or under revocation in any State or Canadian province for game law infractions.

3. The hunting of migratory game birds in the Potter's Marsh area, River Mile 522.5-526, Illinois, shall be only from a legal blind as determined by the Service and the State of Illinois. Blind allocation and construction shall be according to State of Illinois regulations which are adopted herein and made a part of this regulation.

4. Federal steel shot regulation will be in effect during the waterfowl season. The new regulations make it illegal to have 12 gauge shotgun shells in possession, except those containing non-toxic (steel) shot, while hunting waterfowl. Only 12 gauge shotguns will be required to use steel shot during the 1978 waterfowl season. All other sizes of shotgun, are exempt from steel shot requirements while hunting waterfowl.

The provisions of this special regulation supplement the regulations which govern hunting on the wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32, and are effective until June 30, 1979. The public is invited to offer suggestions and comments at any time.

NOTE.—the U.S. Fish and Wildife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 30, 1978.

D. H. RASMUSSEN,
Acting Regional Director.

[FR Doc. 78-25230 Filed 9-7-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Browns Park National Wildlife Refuge, Colo., to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Browns Park National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Ducks, coots, mergansers—September 30 through October 13, 1978, inclusive, and November 4, 1978, through January 21, 1979, inclusive. Geese—November 4, 1978, through December 10, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Browns Park National Wildlife Refuge, Greystone route, Maybell, Colo. 81640, telephone, 365-3695.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Browns Park National Wildlife Refuge, Colo., only on the areas designated by signs as being open to hunting. These areas, comprising 1,775 acres, are delineated on maps available at the refuge headquarters and from the Office of the Regional Director, U.S. Fish and Wildlife Service, 134 Union Boulevard, P.O. Box 25486, Denver, Colo. 80215. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Vehicle travel within the refuge will be restricted to designated routes and parking areas.

The provisions of this special regulation supplement the regulations which govern migratory game bird hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 31, 1978.

JAMES A. CREASY,
Refuge Manager, Browns Park National Wildlife Refuge, Maybell, Colo.

[FR Doc. 78-25231 Filed 9-7-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebraska, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: October 7-8; October 14-December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebr. 69201, telephone: 402-376-3789.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks on Valentine National Wildlife Refuge, Nebraska, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colo. 80215. Hunting shall be in accordance with all State and Federal regulations covering the hunting of ducks.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

ROBERT M. ELLIS,
Refuge Manager.

SEPTEMBER 1, 1978.

[FR Doc. 78-25279 Filed 9-7-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebraska, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 16, 1978 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebr. 69201, telephone 402-376-3789.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on Valentine National Wildlife Refuge, Nebr., is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colo. 80215. Hunting shall be in accordance with all State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

ROBERT M. ELLIS,
Refuge Manager.

SEPTEMBER 1, 1978.

[FR Doc. 78-25280 Filed 9-7-78; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebraska, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Cock Pheasant—November 4, 1978 through December 31, 1978. Grouse—September 16, 1978 through October 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebr. 69201, telephone 402-376-3789.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasant and grouse on Valentine National Wildlife Refuge, Nebraska, is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colo. 80215. Hunting shall be in accordance with all State regulations covering the hunting of pheasant and grouse.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

under Executive Order [illegible] and OMB Circular A-107.

ROBERT M. ELLIS,
Refuge Manager.

SEPTEMBER 1, 1978.

[FR Doc. 78-25281 Filed [illegible]; 8:45 am]

[3510-22]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Taking of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of determination.

SUMMARY: The Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA), in consultation with the Department of State, finds that the Peoples Republic of the Congo (Brazzaville), Senegal, and Spain are in substantial conformance with U.S. regulations governing the taking of marine mammals incidental to yellowfin tuna purse seine fishing operations. In finding that these nations are not fishing in a manner proscribed for persons subject to the jurisdiction of the United States, the Assistant Administrator for Fisheries exempts yellowfin tuna caught by the Congolese-, Senegalese-, and Spanish-flag vessels from an importation prohibition.

EFFECTIVE DATE: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) published regulations on December 23, 1977, 42 FR 64551-64560, governing the taking of marine mammals incidental to commercial fishing operations (50 CFR 216.24). These regulations include provisions concerning the importation of yellowfin tuna and tuna products from nations whose flag vessels are known to be involved in the tuna purse seine fishery in the eastern tropical Pacific Ocean (ETP). Importation of certain yellowfin tuna and tuna products originating from these countries is contingent upon certain findings by the Assistant Administrator for Fisheries in accordance with § 216.24(e)(5). Such imports from Senegal and Spain have been prohibited since January 1, 1978. Imports from the Congo were prohibited effective August 1, 1978.

Yellowfin tuna and products caught by Congolese-, Senegalese-, and Spanish-flag vessels are hereby exempted from the importation prohibition, effective immediately. This finding by the Assistant Administrator for Fisheries, made in accordance with § 216.24(e)(5)(i), exempts fish originating from the foregoing nations from the import provisions concerning yellowfin tuna and tuna products listed in § 216.24(e)(2)(ii). However, the requirements listed in § 216.24(e)(4), which call for specific documentation will continue to apply. The Assistant Administrator considered all available information in making this finding, including, in certain cases, discussions with officials of these nations. Information submitted by the foregoing governments is available for review at the information contact address set out above, and is summarized in the following:

(1) CONGO

(a) *Fleet.* Three Congo tuna purse seine vessels will operate in the eastern tropical Pacific Ocean in 1978. The vessels are equipped with 1¼" mesh porpoise safety panels in their nets. Congolese firms expect to export up to 4,000 tons of yellowfin tuna annually to the United States.

The Congolese vessel operators have been informed by the Government of the Congo that they must conduct their fishing operations in accordance with U.S. law, and follow the porpoise release procedures required for U.S. vessel operators. The Government of the Congo has no immediate plans for observers aboard the vessels.

(b) *Porpoise mortality.* The Government of the Congo estimated the total porpoise mortality by the one purse seiner operating in the ETP during 1977 to be 40 animals. This estimate is based on vessel logbooks and interviews with skippers.

(c) *Miscellaneous.* We have secured concurrence from the vessel owners that the Congolese-flag vessels will be made available for inspection by U.S technicians when possible and any deficiencies in required gear and equipment will be corrected. One vessel has been inspected in San Diego, Calif., and was found to be in conformance with the U.S. gear requirements.

(2) SENEGAL

(a) *Fleet.* Three Senegal tuna purse seine vessels will operate in the eastern tropical Pacific Ocean in 1978. The vessels are equipped with porpoise safety panels in their nets. Senegalese firms expect to export an estimated 2,550 tons of yellowfin tuna annually to the United States.

The Senegalese vessel operators have been informed by the Government of Senegal that they must conduct their fishing operations in accordance with U.S. law, and follow the porpoise release procedures required for U.S.-vessel operators. The Government of Senegal has no immediate plans for observers aboard the vessels.

(b) *Porpoise mortality.* The Government of Senegal estimated the total porpoise mortality by its three purse seiners during a 1-year period from July 1977 to June 1978 to be 29 animals. This estimate is based on vessel logbooks and interviews with skippers.

(c) *Miscellaneous.* The Government of Senegal has assured us that the Senegalese-flag purse seiners will be made available for inspection by U.S. technicians when possible. Furthermore, the Government of Senegal has stated that its vessel owners have agreed to abide by porpoise mortality quotas established for U.S. vessels and will cease setting on species for which the U.S. quotas have been reached.

(3) SPAIN

(a) *Fleet.* One Spanish tuna purse seine vessel will operate in the eastern tropical Pacific Ocean in 1978. The vessel is equipped with a porpoise safety panel in its net. Spanish firms expect to export an estimated 5,000 tons of yellowfin tuna annually to the United States. The Government of Spain has stated that their vessel operator is familiar with the porpoise release procedures required for U.S. vessel operators, and will conduct his fishing operations in accordance with those procedures. The Government of Spain has no immediate plans for observers aboard the vessels.

(b) *Porpoise mortality.* The Government of Spain estimated the total porpoise mortality by its purse seiner during 1977 to be 50 animals. This estimate is based on interviews with the skipper.

(c) *Miscellaneous.* The Government of Spain has stated that its purse seiner may be inspected by U.S. technicians at any convenient time.

The Government of Spain further indicates that they are studying various provisions for protection of marine mammals which are similar to those in the United States.

These findings will be subject to annual review in which NMFS will require an update of the items listed in § 216.24(e)(5)(ii) to insure that the

conditions which supported the original finding continue to exist.

NMFS will continue monitoring the status of the international tuna purse seine fleet operating in the ETP. Further changes to the list of nations affected by the importation prohibitions of yellowfin tuna and tuna products under § 216.24(e)(5) will be published in the FEDERAL REGISTER.

Dated: September 5, 1978.

WINFRED H. MEIBOHM,
National Marine
Fisheries Service.

[FR Doc. 78-25301 Filed 9-7-78; 8:45 am]

proposed rules

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 918]

FRESH PEACHES GROWN IN GEORGIA

Proposed Qualification Requirements and Nomination Procedure for Public Members of the Industry Committee, and Deletion of Redundant Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed qualification requirements and nomination procedure for public members of the Industry Committee, which locally administers the Federal marketing order covering Georgia peaches; and deletion of obsolete rules and regulations.

DATES: Comments must be received on or before September 25, 1978. Proposed effective date: October 4, 1978.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the Industry Committee, established under marketing order No. 918, as amended (7 CFR Part 918; 42 FR 40883), regulating the handling of peaches grown in Georgia, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer its terms and provisions.

Recent amendment of the order provided for addition of a public member and alternate to be nominated by the "grower members" of the Industry Committee and selected by the Secretary. One proposal herein would specify qualifications for persons for the public member and alternate positions, and procedures for their nomination.

Said recent amendment of the order also updated certain sections of the basic order rendering the sections of the Industry Committee regulations hereinafter set forth obsolete. Consequently, such sections would be deleted.

The first proposal is to amend subpart—Industry Committee regulations (7 CFR § 918.100-§ 918.400) by adding a new § 918.112 reading as follows:

§ 918.112 Qualification requirements and nomination procedure for public members of the Industry Committee.

(a) Public members shall not have a financial interest in or be associated with the production, processing, financing, or marketing (except as consumers) of Georgia peaches.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly, and become familiar with the background and economics of the industry.

(c) Public members must be residents of Georgia.

(d) Public members should be nominated by the committee prior to December 31 of each year, and should serve a 1-year term which coincides with the term of office of other members of the committee.

The second proposal is to delete § 918.110 *Change in representation by districts on the Industry Committee,* and § 918.111 *Redefinition of districts* from subpart—Industry Committee regulations (7 CFR § 918.100-§ 918.400).

Dated: September 5, 1978.

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

[FR Doc. 78-25299 Filed 9-7-78; 8:45 am]

[3410-02]

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO—AREA NO. 2

Notice of Proposed Amendment to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment 1 to the handling regulation would require fresh market shipment of potatoes grown in Colorado—area No. 2 to be inspected and meet the specified minimum grade, size and maturity requirements during the period September 25, 1978, through October 31, 1979. This proposed amendment would promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due September 23, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, 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. 97 and order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado area No. 2. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Colorado area No. 2 potato committee, established under the order, is responsible for its local administration.

This proposed amendment is based upon recommendations made by the committee at its public meeting held in Monte Vista, Colo., on August 17, to review the marketing situation and make hardling recommendations for the remainder of the 1978-79 season through October 31, 1979.

Acreage in the production area is 1,000 acres larger this year than last, with prospects of increased supplies of round potatoes and of long varieties other than Russet Burbanks. In addition, total fall crop acreage is up slightly and growing conditions generally have been favorable, pointing to a relatively large total U.S. supply. This will tend to preclude orderly potato marketing. Therefore, the committee recommended increasing the minimum size of round varieties by ⅛ inch to 2⅛ inches in diameter. The committee also recommended an increase in the minimum size of long varieties except

Russet Burbanks to 2 inches or 4 ounces. Maturity requirements would be tightened to call for "slightly skinned" in U.S. No. 1 grade lots of all varieties. For lower grades, the maturity requirement would remain "moderately skinned."

Potato prices this fall and coming winter are expected to average close to those of a year earlier and be well below parity. The proposed quality standards for production area potatoes would enable Colorado growers to compete more effectively in the market, thereby improving returns to producers. At the same time, consumers would be assured of an adequate supply of good quality potatoes of proper maturity, consistent with the overall quality of the large crop.

The proposed amendment is as follows:

In § 948.380 (43 FR 37982) the introductory paragraph and paragraphs (a), (b), and (h) are amended to read as follows:

§ 948.380 Handling regulation.

During the period September 25, 1978, through October 31, 1979, no person shall handle any lot of potatoes grown in area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d), and (e), or (f) of this section.

(a) *Minimum grade and size requirements.*

(1) *Round varieties.* U.S. No. 2, or better grade, 2⅛ inches minimum diameter.

(2) *Russet Burbank.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All other long varieties except Russet Burbank.* U.S. No. 2, or better grade, 2 inches minimum diameter or 4 ounces minimum weight.

(4) *All varieties.* Size B, if U.S. No. 1, or better grade.

(5) *All varieties for export.* 1½ inches minimum diameter.

(b) *Maturity (skinning) requirements.* During September and October minimum maturity requirements shall be:

(1) *For U.S. No. 2 grade* not more than "moderately skinned."

(2) *All other grades.* Not more than "slightly skinned."

* * * * *

(h) *Applicability to imports.* Pursuant to § 8e of the act and § 980.1 *Import regulations* (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the period September 25, 1978, through June 30, 1979, and September 1, 1979, through October 31, 1979, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: September 5, 1978.

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

[FR Doc. 78-25294 Filed 9-7-78; 8:45 am]

[3410-02]

[7 CFR Part 965]

TOMATOES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Notice of Proposed Reestablishment of Districts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed reestablishment of districts within the production area of marketing order 965 covering Texas Valley tomatoes. These changes in districts would reflect changes in the number of producers and volume of production and provide more equitable representation on its committee.

DATE: Comments due September 23, 1978.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted. Comments 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 order 965 regulates the handling of tomatoes grown in the Lower Rio Grande Valley of Texas (the counties of Cameron, Hidalgo, Starr, and Willacy in the State of Texas). It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Texas Valley Tomato Committee, established under the order, is responsible for its local administration.

There has been a significant shift in tomato acreage and in number of producers since the inception of order 965, and there are now fewer producers and less acreage in all districts. The order provides that upon the recommendation of the committee the Secretary may reestablish districts within the production area. After carefully considering the criteria in § 965.25 the committee at a meeting on May 2, 1978, unanimously recommended the reestablishment of districts described in the proposed rule which follows. It recommended preserving an equitable distribution of membership and combining the districts with similar growing conditions. Thus district No. 1, Cameron County, and district No. 4, Willacy County, would be combined to form a new district No. 1. Also district No. 2, Hidalgo County, and district No. 3, Starr County, would form a new district No. 2. After consideration, the committee recommended that the membership to represent the redistricted production area should be unchanged and that the new districts should each have the same committee membership as the two current districts that form each new district.

The proposal is as follows:

§ 965.150 Reestablishment of districts.

Effective August 1, 1979, districts within the production area will be reestablished, pursuant to § 965.25 *Redistricting*, as follows: District No. 1, the county of Cameron, and district No. 4, the county of Willacy, and their respective membership are combined to form a new district No. 1; and district No. 2, the county of Hidalgo, and district No. 3, the county of Starr, and their respective membership are combined to form a new district No. 2.

§ 965.151 Selection.

(a) Effective August 1, 1979, the Secretary shall select four members and their respective alternates to represent district No. 1, and five members and their respective alternates to represent district No. 2.

(b) Terms used in this section shall have the same meaning as when used in said marketing order.

Dated: September 5, 1978.

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

[FR Doc. 78-25293 Filed 9-7-78; 8:45 am]

[3410-02]

[7 CFR Part 1079]

[Docket No. AO-295-A33]

MILK IN THE IOWA MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider industry proposals to amend certain provisions of the Iowa milk marketing order. The proposals would change the performance standards for pool plants, revise the producer and handler definitions of the order, and modify the zone location adjustment provisions. Proponents contend that the requested order changes are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

DATE: September 20, 1978

ADDRESS: Peppertree Inn, 11000 Douglas Avenue, Urbandale, Iowa (Des Moines suburb).

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 of a public hearing to be held at the Peppertree Inn, 11000 Douglas Avenue, Urbandale, Iowa (Des Moines suburb), beginning at 9:30 a.m., local time, on September 20, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Iowa marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY FARMERS BUTTER AND DAIRY COOP

PROPOSAL NO. 1

§ 1079.7 [Amended]

Amend § 1079.7(a)(1) to permit a cooperative to divert milk from its own bottling plant and not be included in the plant's receipts for purposes of determining the plant's pool plant status.

PROPOSED BY MISSISSIPPI VALLEY MILK PRODUCERS ASSOCIATION, INC.

PROPOSAL NO. 2

§ 1079.7 [Amended]

Amend § 1079.7(a)(1) by removing the word "and" at the end of the paragraph and add: "*Provided*, That the combined receipts and disposition of each handler who operates more than one distributing plant, each of which meets the performance requirements of paragraph (a)(2) of this section, shall be used in determining the percentages specified in this subparagraph; and"

PROPOSAL NO. 3

In § 1079.7(b)(1), delete the phrase "pursuant to § 1079.9(c)".

PROPOSAL NO. 4

In § 1079.9 (b) and (c), delete the words "of another handler".

PROPOSED BY ANDERSON-ERICKSON DAIRY CO.

PROPOSAL NO. 5

Amend § 1079.7(b) as follows:

§ 1079.7 Pool plant.

* * * * *

(b) Any plant (which, if qualified pursuant to this paragraph, shall be known as a "pool supply plant") that is approved by a duly constituted regulatory agency for the handling of Grade A milk and from which during the month the volume of bulk fluid milk products transferred to pool distributing plants during each of the months September through November is 45 percent or more and during each of the months of December through August is 30 percent or more of the total Grade A milk received at the plant from diary farmers and handlers described in § 1079.9(c), including milk diverted therefrom by the plant operator pursuant to § 1079.13. For plants located within the States of Iowa, Minnesota, Wisconsin, or that portion of Illinois north of Interstate 80, the shipping requirements of this paragraph may also be met in the following ways:

* * * * *

PROPOSAL NO. 6

As an alternative to Proposal No. 5, add new provisions in § 1079.7(b) which would provide that the Director of the Dairy Division may increase the percentages specified in § 1079.7(b) by 10 percentage points if he finds such revision is necessary to obtain needed shipments. Also provide that the Director of the Dairy Division after having increased the shipping requirements may reduce them to a level not below that specified in § 1079.7(b) (the present minimum requirements), if he finds that such reduction is necessary to prevent uneconomic shipments.

PROPOSAL NO. 7

Amend § 1079.7(b)(4) to provide that the unit pooling provisions apply only to the plants owned and/or contractly under the management and direction of a single handler.

PROPOSAL NO. 8

§ 1079.12 [Amended]

Amend the definition of a producer (§ 1079.12) to exclude a dairy farmer from the Iowa order during the months of January through July who is a producer under the Central Illinois (1050), Southern Illinois (1032) or St. Louis-Ozarks (1062) orders during any of the preceding months of September through December.

PROPOSED BY MID-AMERICA DAIRYMEN, INC.

PROPOSAL NO. 9

§ 1079.7 [Amended]

Amend § 1079.7(b)(1) to read, "A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers."

PROPOSED BY TRADE ASSOCIATION OF PROPRIETARY PLANTS, INC.

PROPOSAL NO. 10

Amend § 1079.7(b)(4) as follows:

§ 1079.7 Pool plant.

* * * * *

(b) * * *

(4) One distributing plant and one or more additional plants operated by such handler, or two or more supply plants operated by the same handler or by (i) one or more cooperative associations or by (ii) a handler and a cooperative association may qualify for pooling as a unit by meeting the applicable percentage requirements of this paragraph in the same manner as a single plant if the handler submits a written request to the market administrator prior to the first day of September requesting that such plants qualify as a unit for the period September through August of the following year. (Units may form on the effective date of the merged order. Such units may continue in effect through August 1977.) The request shall list the plants to be included in the unit in the sequence in which they shall qualify for pool plant status based on the minimum deliveries required. If the deliveries made are insufficient to qualify

the entire unit for pooling, the plant last on the list shall be excluded from the unit, followed by the plant next-to-last on the list, and continuing in this sequence until remaining plants on the list have met the minimum shipping requirements. Each plant that qualifies as a pool plant within a unit shall continue each month as a plant in the unit through the following August unless the plant fails subsequently to qualify for pooling or the handler submits a written request to the market administrator prior to the first day of the month that the plant be deleted from the unit or that the unit be discontinued. Any plant that has been so deleted from the unit, or that has failed to qualify in any month, will not be part of the unit for the remaining months through August. No plant may be added in any subsequent month through the following August to a unit that qualifies in September.

* * * * *

PROPOSED BY BOONE DAIRY, INC.

PROPOSAL NO. 11

§ 1079.52 [Amended]

Amend § 1079.52(a)(2)(i) to include Boone and Story Counties, Iowa, in Zone 2.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 12

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the market Administrator, U. Grant Grayson, 7819 Conser Place, P.O. Box 4606, Overland Park, Kansas 66204, or from the Hearing Clerk, Room 1077 South Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator, Iowa Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on September 5, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-25292 Filed 9-7-78; 8:45]

[3410-02]

[7 CFR Part 1126]

[Docket No. AO-231-A46]

MILK IN THE TEXAS MARKETING AREA

Partial Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision provides for changes in the present order provisions based on industry proposals considered at a public hearing held June 13-14, 1978. The amendments would relax the "dairy farmer for other markets" provision and would modify the provisions relating to diversions of milk to nonpool plants. These provisions are used to determine which dairy farmers are eligible to have their milk pooled and priced under the Federal order. The amendments are necessary to reflect current marketing conditions and to insure orderly marketing in the area. Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION:

Prior documents in this proceeding:

Notice of hearing: Issued May 26, 1978, published June 1, 1978 (43 FR 23725).

Partial recommended decision: Issued August 4, 1978, published August 8, 1978 (43 FR 35047).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Texas marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Dallas, Tex. on June 13-14, 1978, pursuant to notice thereof issued on May 26, 1978 (43 FR 23725).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on August 4, 1978, filed with the Hearing Clerk, United States Department of Agriculture, his partial recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the partial recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

Under issue 1, "The 'dairy farmer for other markets' provision":

a. The 2nd sentence of the first paragraph is changed;

b. A sentence is added at the end of paragraph 34;

c. Two new paragraphs are added immediately after paragraph 40; and

d. A new paragraph is added immediately after paragraph 42.

The material issues on the record of the hearing relate to:

1. The "dairy farmer for other markets" provision.
2. Diversions to nonpool plants.
3. Diversions between pool plants.
4. Producers-handler provisions.
5. Classification of shrinkage and products that are dumped or sold for animal feed.
6. Partial payments to a cooperative association.

This partial decision deals only with issues 1 and 2. The remaining issues are reserved for a later decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on issues 1 and 2 are based on evidence presented at the hearing and the record thereof:

1. *The "dairy farmer for other markets" provision.* That portion of the producer definition commonly referred to as the "dairy farmer for other markets" provision should be modified. A cooperative association or a pool plant operator should be permitted to deliver to plants as other than producer milk under the Texas order up to one-third of the milk production of a dairy farmer during each of the months of September through November without causing that dairy farmer to be ineligible as a producer under the Texas order during the following months of February through July.

Presently, the "dairy farmer for other markets" provision excludes as a producer any person with respect to milk produced by him during the months of February through July that is caused to be delivered to a pool plant by a cooperative association or a

pool plant operator if during the immediately preceding months of September through November any milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk. However, a dairy farmer does not lose his producer eligibility in those cases where such deliveries of nonproducer milk result from being diverted to a nonpool plant in excess of the diversion limitations or from a temporary loss of grade A approval. Also, the "dairy farmer for other markets" provision does not apply to the milk received from dairy farmers associated with a plant that was not a pool plant during any of the preceding months of September through November but which is regulated under the Texas order during any of the months of February through July. These three exceptions to the provision would not be changed by this decision.

A cooperative association proposed that the "dairy farmer for other markets" provision not apply unless 28 percent or more of the milk from a dairy farmer is caused by a cooperative association or pool plant operator to be delivered to plants as other than producer milk under the Texas order during the period of September through November. The cooperative's witness testified that this revision is needed because the present provision is too restrictive and has caused severe financial hardship upon the members of the cooperative association.

Proponent cooperative indicated that it needs greater flexibility in the marketing of milk for fluid use than is now permitted by the order. The witness for the cooperative testified that the cooperative supplies milk to a Texas distributing plant which bottles milk only 5 days per week. As a consequence, the cooperative is forced to find other outlets for the milk of its members on the 2 remaining days of the week. The cooperative's witness indicated that during September through November 1977 it was necessary for the cooperative to move approximately 16 percent of the milk of 138 of its members to fluid outlets in Mississippi and Louisiana because the cooperative had no manufacturing outlets in the Texas market available to it.

The witness pointed out that the proponent cooperative moved the milk to available fluid outlets in Mississippi and Louisiana where it was utilized in Class I. Under the terms of the orders involved, such utilization resulted in the milk that was received in the other markets being treated as producer milk under the other orders. The witness indicated that by becoming producers under such other orders, the 138 producers were unable to market any of their milk as producer milk under the Texas order during the months of February-July.

The witness for the cooperative indicated that in order to fully supply all of the cooperative's fluid outlets in Texas during February-July, it was necessary for the cooperative to acquire a supply plant, pool it under the Greater Louisiana order, and then supply the Texas market with other order milk. The witness claimed that the cooperative incurred much greater handling costs in marketing the milk of its members.

The cooperative claimed that the milk of the 138 producers which was not permitted to be pooled on the Texas market should have been considered as a reserve supply for the Texas market and pooled on that market.

As further indication of the restrictive nature of the current provision, the cooperative's witness cited an instance in which several producers who were normally supplying the Texas market lost their eligibility for producer status under the Texas order because their milk happened to be loaded on a truck delivering milk to pool plants regulated under another order.

The cooperative's proposal to amend the "dairy farmer for other markets" provision was supported by another cooperative association in the market. The witness for the latter cooperative described a situation where 60 of its producer-members became ineligible to be producers under the Texas order during the months of February through July 1976. This situation occurred because in November 1975 the cooperative's supply plant lost some Class I sales in the Texas market. To assure that its Aurora, Mo., supply plant met the pool plant shipping percentage, the cooperative disassociated 60 producers from the Texas market for that month. As a result, these dairy farmer members were not eligible for producer status the following February–July period. The cooperative's witness, however did not reveal for the record whether the milk of these 60 producers was needed for Class I in Texas during the period when they were not eligible for producer status.

The cooperative association that represents the majority of the producers on the Texas market proposed that the "dairy farmer for other markets" provision be deleted from the order in its entirety. Its witness claimed that this provision:

1. Is not necessary to insure the integrity of the Texas order,

2. Is not conducive to the orderly marketing of milk;

3. Does not permit the flexibility needed in balancing milk supplies with the demands of handlers;

4. Makes it necessary to associate milk with the Texas market in excess of handlers' fluid requirements to insure that handlers have adequate milk supplies at all times;

5. Results in inequity between its members and other producers who do not perform the service of balancing the supply with market demand;

6. Results in producers under other Federal orders maintaining some of the reserve milk supplies for the Texas market; and

7. Prevents pooling the milk of producers in February through July who demonstrate, under reasonable pooling standards, an association with the Texas market during the fall months when their milk is needed.

The witness for the cooperative association testified further that the provision has caused the cooperative to market its members' milk on the Texas market in an uneconomical manner in order to assure that the dairy farmers maintain their producer status at all times during the months of September through November. The witness cited several examples where the weekend reserve milk supplies associated with certain Texas distributing plants were hauled long distances during the months of September through November in order to maintain the producer status of its members. He argued that the milk could have been delivered more conveniently and economically to nearby distributing plants regulated under another order.

Two cooperative associations and a handler on behalf of the nonmember producers supplying his plants opposed any changed in the "dairy farmer for other markets" provision. Opponents stressed that any relaxation in the application of this provision would result in the addition of milk supplies to the market with a corresponding reduction in the blend price. One opponent expressed particular concern that any relaxation of this provision would allow the major cooperative association in the market to add to the Texas market the reserve milk supplies associated with its Class I sales in other markets in which this cooperative is the sole supplier.

The "dairy farmer for other markets" provision should be retained in the order but with some allowance for the limited shifting of supplies to other markets. Current marketing conditions do not warrant the deletion of this provision from the order.

The provision in question was included in the order to prevent cooperative associations and pool plant operators from pooling on the Texas market during the months of Febru-

ary through July, when milk supplies are more than adequate, milk that could be reasonably considered as a reserve supply for another market. In the Assistant Secretary's May 2, 1975, decision (of which official notice was taken at the hearing) incorporating this provision in the Texas order, the following conclusions were set forth:

"If a handler causes the milk of a dairy farmer to be moved to another market as other than producer milk during the months when supplies are in greatest demand, producers regularly supplying the Texas market should not have the burden of sharing their pool proceeds with such other dairy farmers during the flush production months when the handler finds their milk to be surplus to the needs of the other market. A handler associating a dairy farmer with another market during the short-production season should not be able to have the dairy farmer qualify as a producer on the Texas market in other months when supplies are much more plentiful relative to demand. Permitting a handler to shift dairy farmers back and forth between markets in this manner would take supplies of milk away from the Texas market at a time when they are needed and then would reassociate such supplies at a time when they are not needed. This procedure would not be conducive to the orderly marketing of milk of producers regularly supplying the Texas market."

This record indicates that there continues to be both an opportunity and an incentive for the major cooperative in the market to pool on the Texas market milk that should be considered as a reserve supply for other markets.

In this regard, the major cooperative operates six plants that proces the reserve milk supplies that are associated with over two-thirds of the fluid milk requirements of regulated handlers in 11 Southwestern Federal order markets. Three of the six plants are pool plants under the Texas order. Two of the plants are located in Texas—at Muenster and Sulphur Springs—while the third plant is located at Hillsboro, Kans. These three plants are manufacturing outlets not only for the Texas market but for other nearby markets as well. Of the remaining three plants, one is located at El Paso, Tex., and is pooled under the Rio Grande Valley order. The other two plants are located at Oklahoma City and Tulsa, Okla., and are pooled under the Oklahoma metropolitan order. Thus, it is evident that the cooperative has the potential to pool the reserve supplies of 8 of the 11 markets on the Texas, the Rio Grande Valley, or the Oklahoma metropolitan makets.

A witness for this cooperative testified that reserve milk associated with the cooperatives's fluid milk sales in the Texas Panhandle market is delivered sometimes to its Texas order plant at Muenster for manufacturing. Thus, if the "dairy farmer for other markets" provision wer deleted from the order, the cooperative could receive this milk at Muenster as a receipt of producer milk under the Texas order. Under this arrangement, the burden of bearing the reserve milk supplies for the Texas Panhandle market could be shifted from the Texas Panhandle market, which is supplied almost entirely by this cooperative, to producers supplying the Texas market. The shifting of the burden of the carrying such reserve supplies to nonmenbers of the cooperative is possible because the Texas market is supplied not only by this cooperative but by a substantial number of other producers as well. Thus, by receiving the milk at Muenster as producer milk under the Texas order, the Texas order producers who are not members of the major cooperative would be sharing the burden of the reserve milk supplies of the Texas Panhandle market that more appropriately should be borne by the producers supplying that market.

Although this record does not contain detailed information concerning the operations of the cooperative association's pool supply plant at Hillsboro, Kans., the cooperative's witness did state that milk associated with the Hillsboro plant is delivered to other orders as well as to Texas. The record does reveal that during the months of February through July 1977 nearly 55 million pounds of milk received at the Hillsboro plant for manufacture were ineligible to be producer milk under the Texas order. During the months of February though May 1978 nearly 24 million pounds of milk received at the Hillsboro plant represented receipts of dairy farmers for other markets. Presumably, some of the milk constituted the reserve supplies associated with the cooperative's Class I sales to other nearby markets. Because several of these markest (i.e., Fort Smith, Ark.; central Arkansas; and Memphis, Tenn.) are supplied almost exclusively by this cooperative and the cooperative does not have any manufacturing facilities pooled on these markets, there would be an incentive in the absence of the "dairy farmer for other markets" provision to pool the reserve supplies of these markets at the Hillsboro plant as producer milk under the Texas order. This would result in the Texas producers who are not members of this cooperative association sharing the burden of the reserve milk supplies of these three markets.

It was for similar reasons that the Assistant Secretary concluded in his May 2, 1975, decision that the "dairy farmer for other markets" provision was needed in the Texas order.

Although there is a continuing need for the "dairy farmer for other markets" provision in the Texas order, some relaxation of the current provision is warranted. This provision has caused some dairy farmers to lose their producer status during the months of February through July even though their milk had been delivered to a substanial extent to the Texas maket for fluid use during the prior fall months.

Cooperative associations supply Texas pool plants which process and package fluid milk products 5 days per week. Cónsequently, the cooperatives must dispose of the remaining 2 days' milk production each week to other outlets. Unless a cooperative operates a manufacturing facility it must find other outlets to handle this weekly excess milk. In some instances, it is difficult for a cooperative to pool its reserve supplies on the Texas market due to the limited manufacturing outlets available to a cooperative that does not operate a manufacturing plant. Prior to October 1977, the proponent cooperative pooled some of its excess milk as producer milk on the Texas market by delivering its member milk to a manufacturing plant in Sulphur Springs, Tex. That outlet ceased operations in October 1977. The cooperative was unable to find outlets for this milk in Texas and instead found fluid milk plants in Louisiana and Mississippi that needed the milk. These plants were distributing plants regulated under the Greater Louisiana (Order No. 96) or New Orleans-Mississippi (Order No. 94) Federal milk orders. Because Federal orders do not permit interorder diversions of producer milk for Class I uses, the milk the cooperative diverted to these two markets became producer milk under the respective order. During the 3-month period of September through November 1977, the cooperative delivered 9 percent of the milk production of 138 producer-members to distributing plants regulated under the Greater Louisiana order and 6.8 percent to New Orleans-Mississippi order plants. The remaining 84.2 percent of the milk was pooled under the Texas order.

These 138 dairy farmers, thus, were precluded from having their milk pooled under the Texas order during the months of February through June 1978 (the provision was suspended for the month of July) because of the application of the "dairy farmer for other markets" provision. Athough the cooperative association had a fluid outlet in Texas for most of the milk of these dairy farmers during the February-July period, this provision forced it to pool this milk on the Greater

Louisiana and New Orleans-Mississippi markets during February through June 1978.

Beginning in March, the cooperative association pooled some of the milk of the 138 members by renting a receiving station which it pooled as a supply plant on the Greater Louisiana market. The cooperative transferred the milk from its supply plant to the fluid outlet in Texas as "other order" milk. Through this procedure it was able to pool most of the milk of its members under a Federal order and, thus, derive the benefits of regulation. At the same time, the cooperative was able to supply its fluid outlet in the Texas market. The additional cost to the cooperative to market its milk in such manner was approximately $200,000 per month. Such additional cost was computed on the basis of the cooperative delivering its milk directly to the Texas pool distributing plant as producer milk as compared to shipping the milk through the supply plant.

It is also evident that since 85 percent of the milk of these 138 dairy farmers was pooled on the Texas market during the months of September through November 1977, the application of the current provision forced some of the reserve supplies associated with fluid milk sales in Texas in the months of February through June 1978 to be carried on other markets.

Another example of the restrictiveness of the provision concerns an instance in the fall of 1977 when two or three Texas dairy farmers had their milk pumped into a tank truck with a load of milk going to the Greater Louisiana market. As a consequence, these Texas dairy farmers were not eligible for producer status under the Texas order for the 5-month period of February through June 1978, even though there was a fluid outlet for their milk in Texas during these 5 months.

Counsel for a cooperative association in the Texas market that opposed any change in the "dairy farmer for other markets" provision stated in his post-hearing brief that it is not necessary to disassociate large numbers of producers from the Texas order when making limited sales to a plant under another order. Also he held that proponent cooperative could have avoided any significant problem by proper management of its sales. Counsel reiterated this point in his exceptions.

Proponent cooperative was not faced with furnishing a daily supply for a handler in another market but, rather, was attempting to market the milk of a large number of producers which was surplus to the fluid milk requirements of Texas handlers. Hence, it was not able to disassociate only a few producers from the Texas market for an extended period of time as suggested in the proposed findings by counsel.

The record evidence indicates also that the current provision has caused uneconomical and unnecessary expenses in marketing the milk of producers to assure that such milk remains pooled each day during the months of September through November. The record reveals that cooperative associations have been forced to haul the milk of its members that is in excess of fluid needs several hundred miles at a substantial cost per hundredweight in order to assure that the milk remains pooled on the Texas market each day during the months of September through November. The extra costs associated with handling and hauling such milk ranged from 25 cents to 76 cents per hundredweight. The modification of the "dairy farmer for other markets" provision as proposed herein will eliminate to a large extent the costs associated with the extra handling necessitated by the current provision.

Counsel for the aforementioned opposing cooperative association stated in his brief that the diversion and balancing plant provisions of the order provide ample flexibility to keep producers pooled under the Texas order. Admittedly, these provisions do allow some flexibility in keeping producers pooled. However, the "dairy farmer for other markets" provision has resulted in uneconomic movements of milk simply for the purpose of keeping producers pooled on the Texas market each day during the months of September through November. It is not in the interest of producers to require them to bear the cost of transporting reserve milk additional distances merely to retain producer milk status for such milk.

A further reason for modifying the "dairy farmer for other markets" provision is to prevent the reserve milk supplies associated with the Texas market from being attached to other nearby order markets during the February–July period. The record indicates that 691 dairy farmers who delivered milk to Texas pool plants during September–November 1977 were ineligible for producer status under the Texas order during the months of February through June 1978. To the extent that the milk of these 691 dairy farmers was needed in Texas for fluid use during the September–November period of 1977, the current provision forced the reserve supplies associated with those deliveries to be pooled on other markets during the February–June period of 1978. It is recognized, on the other hand, that if all the milk produced by these dairy farmers during the months of February through July had been allowed to be pooled on the Texas market, then the reserve supply associated with their sales to other markets in September–November also would have been pooled on Texas rather than on the other markets. The provisions adopted herein are designed to assure that only those dairy farmers who are primarily associated with the Texas market during September–November may pool their entire production during February–July on the Texas market. This will retain the primary intent of the "dairy farmer for other markets" provision.

It is concluded that the proportion of a dairy farmer's milk that may be associated with another market should be established at a level slightly greater than was proposed by the proponent cooperative. The cooperative had suggested a percentage based on the proportion of the week that falls on a weekend. The selection of one-third as the appropriate proportion is based on this concept but recognizes that some months contain five weekends. It is noted that the accounting for receipts and utilization of milk under the order is on a monthly basis.

It should be noted that the proposed order language accompanying this decision differs slightly from that which was set forth in the recommended decision. The order language set forth herein makes it clear that a dairy farmer must have at least two-thirds of his production delivered as producer milk under the Texas order during each of the months of September, October and November in order to be eligible to be on the Texas market the next spring. The wording of the order language in the recommended decisions would have required that dairy farmer's milk be delivered as producer milk under the Texas order two-thirds of the time over the entire 3-month period. This would have been inconsistent with the basis for the change in the "dairy farmer for other markets" provision.

Although proponent's proposal as set forth in the hearing notice would have applied a delivery requirement to the entire 3-month period as a whole, the thrust of proponent's justification for order changes was in terms of relaxing the delivery requirements on a weekly or monthly basis. Throughout his testimony, proponent's witness described the problems encountered in disposing of the 2 days' milk production each week that was not needed at distributing plants. Proponent's contention that 28 percent of a producer's milk should be permitted to be moved off the market was based on the proportion of a week that falls on a weekend. Also, the conclusion in the recommended decision and herein to allow up to one-third, rather than 28 percent, of the milk to be moved off the market was based on the fact that some months contain five weekends. Applying the delivery requirement to

individual months rather than the 3-month period as a whole will be responsive to the needs of the market as portrayed in the hearing record of this proceeding.

The change adopted herein should permit cooperative associations and pool plant operators to utilize their weekend reserve milk supplies in the most economical manner available to them without jeopardizing their ability to qualify their dairy farmers as producers under the Texas order during the following months of February through July. The revised "dairy farmer for other markets" provision, however, would continue to inhibit cooperative associations and pool plant operators from pooling on the Texas market during the months of February through July those dairy farmers who primarily had been supplying another market during the previous months of September through November.

Counsel for an opposing cooperative submitted a proposed finding that the reserve supplies are more than adequate to meet the needs of the Texas market without adding unneeded milk. The revisions adopted herein would allow some additional milk to be pooled under the Texas order during the months of February through July. It is appropriate that such supplies be pooled in the Texas market because the producers associated with such supplies will have delivered at least two-thirds of their milk production during September-November as producer milk under the Texas order. Under such circumstances, the additional milk supplies should be considered as reserve milk supplies for this market. The provision adopted herein will deter the shifting of dariy farmers to the Texas market during the heavy production months in those instances where such dairy farmers primarily were supplying another market during the previous short-production months.

The counsel for the opposing cooperative also claimed that the major cooperative in the market has historically engaged in predatory practices in the Texas market and asked that the Department make a finding to the effect. The record does not support such a finding.

In his exceptions to the recommended decision, a handler on behalf of a nonmember producers supplying his plants opposed the revised "dairy farmer for other markets" provision. The handler claimed that the problem which prompted the original request for the hearing was solved when the provision was suspended for the month of July 1978. Exceptor believes that allowing up to one-third of a dairy farmer's milk to be delivered as other than producer milk under the Texas order during each of the months of September through November without affecting the dairy farmer's producer status the following months of February through July will allow the dominant cooperative to pool the reserve milk supplies of other markets on the Texas market during the February through July period. For the reasons previously set forth, a change in the provision under consideration is appropriate and in keeping with the maintenance of orderly marketing.

2. *Diversions to nonpool plants.* (a) The producer milk definition should be revised to specify that during each of the months of September through January at least 15 percent of a dairy farmer's total deliveries of producer milk must be physically received at pool plants in order for any milk of such person to be eligible for diversion as producer milk to nonpool plants. If less than 15 percent of a producer's milk is received at pool plants, then only that part of his milk physically received at pool plants should be considered producer milk eligible for pooling. On the basis of every-other-day delivery, three deliveries by a producer normally would assure that such producer's milk is eligible for diversion during the months of September through January. If deliveries are made each day, a producer normally would need to make only five deliveries during the month to meet the 15-percent requirement. Presently, the order provides that milk of a producer must be received at a pool plant before it is eligible to be diverted as producer milk. After the producer has established an association with the market via the one delivery, his milk may be diverted to nonpool plants continuously thereafter. A pool plant operator may divert to nonpool plants a quantity of milk equal to one-third of the producer milk that the operator received at his pool plants. In the case of a cooperative association, a quantity of milk equal to one-third of the producer milk it causes to be delivered to pool plants other than its pool "balancing plant" may be diverted to nonpool plants.

The cooperative association that represents a majority of the producers supplying the Texas market proposed that at least 15 percent of a producer's deliveries of milk each month be received at a pool plant in order for any milk of such producer to be eligible for diversion to a nonpool plant as producer milk. The cooperative's representative testified that such a requirement is necessary to assure that producer milk pooled on the Texas market is actually available for fluid use. He testified that a cooperative association with producers located in southwest Missouri delivered milk from such producers on a limited basis to a Texas pool plant and thereafter diverted the milk of these producers continuously to a manufacturing plant in Missouri. Such milk, he claimed, is not made available to supply the fluid requirements of Texas pool distributing plants under the current diversion provisions.

The cooperative association with the Missouri producers in question opposed this proposal because it would necessitate the delivery by the cooperative of milk of each of its producer-members in southeast Missouri to pool plants in Texas every month. This, the cooperative's witness claimed, would be an uneconomic movement of milk since the milk is not needed each month by Texas pool plants. In its posthearing brief, the cooperative association stated that if it is concluded that some minimum delivery to pool plants is necessary, such deliveries should not exceed 1 day per month during each of the months of September through November.

In its brief, another cooperative association in the Texas market also opposed the proposed 15-percent monthly delivery requirement because it would create inefficient movements of milk. Another cooperative with Missouri producers on the Texas market also opposed the 15-percent delivery requirement on the basis that it would require the cooperative to make uneconomic movements of milk to pool plants in Texas.

It is essential that milk associated with the Texas market be made available for fluid use. The record evidence indicates that the Class I needs of handlers cannot be met during the months of seasonally short supply unless the milk of each producer is delivered to a pool plant at least once a week. It is evident from the 75- to 80-percent Class I utilization of producer milk in the Texas market during the months of seasonally short supply that pool plants have been bottling each week on the average more than 5 days production of each producer (the bottling of five-sevenths of the weekly milk production of producers would result in a Class I utilization of 72 percent). In view of the present bottling schedule of handlers in the market (5 days per week or less), it can be seen that each producer would need to deliver more than 5 days' production to pool plants each week to meet the Class I needs of handlers if the milk of all producers were delivered directly from the farm to pool distributing plants and utilized upon delivery. Because handlers do have some storage facilities available to them, they are in a position to utilize more than 5 days' production of certain producers. Thus, to supply the fluid requirements of handlers, it is not necessary to require that each producer deliver at least 5

days' production each week. It is apparent, also, that the adoption of a cooperative association's proposal requiring that the milk of a producer be delivered only once during each of the months of September through November would not furnish an adequate supply of milk to meet the fluid milk requirements of handlers. It is concluded, therefore, that the more stringent proposal requiring that at least 15 percent of each producer's milk be delivered to pool plants should be adopted. However, the provisions should apply only during the months of September through January. During these months, milk supplies are the shortest and the need for producer milk at pool plants is the greatest. As further evidence of the need for producer milk at pool plants during such period, it is noted that the months of September-January are the months in which pool supply plants must make shipments to pool distributing plants.

It is not necessary to require minimum deliveries of producer milk to pool plants during the remaining 7 months of the year. They are months of seasonally heavy milk production and demand tends to drop during the summer with the closing of schools. Requiring deliveries to pool plants during such months would cause unnecessary and uneconomical movements of milk merely to assure the pooling of producer milk that is diverted to nonpool plants.

(b) The order should be revised to allow a cooperative association to divert producer milk to nonpool plants from its pool "balancing" plant (a pool plant meeting the requirements of § 1126.7(e)). A provision that currently excludes receipts of producer milk at a cooperative association's balancing plant in determining the total quantity of producer milk that the cooperative association may divert to nonpool plants would not be affected by this revision.

Presently, the order does not allow a cooperative association to divert producer milk from its balancing plant.

The cooperative association that operates the only balancing plants pooled under the order (at Muenster and Sulphur Springs, Tex.) proposed the change described above. Proponent's witness testified tht the present provision has caused it to incur additional transportation costs to maintain producer milk status of its producers delivering to these balancing plants when their milk must be diverted to nonpool plants. On certain days the cooperative's balancing plants are filled to capacity, he stated, and the cooperative has no alternative but to divert milk from these balancing plants to nonpool plants. In such situation the cooperative attempts to receive the milk of these producers at a pool distributing plant and then divert the milk from the distributing plant. When this is not feasible, the cooperative diverts the milk directly from the balancing plants. As a consequence, the diverted milk loses producer milk status. During 1977 more than 2.7 million pounds of diverted milk from the coopertive's balancing plants were excluded from the pool.

A handler on behalf of nonmember producers delivering to his plant and two cooperative associations opposed the proposal. Opponents stated that the proposal would allow proponent cooperative to increase the quantity of milk associated with the market.

It is concluded that a cooperative association should be permitted to divert producer milk from its pool balancing plant to nonpool plants. The proposed change is needed to give a cooperative association additional flexibility in disposing of its reserve milk supplies. Contrary to the position taken by opponents, the change would not enable the cooperative to attach any additional supplies of milk to the order. The order would continue to base the quantity of producer milk that a cooperative could divert to nonpool plants on the deliveries of producer milk to pool plants other than its balancing plants. Thus, this revision would have virtually no impact upon the other producers who are supplying the market and should be adopted.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

An objection was raised at the hearing and reiterated in his brief by counsel for a cooperative association that the administrative law judge erred in excluding the admission of three internal memorandum of the U.S. Department of Agriculture. The administrative law judge ruled that these documents should not be admitted as exhibits since they lacked relevacy and materiality and that the preparers of the memorandums were not available for cross-examination at the hearing. His ruling has been reviewed in light of the arguments presented and is hereby affirmed.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative market agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not resonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

The counsel for an opposing cooperative excepted to the recommended decision claiming it was not supported by substantial evidence. The findings and conclusions set forth herein are based solely on the hearing record. The reasons given in this decision for recommending the amendments to the order are fully supported by the evidence presented at the hearing and contain specific references to that evidence. Accordingly, the exception is denied.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Texas marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

July 1978 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Texas marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

(An aproved final impact analysis is available from the Agricultural Marketing Service.)

Signed at Washington, D.C., on September 1, 1978.

P.R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

Order[1] amending the order, regulating the handling of milk in the Texas marketing area.

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Texas marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, marketing program operations, on August 4, 1978, and published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35047) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein except that § 1126.12(b)(5) is revised.

1. Section 1126.12(b)(5) is revised as follows:

§ 1126.12 Producer.

* * * * *

(b) * * *

(5) Any person with respect to milk produced by him during the months of February through July that is caused to be delivered to a pool plant by a cooperative association or a pool plant operator if during any of the immediately preceding months of September through November more than one-third of the milk from the same farm was caused by such cooperative association or pool plant operator to be delivered to plants as other than producer milk (except milk that is not producer milk as a result of a temporary loss of grade A approval or the application of § 1126.13(e) (4) and (5)), unless such pool plant was a nonpool plant during any of such immediately preceding months.

2. In § 1126.13, the introductory text of paragraph (e) immediately preceding subparagraph (1), and paragraph (e)(1) are revised as follows:

§ 1126.13 Producer milk.

* * * * *

(e) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the handler operating such pool plant or a handler described in § 1126.9(b), subject to the following conditions:

(1) Milk of a dairy farmer shall not be eligible for diversion during any month unless milk of such dairy farmer was physically received as producer milk at a pool plant and the dairy farmer has continuously retained producer status since that time and further, during each of the months of September through January not less than 15 percent of the milk of such dairy farmer is physically received as producer milk at a pool plant. If a dairy farmer loses his producer status under the order (except as a result of a temporary loss of grade A approval), his milk shall not be eligible for diversion until milk of such dairy farmer has been physically received as producer milk at a pool plant;

* * * * *

[FR Doc. 78-25234 Filed 9-7-78; 8:45]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

[3410-15]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revision of REA Specification PE-26 for Voice Frequency Loading Coils

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 345-22 to announce the revision of REA specification PE-26, "Voice Frequency Loading Coils." This action is being taken to improve the quality of voice frequency loading coils and to assure proper application to modern telephone plant facilities. The revision was necessitated to accommodate new design concepts and improve quality control of the end-product. The intended effect of this action is to

facilitate the construction of new telephone plant facilities and to minimize potential problems under normal operating conditions. On issuance of REA Bulletin 345-22, Appendix A to part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than October 10, 1978.

ADDRESS: Persons interested in the revised specification may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. A. H. Flores, Chief, Transmission Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3917.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 345-22. A copy of the proposed revision of REA Bulletin 345-22 and the proposed revision of REA Specification PE-26 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

Dated: August 31, 1978.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc. 78-25236 Filed 9-7-78; 8:45 am]

[3410-34]

Animal and Plant Health Inspection Service

[9 CFR Part 92]

IMPORTATION OF ANIMALS

Extension of Time for Comments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of time for comments.

SUMMARY: This document extends the comment period for the proposed rule to permit horses, except horses from or that have transited countries where African horse sickness exists, to enter the United States at any port designated by the U.S. Customs Service as an international port or airport when a quarantine facility has been provided by the importer or his agent which has been approved in advance by the Deputy Administrator. This extention of time is granted in order to provide additional time in which interested parties may prepare relevant data and information and to develop sound views and comments. The effect of this action would be to extend the comment period on the subject of a proposed rule for an additional 30 days.

DATE: Comments must be received on or before October 10, 1978.

ADDRESS: Send comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On August 2 and 4, 1978, there was published in the FEDERAL REGISTER (43 FR 33926-33929 and 43 FR 34490-34493 respectively) a notice of proposed rulemaking which would amend the regulations (9 CFR 92.3 and 92.11) to permit horses, except horses from or that have transited countries where African horse sickness exists, to enter the United States at any port designated by the U.S. Customs Service as an international port or airport when a quarantine facility has been provided by the importer or his agent which has been approved in advance by the Deputy Administrator.

The proposal provided for receipt of comments on or before August 19, 1978.

In order to provide additional time for importers and other interested parties to prepare relevant data and information and to develop sound views and comments, the Department is extending the time period originally allotted for submitting views and comments on the proposal. Therefore, the period for submission of comments concerning the proposal is hereby extended until October 10, 1978.

Done at Washington, D.C., this 31st day of August 1978.

MORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-25118 Filed 9-7-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 1]

[Docket No. RM78-21]

APPLICATIONS FOR STAY

Proposed Rule

AGENCY: Federal Energy Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: This proposal would require that applications for stays of Commission orders pending judicial review be filed simultaneously with applications for rehearings. It also provides that if the Commission fails to act on the application for stay within 30 days, the application will be denied by operation of law.

DATE: Written comments must be submitted by October 2, 1978.

ADDRESS ALL COMMENTS TO: Secretary, FERC, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Robert L. Baum, Deputy General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4333.

SUPPLEMENTAL INFORMATION: The purpose of this proposed rule is to address a problem regarding applications for stay of Commission orders pending judicial review. Under existing rules, an application for stay pending judicial review may be filed prior to or subsequent to Commission action on an application for rehearing in the case. The proposed rule would standardize Commission procedures with respect to requests for stays by requiring that applications be filed together with applications for rehearing. The rule would also establish a specific effective date for Commission orders where application for rehearing is denied by operation of law.

The proposed § 1.39(a) provides that applications for stay of a Commission order pending the filing of a petition for judicial review or pending judicial review will only be considered by the Commission if filed simultaneously with the application for rehearing. The remainder of paragraph (a) requires that the form of the filing be the same as that of applications for rehearings. Compliance with the section should insure that Commission action on both applications is consistent, timely, and if denied, dispositive of the matter.

Paragraph (b) of the new section has two purposes. First, it assures that where an application for rehearing is

denied by operation of law, i.e., where the Commission does not act on the application within 30 days, any application for stay that accompanied the application for rehearing will also be denied by operation of law. As a matter of practice, if the Commission grants the application for rehearing solely for purposes of further consideration, action on the stay will be deferred until final Commission action on the application for rehearing.

In addition, this paragraph provides that where stays (and applications for rehearing) are denied by operation of law, any monetary refunds required by the order shall be made within 45 days after denial. The establishment of a 45-day period has been selected to balance the need for Commission orders to become effective as soon as possible against the need of applicants to have the opportunity to seek a judicial stay of the Commission order where the administrative stay has been denied. Forty-five days appears to be a reasonable time to permit: (a) A party to prepare and file a petition for review and a motion for stay, (b) Commission counsel to prepare and file a response in opposition to the motion for stay, and (c) the court to make a reasoned determination as to the stay request.

Any interested person may submit to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, no later than October 2, 1978, data, views, comments, or suggestions in writing concerning all or part of the amendments proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed.

(Federal Power Act, as amended (16 U.S.C. 792 et seq.); Natural Gas Act, as amended (15 U.S.C. 717 et seq.); Interstate Commerce Act, as amended (49 U.S.C. 1 et seq.); Department of Energy Organization Act, Pub. L. 95-91, E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, the Commission proposes to amend part 1 of chapter I, title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

1. Part 1 of chapter I, title 18, Code of Federal Regulations, is amended by adding a new § 1.39 to read as follows:

§ 1.39 Application for stay pending judicial review.

(a) *Form, filing, and service.* An application for stay pending the filing of a petition for judicial review or a stay pending judicial review of a Commission decision will be considered only if it is filed simultaneously with an application for rehearing filed pursuant to § 1.34. The application for stay shall be under oath, shall specifically state the grounds relied on, shall be filed with the Commission and served by the applicant upon all parties to the proceeding or their attorneys of record, and shall in all other respects conform to the requirements of §§ 1.7 and 1.15 to 1.17, inclusive.

(b) *Commission action.* Unless the Commission acts on the application for stay pending the filing of a petition for a stay for judicial review within 30 days after it is filed, such application shall be denied by operation of law. With respect to an order requiring monetary refunds for which a stay is denied pursuant to this paragraph, the date on whch such refunds shall be due will be 45 days subsequent to the date on which such application is deemed denied.

[FR Doc. 78-25179 Filed 9-7-78; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 436, 469]

[Docket No. 77N-0069]

GRISEOFULVIN GAS LIQUID CHROMATOGRAPHY

Method for Grisofulvin Content

Correction

On page 30302 in the issue of Friday, July 14, 1978, the correction which appeared for FR Doc. 78-14452 appearing at page 22730 in the issue for Friday, May 26, 1978, should have read as set forth below:

3. On page 22731, the remainder of the explanations for the formula under § 449.120a(b)(1)(ii) are found at the top of page 22732.

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 962-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Bay Area Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Bay Area Air Pollution Control District's (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State implementation plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 10, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA region IX office at the above address and at the following locations:

Bay Area Air Pollution Control District, 939 Ellis Street, San Francisco, Calif. 94109.

California Air Resources Board, 1102 Q Street, P.O. 2815, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wally Woo, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on July 13, 1978:

Regulation 2, section 3210.11(B) (regarding continuous emissions monitoring) section 3211.2, Right of Access to Premises and Information.

Regulation 3, section 3102.1 (regarding storage of organic liquids).

Regulation 9, Architectural Coatings.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the region IX office. Comments received on or before October 10, 1978, will be considered. Comments received will be available for public inspection at the EPA region IX office and the EPA public information reference unit.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: August 11, 1978.

PAUL DEFALCO,
Regional Administrator.

[FR Doc. 78-25334 Filed 9-7-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 961-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Revision to the New Jersey Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from the State of New Jersey to revise its State implementation plan (SIP). If approved by the Environmental Protection Agency, this revision will have the effect of continuing a current temporary relaxation for 17 sources in southern New Jersey of a State regulation limiting the sulfur content of fuel oil. The current regulatory sulfur-in-fuel-oil limitation is 0.3-percent sulfur, by weight, for eight of these sources and 1.0-percent sulfur, by weight, for the other nine. Under provisions of the proposed SIP revision, the relaxations would allow, until January 12, 1979, or until new permanent sulfur-in-fuel-oil regulations are adopted by New Jersey, whichever is sooner, the burning of fuel oil containing up to 2.5-percent sulfur, by weight.

DATES: Comments must be received by October 10, 1978.

ADDRESSES: All comments shoud be addressed to: Eckardt C. Beck, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007. Copies of the proposal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 908, Region II Office, 26 Federal Plaza, New York, N.Y. 10007.

U.S Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street SW., Washington, D.C. 20460.

New Jersey Department of Environmental Protection, John Fitch Plaza, P.O. Box 2807, Trenton, N.J. 08625.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION: On June 26, 1978, the Environmental Protection Agency (EPA) received a proposed revision to the New Jersey State implementation plan (SIP). The State's SIP revision submittal consists of 17 administrative orders, a Notice of public hearing, and a document setting the basis for the proposed revision, including a recent summary of air quality data for the southern New Jersey area. Each administrative order advises a source that, pending EPA approval, the State has granted it a further relaxation from the existing sulfur-in-fuel limitation for that source. This relaxation is to remain effective until January 12, 1979, or until such time as the State adopts a new comprehensive sulfur-in-fuel-oil regulation, whichever comes sooner.

In a recent memorandum of agreement entered into by EPA region II, EPA region III, and the New Jersey Department of Environmental Protection (DEP) which establishes a basis for the development of a regional strategy for control of sulfur dioxide emissions in the Metropolitan Philadelphia interstate air quality control region, it is stated that EPA region II and New Jersey DEP anticipate that New Jersey will submit new sulfur-in-fuel-oil limitations to EPA region II for consideration as revisions to the State's SIP. These new limitations would be set so as to be complementary to new limitations to be adopted by the Commonwealth of Pennsylvania.

New Jersey has drafted its new sulfur-in-fuel-oil regulation, and a public hearing on it was held on July 13, 1978. Should this new regulation be adopted by the State at such time as this current SIP revision proposal has been approved by EPA and is in effect, the variances would then terminate, and the affected sources would become subject to the new comprehensive sulfur-in-fuel-oil regulation.

EPA had, during 1976, early 1977, and mid-1978, previously approved similar administrative orders for the 17 sources now under consideration. EPA's prior approvals had the effect of authorizing relaxed sulfur-in-fuel-oil limitations until as recently as July 12, 1978.

The sulfur content of fuel oil is normally regulated under Title 7, Chapter 27, Subchapter 9 of the New Jersey Administrative Code (N.J.A.C. 7:27-9.1 et seq.), "Sulfur in Fuel." A public hearing on this proposed revision was held on June 13, 1978. The State's analysis of the air quality impact of this proposed revision was previously submitted to EPA in April 1976, when similar orders were originally submitted by the State for inclusion in its SIP. A complete list of the sources under consideration and the limitations imposed under the proposed orders and existing regulations are provided in table 1.

TABLE 1—*Existing and proposed sulfur-in-fuel-oil limitations*

Source	Location	Percent sulfur by weight	
		Existing limitation	Proposed limitation
National Bottle Corp	Salem City, Salem County	0.3	2.0
E. I. du Pont de Nemours & Co	Deepwater, Salem County	.3	1.5
Heinz U.S.A	Salem City, Salem County	.3	2.0
B. F. Goodrich Chemical Co	Pedricktown, Salem County	.3	1.5
Anchor Hocking Corp	Salem City, Salem County	.3	2.0
Atlantic City Electric, Deepwater Station.	Pennsgrove, Salem County	.3	1.5
E. I. du Pont de Nemours & Co	Carney's Point, Salem County	.3	1.5
Mannington Mills, Inc	Salem City, Salem County	.3	2.0
Atlantic City Electric, B. L. England Station.	Beesley Point, Cape May County	1.0	2.0
Kerr Glass Manufacturing Corp	Millville City, Cumberland County	1.0	2.5
Owens Illinois, Inc., Kimble Products Division.	Vineland City, Cumberland County	1.0	2.5
Leone Industries	Bridgeton, Cumberland County	1.0	2.5
Progresso Food Corp	Vineland City, Cumberland County	1.0	2.5
Bridgeton Dyeing & Finishing Corp	Bridgeton City, Cumberland County	1.0	2.5
Vineland Chemcial Co	Vineland City, Cumberland County	1.0	2.5
Hunt-Wesson Foods, Inc	Bridgeton, Cumberland County	1.0	2.5
Owens Illinois, Inc	....do	1.0	1.5

This current SIP revision request was submitted to EPA in accordance with all applicable EPA requirements as contained in 40 CFR Part 51. Based upon the air quality data accompanying the proposed revision, EPA has determined that the 17 orders making up the revision will not result in the contravention of any applicable air quality standard. Consequently, EPA proposes to approve this revision. However, continued relaxation of sulfur content limitations might limit or preclude, depending on the degree of air quality degradation, the type and the amount of future growth in the affected areas.

This notice is issued as required by section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New Jersey State Implementation Plan should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of section 110(a)(2) (A)-(K) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

(Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601).)

Dated: September 1, 1978.

ECKARDT C. BECK,
Regional Administrator.

[FR Doc. 78-25333 Filed 9-7-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 962-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the San Diego County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the San Diego County Air Pollution Control District's (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to October 10, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn.: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, Calif. 92123.

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wally Woo, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on June 22, 1978, and July 13, 1978:

District	Date	Rule changes
San Diego County	June 22, 1978	Rule 66 Organic Solvents.
		Rule 67.0 Architectural Coatings.
		Rule 67.1 Purchase and Use of Architectural Coatings by Governmental Agencies and Public Districts.
	July 13, 1978	Rule 42 Hearing Board Fees.
		Rule 61.2 Transfer of Volatile Organic Compounds into Mobile Transfer Tanks.
		Rule 61.3 Transfer of Volatile Organic Compounds into Stationary Storage Tanks.
		Rule 76 Request for hearing.
		Rule 97 Emergency Variance.
		Rule 98 Breakdown Conditions: Emergency Variance.

The State also submitted a regulation concerning National Emission Standards for Hazardous Air Pollutants (NESHAPS) on July 13, 1978. This NESHAPS regulation implements section 112 of the Clean Air Act, and is not appropriate for inclusion in a State Implementation Plan under section 110 of the Act. Therefore, this regulation will be neither approved nor disapproved by EPA as part of an applicable implementation plan. It will, however, be reviewed in determining whether to delegate authority to implement and enforce the NESHAPS regulation in the APCD under the appropriate provisions of section 112. Announcement of such delegation would appear in a separate FEDERAL REGISTER notice.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before October 10, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: September 5, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-25335 Filed 9-7-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 962-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Santa Barbara and Ventura County Air Pollution Control Districts' Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Santa Barbara and Ventura County Air Pollution Control Districts' (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invited public comments on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up October 10, 1978.

ADDRESS: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Santa Barbara County Air Pollution Control District, 4440 Calle Real, Santa Barbara, Calif. 93110.

Ventura County APCD, 740 East Main Street, Ventura, Calif. 93001.

California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Scramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wally Woo, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on June 22, 1978.

District	Date	Rules Changes
Ventura County (South Central Coast Air Basin).	June 22, 1978	Rule 2 Definitions.
		Rule 7 Zone Boundries.
		Rule 23 Exemptions From Permit.
		Rule 42 Schedule of Fees.
		Rule 55 Storage of Organic Liquid Petroleum Products.
		Rule 56 Open Fires.
		Rule 70 Storage and Transfer of Gasoline.
		Rule 71 Transfer of Gasoline into Vehicle Fuel Tanks (deleted).
Santa Barbara County (South Central Coast Air Basin).	June 22, 1978	Rule 24.15 Fire Hazard Reduction in High Fire Hazard Areas.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions cased thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or October 10, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.SC. 7410 and 7601(a)).

Dated: September 5, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-25336 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 961-1]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Orders for Four Federal Facilities in the State of Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue administrative orders to four Federal facilities located in the State of Ohio. The orders require these facilities to bring the air emissions from their boilers into compliance with Ohio regulation AP-3-11, part of the federally approved Ohio State implementation plan (SIP). Because these facilities are unable to comply with these regulations at this time, the proposed orders would establish expeditious schedules reuiring final compliance by February 1, 1979 for the Department of Energy facilities, March 30, 1979, for the Defense Logistics Agency, Defense Electronics Supply Center and March 31, 1979 for the Defense Logistics Agency, Defense Construction Supply Center. Source compliance with the orders would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the orders. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the orders.

DATES: Written comments must be received on or before October 30, 1978, and requests for a public hearing must be received on or before October 30, 1978. All requests for a public hearing should be accompanied by a statement as to why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Mr. James O. McDonald, Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the orders and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Louise C. Gross, Enforcement Attorney, at the above address, or telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: The Department of Energy and the Defense Logistics Agency operate boilers in four Ohio cities. The proposed orders address emissions from these boilers, which are subject to Ohio regulation AP-3-11. The regulation limits the emissions of particulate matter, and is part of the federally approved Ohio State implementation plan. These orders require final compliance with the regulation by February 1, 1979, for the Department of Energy's Fernald and Piketon facilities, by March 30, 1979, for the Defense Logistics Agency's Dayton facility and by March 31, 1979, for the Defense Logistics Agency's Columbus facility, and the sources have consented to their

terms. In addition, these facilities have already satisfied particular increments contained in the orders. Emission monitoring and reporting are also required.

The proposed orders satisfy the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the orders are issued, source compliance with their terms would preclude further EPA enforcement action under section 113 of the Act against the sources for violations of the regulation covered by the orders during the period the orders are in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the orders. Testimony given at any public hearing concerning the orders will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the orders in 40 CFR Part 65.

The provisions of 40 CFR part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn and replaced by a notice promulgating these new regulations.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: August 18, 1978.

VALDAS V. ADAMKUS,
Acting Regional Administrator,
Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—AIR QUALITY IMPLEMENTATION PLANS; ENFORCEMENT BY STATE AND FEDERAL GOVERNMENTS AFTER STATUTORY DEADLINES

1. By adding § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

[Order No.——]

U.S. ENVIRONMENTAL PROTECTION AGENCY

In the matter of: Department of Energy, Portsmouth Area Gaseous Diffusion Plant, Piketon, Ohio, proceeding under section 113(d) of the Clean Air Act, as amended, order No. EPA-5-78-A.

ORDER

The following order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and 30 days notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act. This order contains a schedule for compliance, Interim control requirements, continuous emission monitoring requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than December 30, 1978.

On November 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, U.S. Environmental Protection Agency (hereinafter referred to as the "USEPA"), pursuant to authority duly delegated to him by the Administrator of the USEPA, issued a notice of violation, pursuant to section 113(a)(1) of the Act, to the Department of Energy, Portsmouth Area Gaseous Diffusion Plant in Piketon, Ohio, upon finding that the three boilers in building X-600 located at the plant were found to be in violation of the applicable Ohio implementation plan, as defined in section 110(d) of the Act. The notice cited the plant for violation of Ohio regulation AP-3-11 (hereinafter referred to as AP-3-11), as demonstrated by the plant's air pollution emissions report, emission factor calculations and material contained in the Office of Federal Activities file. A copy of this notice was sent to the State of Ohio.

After a thorough Investigation of all relevant facts, It is determined that the Department of Energy is presently unable to comply with the Ohio implementation plan, that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, it is hereby ordered that:

I. The Department of Energy shall achieve compliance with AP-3-11 at its three boilers in building X-600 in accordance with the following schedule:

A. Commence title I and title II design work—has been commenced prior to the issuance of this order.

B. Commence construction of precipitators—has been commenced prior to the issuance of this order.

C. Award contract for tie-in of precipitators—May 15, 1978.

D. Commence tie-in of precipitators—August 15, 1978.

E. Complete construction and commence performance testing—December 1, 1978.

F. Complete emission testing—January 1, 1979.

G. Demonstrate compliance with AP-3-11—February 1, 1979.

II. The Department of Energy shall achieve and demonstrate final compliance with AP-3-11 at its Feed Materials Production Center by February 1, 1979.

III. Pursuant to the authority granted in sections 113(d)(1)(C) and section 114(a)(1) of the Clean Air Act, the Department of Energy shall install a continuous monitoring system for the measurement of opacity on each effluent stack of the four violating boilers at the Center, following any control devices. The continuous monitoring system shall be installed, calibrated, maintained and operated. In accordance with the procedures set forth in 40 CFR 60.13 and appendix B of 40 CFR 60, and shall be properly calibrated and operational upon the achievement of final compliance.

The Feed Materials Production Center is required to submit a written report every calendar quarter giving the nature and cause of any emissions in violation of Ohio regulation AP-3-07 and corrective action taken. Negative reports will be submitted. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of 2 years and made available for Inspection by the USEPA or its agent upon request. Malfunctions or periods in which the continuous monitoring system is not in operation shall be reported immediately, along with proposed corrective action.

IV. Pursuant to section 113(d)(7) of the Act, during the period in which this order is in effect, the Department of Energy shall minimize particulate emissions by implementation of the following:

A. Maintain and operate the existing control devices in a manner which insures that their present collection efficiencies will not diminish.

B. Utilize fuel whose ash content to Btu ratio, on a dry basis, does not exceed, on the average, $1.31 \times 10-5$ lb/Btu. This figure was calculated from date contained in the the Department of Energy's Semiannual Fuel Analysis, for the Feed Materials Production Center, dated July 28, 1977.

Adherence to the above provisions has been determined to be reasonable and representative of the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in section 1, above) for the period during which this order is in effect.

V. The Department of Energy shall submit reports to the USEPA detailing progress made with respect to each requirement of this order. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than February 1, 1979, the Department of Energy shall certify to the USEPA that the Center is in final compliance with AP-3-11.

VI. All submissions and notifications to the USEPA pursuant to this order shall be made to the Chief, Air Compliance Section, USEPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

VII. Nothing in this order shall be construed so as to affect the Department of Energy's responsibility to comply with any other Federal, State or local regulations.

VIII. Nothing in this order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. Section 7603.

IX. The Department of Energy is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Department of Energy will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. This order is effective upon promulgation in the FEDERAL REGISTER.

Date——————

——————
Administrator or Delegate.

The Department of Energy has reviewed this order and believes it to be a reasonable means by which the Feed Materials Produc-

tion Center can achieve compliance with Ohio regulation AP-3-11. The Department of Energy stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this order.

Date———————

———————

Department of Energy,
Feed Materials Production Center.

U.S. ENVIRONMENTAL PROTECTION AGENCY

In the matter of: Department of Energy, Feed Materials Production Center, Fernald, Ohio, Proceeding under Section 113(d) of the Clean Air Act, as amended, order. No. EPA-5-78-A.

ORDER

The following order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and 30 days notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act. The order contains a schedule for compliance, interim control requirements continuous emission monitoring requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than December 30, 1978.

On November 25, 1977, James O. McDonald, Director, Enforcement Division, Region V, U.S. Environmental Protection Agency (hereinafter referred to as the "USEPA"), pursuant to authority duly delegated to him by the Administrator of the USEPA, issued a notice of violation, pursuant to section 113(a)(1) of the Act, to the Department of Energy, Feed materials Production Center in Fernald, Ohio, upon finding that the four boilers located at the Center were found to be in violation of the applicable Ohio implementation plan, as defined in section 110(d) of the Act. The notice cited the Center for violation of Ohio regulation AP-3-11 (hereinafter referred to as AP-3-11), as demonstrated by emission factor calculations and material contained in the office of Federal Activities file. A copy of this notice was sent to the State of Ohio.

After a thorough investigation of all relevant facts, it is determined that the department of Energy is presently unable to comply with the Ohio implementation plan, that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, it is hereby ordered that:

I. The Department of Energy shall achieve compliance with AP-3-11 at the Feed Materials Production Center in accordance with the following schedule:

A. Award contract for procurement and erection of electrostatic precipitators—has been commenced prior to the issuance of this order.

B. Issue invitation for bids on electrostatic precipitators (ESP's); furnish copy of bid package to U.S. EPA—has been commenced prior to the issuance of this order.

C. Award contract for ESP's—has been commenced prior to the issuance of this order.

D. Complete overall design work (title II) on facility—has been commenced prior to the issuance of this order.

E. Award construction contract and commence construction—has been commenced prior to the issuance of this order.

F. Complete ESP procurement—July 1, 1978.

G. Complete construction and commence performance testing—December 1, 1978.

H. Complete performance testing—January 1, 1979.

I. Demonstrate compliance with AP-3-11—February 1, 1979.

II. The Department of Energy shall demonstrate final compliance with AP-3-11 at its Portsmouth Area Gaseous Diffusion Plant by February 1, 1979.

III. Pursuant to the authority granted in sections 113(d)(1)(C) and 114(a)(1) of the clean Air Act, the Department of Energy shall install a continuous monitoring system for the measurement of opacity on each effluent stack of the three violating boilers, following any control devices, at building X-600 of the Portsmouth Area Gaseous Diffusion Plant. The continuous monitoring system shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in appendix B of 40 CFR 60.13 and appendix B of 40 CFR Part 60, and shall be properly calibrated and operational upon the achievement of final compliance.

The Portsmouth Area Gaseous Diffusion Plant is required to submit a written report every calendar quarter giving the nature and cause of any emissions in violations of Ohio regulation AP-3-07 and corrective action taken. Negative reports will be submitted. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of 2 years and made available for inspection by the U.S. EPA or its agent upon request. Malfunctions or periods in which the continuous monitoring system is not in operation shall be reported immediately, along with proposed corrective action.

IV. Pursuant to section 113(d)(7) of the act, during the period in which this order is in effect, the Department of Energy shall minimize particulate emissions by implementation of the following:

A. Maintain and operate the existing control devices in a manner which insures that their present collection efficiencies will not diminish.

B. Utilize fuel whose ash content to Btu ratio, on a dry basis, does not exceed, on the average, $2.1 \times 10-3$ lb/Btu. This figure is based upon the maximum range of weekly average coal samples taken between June and November of 1977

Adherence to the above provisions has been determined to be reasonable and representative of the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in section 1 above) for the period during which the order is in effect.

V. The Department of Energy shall submit reports to the USEPA detailing progress made with respect to each requirement of this order. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than February 1, 1979, the Department of Energy shall certify th the USEPA that the plant is in final compliance with AP-3-11.

VI. All submissions and notifications to the USEPA pursuant to this order shall be made to the Chief, Air Compliance Section, USEPA, Region V, 230 South Dearborn Street, Chicago, Ill 60604.

VII. Nothing in this order shall be construed so as to affect the Department of Energy's responsibility to comply with any other Federal, State or local regulations.

VIII. Nothing in this order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the act, 42 U.S.C. section 7603.

IX. The Department of Energy is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Department of Energy will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. This order is effective upon promulgation in the FEDERAL REGISTER.

Date———————

———————

Administrator or Delegate.

The Department of Energy has reviewed this order and believes it to be a reasonable means by which its three boilers in building X-600 can achieve final compliance with Ohio regulation AP-3-11. The Department of Energy stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this order.

Date———————

———————

Department of Energy.

U.S. ENVIRONMENTAL PROTECTION AGENCY

In the matter of: Department of Defense, Defense Logistics Agency, Defense Electronics Supply Center, Dayton, Ohio, proceeding under section 113(d) of the Clean Air Act, as amended, order No. EPA-5-78-A.

ORDER

The following order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. section 7401 et seq. (hereinafter referred to as the Act). Public notice, opportunity for public hearing and 30 days notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act. This order contains a schedule for compliance, interim control requirements, continuous emission monitoring and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than March 30, 1979.

On November 25, 1977, Dale S. Bryson, Acting Director, Enforcement Division, Region V. U.S. Environmental Protection Agency (hereinafter referred to as the USEPA, pursuant to authority duly delegated to him by the Administrator of the USEPA, issued a notice of violation, pursuant to section 113(a)(1) of the Act, to the Department of Defense, Defense Logistics Agency, Defense Electronics Supply Center in Dayton, Ohio, (hereinafter referred to as DESC), upon a finding that the four boilers in building 17 were in violation of the applicable Ohio implementation plan, as defined in section 110(d) of the Act. The notice cited DESC for violation of Ohio regulation AP-3-11 (hereinafter referred to as AP-3-11) (OAC 3745-17-10), as demonstrated by DESC's air pollution emissions report, emission factor calculations and material contained in the Office of Federal Activities file. A copy of this notice was sent to the State of Ohio.

Subsequent to the issuance of the notice of violation, DESC supplied USEPA with the results of recent stack tests performed on its boilers. Such tests indicate that boilers 1 (No. 08/57/04/0042, B001) and 2, (No. 08/57/04/0042, B002) are presently in compliance with AP-3-11, while boilers 3 (No. 08/57/04/0042, B003) and 4, (No. 08/57/04/0042, B004) remain in violation of the implementation plan.

After a thorough investigation of all relevant facts, it is determined that DESC is presently unable to comply with the Ohio implementation plan, that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, it is hereby ordered that:

I. DESC shall achieve compliance with AP-3-11 at boilers 3 and 4 in building 17 in accordance with the following schedule:

A. Initiate bid process—has been commenced prior to the issuance of this order.

B. Award contracts—has been commenced prior to the issuance of this order.

C. Commence installation of high efficiency mechanical collectors—has been commenced prior to the issuance of this order.

D. Complete installation of collectors—September 30, 1978.

E. Complete emission testing—January 30, 1979.

F. Achieve and demonstrate compliance with Ohio regulation AP-3-11—March 30, 1979.

II. DESC shall achieve final compliance with AP-3-11 by March 30, 1979.

III. Pursuant to the authority granted in sections 113(d)(1)(C) and 114(a) of the Clean Air Act, DESC shall install a continuous emission monitoring system for the measurement of opacity on each effluent stack of the two violating boilers, following any control devices, at building 17. The continuous monitoring system shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in 40 CFR section 60.13 and appendix B of 40 CFR part 60, and shall be operational upon the achievement of compliance.

DESC shall submit a written report every calendar quarter giving the nature and cause of any emissions in violation of Ohio regulation AP-3-07 and corrective action taken. Negative reports will be submitted within 30 days after the end of each calendar quarter. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of 2 years and made available for inspection by the USEPA or its agent upon request. Malfunctions or periods where the continuous monitoring system is not in operation shall be reported to the USEPA within ten (10) days after such occurrence, along with proposed corrective action.

DESC may request alternative methods for calibration, maintenance and operation of this monitoring system. Upon consideration and approval by the USEPA, it will be incorporated by reference into this order.

IV. Pursuant to section 113(d)(7) of the Act, during the period in which this order is in effect, DESC shall minimize particulate emissions so that in no case shall the boilers' emissions exceed the present emission level of 0.58 pound of particulate matter per million Btu of heat input. Such a limit is determined to be reasonable and is the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in section I, above) for the period during which this order is in effect.

V. DESC shall submit reports to the USEPA detailing progress made with respect to each requirement of this order. Such reports shall be submitted within thirty (30) days of the completion of such requirement. In addition, no later than April 30, 1979, DESC shall certify to the USEPA that the boilers are in final compliance with AP-3-11.

VI. All submissions and notifications to the USEPA pursuant to this order shall be made to the Chief, Air Compliance Section, USEPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Copies shall also be sent to: Supervisor, Abatement Unit, Regional Air Pollution Control Agency, 451 West Third Street, P.O. Box 972, Dayton, Ohio 45422.

VII. Nothing in this order shall be construed so as to affect DESC's responsibility to comply with any other Federal, State, or local regulations.

VIII. Nothing in this order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. Section 7603.

IX. DESC is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, DESC will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. This order is effective upon FEDERAL REGISTER promulgation.

Date _____

_____

Administrator or Delegate.

DESC has reviewed this order and believes it to be a reasonable means by which boilers 3 and 4 in building 17 can achieve final compliance with Ohio regulation AP-3-11. DESC stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this order.

Date _____

_____

Defense Logistics Agency,
Defense Electronics Supply Center.

U.S. ENVIRONMENTAL PROTECTION AGENCY

In the matter of: Defense Logistics Agency, Defense Construction Supply Center, Columbus, Ohio, Proceeding under section 113(d) of the Clean Air Act, as amended, order No. EPA-5-78-A.

ORDER

The following order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq. (hereinafter referred to as "the Act"). Public notice, opportunity for public hearing and 30 days notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act. This order contains a schedule for compliance, interim control requirements, continuous emission monitoring requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than March 31, 1979.

On November 25, 1977, Dale S. Bryson, Acting Director, Enforcement Division Region V, U.S. Environmental Protection Agency (hereinafter referred to as the "USEPA"), pursuant to authority duly delegated to him by the Administrator of the USEPA, issued a notice of violation, pursuant to section 113(a)(1) of the Act, to the Defense Logistics Agency, Defense Construction Supply Center, Columbus, Ohio, upon finding that the three boilers in the building 300 heating plant were found to be in violation of the applicable Ohio implementation plan, as defined in section 110(d) of the Act. The notice cited the Center for violation of Ohio regulation AP-3-11 (hereinafter referred to as AP-3-11) and 40 CFR Section 52.1881(b), as demonstrated by the Center's air pollution emissions report, emission factor calculations and material contained in the Office of Federal Activities file. A copy of this notice was sent to the State of Ohio.

By letter of December 8, 1977, the Defense Logistics Agency certified compliance with 40 CFR Section 52.1881(b) through the use of low sulfur coal.

After a thorough investigation of all relevant facts, it is determined that the Defense Logistics Agency is presently unable to comply with the Ohio implementation plan, that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, it is hereby ordered that:

I. The Defense Logistics Agency shall achieve compliance with AP-3-11 at its three boilers in building 300 in accordance with the following schedule:

A. Award contract for installation of electrostatic precipitator—has been commenced prior to the issuance of this order.

B. Deliver equipment—June 21, 1978.

C. Complete construction—December 29, 1978.

D. Perform final compliance testing—February 27, 1979.

E. Complete operator training—March 30, 1979.

F. Demonstrate compliance with AP-3-11—March 31, 1979.

II. The Defense Logistics Agency shall achieve and demonstrate final compliance with AP-3-11 at its Defense Construction Supply Center by March 31, 1979.

III. Pursuant to the authority granted in sections 113(d)(1)(C) and 114(a)(1) of the Clean Air Act, the Defense Logistics Agency shall install a continuous monitoring system for the measurement of opacity on the effluent stack, following the control device for the three boilers at building 300 of the Defense Construction Supply Center. The continuous monitoring system shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in 40 CFR Section 60.13 and in appendix B of 40 CFR Part 60, and shall be properly calibrated and operational upon the achievement of final compliance.

The Defense Construction Supply Center is required to submit a written report every calendar quarter giving the nature and cause of any emissions in violation of Ohio regulation AP-3-07 and corrective action taken. Negative reports will be submitted. The reports shall include the magnitude and duration of all violating emissions.

In addition, all data resulting from the operation of the continuous monitoring system shall be stored for a period of two

years and made available for inspection by the USEPA or its agent upon its request. Malfunctions or periods in which the continuous monitoring system is not in operation shall be reported immediately, along with proposed corrective active.

IV. Pursuant to section 113(d)(7) of the Act, during the period in which this order is in effect, the Defense Logistics Agency shall minimize particulate emissions so that in no case shall the emissions from building 300 exceed the present emission level of 0.53 pound of particulate matter per million Btu of heat input. Such a limit is determined to be reasonable and is the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in section I, above) for the period during which this order is in effect.

V. The Defense Logistics Agency shall submit reports to the USEPA detailing progress made with respect to each requirement of this order. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than April 30, 1979, the Defense Logistics Agency shall certify to the USEPA that the Defense Construction Supply Center is in final compliance with AP-3-11.

VI. All submissions and notifications to the USEPA pursuant to this order shall be made to the Chief, Air Compliance Section, USEPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

VII. Nothing in this order shall be construed so as to affect the Defense Logistic Agency's responsibility to comply with any other Federal, State or local regulations.

VIII. Nothing in this order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. Section 7603.

IX. The Defense Logistics Agency is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Defense Logistics Agency will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

X. This order shall be effective upon FEDERAL REGISTER promulgation.

Date———————

———————

Administrator or Delegate.

The Defense Logistics Agency has reviewed this order and believes it to be a reasonable means by which the Defense Construction Supply Center can achieve compliance with Ohio regulation AP-3-11. The Defense Logistics Agency stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this order.

Date———————

———————

Defense Logistics Agency,
Defense Construction Supply Center.

[FR Doc. 78-25192 Filed 9-7-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 10, 13, and 14]

PROPOSED REVISION TO REGULATIONS GOVERNING IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Rescheduling of Public Hearing Date

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Rescheduling of public hearing date.

SUMMARY: In a notice appearing in the FEDERAL REGISTER on August 23, 1978 (43 FR 37473), the Fish and Wildlife Service announced that it would be holding public hearings on the proposed regulations governing importation, exportation, and transportation of wildlife that were published in the FEDERAL REGISTER on March 27, 1978 (43 FR 12830). One of those hearings was scheduled for Monday, October 2, 1978, in Washington, D.C. The Service has since been informed that this scheduling conflicts with this year's celebration of the religious holiday Rosh Hashanah. in order to insure that all interested parties have an opportunity to participate in this rulemaking, the Service has decided to change the date on which the Washington hearing is to be held.

DATES AND ADDRESSES: The public hearing originally scheduled in Washington, D.C., on October 2, 1978, has been cancelled, and rescheduled as follows:

DATE, TIME, AND PLACE

Thursday, October 12, 1978, 9 a.m. to 4 p.m., Auditorium, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Branch of Regulations and Penalties, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, telephone 202-343-9237.

SUPPLEMENTARY INFORMATION: Those wishing to present oral statements at this public hearing must notify Special Agent-in-Charge Stinnett at the address or telephone number provided above. The Service should be notified no later than October 6, 1978, in order that a list establishing the participants' order of appearance may be prepared.

Dated: September 1, 1978.

ROBERT S. COOK,
Acting Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-25277 Filed 9-7-78; 8:45 am]

[3510-22]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 230]

WHALING

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

ACTION: Proposed rulemaking; correction.

SUMMARY: In FR Doc. 78-24353 appearing at page 38609 in the issue for Tuesday, august 29, 1878, in the second column of page 38610, line eight of the second paragraph now reading "-tion of one whale landed or two" should have read "-tion of one whale landed or one".

ADDRESSES: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7461.

Dated: September 1, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-25197 Filed 9-5-78; 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.

[4310-10]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PUBLIC INFORMATION MEETING

Whereas, the city of Charleston, S.C., has notified the Council that the proposed Charleston Center project, an undertaking of the city of Charleston assisted by an Urban Development Action Grant from the U.S. Department of Housing and Urban Development, has been suspended, notice is given that the public information meeting scheduled for September 7, 1978, at 7 p.m., Gaillard Municipal Auditorium, Charleston, S.C., and duly published in the August 23, 1978, FEDERAL REGISTER in accordance with section 800.5(c) of the Council's "Procedures for the Protection of Historic and Cultural Properties", is hereby cancelled.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc. 78-25224 Filed 9-7-78; 8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

TIMBER MANAGEMENT PLAN DANIEL BOONE NATIONAL FOREST KENTUCKY

Notice of Intent to Prepare an Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental statement for the proposed timber management plan for the Daniel Boone National Forest.

Public involvement during the unit planning process indicated interest regarding the forest timber management policies and activities in sensitive areas adjacent to lakes, State wild rivers, primary roads, and trails. Generally, modified forms of management were proposed by the Forest Service in these sensitive areas. Other issues and concerns were expressed by individuals which related to timber management and wildlife management coordination efforts to improve habitat conditions.

Richard H. Wengert, Forest Supervisor, is the responsible official and William A. Williams, Timber Staff Officer, will be the team leader for the environmental assessment and statement.

It is anticipated that the environmental assessment will require about 18 months. The draft environmental statement is scheduled for completion by August 1979, with a two month review period, and the FES is scheduled for filing in February 1980.

Comments on the notice of intent, or on the plan should be sent to the Forest Supervisor, Daniel Boone National Forest, Winchester, Ky. 40391.

Dated: August 30, 1978.

RICHARD H. WENGERT,
Forest Supervisor.

[FR Doc. 78-25269 Filed 9-7-78; 8:45 am]

[3410-15]

Rural Electrification Administration

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Public Information Meetings

Notice is hereby given that the Rural Electrification Administration intends to prepare an environmental impact statement in connection with a possible loan guarantee for Big Rivers Electric Corp., P.O. Box 24, Henderson, Ky. 42420 (hereinafter referred to as "Big Rivers"), which would provide financing for construction of or otherwise acquiring generation facilities and associated transmission lines in the State of Kentucky. In connection with the proposed Big Rivers' project, REA intends to hold public information meetings on September 26-28, 1978, to aid in the Federal decision-making process and formulation of issues to be addressed in the EIS.

Big Rivers has been and is exploring all viable alternatives and their environmental impacts for meeting the increasing power requirements of its member electric distribution cooperatives. Such studies are being conducted in consultation with and using input from Federal, State, and local agencies and officials. The alternatives presently preferred by Big Rivers are (1) a 240-MW coal-fired electric generating unit at the existing Coleman station, or (2) a 350-600-MW coal-fired generating unit on a site with an ultimate capacity of 2,000-2,400-MW at one of four new locations in the State of Kentucky.

In discussions among Federal agencies who may have responsibilites with respect to the proposed project, including REA, the U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service, the Rural Electrification Administration has been tentatively identified as lead agency in the preparation of a joint Federal EIS in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969. REA will consider the need for additional generating capacity and the environmental effects of both structural and nonstructural alternatives. The environmental impact statement will consider the construction of a new 240-MW coal-fired generating unit at the existing Coleman station, a 350-600-MW coal-fired generating unit at a new location capable of supporting an ultimate capacity of 2,000-2,400-MW, and other reasonable alternatives. In addition to the Coleman station site located near Hawesville, Ky, Big Rivers has tentatively identified two areas near Livermore, Ky., and individual sites near Stephensport and Uniontown, Ky., as preferred locations.

Public information meetings shall be held in order to receive public input and comments concerning the need for the project, finalist alternatives and sites proposed by Big Rivers, other potential alternatives, significant issues that should be addressed in the Federal environmental impact statement and other matters concerning the proposal. A representative of the Rural Electrification Administration will act as chairperson for said meetings, and other involved Federal and State agencies have been invited to send representatives. The schedule for the meetings is:

September 26, 1978—7:30 p.m., Cloverport Sports Center, 102 Fourth Street, Cloverport, Ky.

September 27, 1978—7:30 p.m., in the auditorium, McLean County High School, Route 136, Calhoun, Ky.

September 28, 1978—7:30 p.m., Knights of Columbus Hall, Sixth and Mulberry, Uniontown, Ky.

The Rural Electrification Administration encourages the public to attend these meetings and provide their input. Any person, group, or governmental entity which desires to make its comments, questions, and/or recommendations in writing may do so either at the meetings or by submitting them to Mr. Richard F. Richter, Assistant Administrator, Electric,

Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. A record will be made of each meeting and comments made will be responded to in the draft environmental impact statement. In addition, the records of the proceedings will be held open through October 6, 1978.

Any questions prior to the meetings concerning the nature of the project or meetings sould be directed to Big Rivers at the address given above or by calling 502-827-2561.

Any loan or loan guarantee which may be made pursuant to this potential application will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects. Final action will be taken only after compliance with the environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 31st day of August 1978.

DAVID A. HAMIL,
Admininstrator, Rural Electrification Administration.

[FR Doc. 78-25235 Filed 9-7-78; 8:45 am]

[3410-16]

Soil Conservation Service

BRISTOL-PLYMOUTH REGIONAL VOCATIONAL TECHNICAL SCHOOL DRAINAGE R.C. & D. MEASURE, MASSACHUSETTS

Intent Not To Prepare an 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 an environmental impact statement is not being prepared for the Bristol-Plymouth Regional Vocational Technical School drainage R. C. & D. measure, Bristol County, Mass.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Dr. Benjamin Isgur, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this projects.

The measure concerns a plan to provide adequate drainage to approximately 10 acres of land which are being used for athletic activities. The planned works of improvement include installation of approximately 8,600 linear feet of corrugated plastic drainage pipe, land grading to improve the effectiveness of the subsurface and surface drainage systems, and seeding all disturbed areas.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Dr. Benjamin Isgur, State Conservationist, Soil Conservation Service, 29 Cottage Street, P.O. Box 848, Amherst, Mass. 01002, telephone 413-549-0650. 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 are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 10, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: August 30, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-25105 Filed 9-7-78; 8:45 am]

[3410-16]

EAST FORK BUCK CREEK CRITICAL AREA TREATMENT R.C. & D. MEASURE, OHIO

Intent Not To Prepare an 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 an environmental impact statement is not being prepared for the East Fork Buck Creek Critical Area Treatment R.C. & D. Measure, Champaign County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert E. Quilliam, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include installing three grade stabilization structures with joining waterways and placing riprap on approximately 250 feet of streambank. Approximately 0.4 acre of critical area planting will be applied on the areas disturbed by construction. The existing channel will not be altered nor will there be a change of land use.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert E. Quilliam, State conservationist, Soil Conservation Service, 522 Federal Building, 200 North High Street, Columbus, Ohio 43215, telephone 614-469-6962. 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 are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 10, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: August 30, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-25206 Filed 9-7-78; 8:45 am]

[3410-16]

MAMMOTH PARK CRITICAL AREA TREATMENT R.C. & D. MEASURE, PENNSYLVANIA

Intent Not To Prepare an 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 an environmental impact statement is not being prepared for the Mammoth Park critical area treatment R.C. & D. measure, Westmoreland County, Pa.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include soil

conservation practices such as: Diversions, waterways, subsurface drains, riprap, land shaping, seeding, and mulching.

The notice of intent not to prepare and environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Graham T. Munkittrick, State conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pa. 17108, telephone 717-782-2202. 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 are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until October 10, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: August 30, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-25207 Filed 9-7-78; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

NUMBER OF EMPLOYEES, PAYROLLS, RECEIPTS, GEOGRAPHIC LOCATION, CURRENT STATUS, AND KIND OF BUSINESS FOR THE ESTABLISHMENTS OF MULTIESTABLISHMENT COMPANIES

Determination for Surveys

In conformity with title 13, United States Code, sections 182, 224, and 225 and due notice of consideration having been published on July 28, 1978 (43 FR 32845), I have determined that a 1978 Company Organization Survey is needed to update company and establishment changes to the multiestablishment companies in the standard statistical establishment list. The survey is designed to collect information on the number of employees, payrolls, receipts, geographic location, current status, and kind of business for the establishments of multiestablishment companies. The data will have significant application to the needs of the public and to governmental agencies and are not publicly available from nongovernmental or governmental sources.

Report forms will be furnished to firms included in the survey and additional copies of the form are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that a survey be conducted for the purpose of collecting these data.

Dated: September 5, 1978.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc. 78-25266 Filed 9-7-78; 8:45 am]

[4310-10]
[3510-25]

Industry and Trade Administration

BUREAU OF TRADE REGULATION

Proposed Annual Rules

AGENCY: Bureau of Trade Regulation, Industry and Trade Administration, Department of Commerce.

ACTION: Proposed annual rules.

SUMMARY: The Departments are proposing to revise the weights assigned to the factors in the formula for allocation of calendar year 1979 watch quotas among watch assembly firms in Guam and the Virgin Islands (Pub. L. 89-805). They are also proposing that a portion of the quotas in the two territories be allocated among firms performing specified minimum assembly operations or making minimum headnote 3(a) wage contributions during a specified base period. The Departments published proposed production incentives applicable to calendar year 1979 allocation of duty-free watch quotas and invited comments from interested parties in the FEDERAL REGISTER dated June 6, 1978 (43 FR 24566 (1978)).

DATE: Written comments must be received at the address shown below not later than 5 p.m., October 15, 1978. Comments should be filed in duplicate and addressed to: Statutory Import Programs Staff, Bureau of Trade Regulation, room 6894, U.S. Department of Commerce, Washington, D.C. 20230.

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Richard M. Seppa, who can be reached by telephone on 202-377-2925.

SUPPLEMENTARY INFORMATION: In assigning the Departments joint responsibility for allocating the quotas on a fair and equitable basis, Pub. L. 89-805 authorized them "to issue such regulations as they determine necessary to carry out their duties." The legislative history of the Act suggests that the cost of labor involved in the assembly of a watch be taken into account by the Departments in allocating quota because the labor factor "is a measure of the economic contribution being made by the assembly process, and also is an indication of the degree of assembly work being performed in the islands." S. Rep. No. 1679, 79th Cong., 2d Sess. 8 (1966). The Senate report further indicated that in administering the quota law the Departments "may also take into account whatever additional factors they find are warranted."

In enacting the quota the Congress explicitly intended to prevent the duty-free privilege from becoming "little more than a convenient device for funneling foreign watches into this country."

In adhering to the intent of the Congress and the purposes of General Headnote 3(a), Tariff Schedules of the United States (stimulation of the development of light industry), the Departments have since 1967 made quota allocations under formulae which have progressively emphasized labor contributions and, in recent years, corporate income tax payments to the territorial economies.

In order further to strengthen the incentive for all producers to engage in more complete assembly operations, the Departments are proposing to revise the 1979 allocation formula by increasing the weight given the wage factor and reducing the weight given the shipment factor.

Applications from new firms would be invited for the American Samoa quota and for a portion of the Guam quota.

The Departments propose to consider new entrant applications only from firms which can meet the minimum assembly operations or minimum headnote 3(a) wage contribution provision. The Departments further propose to reallocate quota which becomes available during calendar year 1979 only among those firms which perform the minimum assembly operations or satisfy the minimum headnote 3(a) wage contribution provision.

Written comments on the Departments' notice concerning proposed production incentives which were received before the July 15 closing date for comments were considered in the development of these proposed rules. A synopsis and a staff analysis of these comments are available for public inspection and copying.

All public comments to be considered in the development of these rules will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, the official receiving such comments will prepare a memorandum summarizing the sub-

stance of the comments and identifying the individual making the comments as well as the person on whose behalf they are made. All such memoranda will also be a matter of public record and will be available for public review and copying.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the regulations. No comments received after the close of the comment period will be accepted or considered by the Departments in the development of final rules.

The public record on these proposed rules will be maintained in the Industry and Trade Administration, Freedom of Information Records Inspection Facility, Room 3012, Main Building, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4, Title 15 of the code of Federal Regulations. Information regarding the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer, at the above address or by calling 202-377-3031.

Text of Proposed Rules for Calendar Year 1979

Section 1. (a) That portion of the 1979 Virgin Islands quota equal to the ratio of general headnote 3(a) shipments of watches and watch movements from the territory during 1978 to the total 1978 Virgin Islands quota will be allocated on the basis of (1) the dollar amount of wages, up to a maximum of $14,000 per person, paid by each producer during calendar year 1978 to residents of the territory and attributable to each producer's headnote 3(a) watch and watch movement assembly operations, (2) the dollar amount of income taxes paid by each producer during calendar year 1978 attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty payments and less income tax refunds and subsidies paid by the territorial government during calendar year 1978), and (3) the number of units of watches and watch movements assembled in the territory and entered by each producer duty-free into the customs territory of the United States during calendar year 1978.

(b) In making allocations under this formula, a weight of 60 percent will be assigned to the wage factor, a weight of 20 percent will be assigned to the income tax factor, and a weight of 20 percent will be assigned to the shipment factor.

(c) The remaining portion of the 1979 Virgin Islands quota will be allocated among firms performing the minimum assembly operations or making minimum headnote 3(a) wage contributions during the base period. Eligible firms will be allocated quota in accordance with the factors and weights governing allocations under subsection 1(b). Allocations of this portion of the 1979 Virgin Islands quota will be made to firms which:

(1) Assembled all movements shipped during the base period from unassembled movements having at least 26 discrete components; or

(2) Made headnote 3(a) wage contributions during the base period in the territory of not less than $.75 per watch or watch movement (exclusive of any casing operations) shipped into the customs territory of the United States.

Section 2. (a) That portion of the 1979 Guam quota equal to 75 percent of the ratio of calender year 1978 general headnote 3(a) shipments of watches and watch movements from the territory to the total 1978 Guam quota will be allocated to firms on the basis of the factors and weights set forth in subsections 1 (a) and (b).

(b) Except as noted in section 3, the remaining portion of the 1979 Guam quota will be allocated among firms satisfying the criteria established in subsection 1(c) in accordance with the quota formula factors and weights specified in subsections 1 (a) and (b).

Section 3. Quota set aside for new firms under subsection 4(b) shall be subtracted, before allocations are made pursuant to subsection 2(b), from the respective quota amounts allocable under those provisions.

Section 4. Applications from new firms are invited for the calender year 1979 American Samoa quota, because the sole recipient in the territory discontinued operations in calendar year 1977, and a new entrant was not selected under the 1978 new entrant provision (43 FR 4274; 43 FR 10718 (1978)). Due to the limited size of the American Samoa quota, the Departments will allocate that quota to the single firm which offers the best prospect of making a meaningful long-term contribution to the ecomony of the territory.

(b) Applications from new firms are invited for 150,000 units of the calendar year 1979 Guam quota.

(c) Applicants for new-entrant quotes in Guam or American Samoa must complete applicable sections of form ITA-334P, copies of which may be obtained from the Statutory Import Programs Staff, Room 6894, U.S. Department of Commerce, Washington, D.C. 20230. Detailed instructions for completing ITA-334P will be provided by the Statutory Import Programs Staff together with copies of the application form.

(d) The Departments will consider new entrant applications only from firms able to satisfy the Departments that they can meet the minimum assembly or wage contribution criteria established in subsection 1(c). Following the Secretaries' determination that a qualifying application has been received, an announcement will be published in the Federal Register establishing a closing date for further applications. The closing date shall be 30 days from the date of such notice. In the event no qualifying application is received for the Guam new entrant quota prior to September 1, 1979, and existing Guam quota recipients were able to satisfy the criteria established in subsection 1(c) during the base period, a portion or all of the Guam quota set aside for new entrants may be reallocated to the 1979 Guam quota recipients in a manner which in the judgment of the Departments maximizes the economic contributions to the territory.

Section 5. Reallocation of calendar year 1979 quota which becomes available will be restricted to those firms able to satisy the criteria established in subsection 1(c).

Section 6. As used in these rules, (a) "Wages" means all wages up to $14,000 per person paid during the base period to residents of the territories employed in the firm's headnote 3(a) watch and watch movement assembly operations. Excluded, however, are wages paid to (i) accountants, lawyers, or other professional personnel who may render special services to the firm; (ii) persons assembling nonheadnote 3(a) watch movements; (iii) persons engaged in casing operations; and (iv) persons engaged in the repair of nonheadnote 3(a) watches or watch movements. Wages paid to persons engaged both in headnote 3(a) and nonheadnote 3(a) assembly and repair activities shall be credited propertionately to their headnote 3(a) activities provided the firm maintains production and payroll records adequate for the Departments' verification of the headnote 3(a) portion.

With respect to allocations under subsections 1(c) and 2(b) of these rules, total creditable wages will be divided by the total units entered duty-free into the customs territory of the United States during the base period to determine if the $.75 per movement eligibility criterion is satisfied. In determining eligibility for allocations

and reallocations of quota pursuant to the criteria established in subsections 1(c) and 2(b) for firms electing the base period specified in paragraph (c)(ii) below, the Departments shall give credit for wages paid up to a maximum of $3,500 per person.

(b) "Discrete components" means screws, parts, components, and subassemblies (e.g., barrel, barrel bridge, or balance) not assembled onto the mainplate, or not assembled together with another part, component or subassembly at the time of importation into the territory. (A mainplate containing set jewels or shock devices, together with any parts, components or subassemblies fixed to it at the time of importation, would under this definition be considered a single component.) Excluded, however, are dials; dial screws; dial washers; hour wheels; hands; automatic mechanisms and related parts; day-date or special feature devices and related parts; and jewels.

(c) "Base period" refers, in calendar year 1979, to (i) calendar year 1978, or (ii) the period January 1, 1979, through March 31, 1979, for firms so electing.

SECTION 7. All firms must, as a condition for receipt of allocations or reallocations based on subsection 1(c) or 2(b) criteria, certify to the Departments that they will not alter assembly operations during the remainder of calendar year 1979 in a manner which would result in their failure to satisfy the respective criteria.

Dated: September 1, 1978.

STANLEY J. MARCUS,
Deputy Assistant Secretary for Trade Regulation.

Dated: September 5, 1978.

GEORGE R. MILNER,
Director, Office of Territorial Affairs, U.S. Department of the Interior.

[FR Doc. 78-25262 Filed 9-5-78; 1:50 pm]

[3510-13]

National Bureau of Standards

VOLUNTARY PRODUCT STANDARDS NOTICE OF INTENT TO WITHDRAW

In accordance with section 10.12 of the Department's "procedures for the development of voluntary product standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw voluntary product standard PS 3-66, "TFE-fluorocarbon (polytetrafluoroethylene) resin skived tape."

This withdrawal action is being proposed for the reason that PS 3-66 is adequately covered by the American Society for Testing and Materials' standard ASTM D 3308, "standard specification for TFE-fluorocarbon resin skived tape," and duplication is inappropriate and not in the public interest.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standards Development Services, National Bureau of Standards, Washington, D.C. 20234, within 30 days after publication of this notice. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: September 1, 1978.

THOMAS A. DILLON,
Acting Director.

[FR Doc. 78-25225 Filed 9-7-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL Number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314.

Patent 3,905,129: True Dimensioning and Tolerancing Demonstrator; filed May 24, 1974; patented September 16, 1975; not available NTIS.

Patent 4,034,285: Superheterodyne Noise Measuring Discriminators; filed August 30, 1976; patented July 5, 1977; not available NTIS.

Patent 4,035,088: High Energy Laser Beam Sampling Meter; filed August 5, 1975; patented July 12, 1977; not available NTIS.

Patent 4,036,170: Means for Applying Zinc Stearate Coatings to the Bore Surfaces of Ferrous Alloy Tubes; filed October 10, 1975; patented July 19, 1977; not available NTIS.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 743,375: Charge Exchange System; filed November 19, 1976.

Patent 3,932,657: Liposome Encapsulation of Chelating Agents; filed November 12, 1973; patented January 13, 1976; not available NTIS.

Patent 4,017,163: Angle Amplifying Optics Using Plane and Ellipsoidal Reflectors; filed April 16, 1976; patented April 12, 1977; not available NTIS.

Patent 4,017,578: Method for Producing Laser Targets; filed June 12, 1975; patented April 12, 1977; not available NTIS.

Patent 4,021,280: Method of Making Foam-Encapsulated Laser Targets; filed September 2, 1975; patented May 3, 1977; not available NTIS.

Patent 4,031,921: Hydrogen-Isotope Permeation Barrier; filed September 9, 1975; patented June 28, 1977; not available NTIS.

Patent 4,034,032: Method for Foam Encapsulating Laser Targets; filed September 2, 1975; patented July 5, 1977; not available NTIS.

Patent 4,038,125: Method for Mounting Laser Fusion Targets for Irradiation; filed June 18, 1975; patented July 26, 1977; not available NTIS.

Patent 4,054,686: Method for Preparing High Transition Temperature Nb sub 3 Ge Superconductors; filed June 26, 1975; patented October 18, 1977; not available NTIS.

Patent 4,055,782; Method of Enhancing Cyclotron Beam Intensity; filed April 22, 1977; patented October 25, 1977; not available NTIS.

Patent 3,930,405: Method and Means for Measuring Acoustic Emissions; filed September 17, 1974; patented January 6, 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 4,066,819: Method of Bonding Gold Films to Non-Electrically Conducting Oxides and Product Thereby Obtained; filed October 21, 1971; patented January 3, 1978; not available NTIS.

Patent 4,073,590: Laser Total Reflectometer; filed November 18, 1976; patented February 14, 1978; not available NTIS.

Patent 4,0076,524: Reduction in Swelling of Iron Caused by Irradiation; filed November 15, 1973; patented February 28, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application SN 706,073: Method of Controlling Defeat Orientation in Silicon

Crystal Ribbon Growth; filed July 16, 1976.
Patent application SN 894,213: Method and Apparatus for Holding Two Separate Metal Pieces Together for Welding; filed April 6, 1978.
Patent application SN 897,830: Active Nutation Controller; filed April 19, 1978.
Patent application SN 900,842: High-Temperature Microphone System; filed April 28, 1978.
Patent application SN 900,843: Combined Solar Collector and Energy Storage System: filed April 28, 1978.
Patent application 897,831: Portable Heatable Container; filed April 19, 1978.
Patent application 897,832: Underground Mineral Extraction; filed April 19, 1978.
Patent application 900,848: Negative Ion Source; filed April 28, 1978.
Patent application 901,054: Limited Scan Dual-Band High Gain Antenna; filed April 28, 1978.
Patent application 901,055: A Method of Growing a Ribbon Crystal Particularly Suited for Facilitating Automated Control of Ribbon Width; filed April 28, 1978.
Patent application 901,056: Versatile Transponder Receiver; filed April 28, 1978: not available NTIS.
Patent application 906,298: Method and Apparatus for Slicing Crystals; filed May 15, 1978.
Patent application 906,299: Crystaline Polyimides; filed May 16, 1978; not available NTIS.
Patent 4,077,813: Method of Producing Complex Aluminum Alloy Parts of High Temper, and Products Thereof; filed July 26, 1976; filed July 26, 1976; not available NTIS.
Patent 4,077,921: Sprayable Low Density Ablator and Application Process; filed January 19, 1977; patented March 7, 1978; not available NTIS.
Patent 4,078,175: Apparatus for Use in Examining the Lattice of a Semiconductor Wafer by X-Ray Diffraction; filed September 20, 1976; patented March 7, 1978; not available NTIS.
Patent 4,078,290: Stator Rotor Tools; filed November 8, 1976; patented March 14, 1978; not available NTIS.
Patent 4,078,378: Automotive Gas Turbine Fuel Control; filed November 8, 1976; patented March 14, 1978; not available NTIS.
Patent 4,080,901: Molded Composite Pyrogen Igniter for Rocket Motors; filed April 20, 1976; patented March 28, 1978; not available NTIS.
Patent 4,082,001: Non-Destructive Method for Applying and Removing Instrumentation on Helicopter Rotor Blades; filed April 19, 1977; patented April 4, 1978; not available NTIS.

[FR Doc. 78-25208 Filed 9-7-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to procurement list 1978 services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 11, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 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 additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to procurement list 1978, November 14, 1977 (42 FR 59015):

SIC 0782

Grounds maintenance, Department of Transportation, Federal Aviation Administration, New York Tracon Facility, Westbury, N.Y.

SIC 7699

Repair and maintenance of electric typewriters at the following locations:
1. 4300 Goodfellow Boulevard, St. Louis, Mo.
2. MART Building, 12th and Spruce, St. Louis, Mo.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-25268 Filed 9-7-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE MAPPING AGENCY

INTERNAL REALIGNMENT OF DMA ORGANIZATION

AGENCY: Defense Mapping Agency (DMA).

ACTION: Notice of relocation and change of name of DMA Hydrographic Center; change of name of DMA Topographic Center; establishment of the DMA Office of Distribution Services.

SUMMARY: On September 17, 1978, an internal realignment will take effect within the Agency combining the DMA Hydrographic Center and the DMA Topograpohic Center into a single organizational element, the DMA Hydrographic/Topographic Center at Brookmont, Md. At the same time, a new administratively defined component, the DMA Office of Distribution Services, will be established from among existing personnel and resources in DMA.

The changes in designations and addresses are as follows:

	Old	New
Name	DMA Hydrographic Center	DMA Hydrographic/Topographic Center
Location	Suitland Federal Center, Suitland, Md.	6500 Brookes Lane, Brookmont, Md.
Mail address	Washington, D.C. 20390	Washington, D.C. 20315
Name	DMATopographic Center	DMA Hydrographic/Topographic Center
Location	6500 Brookes Lane, Brookmont, Md	6500 Brookes Lane, Brookmont, Md.
Mail address	Washington, D.C. 20315	Washington, D.C. 20315
Name	None	DMA Office of Distribution Services
Location		6101 MacArthur Blvd., Brookmont, Md.
Mail address		Washington, D.C. 20315

Effective date: These changes shall become effective on September 17, 1978.

AUGUST 31, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-25204 Filed 9-7-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Release No. 3]

MANDATORY OIL IMPORT PROGRAM

Oil Import Allocations and Licensing August 1-31, 1978

The fee-exempt allocations and licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period August 1-31, 1978, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR part 213 under which the allocations are made.

Also published is a tabulation of the fee-paid crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil and unfinished oil licenses issued during the month of August 1978.

Previous releases were published in the FEDERAL REGISTER on July 20, 1978 (43 FR 31192) and on August 9, 1978 (43 FR 35376). These releases covered the issuance of allocations and licenses for the period from the beginning of the current allocation year, May 1, 1978, through July 31, 1978. The releases will continue to be issued on a monthly basis.

Dated: September 1, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

INDEX

Table and Title

U.S. DEPARTMENT OF ENERGY

OFFICE OF OIL IMPORTS ALLOCATION, AUGUST 1-31, 1978

TABLE 1.—*Oil import licenses sold pursuant to sec. 213.22(d)*

Seller	Buyer	Date	Commodity	Barrels sold
	DISTRICT I-IV			
Western Refinery Co	Western Crude Oil, Inc	Aug. 3, 1978	Crude	418,000
Natural Cooperative Refinery	Getty Refinery Co	do	do	2,000,000
Rancho Refinery Co	Crown Central Petroleum	do	do	154,395
E. I. du Pont	Ashland Oil Co	do	do	1,110,930
Mt. Airy Refinery	Getty Refinery & Marketing	Aug. 7, 1978	do	2,006,480
Getty Refinery & Marketing	Texaco, Inc	do	do	447,563
E. I. du Pont	Amoco Oil Co	do	do	134,028
Do	do	do	do	134,028
Do	do	do	do	1,070,107
Monsanto Co	do	Aug. 10, 1978	do	500,000
Dow Chemical	do	do	do	2,936,202
Erickson Refinery Co	Ashland Oil Co	do	do	2,000,000
Do	Coastal States Gas	do	do	4,094,405
Placid Refinery	Shell Oil	Aug. 28, 1978	do	3,000,000
LaJet Inc	Crown Central	do	do	1,500,000
Southern Union Refinery	Amoco Oil	do	do	220,000
Do	do	do	do	101,930
	do	do	do	3,678,070
	DISTRICT V			
Kern County Refinery	Coastal States Gas	Aug. 24, 1978	Crude	575,000
Do	do	do	do	575,000
Do	do	do	do	447,605

TABLE 2.—*Canadian crude oil—Exchange of material not allocated under pt. 214, sec. 213.28 (b)*

Company	Address	Exchange volume licensed total barrels
Amoco Oil	Chicago, Ill	1,642,500
Shell Oil	Houston, Tex	7,300,000

TABLE 3.—*Crude and unfinished oils—refinery sec. 213.29*

Company	Plant location	On-stream date	1977 inputs B/CD	Allocation total barrels
Ergon Inc	Vicksburg, Miss	Sept. 1 1978		1,815,145
Peerless Petro-Chemicals, Inc	Ponce, P.R	July 27, 1978	8,027	2,197,300
*Gulf Oil Corp	Philadelphia, Pa	Oct. 1, 1976	14,231	3,895,645

*Reflects upward adjustment to original allocation.

TABLE 4.—*Fee-paid licenses issued pursuant to sec. 213.35*

Company	Date	License quantity total barrels
CRUDE OIL PREPAID		
Horizon Petroleum	Aug. 7, 1978	139,000
CRUDE OIL—BOND-POSTED		
Shell Oil	July 31, 1978	10,000,000
Texas City Refinery Inc	Aug. 1, 1978	2,300,000
Champlin Petroleum Co	Aug. 3, 1978	940,000
Gulf Oil Co	Aug. 7, 1978	1,000,000
Mobil Oil Corp	do	10,000,000
Getty Refinery & Marketing	Aug. 8, 1978	9,000,000
Koch Independent	Aug. 10, 1978	2,200,000
Shell Oil Co	Aug. 14, 1978	10,000,000
Texaco, Inc	Aug. 15, 1978	12,400,000
Continental Oil Co	do	16,000,000
National Cooperative Refinery Association	Aug. 16, 1978	1,000,000
Sohio Natural Resources	do	10,000,000
Marathon Oil Co	do	5,000,000
Gulf Oil. Co.—U.S.	Aug. 21, 1978	10,000,000
Sun Oil Co. of Pa	Aug. 23, 1978	10,000,000
Energy Cooperative Inc	Aug. 24, 1978	4,285,000
Occidental Petroleum, Inc	do	1,804,752
FINISHED PRODUCTS—PREPAID		
Cosden Oil & Chemical Co	Aug. 1, 1978	2,952
Keyser International, Inc	do	1,300
American Hoeshst Corp	Aug. 3, 1978	2,500
E. I. du Pont de Nemours	do	520
Americhem Corp	Aug. 7, 1978	10,000
Industrial Solvents Corp	do	40,000
UCO Oil Co	Aug. 16, 1978	131,000
Industrial Solvents Corp	Aug. 21, 1978	40,000
Mattiace Petrochemicals	do	5,000
Sterling Oil & Chemical Co	Aug. 23, 1978	3,000
Burlington Building & Supply	Aug. 29, 1978	1,500
FINISHED PRODUCTS—BOND POSTED		
Atlantic Richfield	Aug. 1, 1978	525
Union Oil Co. of Calif	do	200,000
Do	do	100,000
Atlantic Richfield	Aug. 3, 1978	2,380
BASF Wyandotte	Aug. 7, 1978	500,000
Safety Kleen Corp	Aug. 8, 1978	24,000
Western Trading	Aug. 9, 1978	100,000
Vistron Corp	Aug. 10, 1978	1,100,000
Marathon Oil	Aug. 16, 1978	1,000,000
Central Solvents & Chemical Co	do	2,381
Chevron U.S.A.	Aug. 17, 1978	1,000,000
Good Hope Independent	Aug. 21, 1978	555,555
Esso Standard Oil Co. (PR)	Aug. 23, 1978	400,000
Irving Oil	do	200,000
Northville Industry	Aug. 29, 1978	300,000
Petrosar, Ltd	do	310,000
Western Trading Co	Aug. 30, 1978	16,000
Petro Tex Chemical	Aug. 31, 1978	200,000
Public Service Electric	do	1,000,000

[FR Doc. 78-25194 Filed 9-7-78; 8:45 am]

[3128-01]

OFFICE OF GENERAL COUNSEL

Requests for Interpretation; Month of August 1978

Notice is hereby given that during the month of August 1978, the requests for interpretation listed in the appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F, with the Office of General Counsel, Department of Energy (DOE). Notice of subsequently received requests will be published at the end of each calendar month. Copies of the requests for interpretation listed herein are on file in DOE's Public Reading Room, Information Access Office, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested parties may submit written comments on the listed interpretation requests on or before October 10, 1978. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Office of General Counsel, Department of Energy, Room 5134, 12th and Pennsylvania Avenue NW., Washing-

ton, D.C. 20461, Attention: Diane Stubbs. Aggrieved parties, as defined in 10 CFR 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information, contact Diane Stubbs, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9070.

EZRA C. LEVINE,
Acting Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

SEPTEMBER 1978.

APPENDIX.—*List of requests for interpretation received by the Office of General Counsel*

[Month of August 1978]

Date received	Name and location of requestor	File No.
Aug. 4	Continental Oil Co., Allen L. Cleveland, Conoco, P.O. Box 2197, Houston, Tex. 77001. Issue: What is the proper treatment of costs incurred under crude oil processing agreements in a firm's calculation of maximum allowable prices pursuant to 10 CFR Pt. 212, Subpt. E?.	A-342
Aug. 9	Monsanto Co., Arthur Wright, 800 North Lindbergh Blvd., St. Louis, Mo. 63166. Issue: Does Monsanto bear the sole responsibility under the mandatory allocation and petroleum price regulations to account for the operations of an existing ethlyene facility during the "Construction Phase" of a proposed joint venture agreement?.	A-343
Aug. 17	Farmers Union Central Exchange, Inc., James M. Day, Cotten, Day & Doyle, 1200 18th Street NW., Washington, D.C. 20036. Issue: Are the sales by Cenex, a cooperative corporation, to its member and nonmember purchasers exempt from the mandatory petroleum price regulations? If not, may the Patronage dividends made by Cenex to its patrons be included in the computations of "price" as defined in 10 CFR 212.31?.	A-344
Aug. 22	Diamond Shamrock, Jerry D. King, P.O. Box 631, Amarillo, Tex. 79173. Issue: (1) Whether sales of crude oil at acquisition cost plus gathering and transportation charges incurred to the point of sale are deemed to be inventory adjustment or accommodation sales and whether such sales are included in determining the permissible average markup under 10 CFR 212.181. (2) Whether a purchaser's certification statement as to the price charged by a reseller satisfies 10 CFR 212.183 (a) and (c).	A-345

[FR Doc. 78-25198 Filed 9-7-78; 8:45 am]

[3128-01]

Office of Hearings and Appeals

ISSUANCE OF PROPOSED DECISIONS AND ORDERS.

August 7 through August 11, 1978

Notice is hereby given that during the period August 7 through August 11, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that office. Amendments to the DOE's procedural regulations, 10 CFR part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (Sept. 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the public docket room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

MELVIN GOLDSTEIN,
DIRECTOR,
Office of Hearings and Appeals.

AUGUST 30, 1978.

PROPOSED DECISIONS AND ORDERS

Adobe Oil & Gas Corp., Franklin County, Tex., DEE-0907, Crude Oil

Adobe Oil & Gas Corp. filed an application for exception from the provisions of 10 CFR part 212, subpart D. The exception request, if granted, would permit Adobe to sell a portion of the crude oil produced from the J. S. Bagwell lease at upper-tier ceiling prices. On August 10, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Crystal Petroleum Co., Corpus Chirsti, Tex., FEE-4108, Motor Gasoline

Cyrstal Petroleum Co. filed an application for exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Crystal to increase the prices of motor gasoline which it is permitted to charge to the city of Corpus Christi, Tex. The firm also requested retroactive relief which, if granted, would permit it to retain revenues that it has realized from charging Corpus Christi prices in excess of the levels permitted under the manadatory petroleum price regulations. On August 8, 1978, the DOE issued a proposed decision and order in which it determined that the firm's request for retroactive and prospective relief should be granted in part.

Keener Oil Co., Tulsa, Okla., DXE-1407, Crude Oil

Keener Oil Co. filed an application for exception from the provisions of 10 CFR part 212, subpart D. The exception request, if granted, would result in an extension of the relief previously granted and would permit Keener to receive upper-tier ceiling prices for a portion of the crude oil which the firm produces and sells from the No. 1 well on the Lizzie-Orwig lease. On August 9, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Monsanto Co., Houston, Tex., DXE-1424, DXE-1425, Crude Oil

Monsato Co. filed an application for exception from the provisions of 10 CFR part 212, subpart D. The exception request, if granted, would result in an extension of relief previously granted and would permit Monsato to sell the crude oil which the firm produces from the Milo No. 1 and State 16 No. 1 wells at upper-tier ceiling prices. On August 8, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Union Oil Co. of California, Orange County, Calif., DEE-1024, Crude Oil

Union Oil Co. of California filed an application for exception from the provisions of 10 CFR part 212, subpart D. The exception request, if granted, would permit Union to regard a portion of the crude oil produced from the West Richfield Chapman zone unit as crude oil which may be sold at upper-tier ceiling prices. On August 10, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

[FR Doc. 78-25193 Filed 9-7-78; 8:45 am]

[6560.01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 961-5]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on August 15, 1978, the Environmental Protection Agency received an application from Columbia Scientific Industries, Austin, Tex., to determine if its model 2000 Ozone Meter should be designated by the Administrator of the EPA as a reference method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

Dated: September 1, 1978.

STEPHEN J. GAGE,
Assistant Adminstrator for Research and Development.

[FR Doc. 78-25176 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 936-6]

BISCAYNE AQUIFER SYSTEM OF FLORIDA

Request for EPA Determination Regarding Aquifers

Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) authorizes the Administrator of the Environmental Protection Agency (EPA) to determine, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health. After such a determination is made, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health.

A petition has been submitted, requesting the Administrator to determine that the Biscayne aquifer system of southeastern Florida is the sole or principal drinking water source of Dade, Broward, and Monroe Counties and the southeastern portion of Palm Beach County in South Florida, and that contamination of this source would create a significant hazard to public health. This petition, submitted in the form of an application document to Mr. John C. White, Regional Administrator, EPA Region IV, is reprinted in part as submitted:

AN APPLICATION TO THE ADMINISTRATOR OFTHE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REQUESTING

That the Biscayne aquifer and appropriate related areas be designated as a sole source aquifer area, as provided by section 1424(e) of the Federal Safe Drinking Water Act.

PETITION SUBMITTED BY

Joseph E. Podgor, Jr., Nancy Carroll Brown, Majory Stoneman Douglas, Marilyn Reed, Daniel F. Jackson, Ph. D., Pamela Pierce and Michael F. Chenoweth.

MAY 8, 1978

Interest in the Administrator's determination:

"We, the petitioners perceive an urgent necessity for Federal protection of the Biscayne aquifer and the South Florida regional watershed for the following seasons:

"1. The most productive areas of the Biscayne aquifer are already intensively developed, thus severely limiting available recharge sources.

"2. The various land use plans of the affected counties are unable to adequately prevent further intensive development in the remaining aquifer recharge areas, as local governments can neither deny all beneficial uses of land nor compensate land owners in such a large area.

"The uncertain and conflicting objectives and technologies contained in the South Florida water management district water use plan and the water element of the State land use plan are insufficient to protect the recharge area of the Biscayne aquifer on a regional basis.

"Increasing population and agricultural demands on the aquifer are not compensated by additional fresh water supplies.

"The need for continuing drainage of fresh water for flood control presents a conflict with the need for more fresh water for human consumption and agricultrual use.

"6.Dade County's $97 million improvement to its water supply system will draw from the limited remaining productive areas of the Biscayne aquifer and should not be jeopardized by other projects.

"7. Due to costs, consumption and unreliable supply of fossil fuel to power reverse osmosis, distillation and dialysis, these technologies are not an acceptable alternative fresh water supply for a population as large as that dependent on the Biscayne aquifer.

"8.There currently exists no mechanism to provide the necessary protection of the water of the Biscayne aquifer and its sources, which effectively addresses the aforementioned problems, and which provides the level of protection commensurate with the unique geologic constraints of South Florida.

Therefore, as members of the consumers population served by the waters of the Biscayne aquifer, we affirm our rights to the existing low cost, high quality source of drinking water that we now enjoy, and we seek further protection of that resource to secure these basic rights."

EPA intends to reach a decision on the requested determination at the earliest time consistent with a complete review of the relevant data and information, and a full opportunity for public participation. In this regard, the Agency solicits comments, data, and references to additional sources of information which will contribute to the factural record. In particular, EPA seeks information relevant to (a) that portion of the hydrogeologic system comprising the Biscayne aquifer of Florida which should be designated for protection as an aquifer which provides drinking water; (b) the surface boundary of the recharge area for the aquifer; (c) the boundary of the recharge source zone, that is, any area which drains into the recharge zone and thus contributes to the recharge of the aquifer; (d) the location and influence of natural and manmade features which are important to the recharge or local runoff; (e) the location of impermeable formations, the runoff from which contributes to the recharge of the aquifer; (f) any current or anticpated Federal financially assisted projects which may cause contamination of the aquifer; and (g) any other information deemed relevant to the determination.

Comments, data and reference should be submitted in writing to the Regional Administrator, Region IV, Environmental Protection Agency, 345 Courtland Street, Atlanta, Ga. 30308, Attention: Biscayne aquifer designation, on or before November 7, 1978. Information which is available to the Agency concerning the Biscayne aquifer system of Florida, including information submitted by the petitioners, will be available to the public for study at this address. Further information may be obtained from: Donald H. Taylor, Water Supply Branch, Water Division, EPA Region IV, 404-881-3781.

In addition to considering public comments sent to EPA, the Agency will hold at least two public hearings within the 60 day comment period. Persons who intend to make statements at these hearing are urged to give notice of their intent by telephone at least five (5) days before the hearings are scheduled. If possible, written copies of statements should be

submitted at the time they are presented for inclusion in the record.

Dated: August 30, 1978.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 78-25177 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 960-8; OPP-180226]

MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION

Issuance of a Specific Exemption To Use Guthion To Control the Carrot Weevil

The Environmental Protection Agency (EPA) has granted a specific exemption to the Maryland Department of Environmental Protection (hereafter referred to as the "applicant") to use azinphos methyl (Guthion) on 700 acres of carrots for the control of the carrot weevil in Maryland. This exemption was granted in accordance with, and is subject to, provisions of 40 CFR part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

Carrot weevil larvae tunnel in the tap root of carrots, leaving rust-colored feeding trails. Larval feeding early in the season results in mortality of seedling carrots, reducing the row-density. Later injury reduces the quality of market carrots, rendering many unmarketable. Further losses occur when carrots are placed in cold storage due to increased incidence of storage rot disease organisms (fungi and bacteria) which enter the carrots through weevil larvae feeding tunnels.

There appear to be neither alternative registered pesticides nor nonchemical methods of control available to control this insect. The applicant proposed to apply azinphos methyl (Guthion) at the rate of one-half pound active ingredient per acre in 3 gallons of water for aerial application, or in 30-40 gallons for ground applications. Later in the season, 80 gallons of water may be used as a diluent for ground application. State-certified commercial applicators and growers may make up to six applications.

The applicant estimated that Maryland carrot growers could experience an economic loss of $360,000 as a result of damage caused by the carrot weevil.

Although DDT was used and provided good control prior to its cancellation, no pesticides are currently EPA-registered to control the carrot weevil. Data are available to indicate that azinphos methyl is efficacious in controlling the carrot weevil on root parsley at a rate of one-half pound active ingredient (a.i.) per acre. Residues of Guthion on carrot roots are not expected to exceed 0.5 ppm from the proposed use. The fate of Guthion inplants has been adequately defined and there is no expectation of residues in meat, milk, eggs, or meat byproducts as a result of this use.

The Fish and Wildlife Service of the U.S. Department of the Interior has advised EPA that it has no objection to this limited use of azinphos methyl.

After reviewing the application and other available information, EPA has determined that: (a) A pest outbreak of carrot weevils has occurred; (b) there is no pesticide presently registered and available for use to control the carrot weevil in Maryland; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the carrot weevils are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until September 20, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following restrictions:

1. The product Guthion 2S (azinphos methyl), EPA Reg. No. 3125-123, manufactured by Chemagro Agricultural Division, is authorized;

2. Application may be made at a rate of one-half pound a.i. per acre in 3 gallons of water for aerial application, or in 30-40 gallons water for ground application. Later in the season, 80 gallons water may be used as a diluent for ground application;

3. A maximum of 700 acres of carrots may be treated;

4. A maximum of 2,100 pounds a.i. may be applied;

5. A maximum of six applications may be made;

6. Application shall be made by State-certified commercial applicators and growers;

7. An entomology specialist of the University of Maryland, or personnel under his supervision, and growers will make all recommendations of treatment based on surveys of infestations;

8. A label restriction shall prohibit the use of treated carrot tops for food or feed;

9. Residues of azinphos methyl not exceeding 0.5 ppm in or on carrots has been determined as adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. All label precautions shall be followed;

11. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program;

12. The applicant will be responsible for insuring that all provisions of this specific exemption are followed; and

13. A final report summarizing the results of this program shall be submitted to EPA by December 31, 1978.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq.).)

Dated: August 31, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-25185 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 962-4]

PITTSTON CO.

Approval of Prevention of Significant Deterioration (PSD) Permit

Notice is hereby given that on August 18, 1978, the Environmental Protection Agency issued a prevention of significant deterioration (PSD) permit to the Pittston Co. to construct a fuel refinery and deepwater marine terminal at Eastport, Maine. this permit has been issued under EPA's prevention of significant deterioration regulations (40 CFR 52.21), subject to certain conditions, including:

1. The fuel used at the refinery be limited to 0.18-percent sulfur content.

2. Friar Roads not be used as an anchorage.

3. Fuel for crude carriers be limited to 0.15-percent sulfur content.

4. Fuel for other ships and tugs be limited to 0.30-percent sulfur content.

5. The sulfur dioxide emission from the refinery not exceed 846 pounds per hour.

This PSD permit approval is reviewable under section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before November 7, 1978.

Copies of the PSD permit are available for public inspection at the following locations:

Eastport Public Library, Eastport, Maine 04631.

Maine Department of Environmental Protection, State Avenue, Augusta, Maine 04330.

Environmental Protection Agency, Region I, J.F.K. Federal Building, Boston, Mass. 02203.

Dated: August 31, 1978.

ROBERT C. THOMPSON,
Acting Regional Administrator,
EPA-Region I.

[FR Doc. 78-25340 Filed 9-7-78; 8:45]

[6560-01]

[FRL961-2]

STAGE I VAPOR RECOVERY IN DALLAS-FORT WORTH, TEX., AREA

Enforcement Policy

On July 21, 1977, the Administrator of the Environmental Protection Agency promulgated regulations designed to reduce hydrocarbon emissions and thereby to assist in attainment of the national ambient air quality standard for photochemical oxidants in several areas in Texas. One of these regulations requires recovery of hydrocarbon vapors emitted during the filling of gasoline storage containers in eleven counties in the Dallas-Fort Worth area. 40 CFR 52.2286 (42 FR 37381). The counties affected are Dallas, Tarrant, Denton, Wise, Collin, Parker, Rockwall, Kaufman, Hood, Johnson, and Ellis.

The regulation prohibits the transfer of gasoline from delivery vessels, such as tanker trucks, into storage containers, including those found at gasoline stations, unless the storage containers are equipped with certain types of vapor control equipment. The delivery vessels must also be equipped to control vapor loss.

The regulation established a schedule for the orderly installation of the necessary equipment, beginning with issuance of contracts by September 30, 1977. Completion of installation is required by August 31, 1978.

Information is being received that a substantial number of relatively small gasoline stations will not have completed equipment installation by August 31, 1978. They are, for that reason, subject to being cut off from further gasoline deliveries by suppliers. It also appears that contractors in the area have neither time nor equipment to install by August 31, 1978.

EPA has flexibility and discretion in the manner in which it chooses to enforce the regulation. In an exercise of that discretion, the Agency has determined that compliance schedules may be approved for those sources not in compliance by August 31, 1978, if the source immediately gives notice to EPA of its inability to comply and submits an application for a compliance schedule.

Such application must: (1) Provide the applicant's name, a detailed description of the storage containers, and the street address of the facility; (2) establish a timetable for installation of the control equipment, with final compliance as expeditious as practicable but no later than November 30, 1978; (3) include a copy of purchase orders or contracts which document a commitment to purchase or install vapor recovery equipment no later than November 30, 1978; and (4) specify the reasons why the facility was unable to comply by August 31, 1978. Compliance schedules may be requested only for sources in operation on August 31, 1978. Any new source beginning operation after that date must be in compliance on the date operation begins.

Any request for an extended compliance schedule must show compliance in as expeditious a manner as possible. In no case will final compliance be approved later than November 30, 1978.

EPA has determined that it will exercise its enforcement discretion by not seeking penalties from the owner or operator of a storage container subject to 40 CFR 52.2286 provided that all of the following conditions are met:

1. The storage container was in operation, but not in compliance with 40 CFR 52.2286 on August 31, 1978.

2. The owner or operator of the storage container has submitted an application for a compliance schedule, specifying a final compliance date not later than November 30, 1978.

3. The final compliance date in the schedule has not been reached.

4. The application was postmarked no later than September 10, 1978. For applications postmarked after September 10, no penalties will be sought for the period commencing on the date of the application postmark.

5. The application contains all information required in the foregoing paragraph.

6. The application has not been disapproved.

In order to protect owners and operators of delivery vessels who deliver gasoline to storage containers covered by extended compliance schedules, EPA has determined that it will exercise its enforcement discretion with respect to them. Penalties will not be sought from the owner or operator of a delivery vessel who delivers gasoline to a storage container covered by a compliance schedule provided that he submits to EPA, within 10 days after each such delivery, the following information:

1. The name of the owner or operator of the storage container and the street address of the container.

2. The date on which the delivery was made; and

3. The name of the person who supplied information to the supplier that an application for a compliance schedule had been submitted to EPA and had not been denied.

Any questions and all applications and information described above should be directed to the Chief, Air Compliance Branch, Enforcement Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Tex. 75270.

Dated: August 31, 1978.

ADLENE HARRISON,
Regional Administrator.

[FR Doc. 78-25232 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 962-1]

PRIVACY ACT OF 1974

Proposed New System of Records

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of proposed new system of records.

SUMMARY: As required by law (5 U.S.C. 552a) the U.S. Environmental Protection Agency is publishing for comment a new system of records that is maintained by the Agency. The proposed new system is "statements of known financial interests."

EFFECTIVE DATE: This system shall become effective as proposed without further notice on September 29, 1978, unless comments are received on or before September 29, 1978, which would result in a contrary determination.

ADDRESS: Send comments to the Office of General Counsel, Grants, Contracts and General Administration Division (A-134), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. James Nelson, Grants, Contracts, and General Administration (A-134), Office of General Counsel, Washington, D.C. 20460, 202-755-0794.

SUPPLEMENTARY INFORMATION: Reports describing this system of records have been filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget in accordance with 5 U.S.C. 552a(o) of the Privacy Act.

September 5, 1978.

WILLIAM DRAYTON, Jr.,
Assistant Administrator for
Planning and Management.

EPA—12

System name:

Statements of Known Financial Interests

System location:

(a) Agency Counselor, Deputy Counselors, and Public Information Reference Unit; EPA, 401 M Street SW., Washington, D.C. 20460.
(b) EPA, John F. Kennedy Federal Building, Boston, Mass. 02203.
(c) EPA, 26 Federal Plaza, New York, N.Y. 10007.
(d) EPA, 6th and Walnut Streets, Philadelphia., Pa. 19106.
(e) EPA, 345 Courtland Street, Northeast, Atlanta, Ga. 30308.
(f) EPA, 230 South Dearborn Street, Chicago, Ill. 60604.
(g) EPA, 1201 Elm Street, First International Building, Dallas, Tex. 75270.
(h) EPA, 1735 Baltimore Avenue, Kansas City, Mo. 64108.
(i) EPA, Lincoln Tower Building, 1860 Lincoln Street, Denver, Colo. 80203.
(j) EPA, 215 Fremont Street, San Francisco, Calif. 94105.
(k) EPA, 1200 Sixth Street, Seattle, Wash. 98101.
(l) EPA, Research Triangle Park, N.C. 27711.
(m) EPA, Laboratory, 26 West St. Clair, Cincinnati, Ohio 45268.

Categories of individuals covered in the system:

EPA employees performing functions or duties under the Toxic Substances Control Act, the Solid Waste Disposal Act, the Clean Air Act, and the Environmental Research, Development, and Demonstration Authorization Act of 1978, unless specifically exempted by regulations in 40 CFR Part 3.

Categories of records covered in the system:

Contains EPA Form 3120-4.

Authority for maintenance of the system:

15 U.S.C. 2625; 42 U.S.C. 6906; 42 U.S.C. 7618; and Section 12, Pub. L. 95-155, 91 Stat. 1257; and 40 CFR 3, §§ 3.305, 3.306, 3.307, and 3.308.

Routine uses of records maintained in the system; including categories of users and the purpose of such use:

Records are evaluated for possible conflicts of interest in accordance with law (18 U.S.C. 208) prohibiting Federal employees participation in official activities where there is a conflicting interest and Agency regulations in 40 CFR Part 3. Records are required by statute to be available to the public for inspection and copying.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

By name under the particular statute.

Safeguards:

Records are maintained in locked limited access file cabinets, except in the Public Information Reference Unit where the records are available for public inspection and copying in open files.

Retention and disposal:

Records maintained until employee leaves the Agency then destroyed, except records in the Public Information Reference Unit which are maintained indefinitely.

System manager(s) and address:

For records at (a) Agency Counselor, Deputy Counselors, and Public Information Reference Unit (address as given in system location above). For records at (b) to (m) Regional Administrators (address as given in system location above).

Notification procedure:

Inquiries may be addressed to system manager.

Record access procedures:

Requests should be addressed to system manager.

Contesting records procedure:

Requests should be addressed to system manager.

Record source categories:

Information in this system comes from the invididual to whom it applies.

Systems exempted from certain provisions of the Act:

Pursuant to 5 U.S.C. 552a(k)(5), all information and material which meets the criteria of these subsections are or may be exempted from notice, access, and contest requirements.

[FR Doc. 78-25338 Filed 9-7-78; 8:45 am]

[6560-01]

[FRL 962-3; PP 6G1690/T161]

EXTENSION OF TEMPORARY TOLERANCES

Oxyfluorofen

On September 20, 1977, the Environmental Protection Agency (EPA) announced (42 FR 47245) the renewal of temporary tolerances for combined residues of the herbicide oxyfluorofen (2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-trifluoromethyl benzene) and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities almonds, apricots, grapes (intended for the fresh-fruit market only), nectarines, peaches, and plums (fresh prunes) (intended for the fresh-fruit market only) at 0.05 part per million (ppm). These tolerances were established (41 FR 18707) in response to a pesticide petition (PP 6G1690) submitted by Rohm & Haas Co., Independence Mall West, Philadelphia, Pa. 19105. this renewal will expire September 12, 1978.

Rohm & Haas Co. requested a 1-year extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm & Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Foods and Drug Administration.

These temporary tolerances expire August 15, 1979. Residues not in excess of 0.05 ppm remaining in or on almonds, apricots, grapes (intended for the fresh fruit market only), nectarines, peaches, and plums (fresh prunes) (intended for the fresh-fruit market only) after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, Room 320, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: September 1, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

[FR Doc. 78-25332 Filed 9-7-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Correction

Adopted: September 1, 1978.

Released: September 5, 1978.

By the Chief, Broadcast Facilities Division.

For the following document: TV broadcast applications ready and available for processing pursuant to section 1.572(c) of the Commission's rules.

The following, entry which inadvertently appeared on the public notice, mimeo No. 6630, released August 29, 1978 (43 FR 39424), listing commercial television broadcast applications which will be considered as ready and available for processing on October 11, 1978, is hereby deleted:

BPCT-5205 (new), Louisville, Ky., Word Broadcasting Network, Inc., Channel 21. ERP Vis. 1400 kW; HAAT 1002 ft.

This deletion is necessary because the public notice, mimeo No. 98405, released March 22, 1978, provided that applications for channel 21, Louisville, Ky., must be tendered for filing by the close of business on May 22, 1978. The application (BPCT-5205) of Word Broadcasting Network was timely filed and will be considered. Accordingly, no additional applications may be tendered for channel 21, Louisville, Ky.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-25275 Filed 9-7-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

DEARMIN BANCORP, INC.

Formation of Bank Holding Company

Dearmin Bancorp, Inc., Odon, Ind., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank of Odon, Odon, Ind. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 28, 1978.

Board of Governors of the Federal Reserve System, August 30, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-25256 Filed 9-7-78; 8:45 am]

[6210-01]

FIRST SECURITY CORP.

Acquisition of Bank

AUGUST 31, 1978.

First Security Corp., Salt Lake City, Utah, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(3)) to acquire 99.67 percent of the voting shares of First Security Bank of Twelfth Street, Ogden, Utah, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 29, 1978.

Board of Governors of the Federal Reserve System, August 31, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-25257 Filed 9-7-78; 8:45 am]

[6210-01]

MARSHALL & ILSLEY CORP.

Acquisition of Bank

Marshall & Ilsley Corp., Milwaukee, Wis., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842(a)(3)) to acquire 80 percent or more of the voting shares of western State Bank, Oshkosh, Wis. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 29, 1978.

Board of Governors of the Federal Reserve System, August 30, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-25258 Filed 9-7-78; 8:45 am]

[6210-01]

TEXAS PANHANDLE BANCSHARES, INC.

Formation of Bank Holding Co.

Texas Panhandle Bancshares, Inc., Borger, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less director's qualifying shares) of Panhandle Bank & Trust Co., Borger, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 2, 1978.

Board of Governors of the Federal Reserve System, August 31, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-25259 Filed 9-7-78; 8:45 am]

[4110-39]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

PANEL FOR THE REVIEW OF LABORATORY AND CENTER OPERATIONS

Closed Meeting

Notice is given that the next meeting of the Panel for the Review of Laboratory and Center Operations will be held on September 23 and 24, 1978, at the Executive Tower Inn in Denver, Colo. On both days of the meeting, the sessions will be closed to the public in accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463 and 5 U.S.C., section 552b(c)(6) and 9(B).

The reasons for closing this meeting are to discuss: (1) Recent site visits to

the laboratories and center that will include individual laboratory and center personnel matters which if discussed in public would constitute a clearly unwarranted invasion of personal privacy, and (2) particular or general recommendations in the drafting of the final report on policy for the support of the laboratories and centers which if discussed in public would prematurely disclose the Panel's final recommendations to the Director and would likely impede NIE's ability to implement those recommendations. In particular, such premature disclosure would undermine the fair competitive basis for awards and would possibly endanger the stability of the institutions involved.

The Panel was created under section 405 of the General Education Provisions Act, as amended by section 403(d) of the Education Amendments Act of 1976, 20 U.S.C. 1221e, to review proposals submitted by the laboratories and centers to NIE for funding; review the operations of the laboratories and centers; and submit a final report to the NIE Director and the Congress. A summary of the activities discussed at the closed meeting on September 23 and 24, 1978, which are informative to the public consistent with the policy of 5 U.S.C. 552b(c) will be available to the public after approval of the minutes. Minutes require approval by the Panel at a subsequent meeting and are available to the public two weeks following their approval. Copies of the records of all Panel proceedings can be obtained by contacting the Panel staff office at the address below.

Panel for the Review of Laboratory and Center Operations, National Institute of Education, 1200 19th Street NW., Room 714, Washington, D.C. 20208, 202-254-5680.

Dated: September 7, 1978.

GRADY MCGONAGILL,
Staff Director, Panel for the Review of Laboratory and Center Operations.

[FR Doc. 78-25561 Filed 9-7-78; 10:12 am]

[4110-08]

National Institutes of Health

DECLINE IN CORONARY HEART DISEASES

Conference

Notice is hereby given of the conference on the decline in coronary heart diseases sponsored by the National Heart, Lung, and Blood Institute, Division of Heart and Vascular Diseases, October 24 and 25, 1978, National Institutes of Health, Building 31, Conference Room 6, Bethesda, Md. 20014.

This conference will be open to the public from 8:30 a.m. to 5 p.m. The purpose of the conference is to identify possible reasons for the recent decrease in coronary heart disease mortality and to suggest potential approaches to elucidate the real causes. Attendance by the public will be limited to space available.

Dr. Richard Havlik, Medical Officer, Epidemiology Branch, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, NIH, Federal Building, Room 2008, Bethesda, Md. 20014, 301-496-2327, will provide additional information.

Dated August 30, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25219 Filed 9-7-78; 8:45 am]

[4110-08]

DENTAL CARIES PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Dental Caries Program Advisory Committee, National Institute of Dental Research, on October 5-6 1978, National Institutes of Health, Building 31-C, Conference Room 7, Bethesda, Md.

The entire meeting will be open to the public from 1 p.m. to 5 p.m. on October 5, and from 9 a.m. to adjournment on October 6, to discuss research progress and ongoing plans and programs of the national caries program. Attendance by the public will be limited to space available.

Dr. James P. Carlos, Associate Director, National Caries Program, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 528, Bethesda, Md. 20014, phone 301-496-7239, will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13,840, National Institutes of Health.)

Dated: August 30, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25217 Filed 9-7-78; 8:45 am]

[4110-08]

NATIONAL ADVISORY NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE COUNCIL

Amended Notice of Meeting

Notice is hereby given of a change in the meeting October 5, 6, and 7, 1978, in Conference Room 6, Building 31-C, Bethesda, Md. 20014, of the National Advisory Neurological and Communicative Disorders and Stroke Council, which was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35111). The time for the open portion of the meeting will be changed as follows:

October 5, 1978—9 a.m.-11:30 a.m.
October 7, 1978—8:30 a.m.-5 p.m.

The meeting will be closed to the public from 11:30 a.m. on October 5, 1978, until the conclusion of the meeting that day, and from 8:30 a.m. until 6 p.m. on October 6, 1978, for review, discussion, and evaluation of research grant and fellowship applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications.

Dated: August 31, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-25218 Filed 9-8-78; 8:45 am]

[4110-08]

NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

Amended Notice of Meeting

Notice is hereby given of a change in the agenda of the meeting of the National Advisory Research Resources Council, Division of Research Resources (DRR), September 18-19, 1978, Conference Room No. 10, Building 31-C, National Institutes of Health, Bethesda, Md. 20014, which was published in the FEDERAL REGISTER on August 14, 1978 (43 FR 36004).

The meeting will be open to the public from 9 a.m. to recess on September 18. In addition, the meeting will be open from 8:30 a.m. to 9:30 a.m. on September 19 for a discussion of the revision of the biotechnology resources program guidelines. Therefore, the closed session on September 19 will extend from 9:30 a.m. to recess, instead of from 8:30 a.m. to recess, as reported in the original notice.

Dated: August 30, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-25216 Filed 9-7-78; 8:45 am]

[4110-08]

NATIONAL INSTITUTES OF HEALTH PUBLIC ADVISORY COMMITTEES

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Committee Management Secretariat, General Services Administration, of the following committees:

Until August 31, 1978.

Animal Resources Advisory Committee.
Primate Research Centers Advisory Committee.

Until Decembr 31, 1978:

Dental Caries Program Advisory Committee.
Peridontal Diseases Advisory Committee.

Until May 31, 1980:

Aging Review Committee.
Biotechnology Resources Review Committee.
Board of Scientific Counselors, National Institute on Aging.
Board of Scientific Counselors, National Institute of Dental Research.
Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke Cellular and Molecular Basis of Disease Review Committee.
Communicative Disorders Review Committee.
Epilepsy Advisory Committee.
General Clinical Research Centers Committee.
General Research Support Review Committee.
Genetic Basis of Disease Review Committee.
Minority Access to Research Careers Review Committee.
National Advisory Council on Aging.
National Advisory Neurological and Communicative Disorders and Stroke Council.
National Advisory Research Resources Council.
National Institute of Dental Research Special Grants Review Committee.
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee.
Neurological Disorders Program-Project Review A Committee.
Neurological Disorders Program-Project Review B Committee.
Pharmacology-Toxicology Review Committee.

Authority for the above committees will expire on the dates indicated unless the Secretary formally determines that continuance is in the public interest.

Dated: August 29, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-25220 Filed 9-7-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 1H-BENZOTRIAZOLE FOR POSSIBLE CARCINOGENICITY

Availability

1H-Benzotriazole (CAS 95-14-7) 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 of 1H-benzotriazole for possible carcinogenicity was conducted by administering the test chemical in feed to Fisher 344 rats and B6C3F1 mice.

Groups of 50 rats of each sex were administered 1H-benzotriazole at one of two time-weighted average doses, either 6,700 or 12,100 ppm, for 78 weeks. Except for five control and five high-dose rats of each sex, which were killed at week 78, all animals surviving at that time were observed for 26-27 additional weeks. Controls consisted of groups of 50 untreated rats of each sex and were observed for 105-106 weeks. All rats surviving to weeks 104-106 were then killed.

Groups of 50 mice of each sex were administered 1H-benzotriazole at one of two time-weighted average doses, either 11,700 or 23,500 ppm, for 104 weeks, then observed for 2 additional weeks. Controls consisted of groups of 50 untreated mice of each sex and were observed for 109 weeks. All mice surviving to weeks 106-109 were then killed.

Mean body weights of the dosed male and female rats and mice were lower than those of the corresponding controls throughout most of the bioassay. Survival of animals in dosed and control groups of both rats and mice was at least 60 percent, and sufficient numbers of animals were at risk for development of late-appearing tumors.

There was no convincing evidence that under the conditions of this bioassay 1H-benzotriazole was carcinogenic in B6C3F1 mice or Fisher 344 rats of either sex.

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, Md. 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 31, 1978.

DONALD S. FREDRICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 78-25213 Filed 9-7-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 3-AMINO-4-ETHOXYACETANILIDE FOR POSSIBLE CARCINOGENICITY

Availability

3-Amino-3-ethoxyacetanilide (CAS 17026-81-2) 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 of 3-amino-4-ethoxyacetanilide for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. 3-Amino-4-ethoxyacetanilide was administered in the feed, at either of two concentrations, to groups of approximately 50 male and 50 female animals of each species. The dietary concentrations used in the chronic bioassay for low and high dose rats were 0.4 and 1.5 percent, respectively. The dietary concentrations used for low and high dose mice were 0.4 and 0.8 percent, respectively. After a 78-week period of chemical administration, observation of rats continued for up to 35 weeks and observation of mice continued for up to 18 weeks. For each species, 50 animals of each sex were placed on test as controls for low dose groups and approximately 50 animals of each sex were placed on test as controls for high dose groups.

In both species, adequate numbers of animals in all groups survived long enough to be at risk from late-developing tumors.

Under the conditions of this bioassay, 3-amino-4-ethoxyacetanilide was carcinogenic in male B6C3F1 mice, causing follicular-cell carcinomas of the thyroid gland. Evidence provided by this bioassay was insufficient to establish the carcinogenicity of 3-amino-4-ethoxyacetanilide in female mice or in Fischer 344 rats of either sex.

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, Md. 20014.

(Catalogue of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 31, 1978.

DONALD S. FREDRICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 78-25212 Filed 9-7-78; 8:45 am]

[4110-08]

WORKSHOP FOR CHAIRMEN OF INSTITUTIONAL BIOSAFETY COMMITTEES

Meeting

Notice is hereby given of a workshop for chairmen of Institutional Biosafety Committees sponsored by the National Institutes of Health, November 20-21, 1978, at the Sheraton International Conference Center, Reston, Va.

This meeting will be open to the public November 20, 1978, 8:30 a.m. to 10 p.m., and November 21, 1978, 8:30 a.m. to 5 p.m., to discuss the implementation of the proposed revised National Institutes of Health guidelines for recombinant DNA research. Attendance by the public will be limited to space available.

Dr. William J. Gartland, Jr., Ph. D., Director, Office of Recombinant DNA Activities, National Institute of General Medical Sciences, Bethesda, Md. 20014, 301-496-6051, will provide additional information.

Dated: August 31, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-25221 Filed 9-7-78; 8:45 am]

[4110-07]

Social Security Administration

[Docket No. 78-1]

CONFORMITY OF PUBLIC ASSISTANCE PLAN OF THE STATE OF VIRGINIA WITH THE SOCIAL SECURITY ACT

Change of Date and Location of Hearing

The date and location of the hearing to reconsider the disapproval of Virginia State plan transmittal 75-51 noticed in FR Doc. 78-22180, appearing at page 35397 in the issue for Wednesday, August 9, 1978, has been changed.

The hearing is rescheduled for 10 a.m. on September 28, 1978, at the Department of Health, Education, and Welfare, Room 529A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Dated: September 1, 1978.

DON I. WORTMAN,
Acting Commissioner
of Social Security.

[FR Doc. 78-25223 Filed 9-7-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-563-DR; Docket No. NFD-643]

ALABAMA

Major Disaster Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of Major Disaster for the State of Alabama, dated August 20, 1978, and related determinations.

DATED: August 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Hugh Richardson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 18, 1978, the President declared a Major Disaster as follows:

I have determined that the damage in Baldwin County of the State of Alabama resulting from severe storms and flooding, beginning about July 25, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in Baldwin County, State of Alabama.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Thomas P. Credle of the Federal Disaster Assistance Administration to act as the Federal coordinating officer for this declared Major Disaster.

I do hereby determine that the following area of the State of Alabama to have been adversely affected by this declared Major Disaster.

The County of: Baldwin.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster
Assistance Administration.

[FR Doc. 78-25200 Filed 9-7-78; 8:45 am]

[4210-01]

[FDAA-562-DR; Docket No. NFD-644]

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Major Disaster Declaration and Related Determinations

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of Major Disaster for the Commonwealth of the Northern Mariana Islands dated August 18, 1978, and related determinations.

DATED: August 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Hugh Richardson, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on August 18, 1978, the President declared a Major Disaster as follows:

I have determined that the damage in certain areas of the Commonwealth of the Northern Mariana Islands resulting from Tropical Storm Carmen beginning about August 9, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the Commonwealth of the Northern Mariana Islands.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert C. Stevens of the Federal Disaster Assistance Administration to act as the Federal Coordi-

nating Officer for this declared Major Disaster.

I do hereby determine that all of the Commonwealth of the Northern Mariana Islands has been adversely affected by this declared Major Disaster.

(Catalog of Federal Domestic assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Aadministration.

[FR Doc. 78-25201 Filed 9-7-78; 8:45 am]

[4210-01]

Office of Interstate Land Sales Registration

[Docket No. N-78-893]

BOILING SPRING LAKES

Hearing

In the matter of Boiling Spring Lakes, Reeves Telcom Corp., respondent, OILSR No. 0-00074-38-1(D), Docket No. ED-78-4-IS.

Pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) and 1720.120, notice is hereby given that:

1. Boiling Spring Lakes, Reeves Telcom Corp., its officers and agents, hereinafter referred to as "respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a notice of suspension dated July 19, 1978, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1710.45(a) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing the the statement of record and property report for Boiling Spring Lakes, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The respondent filed an answer received August 1, 1978, in response to the order of suspension.

3. In said answer the respondent requested a hearing on the allegations contained in the order of suspension.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) and 1720.120: *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the order of suspension will be held before Judge James W. Mast, in room 7143, HUD Building, at 10 a.m., 451 Seventh Street SW., Washington, D.C., on August 28, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses at the hearing. Copies of all documents filed should be served at the same time on all parties of record.

6. The respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(a).

This notice shall be served upon the respondent forthwith pursuant to 24 CFR 1720.120.

By the Secretary.

JAMES W. MAST,
Chief Administrative Law Judge.

AUGUST 23, 1978.

[FR Doc. 78-25202 Filed 9-7-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[W-64656]

WYOMING

Application

AUGUST 28, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Stauffer Chemical Co. of Wyoming filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 98 W.,
Sec. 32, S½NE¼, N½NW¼, and SE¼NW¼.

The proposed pipeline will transport natural gas from the Higgins No. 7 well located in the NW¼ of section 33 and the Higgins No. 4 well located in the NE¼ of section 32 to a point of connection with an existing main pipeline in the NW¼ of section 32, all within T. 18 N., R. 98 W., Sweetwater County, Wyo.

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, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-25209 Filed 9-7-78; 8:45 am]

[4310-84]

[AA-6703-A and AA-6703-B]

ALASKA NATIVE CLAIMS SELECTION

On May 21 and November 8, 1974, the Tatitlek Corp., for the Native village of Tatitlek, filed selection applications AA-6703-A and AA-6703-B, respectively, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (supp. V, 1975)), for the surface estate of certain lands in the Tatitlek area, including lands within the Chugach National Forest (proclamation, July 23, 1907, as amended).

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

This decision approves approximately 56,764 acres of national forest lands for conveyance to the Tatitlek Corp., for a comulative total of approximately 56,764 acres.

This does not exceed the 69,120 acres permitted under section 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 57,162 acres, is considered proper for acquisition by the Tatitlek Corp. and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

LANDS OUTSIDE CHUGACH NATIONAL FOREST

U.S. Survey No. 2550 of the Tatitlek Reserve, situated on point between Tatitlek Narrows and Boulder Bay, Alaska.

Containing approximately 398 acres outside the Chugach National Forest.

LANDS WITHIN CHUGACH NATIONAL FOREST

Mineral survey No. 1034, known as the Black Bear-Wild Goose and Wolverine lode claims, in Valdez Mining District, Alaska.

Containing 61.983 acres.

Those portions of mineral survey No. 788, known as the Copper Mountain Group—consisting of Standard, Standard No. 4, Centaur, Grizzly, Tiger, Porcupine, and Beach Lode Claims, in Valdez Mining District, Alaska, lying within sec. 6, T. 12 S., R. 7 W., sec. 36, T. 11 S., R. 8 W., and sec. 1, T. 12 S., R. 8 W., Copper River Meridian.

Containing approximately 74 acres.

That portion of mineral survey No. 1484, known as the Hill Top Lode, in Valdez Mining District, Alaska, lying outside mineral survey No. 700.

Containing approximately 13 acres.

COPPER RIVER MERIDIAN, ALASKA (UNSURVEYED)

T. 12 S., R. 6 W.,
Sec. 8, all;
Secs. 9 and 10 (fractional), all;
Secs. 13 and 14 (fractional), all;
Secs. 16 and 17 (fractional), all;
Sec. 18, all;
Sec. 19 (fractional), all.

Containing approximately 3,470 acres.

T. 12 S., R. 7 W.,
Sec. 5 (fractional), all;
Sec. 6 (fractional), excluding mineral survey Nos. 669, 737, 788, and 1485;
Sec. 7 (fractional), excluding mineral survey No. 1486;
Sec. 11 (fractional), all;
Secs. 14 and 15 (fractional), all;
Sec. 18, all;
Secs. 19 to 24 (fractional), inclusive, all;
Sec. 34 (fractional), all;
Secs. 35 and 36 (fractional), excluding mineral survey No. 1584.

Containing approximately 5,352 acres.

T. 13 S., R. 7 W.,
Secs. 1 and 2, excluding mineral survey No. 1584;
Secs. 4 to 8 (fractional), inclusive, all;
Sec. 9, all;
Sec. 12, excluding mineral survey No. 1034;
Secs. 15 and 16, all;
Secs. 18 and 19 (fractional), all;
Sec. 22, all;
Secs. 30 and 31, all.

Containing approximately 8,333 acres.

T14 S., R. 7 W.,
Sec. 6 (fractional), all.

Containing approximately 70 acres.

T10 S., R. 8 W.,
Secs. 9 and 20 (fractional), all;
Secs. 29 to 34 (fractional), inclusive, all.

Containing approximately 3,360 acres.

T11 S., R. 8 W.,
Secs. 1 to 10 (fractional), inclusive, all;
Secs. 15, 16, and 17, all;
Sec. 18 (fractional), all;
Sec. 19 (fractional), excluding mineral survery No. 557 and tract A of mineral survey No. 556;
Sec. 20 (fractional), excluding tract A of mineral survey No. 556;
Secs. 21, 22, and 23, all;
Secs. 25 and 26, excluding mineral survey No. 1017;
Sec. 27 (fractional), all;
Sec. 28, all;
Sec. 29 (fractional), excluding tract A of mineral survey No. 556;
Sec. 30 (fractional), excluding tract B of mineral survey No. 556;
Sec. 31 (fractional), all;
Sec. 32 (fractional), excluding U.S. Survey Nos. 2550 and 3884 and tracts A and B of U.S. Survey No. 629;
Sec. 33 (fractional), excluding U.S. Survey No. 2550;
Sec. 34 (fractional), all;
Sec. 35, excluding mineral survey No. 1017;
Sec. 36, excluding mineral survey Nos. 788, 879 and 1017 and tract A of mineral survey No. 783.

Containing approximately 12,612 acres.

T12 S., R. 8 W.,
Sec. 1 (fractional), excluding mineral survey Nos. 700, 737, 788, 1484, and 1485 and tracts A and B of mineral survey No. 783;
Sec. 2 (fractional), excluding tract A of mineral survey No. 783;
Sec. 3 (fractional), all;
Secs. 4 and 5 (fractional), excluding U.S. Survey Nos. 2550 and 3884;
Secs. 6 to 36 (fractional), inclusive, all.

Containing approximately 3,650 acres.

T13 S., R. 8 W.,
Sec. 1 (fractional), all;
Secs. 10 to 23 (fractional), inclusive, all;
Secs. 24, 25, and 26, all;
Secs. 27, 28, and 29 (fractional), all;
Sec. 32 (fractional), all;
Sec. 33, all;
Secs. 34 and 35 (fractional), all;
Sec. 36, all.

Containing approximately 10,540 acres.

T14 S., R. 8 W.,
Secs. 1 to 5 (fractional), inclusive, all.

Containing approximately 635 acres.

T10 S., R. 9 W.,
Sec. 36 (fractional), all.

Containing approximately 305 acres.

T11 S., R. 9 W.,
Sec. 1 (fractional), all;
Sec. 2 (fractional), excluding ANCSA sec. 3(e) application AA-15107;
Secs. 12 and 13 (fractional), all;
Sec. 22 (fractional), excluding ANCSA sec. 3(e) application AA-16467 (tracts A and B of U.S. Survey No. 1606);
Secs. 23 to 26 (fractional), inclusive, all;
Sec. 27 (fractional), excluding ANCSA sec. 3(e) application AA-16467 (tracts A and B of U.S. Survey No. 1606);
Secs. 34, 35 and 36 (fractional), all.

Containing approximately 1,913 acres.

T12 S., R. 9 W.,
Secs. 1, 2, and 3 (fractional), all;
Secs. 10, 11, and 12 (fractional), all;
Secs. 13 and 14, all;
Sec. 15 (fractional), all;
Secs. 22, 23, and 24 (fractional), all;
Secs. 26 and 27 (fractional), all.

Containing approximately 6,375 acres.
Aggregating approximately 56,764 acres within the Chugach National Forest.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (supp. V, 1975)); and

2. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6703-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 3a D9) An easement for an existing access trail twenty-five (25) feet in width from site easement EIN 3b D9 on the shore of Galena Bay southerly to site easement EIN 3c D9 on the shore of Turner Lake. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN 3b D9) A one (1) acre site easement upland of the mean high tide line in sec. 10, T. 11 S. R. 8 W., Copper River Meridian, on the south shore of Galena Bay. The site is for camping and vehicle use.

c. (EIN 3c D9) A site easement upland of the ordinary high water mark in sec. 15, T. 11 S., R. 8 W., Copper River Meridian, on the east shore of Turner Lake. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The site is for camping and vehicle use.

d. (EIN 4a D9, G) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 4b D9, G on the north shore of Galena Bay northeasterly, paralleling the left bank of Indian Creek, to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

e. (EIN 4b D9, G) A one (1) acre site easement upland of the mean high tide line in sec. 34, T. 10 S., R. 8 W., Copper River meridian, on the north shore of Galena Bay near the mouth of Indian Creek. The specific location will be at a point mutually agreeable to the U.S. Forest Service and the Tatitlek Corp. The site is for camping, staging and vehicle use.

f. (EIN 9 D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

g. (EIN 15a G) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 15b G at the mouth of Horsetail Falls Creek northeasterly, paralleling Lagoon Creek, to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

h. (EIN 15b G) A one (1) acre site easement upland of the mean high tide line in sec. 8, T. 12 S., R. 7 W., Copper River meridian, on the east shore of Landlocked Bay. The site is for camping, staging and vehicle use.

i. (EIN 21 C4) A one (1) acre site easement upland of the mean high tide line in sec. 21, T. 13 S., R. 8 W., Copper River meridian, on the west shore of Snug Corner Cove along a small inlet. The site is for camping and vehicle use.

j. (EIN 29a G) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 29b G on the northeast shore of Galena Bay northeasterly along the Duck River to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

k. (EIN 29b G) A one (1) acre site easement upland of the mean high tide line in sec. 2, T. 11 S., R. 8 W., Copper River meridian, on the northeast shore of Galena Bay at the head of trail easement EIN 29a G. The site is for camping, staging and vehicle use.

l. (EIN 41 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al.* v. *Andrus* and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him;

3. Airport lease AA-9185, containing approximately 48.2 acres, located in sec. 32, T. 11 S., R. 8 W., Copper River meridian, issued to the State of Alaska, Department of Transportation and Public Facilities, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214 (1970));

4. The following third-party interests created and identified by the U.S. Forest Service, as provided by section 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (supp. V, 1975));

a. A special use permit, issued to the Alaska Department of Public Works, Division of Aviation (now Department of transportation and Public Facilities), on October 14, 1976, for the purpose of maintaining an airport beacon to aid in protection of approach and departure and transitional slopes at the northwesterly end of the Tatitlek Airport, in accordance with part 77, as amended, Federal Aviation Regulations. The beacon is located within the NW¼NW¼NW¼, sec. 32, T. 11 S., R. 8 W., Copper River meridian, Alaska;

b. A special use permit, issued to the Yukon Supply Co., Inc., on November 19, 1962, for the purpose of maintaining an organization camp located on the southeast side of Busby Island in the NE¼NW¼NW¼, sec. 26, T. 11 S., R. 9 W., Copper River meridian, Alaska;

5. Requirements of section 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (supp. V, 1975)), that, as to the portion of the above-described lands located within the boundaries of a national forest (a) until December 18, 1976, the sale of any timber from such lands is subject to the same restrictions relating to the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the secretary of Agriculture and (b) until December 18, 1983, such lands shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

6. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 613(c) (supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

7. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Chugach Natives, Inc., The Tatitlek Corp., and other Chugach village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for The Tatitlek Corp., serialized AA-6703-EE. Any person wishing to examine this agreement may do so at the bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The Tatitlek Corp. is entitled to conveyance of 115,200 acres of land selected pursuant to section 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 57,162 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 58,038 acres will be conveyed at a later date.

Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above will be granted to Chugach Natives, Inc. when conveyance is granted to the Tatitlek Corp. for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in both the Anchorage Times and the Cordova Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until October 10, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If the Tatitlek Corp. or Chugach Natives, Inc. objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State director and not reserved pursuant to an express secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is to be taken, the adverse parties to be served are:

The Tatitlek Corp., P.O. Box 758, Cordova, Alaska 99574.

Chugach Natives, Inc., 912 East 15th Avenue, Anchorage, Alaska 99501.

SUE A. WOLF,
Chief, Branch of Adjudication.

[FR Doc. 78-25189 Filed 9-7-78; 8:45 am]

[4310-84]

[Wyoming 15419]

WYOMING

Termination of Proposed Withdrawal and Reservation of Lands

AUGUST 31, 1978.

Notice of a Bureau of Land Management application, Wyoming 15419, for withdrawal and reservation of lands to provide protection of recreational and public values in the development of a National Girl Scout Center, was published as FR Doc. 68-11660 on pages 14477 and 14478 of the issue for September 26, 1968. The proposed withdrawal was subsequently revised in the FEDERAL REGISTER publications set forth as follows: Amended on October 9, 1968, volume No. 33, page 15078, FR Doc. 68.12295; corrected on October 26, 1968, volume No. 33, page 15883; partially canceled February 6, 1969, volume No. 34, page 1776, FR Doc. 69-1506; further amended June 11, 1969, volume No. 34, page 9222, FR Doc. 69-6820; partially canceled August 5, 1970, volume No. 35, page 12485, FR Doc. 70-10148; amended to include additional lands on May 24, 1973, volume No. 38, page 13682, FR Doc. 73-10320; and further amended on June 21, 1973, volume No. 38, pages 16252 and 16253, FR Doc. 73-12379.

The applicant agency has canceled its application involving the lands described in the FEDERAL REGISTER publications referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5, such lands, at 10 a.m. on October 6, 1978, will be relieved of the segregative effect of the above-mentioned application.

DELMAR D. VAIL,
Acting State Director.

[FR Doc. 78-25210 Filed 9-7-78; 8:45 am]

[4310-84]

TENTATIVE GEOTHERMAL LEASE SCHEDULES

The following notice announces certain known geothermal resources areas tentatively scheduled for sale for the remainder of fiscal year 1978 and for all of fiscal years 1979 and 1980, and certain areas tentatively scheduled for noncompetitive lease processing for the remainder of fiscal year 1978 and for all of fiscal years 1979 and 1980.

TENTATIVE COMPETITIVE GEOTHERMAL LEASE SALE SCHEDULE

DATE AND KNOWN GEOTHERMAL RESOURCE AREA

Fiscal Year 1978

September 19—Wendell-Amedee, Surprise Valley, Calif.
September 19—Lightning Dock, Radium Springs, Socorro Peak, N. Mex.
September 26—Beowawe, Fly Ranch, Ruby Valley, Stillwater-Soda Lake, Gerlach, Nev.

Fiscal Year 1979

October 19—Alvord Desert, Oreg.
October 31—The Geysers, Calif.
December—Marysville, Boulder Hot Springs, Mont.
December—Meadow Hatton and various reoffers, Utah.
February—Mono-Long Valley, Calif.
April—East Mesa, Calif.
April—West Yellowstone, Mont.
May—The Geysers, Calif.
June 19—Pinto Hot Springs, Stillwater, Monte Neva, Salt Wells Basin, Nev.
June—Beckworth Peak, Calif.
September 27—Belknap-Foley Hot Springs, Oreg.
September—Gillard Hot Springs, Ariz.

Fiscal Year 1980

October—Island Park, Idaho.
February—Indian Heaven, Wash.
March 27—Mt. St. Helens, Wash.
April—Trego Hot Springs, Gerlach Northeast, Double Hot Springs, Fly Ranch Northeast, Nev.

Beyond Fiscal Year 1980

October 23, 1980—McCredie Hot Springs, Oreg.
December 1980—Coso Hot Springs, Knoxville, Calif.
December 1980—Corwin Hot Springs, Mont.
December 1980—Newberry Caldera, Oreg.
1983—Glass Mountain, Lassen, Calif.

Individual sale announcements will appear as special notice in the FEDERAL REGISTER and in a newspaper of general circulation in the State and county affected.

TENTATIVE NONCOMPETITIVE GEOTHERMAL LEASE SCHEDULE

STATE AND AREA

Fiscal Year 1978

Arizona—Vulture Mine.
Montana—Boulder.
New Mexico—Silver City.

Fiscal Year 1979

Arizona—Burro Creek, San Bernardino Valley.
California—East Mesa.
Montana—West Yellowstone.
New Mexico—Ojo Caliente, Lightning Dock, Radium Springs, Socorro Peak.
Oregon/Washington—Northern Maleur area, Glass Butte area, South Pueblo Mountain area, Goose Lake Valley area, Mount Hood National Forest, Freeman National Forest, Deschutes National Forest, Willamette National Forest.
Utah—360 acres of stockraising homestead lands.

Fiscal Year 1980

Idaho—Craters of the Moon, Heise Hot Springs.
Oregon/Washington—Prineville area, Burns area, Deschutes National Forest, Willamette National Forest, Gifford-Pinchot National Forest, Mount Baker-Smoqualmie National Forest.

Beyond Fiscal Year 1980

Arizona—San Francisco Peaks (1982).

Interested persons are invited to submit their comments in writing to the Director, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240, on or before (60 days from date of publication).

ARNOLD S. PETTY,
Acting Associate Director.

[FR Doc. 78-25271 Filed 9-7-78; 8:45 am]

[4310-84]

[Wyoming 64649]

WYOMING

Notice of Application

AUGUST 31, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 95 W.,
Sec. 2, N½SW¼ and SW¼SW¼.

The proposed pipeline will transport natural gas produced from the Wamsutter Federal 1-2 well located in the NE¼SW¼ of sec. 2, in a generally southwesterly direction to a point of connection with Colorado Interstate Gas Co.'s existing pipeline in the SW¼SW¼ of sec. 2, T. 20 N., R. 95 W., in Sweetwater County, Wyo.

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, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-25270 Filed 9-7-78; 8:45 am]

[4310-84]

[INT FES 78-20]

WYOMING

Notice of Availability of Final Regional Environmental Statement for the Proposed Development of Coal Resources in Southwestern Wyoming

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 for the proposed development of coal resources in southwestern Wyoming. A limited number of copies of the final statement are available upon request to: (1) Rock Springs District Office, Bureau of Land Management, P.O. Box 1869, Highway 187 North, Rock Springs, Wyo. 82901; (2) Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyo. 82001.

The proposal involves a regional overview of potential coal development through 1990, an assessment of five (5) mining plans, and public comments received on the draft statement.

Public reading copies will be available at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-5717.

Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyo. 82001, telephone 307-778-2220, extension 2334.

Rock Springs District Office, P.O. 1869, Highway 187 North, Rock Springs, Wyo. 82901, telephone 307-382-5350.

Kemmerer Resource Area Office, Rock Springs District, P.O. Box 632, Diamondville, Wyo. 82116, telephone 307-877-3555.

Albany County Library, 405 Grand Avenue, Laramie, Wyo. 82070.

Carbon County Library, Courthouse, Rawlins, Wyo. 82301.

Laramie County Library, 2800 Central Avenue, Cheyenne, Wyo. 82001.

Lincoln County Library, Courthouse, Kemmerer, Wyo. 83101.

Rock Springs Public Library, 400 C Street, Rock Springs, Wyo. 82901.

Sweetwater County Library, 177 North Center, Green River, Wyo. 82935.

Uinta County Library, 36 10th Street, Evanston, Wyo. 82901.

Western Wyoming Community College Library, Rock Springs, Wyo. 82901.

University of Wyoming Library, University Station, P.O. Box 3334, Laramie, Wyo. 82070.

GERALD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary
of the Interior.

[FR Doc. 78-25273 Filed 9-7-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-48]

ALTERNATING PRESSURE PADS

Notice Canceling Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference and hearing in the above-styled investigation previously set by order dated July 5, 1978, are canceled.

This cancellation is due to pending motions, whose rulings will be dispositive of all current issues in this investigation, and lack of any party indicating an intention to appear. Accordingly, the prehearing conference and hearing will not be reset.

The Secretary shall serve a copy of this notice on all parties of record and have it published in the FEDERAL REGISTER.

Issued: September 1, 1978.

DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-25297 Filed 9-7-78; 8:45 am]

[7020-02]

[TA-201-33]

BICYCLE TIRES AND TUBES

Report to the President

SEPTEMBER 1, 1978.

TO THE PRESIDENT: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation relating to bicycle tires and tubes.

The investigation to which this report relates (No. TA-201-33) was undertaken to determine whether pneumatic bicycle tires provided for in item 772.48 of the tariff schedules of the United States (TSUS), or tubes for bicycle tires, provided for in TSUS item 772.57 are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission instituted the investigation under the authority of section 201(b)(1) of the Trade Act on March 16, 1978, following receipt on March 2, 1978, of a petition filed by the Carlisle Tire & Rubber Co., of Carlisle, Pa.

Notice of the investigation and hearing were duly given by publishing the original notice in the FEDERAL REGISTER of March 22, 1978 (43 FR 11872).

A public hearing in connection with the investigation was conducted on June 6, 1978, in the Commission's hearing room in Washington, D.C. All interested persons were afforded the opportunity to be present, to produce evidence, and to be heard. A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic manufacturers and importers, and from the Commission's files, other Government agencies, and evidence presented at the hearing and in briefs filed by interested parties.

There were no significant imports of pneumatic bicycle tires or tubes for bicycle tires from countries whose imports are presently subject to the rates of duty set forth in column 2 of the TSUS. The import relief recommended herein, therefore, is not addressed to imports from those countries. However, certain recommended relief measures would involve the imposition of rates of duty in column 1 which are higher than the rates set forth in column 2. Should such recommended, or any other, rates of duty higher than the column 2 rates be proclaimed by you it would be necessary for you to proclaim rates for column 2 that are the same as those proclaimed in column 1 in order to avoid being in violation of our international obligations.

DETERMINATION, FINDINGS, AND RECOMMENDATIONS OF THE COMMISSION

DETERMINATION

On the basis of information developed during the course of investigation No. TA-201-33, the Commission[2] determines that pneumatic bicycle tires provided for in item 772.48 of the tariff schedules of the United States (TSUS), other than tubular tires consisting of tires with tubes permanently enclosed therein; and tubes for bicycle tires, provided for in TSUS item 772.57, are being imported into the

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

[2] Chairman Joseph O. Parker and Commissioners George M. Moore and Catherine Bedell determine in the affirmative for pneumatic bicycle tires, other than tubular tires, and in the affirmative for tubes for bicycle tires; Commissioner Italo H. Ablondi determines in the affirmative for bicycle tires and tubes for bicycle tires; Vice Chairman Bill Alberger determines in the negative for bicycle tires and tubes for bicycle tires. Commissioner Daniel Minchew did not participate in the determination.

United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

FINDINGS AND RECOMMENDATIONS

Chairman Parker and Commissioners Moore and Bedell find and recommend that, to prevent or remedy serious injury, or the threat thereof to the domestic industry, it is necessary to impose rates of duty, in lieu of the present rates of duty, with respect to U.S. imports of pneumatic bicycle tires, other than tubular tires consisting of tires with tubes permanently enclosed therein; and tubes for bicycle tires as follows:

[Figures in percent ad val.]

Item	Recommended rates of duty				
	1st yr	2d yr	3d yr	4th yr	5th yr
Pneumatic bicycle tires, provided for under TSUS item 772.48 (other than tubular tires consisting of tires with tubes permanently enclosed therein)	15	15	15	10	10
Tubes for bicycle tires, provided for under TSUS item 772.57	25	25	25	20	20

Commissioner Ablondi finds that adjustment assistance under chapters 2, 3, and 4 of title II of the Trade Act of 1974 can effectively remedy or prevent serious injury and recommends the provision of such assistance.

Vice Chairman Alberger having noted the Commission's affirmative determination in investigation No. TA-201-33, and having considered all factors with respect to remedy, recommends no remedy.

Issued: September 5, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-25295 Filed 9-7-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-39]

CERTAIN LUGGAGE PRODUCTS

Notice and Order Concerning Procedure for Commission Determination and Action

Notice is hereby given that—

1. The Commission will hold a hearing beginning at 10 a.m., e.d.t., Wednesday, September 20, 1978, in the Commission's Hearing Room, 701 E Street NW., Washington, D.C., for the purposes of (1) hearing oral argument on the recommended determination of the presiding officer concerning whether there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337); and (2) receiving oral presentations with respect to the subject matter of section 210.14(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a)) concerning relief, bonding and the public interest factors set forth in subsections 337 (d) and (f) of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which factors the Commission is to consider in the event it determines that relief should be granted. The latter proceeding is legislative in character, and therefore the hearing on remedy, bonding, and public interest will not be subject to the requirements of 5 U.S.C. 556, 557. Instead, this phase of the hearing will be conducted in accordance with section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.111). These matters are all being heard on the same day in order that this investigation may be completed within the time limits prescribed by the statute and to minimize the burden of this hearing upon the parties.

Parties and agencies wishing to make oral argument with respect to the recommended determination shall be limited in each oral argument to not more than 30 minutes, 10 minutes of which may be reserved for rebuttal by the staff and complainant.

For that part of the hearing devoted to relief, bonding, and the public interest, parties, interested persons, and government agencies will be limited in their presentations to no more than 15 minutes. Participants will be permitted an additional 5 minutes for closing arguments after all presentations have been concluded. Participants with similar interests may be required to share time. The Commission investigative staff will be allotted the full time available to a party.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than close of business, Friday, September 15, 1978. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination, relief, bonding, the public interest factors, or any combination thereof) in which the requesting person desires to participate.

2. Written submission from the parties, other interested persons, Government agencies and departments, Governments or the public with respect to the recommended determination and the subject matter of subsections (a)(1), (a)(2), and (a)(3) of section 210.14 of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a) (1), (2), and (3)) concerning remedy, bonding, and the public interest will be considered if received by the Commission by Friday, September 29, 1978.

Notice of the Commission's institution of the investigation was published in the FEDERAL REGISTER on November 30, 1977 (42 FR 60962).

Issued: September 1, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-25296 Filed 9-7-78; 8:45 am]

[7020-02]

[Investigation No. 337-TA-56]

CERTAIN THERMOMETER SHEATH PACKAGES

Notice of Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with the above styled investigation at 10 a.m., on Thursday, September 20, 1978 in Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32195). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: August 31, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-25298 Filed 9-7-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

CLEVELAND ELECTRIC ILLUMINATING CO.

Proposed Consent Decree in Action in Which the United States Seeks To Enjoin the Emission of Air Pollutants

In accordance with departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on August 18, 1978, a proposed consent decree in "The Cleveland Electric Illuminating Company v. EPA, et al.", was lodged with the United States District Court for the Northern District of Ohio. The proposed decree provides for the achievement of final compliance with federally-approved emission limitations at three plants owned by the company: the East Lake Unit No. 3, the East Lake Unit No. 4, the Ashtabula Unit No. 5. The proposed decree sets forth a shcedule for installation of interim controls and for final achievement of particulate standards no later than March 1981.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Courthouse, Room 400, Cleveland, Ohio 44114; at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Ill. 60604; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth and Pennsylvania Avenue NW., Washington, D.C. 20530. Copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice. The Department of Justice will receive written comments relating to the proposed consent decree for a period of 30 days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue NW., Washington, D.C. 20530 and should refer to *The Cleveland Electric Illuminating Co.* v. *EPA, et al.*, D.J. Reference No. 90-5-2-1-148.

JAMES W. MOORMAN,
Assistant Attorney General,
Land and Natural Resources Division.

[FR Doc. 78-25211 Filed 9-7-78; 8:45 am]

[4510-24]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON ECONOMIC GROWTH Meeting

The BRAC Committee on Economic Growth will meet at 10 a.m., September 28, 1978, at the General Accounting Office Building in Room 2106, 441 G Street, NW., Washington, D.C. The agenda for the meeting is as follows:

1. Review of Industry Capital Stock Data.
2. New BLS Labor Force Projections to 1990.
3. Review of 1990 Economic and Employment Projections.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code 202-523-1559.

Signed at Washington, D.C., this 30th day of August 1978.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 78-25305 Filed 9-7-78; 8:45 am]

[4510-30]

Employment and Training Administration

GRANT AWARDS FOR RESEARCH ON HISPANIC AMERICAN LABOR MARKET PROBLEMS AND ISSUES

Awards ETA/OPER 7805

The following is a list of grant applicants approved for fiscal year 1978 funding under ETA/OPER Solicitation 7805, "Grant Awards for Research on Hispanic American Labor Market Problems and Issues." Those desiring further information may write to:

Dr. Howard Rosen, Director, Office of Research and Development—ETA, U.S. Department of Labor, 601 D Street NW., Room 9100, Washington, D.C. 20213.

FISCAL YEAR 1978 GRANT APPROVALS

7805-34—Princeton University, Princeton, N.J. 08540. Dr. Cordelia Reimers, "An Analysis of the Earnings, Unemployment and Hours Worked of the Major Hispanic Origin Groups in the U.S."

7805-50—University of Texas at San Antonio, San Antonio, Tex. 78285. Dr. Sammy Gould, "The Selection and Work Group Integration of Unemployed Mexican Americans Into CETA Public Service Employment: A Case Study."

7805-67—Northwestern University, Evanston, Ill. 60201. Dr. Marcus Alexis and Dr. Nancy DiTomaso, "Job Adaptation of Hispanic, Black, and White, Male and Female Employees."

7805-71—Arizona State University, Tempe, Ariz. 85281. Dr. Albert Karnig, "Municipal Government Employment of Mexican Americans in the Southwest."

7805-78—Kent State University, Kent, Ohio 44242. Dr. Richard Raymond, "A Study of Educational Investment Returns and Labor Market Experiences of Mexican American College Graduates."

7805-101—Puerto Rican Legal Defense and Education Fund, Inc., New York, N.Y. 10016. Dr. John M. Abowd and Dr. Mark Killingsworth, "An Analysis of the Employment, Wages and Earnings of Hispanic Persons in the Government and Private Sectors, with Special Reference to Puerto Ricans."

7805-116—Pan American University, Edinburg, Tex. 78539. Dr. Gilbert Cardenas, "Apprenticeship Training: The Hispanic Experience in the U.S."

FRANCIS O. STANARD,
Chief, Central Procurement Staff.
AUGUST 29, 1978.

[FR Doc. 78-25304 Filed 9-7-78; 8:45 am]

[4510-30]

LABOR SURPLUS AREA CLASSIFICATION UNDER DEFENSE MANPOWER POLICY NO. 4A (DMP-4A) AND EXECUTIVE ORDER 10582

Addition to Quarterly List of Labor Surplus Areas

The labor market area described below has been classified by the Assistant Secretary of Labor for Employment and Training as a labor surplus area for purposes of Defense Manpower Policy No. 4A (DMP-4A) and Executive Order 10582. The area was so classified on the basis of the exceptional circumstances criteria under DMP-4A and added to the "Listing of Eligible Labor Surplus Areas" for July, August, and September 1978, effective August 4, 1978.

Under DMP-4A, firms which agree to perform most of the work in labor surplus areas are given priority in the award and execution of Federal procurement contracts, grants, and agreements. Under Executive Order 10582, executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier: *Provided*, That the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment, as defined by the Secretary of Labor. Areas of substantial unemployment are defined by Department of Labor regulations as labor surplus areas.

The Department's labor surplus area classification procedures are set forth at 20 CFR Part 654. These regulations require that the Assistant Secretary for Employment and Training publish the labor surplus areas together with corresponding geographic descriptions. Accordingly, the following addition to the list of labor surplus areas is published for the use of all Federal departments and agencies in directing procurement activity and locating new plants or facilities.

ADDITION TO LISTING OF ELIGIBLE LABOR SURPLUS AREAS UNDER DEFENSE MANPOWER POLICY NO. 4A AND EXECUTIVE ORDER 10582

JULY, AUGUST, SEPTEMBER 1978

Labor surplus areas: Dunn, N.C.
Geographic description: Harnett County.

Signed at Washington, D.C., the 1st day of September 1978.

WILLIAM B. HEWITT,
Administrator, Policy, Evaluation, and Research.

[FR Doc. 78-25302 Filed 9-7-78; 8:45 am]

[4510-30]

YOUTH EMPLOYMENT AND TRAINING PROGRAMS (YETP) FOR YOUTHS WHO ARE MEMBERS OF MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER FAMILIES

Potential Section 303 YETP Grantees

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: Pursuant to 29 CFR 97.913 and 97.1013, the Employment and Training Administration announces the selection of potential sponsors for funds awarded during the second round of competition under title III, subpart K—youth employment and training program (YETP) of the Comprehensive Employment and Training Act (CETA) of 1973, as amended and title II, subpart 3—youth employment and training program (YETP) of the Youth Employment and Demonstration Projects Act (YEDPA) of 1977. Only current fiscal year 1978 sponsors receiving funds under title III, section 303 of the Comprehensive Employment and Training Act (CETA) of 1973, as amended can receive these YETP funds.

FOR FURTHER INFORMATION CONTACT:

Harry Kranz, Acting Director, Office of Farmworker Programs, 601 D Street NW., Room 6308, Washington, D.C. 20213, phone: 202-376-6128.

SUPPLEMENTARY INFORMATION: Potential sponsor designations. The following section 303 fiscal year 1978 sponsors are to be designated as potential sponsors to provide services to youths who are members of migrant and other seasonally employed farmworker families with funds authorized under YEDPA, subpart 3—YETP. Each section 303 applicant so designated as a potential YETP sponsor shall be notified in writing of the amount of YETP funds which may be granted, the target areas to be served, the items to be negotiated and the time and place of negotiations. These designations are being made pursuant to 29 CFR 97.913 and 97.1013. Designation as a potential YETP sponsor does not commit the Department of Labor to award YETP funds to the designee, only to enter into negotiations. If negotiations fail to produce an acceptable grant, the Secretary reserves the right to terminate the negotiations.

POTENTIAL SECTION 303 SPONSORS FOR YETP FUNDS—YETP—YOUTH EMPLOYMENT AND TRAINING

REGION III

Migrant and Seasonal Farmworkers, Inc., 3929 Western Boulevard, POB 33315, Raleigh, N.C. 27606.

REGION IV

Georgia

Migrant and Seasonal Farmworkers, Inc., 3929 Western Boulevard, POB 33315, Raleigh, N.C. 27606.

North Carolina

Migrant and Seasonal Farmworkers, Inc., 3929 Western Boulevard, POB 33315, Raleigh, N.C. 27606.

REGION V

Michigan

United Migrants for Opportunity, Inc., 908 West Jefferson, Grand Ledge, Mich. 48837.

REGION IX

California

Center for Employment and Training, 425 South Market Street, San Jose, Calif. 93277.

Proteus Adult Training, Inc., 1640 West Mineral King, POB 727, Visalia, Calif. 93277.

California Human Development Corp., 2462 Mendocino Avenue, Santa Rosa, Calif. 95401.

City of Stockton, City Hall—Farmworker Program, 425 El Dorado, Stockton, Calif. 95202.

Central Coast Counties Development Corp., 7000 Soquel Drive, Aptos, Calif. 95003.

Signed in Washington, D.C., this 24th day of August 1978.

LAMOND GODWIN,
Administrator, Office of National Programs.

[FR Doc. 78-25303 Filed 9-7-78; 8:45 am]

[4510-28]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than ————————

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than ————————

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 28th day of August 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cowin & Co. (workers)	Gordonsville, Tenn	Aug. 24, 1978	Aug. 22, 1978	TA-W-4,115	Construction work for mining companies.
Edmos Corp. (ILGWU)	Whitney, S.C	Aug. 28, 1978	Aug. 26, 1978	TA-W-4,116	Knitted fabrics.
L & R Sportswear Co., Inc. (workers)	Paterson, N.J	Aug. 24, 1978	Aug. 16, 1978	TA-W-4,117	Boy's and girls' pants.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Whitmo Handbags, Inc. (International Leather Goods, Plastics, & Novelty Workers Union).	Newburgh, N.Y.	Aug. 25, 1978	Aug. 23, 1978	TA-W-4,118	Ladies' handbags, vinyl and leather.
Wonderalls (ACTWU)	Wilmar, Minn	Aug. 23, 1978	Aug. 21, 1978	TA-W-4,119	Snow suits.
Do.	Paynesville, Minn	do.	do.	TA-W-4,120	Do.
Do.	Buffalo, Minn	do.	do.	TA-W-4,121	Children's play clothes.

[FR Doc. 78-25306 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3406]

A&A MANUFACTURING CORP., AURORA AND SPRINGFIELD, MO.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3406: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 27, 1978, in response to a worker petition received on March 10, 1978, which was filed on behalf of workers and former workers producing men's jeans at the Aurora, Mo., plant of A&A Manufacturing Corp. During the course of the investigation it was determined that the office and shipping departments are located in Springfield, Mo.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of A&A Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven cotton and man-made jeans and dungarees increased from 9 million units in 1975 to 14 million units in 1976 and then increased to 23 million units in 1977. Imports increased from 4.5 million units in the first quarter of 1977 to 7.9 million units for the same period in 1978.

The imports to domestic production ratio increased from 3.8 percent in 1975 to 5.4 percent in 1976 and then increased to 8.5 percent in 1977.

Chief Apparel, Inc., is A&A Manufacturing Corp.'s sole manufacturer. A&A Manufacturing is a division of Chief Apparel. Chief Apparel's sales decreased from 1976 to 1977 and in the first quarter of 1978 compared to the first quarter of 1977. Some customers of Chief Apparel, Inc., have indicated they decreased purchases of men's jeans from Chief Apparel while increasing purchases of imported jeans during this time period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's jeans produced by A&A Manufacturing Corp., Aurora and Springfield, Mo., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the A&A Manufacturing Corp., Aurora and Springfield, Mo., who became totally or partially separated from employment on or after June 24, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25307 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3432A]

BEIERSDORF, INC., SOUTH NORWALK, CONN.

Negative Determination Regarding Eligibility To Apply for Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3432A: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 28, 1978, in response to a worker petition received on March 20, 1978, which was filed on behalf of all workers producing material used as bandage cloth at Beiersdorf, Inc., Paterson, N.J. The investigation was expanded to include the South Norwalk plant of Beiersdorf, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Beiersdorf, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

U.S. imports of elastic bandages have been negligible from 1972 through 1977, while U.S. production of elastic bandages has increased each year from 1973 through 1977.

Sales of Elastaplast Adhesive Bandages at the South Norwalk plant increased absolutely in units and value in 1977 compared to 1976. Production was comparable to sales.

Production of lengthway claoth and subsequent elastic adhesive bandages are not like or directly competitive with imports of disposable apparel, linens, and accessories for hospital medical use as alleged by the workers on the petition they filed with the Department.

CONCLUSION

After careful review I determine that all workers of Beiersdorf, Inc.,

South Norwalk, Conn., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of August, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25308 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3432]

BEIERSDORF, INC., PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3432, investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 28, 1978 in response to a worker petition received on March 20, 1978 which was filed on behalf of all workers producing material used as bandage cloth at Beiersdorf, Inc., Paterson, N.J. This petition was expanded to include the plant at South Norwalk, Conn.—see determination TA-W-3432A.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Beiersdorf, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threats thereof, and to the absolute decline in sales or production.

U.S. imports of elastic bandages have been negligible from 1972 through 1977, while U.S. production of elastic bandages has increased each year from 1973 through 1977.

Production of lengthway cloth at the Paterson, N.J. plant increased absolutely in quantity and value in 1977 compared to 1976. All cloth made at Paterson was transferred to the South Norwalk, Conn. plant of Beiersdorf for use as a component of the Elastaplast Adhesive Bandages made there.

The Paterson plant was closed in March 1978 due to a management decision to use a private, more efficient, domestic source to supply the South Norwalk plant with cloth.

Production of lengthway cloth and subsequent elastic adhesive bandages are not like or directly competitive with imports of disposable apparel, linens and accessories for hospital and medical use as alleged by the workers on the petition they filed with the Department.

CONCLUSION

After careful review I determine that all workers of Beiersdorf, Inc., Paterson, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25309 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3317, et al.]

BLANCHARD SHIRT CO. ET AL., MOUNTAIN VIEW, ARK.

Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3317, 3324, 3339, 3340, 3344, 3347: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigations were initiated on March 9, 1978, in response to worker petitions received on February 27, 1978, which were filed on behalf of workers and former workers producing men's shirts at Blanchard Shirt Co., Mountain View, Ark.; Flint Rock Shirt Co., Marshall, Ark.; Mar-Bax Shirt Co., Gassville, Ark.; Marion County Shirt Co., Yellville, Ark.; Tri-County Shirt Co., Salem, Ark.; and White River Shirt Co., Melbourne, Ark. These are all divisions of Capital-Mercury Shirt Corp.

The notice of investigation was published in the FEDERAL REGISTER on March 24, 1978 (43 FR 12401). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Capital-Mercury Shirt Corp. and its divisions, their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven dress, business, sport, and uniform shirts increased from 91,808,000 units in 1975 to 144,103,000 units in 1976, decreased in 1977 to 139,720,000 units and increased to 34,583,000 units during the first 3 months of 1978 compared to 30,875,000 units for the same period in 1977.

The imports to domestic production ratio for men's and boys' woven dress, business, sport, and uniform shirts increased from 36.8 percent in 1975 to 52.1 percent in 1976 and to 54.7 percent in 1977.

U.S. imports of men's and boys' knit sport and dress shirts increased from 66.2 million units in 1975 to 74 million units in 1976, increased in 1977 to 75.2 million units and increased to 26.1 million units during the first 3 months of 1978 compared to 20 million units for the same period in 1977.

The imports to domestic production ratio for men's and boys' knit sport and dress shirts remained constant at 22.9 percent in 1975 and 1976 and then decreased to 19.7 percent in 1977.

A Department survey of customers of Capital-Mercury Shirt Corp. revealed that major customers increased their purchases of imported men's shirts from 1976 to 1977, while decreasing purchases from Capital-Mercury.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's shirts produced by Blanchard Shirt Co., Mountain View, Ark.; Flint Rock Shirt Co., Marshall, Ark.; Mar-Bax Shirt Co., Gassville, Ark.; Marion County Shirt Co., Yellville, Ark.; Tri-County Shirt Co., Salem, Ark.; and White River Shirt Co., Melbourne, Ark. (plants of Capital-Mercury Corp.) contributed importantly to the decline in sales and production and to the total or partial separation of workers at those facilities. In accordance with the provisions of the act, I make the following certifications:

All workers at Blanchard Shirt Co. of Mountain View, Ark. who became totally or partially separated from employment on or after July 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974; and

All workers at Flint Rock Shirt Co. of Marshall, Ark. who became totally or partially separated from employment on or after June 3, 1977, are elegible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974; and

All workers at Mar-Bax Shirt Co. of Gassville, Ark. who became totally or partially separated from employment on or after February 20, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974; and

All workers at Marion County Shirt Co. of Yellville, Ark. who became totally or partially separated from employment on or after Noverber 18, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974; and

All workers at Tri-County Shirt Co. of Salem, Ark. who became totally or partially separated from employment on or after February 20, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974; and

All workers at White River Shirt Co. of Melbourne, Ark. who became totally or partially separated from employment on or after February 20, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25310 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3302]

BROWNING LABORATORIES, INC., LACONIA, N.H.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3302; investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 7, 1978 in response to a worker petition received on February 27, 1978, which was filed on behalf of workers and former workers producing Citizen Band (CB) Base Stations at Browning Laboratories, Inc., Laconia, N.H.

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11277). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Browning Laboratories, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation has revealed that all of the requirements have been met.

Imports of Citizen Band Base Stations increased absolutely from $60.6 million in 1975 to $120 million in 1976. Imports declined in 1977 to $72.7 million as overall consumption in the United States dropped from $145.8 million in 1976 to $80.5 million in 1977. In the first quarter of 1978 imports declined to $7.5 million, compared to $12.8 million of imports in the first quarter of 1977. The ratio of imports to domestic production of Citizen Band Base Stations increased from 252.5 percent in 1975 to 465.1 percent in 1976 to 932.1 percent in 1977. In the first quarter of 1978, the ratio of imports to domestic production decreased to 416.7 percent compared to the 609.5 percent ratio of the first quarter of 1977.

Customers surveyed indicated a decrease in purchases of Citizen Band Base Stations from Browning Laboratories, Inc., in 1977 as compared with 1976 and in 1978 (first quarter) as compared with 1977 (first quarter). Of these same customers, total purchases of imports in 1977 increased as compared with 1976 and again increased in 1978 (first quarter) as compared with 1977 (first quarter).

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increased imports of articles like or directly competitive with Citizen Band (CB) Base Stations produced at Browning Laboratories, Inc., Laconia, N.H. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Browning Laboratories, Inc., Laconia, N.H. who became totally or partially separated from employment on or after January 1, 1978 are certified as eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25311 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3024]

CHROMIUM MINING AND SMELTING CORP., MEMPHIS, TENN.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3024: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by United Steelworkers of America on behalf of workers and former workers producing ferrochromium at Chromium Mining and Smelting Corp., Memphis, Tenn. During the course of the investigation, it was established that the workers also produce exothermic materials, ferrosilicon and nitrided ferromanganese briquets.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made obtained principally from Chromium Mining and Smelting Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing nitrided ferromanganese briquets, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

From January 12, 1977, a year prior to the date of the petition, to the present, the only separations that occurred were in January and February 1977, when the briquets building was shut down due to a gas shortage.

With respect to workers producing high carbon ferrochrome, ferrosilicon and exothermic materials, it has been concluded that all of the group eligibility requirements of section 222 of the act have been met.

More than 95 percent of exothermic material production at the Memphis

plant consists of a powdered form of ferrochrome containing 95 percent ferrochrome and 5 percent sodium nitrate.

U.S. imports of high carbon ferrochrome decreased from 258 thousand short tons in 1975 to 179 thousand short tons in 1976 and then increased to 188 thousand short tons in 1977. The ratio of imports to domestic production decreased from 218.6 percent in 1975 to 110.0 percent in 1976 and decreased to 104.7 percent in 1977.

U.S. imports of ferrosilicon increased from 70,577 short tons in 1975 to 98,775 short tons in 1976 and to 114,788 short tons in 1977. The ration of imports to domestic production increased from 11.9 percent in 1975 to 15.3 percent in 1976 and to 18.1 percent in 1977.

A survey of a sample of customers who decreased purchases of both high carbon ferrochrome and exothermic materials from the subject firm in 1976 and 1977 indicated that these customers increased purchases of imported ferrochrome during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with high carbon ferrochrome and ferrosilicon produced at Chromium Mining and Smelting Corp., Memphis, Tenn., contributed importantly to the decline in production of high carbon ferrochrome, exothermic materials and ferrosilicon and to the separations of workers producing ferrochrome, exothermic materials and ferrosilicon, as well as support workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at Chromium Mining and Smelting Corp., Memphis, Tenn. engaged in employment related to the production of ferrochrome and ferrosilicon, including general support workers, who became totally or partially separated from employment on or after January 12, 1977; and all workers engaged in employment related to the production of exothermic materials who became totally or partially separated from employment on or after February 19, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that workers engaged in employment related to the production of nitrided ferromanganese briquets are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25312 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3648]

CLARA FASHIONS, INC., JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3648: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Clara Fashions, Inc., Jersey City, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Clara Fashions, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturer for which Clara Fashions, Inc., worked in the period under investigation. This manufacturer increased purchases of imported ladies' coats in 1977 compared to 1976. The manufacturer also increased purchases of imported ladies' coats in the first 5 months of 1978 compared to the first 5 months of 1977 while decreasing purchases from the subject firm in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Clara Fashions, Inc., Jersey City, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Clara Fashions, Inc., Jersey City, N.J., who became totally or partially separated from employment on or after October 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25313 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3888]

DATA-FLO OF NEW JERSEY, INC., VINELAND, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3888: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on June 21, 1978, which was filed on behalf of workers and former workers providing computer services at Data-Flo of New Jersey, Inc., Vineland, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Data-Flo of New Jersey, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The Department has determined that services are not "articles" within the meaning of the section 222(3) of the act.

The Department's investigation revealed that Data-Flo of New Jersey provided computer services such as data processing for payrolls, accounts receivable, and accounts payable. Data-Flo workers were involved in keypunching of data and computer operations. Data-Flo is not involved in any way with the production of an article.

CONCLUSION

After careful review, I determine that workers of Data-Flo of New Jersey, Inc., Vineland, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25314 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3323]

DAVIS-LYNCH GLASS CO., STAR CITY, W. VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3323: Investigation regarding eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 9, 1978, in response to a worker petition received on February 28, 1978, which was filed on behalf of workers and former workers producing glass lamp parts at the Davis-Lynch Glass Co., Star City, W. Va.

The notice of investigation was published in the FEDERAL REGISTER on March 24, 1978 (43 FR 12401). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Davis-Lynch Glass Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, the West Virginia Glass Workers Protective League, the American Flint Glass Workers Union, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of illuminating glassware increased from $12.2 million in 1975 to $17.8 million in 1976 and to $19.3 million in 1977. The ratio of imports to domestic production decreased from 28.1 percent in 1976 to 25.6 percent in 1977.

A sample of Davis-Lynch Glass Co.'s customers were surveyed regarding their purchases of illuminating glassware. The only customer which increased import purchases in 1977 compared to 1976 also increased purchases from the subject firm. In the first quarter of 1978, the only customer which increased import purchases and decreased purchases from the subject firm represented an insignificant percentage of the subject firm's sales.

CONCLUSION

After careful review of the facts I determine that all workers at Davis-Lynch Glass Co., Star City, W. Va., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25315 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3465]

EAGLE CLOTHES, INC., BROOKLYN, N.Y., ET AL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3465 and 3466: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigations were initiated on April 4, 1978, in response to worker petitions received on January 24, 1978, which were filed on behalf of workers and former workers engaged in employment related to the production of men's suits, sportcoats and pants at the Brooklyn, N.Y. plant and New York, N.Y. offices of Eagle Clothes, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from Eagle Clothes, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased from 3,106 thousand units in 1975 to 3,562 thousand units in 1976 and to 4,091 thousand units in 1977. Imports decreased from 1,834 thousand units in the first quarter of 1977 to 1,132 thousand units in the same quarter of 1978. The ratio of imports to domestic production declined from 19.5 percent in 1975 to 19 percent in 1976 and increased to 20 percent in 1977.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976 and declined to 6,269 thousand units in 1977. Imports increased from 1,323 thousand units in the first quarter of 1977 to 1,776 thousand units in the same quarter of 1978. The ratio of imports to domestic production increased from 28.2 percent in 1975 to 30 percent in 1976 and declined to 26.5 percent in 1977.

U.S. imports of men's and boys' dress and sport trousers and shorts increased from 55,508 thousand units in 1975 to 73,209 thousand units in 1976 and to 76,419 thousand units in 1977. Imports increased from 17,152 thousand units in the first quarter of 1977 to 24,039 thousand units in the same quarter in 1978. The ratio of imports to domestic production increased from 34.1 percent in 1975 to 40.9 percent in 1976 and decreased to 38 percent in 1977.

A certification applicable to the petitioning group of workers at the Brooklyn, N.Y., plant of Eagle Clothes, Inc., was issued on January 23, 1976 (TA-W-279). That certification remained in effect until January 23, 1978, 2 years from its date of issuance. Workers at the New York, N.Y., offices of Eagle Clothes were not previously certified.

A Department survey conducted among retail customers of Eagle Clothes, Inc. revealed that several customers decreased their purchases from Eagle Clothes from 1976 to 1977 and during the first quarter of 1978 compared to the same period of 1977. These customers increased their purchases of imported men's clothing during the same periods.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that increases of imports of articles like or directly competitive with men's suits, sportcoats, and pants produced at the Brooklyn, N.Y., plant of Eagle Clothes, Inc., contributed importantly to the decline in sales and production and to the total or partial separation of the workers at that plant and at the New York, N.Y., offices of Eagle Clothes, Inc. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's suits, sportcoats, and pants at the Brooklyn, N.Y., plant of Eagle Clothes, Inc. who became totally or partially separated from employment on or after January 23, 1978, and at the 1290 Avenue of the Americas, New York, N.Y. offices of Eagles Clothes, Inc., who became totally or partially separated from employment on or after August 30, 1977, are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25316 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3479]

EVY FOOTWEAR CO., INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3479: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 26, 1978, in response to a worker petition received on March 27, 1978, which was filed on behalf of workers and former workers of Evy Footwear Co., Inc., New York, N.Y., who were engaged in the selling of ladies' shoes and boots produced by its affiliates, Altoona Shoe, Inc., and Fairfoot Shoe Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550-51). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Evy Footwear Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

United States imports of women's and misses' nonrubber footwear, except athletic, increased from 190.7 million pairs in 1975 to 195.5 million pairs in 1976, and then decreased to 181.8 million pairs in 1977.

The ratio of imports to domestic production for women's and misses' nonrubber footwear, except athletic, remained virtually unchanged from 1975 to 1976, and then increased from 114 percent in 1976 to 119.2 percent in 1977.

A number of customer of Evy Footwear Co., Inc., that were surveyed indicated that they had increased purchases of imported women's footwear while decreasing purchases from Evy Footwear during the period of 1975 to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' shoes and boots sold by Evy Footwear Co., Inc., New York, N.Y., contributed importantly to the decline in sales and to the total or partial separation of workers at the firm. In accordance with the provisions of the act, I make the following certification:

All workers at Evy Footwear Co., Inc., New York, N.Y., who became totally or partially separated from employment on or after March 23, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25317 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3399]

GREGG LAWRENCE CO., INC., COPIAGUE, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3399: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 22, 1978, in response to a worker petition received on March 8, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers formerly producing ladies' spring and winter coats at Gregg Lawrence Co., Inc., Copiague, N.Y. The investigation revealed that spring coats are raincoats.

The notice of investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14775). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Gregg Lawrence Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976 and to 2,723 thousand dozen in 1977. Imports relative to domestic production increased from 38.9 percent in 1975 to 48.3 percent in 1976 and to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats increased from 191 thousand dozen in 1975 to 261 thousand dozen in 1976 and then declined to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imported raincoats to domestic production increased from 36.8 percent in 1975 to 45.0 percent in 1976.

Gregg Lawrence Co., Inc. was a contractor of ladies' coats and raincoats for one manufacturer. A survey of the customers of that manufacturer revealed that several customers increased purchases of imported ladies' coats and raincoats while decreasing purchases from the manufacturer from 1976 to 1977. The manufacturer also began to import ladies' coats and raincoats during 1977 and continued to import into 1978, decreasing its utilization of Gregg Lawrence, Co. Workers of this manufacturer were certified as eligible to apply for trade adjustment assistance on July 7, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' winter coats and raincoats produced at Gregg Lawrence, Co., Inc., Copiague, N.Y., contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers at Gregg Lawrence, Co., Inc., Copiague, N.Y., who became totally or partially separated from employment on or after February 28, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25318 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3180]

HUDSON PANTS CO., INC., JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3180: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's and boys' trousers at Hudson Pants Co., Inc., Jersey City, N.J. During the course of the investigation, it was revealed that the firm produces parochial school uniform pants in addition to men's and boys' trousers.

The Notice of Investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hudson Pants Co., its customers, the U.S. International Trade Commission, U.S. Department of Commerce, the National Cotton Council, industry analysts and Department files.

Employees of Hudson Pants Co. were previously certified eligible to apply for adjustment assistance under TA-W-311. That certification expired January 17, 1978.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation has revealed that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased both absolutely and relatively from 1975 to 1976 and from 1976 to 1977.

A customer survey indicated decreased purchases of men's trousers from the subject firm in 1977 compared to 1976 due to increased imports of articles like or directly competitive with the customer-manufactured suits.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with men's and boys' trousers produced at Hudson Pants Co., Jersey City, N.J., contributed importantly to the decline in sales and production and to the total or partial separations of workers at that firm.

In accordance with the provisions of the act, I make the following certification:

All workers at Hudson Pants Co., Inc., Jersey City, N.J., engaged in employment related to the production of men's and boys' trousers who became totally or partially separated from employment on or after January 17, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25319 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3509]

JUBILEE COAT, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3509: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 13, 1978, in response to a worker petition received on April 4, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of all workers of Jubilee Coat Inc., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jubilee Coat Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all the group eligibility requirements have been met.

U.S. imports of women's, misses', and childern's coats and jackets increased both absolutely and relative to domestic production from 1974 through 1977. Imports increased absolutely from 2,252 dozen in 1976 to 2,723 dozen in 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977, the highest level since 1973.

The Department of Labor conducted a survey of Jubilee Coat's only customer. This customer indicated that it ceased purchases from Jubilee Coat beginning in November 1977 and increased purchases of imported ladies' coats in 1977 compared to 1976 and in the first quarter of 1978 compared to the like period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced by Jubilee Coat Inc., New York, N.Y., contributed importantly to the sales or production declines and to the total or partial separation of workers at this firm. In accordance with the provisions of the act, I make the following certification:

All workers of Jubilee Coat Inc., New York, N.Y., who became totally or partially separated from employment on or after November 12, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25320 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3575]

LADY PRESTIGE, INC., BOSTON MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3575: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 4, 1978, in response to a worker petition received on April 28, 1978, which was filed on behalf of workers and former workers producing ladies' sportswear at Lady Prestige, Inc., Boston, Mass. The investigation re-

vealed that the plant was relocated in Somerville, Mass. in 1978.

The Notice of Investigation was published in the FEDERAL REGISTER on May 23, 1978 (43 FR 22087). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lady Prestige, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Lady Prestige is a manufacturer of ladies' sportswear. Primarily slacks and skirts are produced. Originally, Lady Prestige did its own designing and cutting of garments, then contracted for the sewing. Since April 1978, all work has been contracted out to domestic contractors. Lady Prestige does not import.

Company sales and production are approximately equal. Sales declined from 1976 to 1977. Average employment increased from 1976 to 1977 and no reduced hours occurred.

Company sales increased in the first 5 months of 1978 compared to the first 5 months of 1977. Workers that were laid off in April and May 1978 were cutters. Other domestic cutters have been contracted to perform the work.

During the period in which sales declines occurred, no workers were laid off. During the period in which layoffs occurred, sales were increasing. The company decided to discontinue the designing and cutting of garments and contract the work out to domestic contractors.

CONCLUSION

After careful review I determine that all workers of Lady Prestige, Inc., Boston (and later, Somerville), Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25321 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3830]

MAYER, ROTHKOPF INDUSTRIES, INC., ROSLYN HEIGHTS, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents in the results of TA-W-3830: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 7, 1978, which was filed on behalf of workers and former workers producing circular knitting machines at Mayer, Rothkopf Industries, Inc., Roslyn Heights, N.Y. During the course of the investigation it was revealed that the Roslyn Heights, N.Y. facility of Mayer, Rothkopf Industries is engaged only in sales operation.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mayer, Rothkopf Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of circular knitting machines have increased absolutely in 1976 compared to 1975 and in 1977 compared to 1976.

Employment at Mayer, Rothkopf has decreased 35.6 percent in 1977 compared to 1976.

Dollar sales of Mayer, Rothkopf Industries have decreased 13.3 percent in 1977 compared to 1976. Value of production has decreased 23.2 percent in that time.

A survey of customers of Mayer, Rothkopf that was conducted by the Department of Commerce revealed that customers have decreased purchase of circular knitting machines from Mayer, Rothkopf and increased import purchases.

The Roslyn Heights, N.Y. facility of Mayer, Rothkopf Industries, Inc., markets only for Mayer, Rothkopf and is not affiliated with any other company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the circular knitting machines produced at Mayer, Rothkopf Industries and sold at its Roslyn Heights, N.Y. office contributed importantly to the total or partial separation of workers of that office. In accordance with the provisions of the act, I make the following certification:

All workers of Mayer, Rothkopf Industries, Inc., Roslyn Heights, N.Y., who became totally or partially separated from employment on or after June 5, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25322 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3601]

PATMORE COAT CO., PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3601: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' topcoats at Patmore Coat Co., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Patmore Coat Co., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production or both of such firm or subdivision have decreased absolutely.

Patmore Coat is an apparel contractor. Its sales and production are equal.

Sales increased in 1977 compared to 1976 and in the first 5 months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of the Patmore Coat Co., Paterson, N.J. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25323 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3529]

ROSENKRANZ BROTHERS, INC., BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3529: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 18, 1978 in response to a worker petition received on April 11, 1978, which was filed on behalf of workers and former workers producing ladies' slacks and skirts at Rosenkranz Bros., Inc., Brooklyn, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rosenkranz Bros., Inc., its customers, the U.S. Department of Commerce, U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the requirements have been met.

Approximately 90 percent of the product mix at Rosenkranz Bros. consisted of ladies' slacks, while the remainder consisted of ladies' skirts.

Imports of ladies' slacks and shorts increased from 11,040 thousand dozen in 1976 to 1,622 thousand dozen in 1977, and increased from 3,373 thousand dozen during the first 3 months of 1977, to 4,545 thousand dozen during the first 3 months of 1978. Imports as a percentage of U.S. production increased from 36.8 percent in 1976 to 38.0 percent in 1977.

Approximately 95 percent of Rosenkranz Bros.' production is for one clothing manufacturer in New York City. Sales by that manufacturer declined in 1977 compared to 1976, and during the first 3 months of 1978 compared to the first 3 months of 1977. Two major customers of the manufacturer who were surveyed reduced purchases from that manufacturer in 1977 while increasing purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' apparel produced at Rosenkranz Bros., Inc., Brooklyn, N.Y. contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Rosenkranz Bros., Inc., Brooklyn, N.Y. who became totally or partially separated from employment on or after March 31, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of August 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25324 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3404]

SOUTHERN UNION REFINING CO., MONUMENT, N. MEX.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3404: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 22, 1978, in response to a worker petition received on March 6, 1978, which was filed on behalf of workers and former workers producing refined oil products at the Monument, N. Mex., plant of Southern Union Refining Co.

The Notice of Investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14775). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Southern Union Refining Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The ratio of U.S. imports of refined oil products (residual and distillate fuels, jet fuel, and motor gasoline) to domestic production declined in each year from 1973, when the ratio was 23.2 percent, through 1977, when the ratio was 14.5 percent.

Southern Union's decision to close the Monument Refinery was a move to maximize efficiency. The Monument Refinery was directly competitive with Southern Union's other refinery in Lovington, N. Mex. The Lovington Refinery commenced operations in July 1974. Since production at the Lovington Refinery was well below capacity, production at the smaller, older Monument Refinery was easily absorbed into the Lovington refinery by diverting the crude oil by pipeline from the Monument Plant to the Lovington Refinery. Production at the Lovington Refinery increased in the first quarter of 1978 as compared to the first quarter of 1977.

CONCLUSION

After careful review, I determine that all workers of the Monument, N. Mex. refinery of Southern Union Refining Co. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25325 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3831]

MAYER, ROTHKOPF INDUSTRIES, INC., ORANGEBURG, S.C.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents in the results of TA-W-3831: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 7, 1978, which was filed on behalf of workers and former workers producing circular knitting machines at Mayer, Rothkopf Industries Inc., Orangeburg, S.C.

The notice of investgation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mayer, Rothkopf Industries, Inc., its cutomers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. it is concluded that all of the requirements have been met.

U.S. imports of circular knitting machines have increased absolutely in 1976 compared to 1975 and in 1977 compared to 1976.

Employment at Mayer, Rothkopf has decreased 35.6 percent in 1977 compared to 1976.

Dollar sales of Mayer, Rothkopf Industries have decreased 13.3 percent in 1977 compared to 1976. Value of production has decreased 23.2 percent in that time.

A survey of customers of Mayer, Rothkopf that was conducted by the Department of Commerce revealed that customers have decreased purchases of circular knitting machines from Mayer, Rothkopf and increased import purchases.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with circular knitting machines produced at Mayer, Rothkopf Industries, Inc., Orangeburg, S.C. contributed importantly to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Mayer, Rothkopf Industries, Inc., Orangeburg, S.C., who became totally or partially separated from employment on or after June 5, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of August, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25326 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3387]

QUALITY GLASS CO., MORGANTOWN, W. VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3387; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 21, 1978, in response to a worker petition received on March 2, 1978, which was filed on behalf of workers and former workers producing incandescent lighting at the Quality Glass Co., Morgantown, W. Va. During the course of the investigation it was discovered that workers at Quality Glass Co. produce illuminating glassware.

The notice of investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Quality Glass Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the West Virginia Glass Workers' Protective League, the American Flint Glass Workers' Union, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

A sample of Quality Glass Co.'s customers were surveyed regarding their purchases of illuminating glassware. Customers surveyed that reduced purchases from Quality Glass and increased purchases of imported illuminating glassware in 1977 compared to 1976 and in the first quarter of 1978 compared to the first quarter of 1977 represented an insignificant proportion of company sales.

CONCLUSION

After careful review, I determine that all workers at the Quality Glass Co., Morgantown, W. Va. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of August, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25327 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3055]

UNITED STATES STEEL CORP. SUPPLY DIVISION, CHICAGO, ILL.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3055: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers selling steel products at the Chicago, Ill., Steel Supply Division of the United States Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the United States Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the

other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of some customers of the Chicago, Ill., Steel Supply Division. This survey revealed that most of the customers purchased no imports during the period, 1975 to 1977.

CONCLUSION

After careful review I determine that all workers of the United States Steel Corp. Steel Supply Division, Chicago, Ill., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of August, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25328 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3483]

V.S.D. CLOTHING CO., NEWBURGH, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3483: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 6, 1978, in response to a worker petition received on March 27, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of all workers producing women's rainwear at the Newburgh, N.Y., plant of the V.S.D. Clothing Co.

Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the V.S.D. Clothing Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

The Department of Labor conducted a survey of all the customers of the V.S.D. Clothing Co. in Newburgh, N.Y. One major customer reduced purchases from V.S.D. Clothing Co. from 1976 to 1977; however, this customer switched to other domestic sources and purchased no imports. The other respondents increased purchases from V.S.D. between 1976 and 1977.

Sales, production, and employment increased sharply in the first quarter of 1978 compared to the same quarter of 1977.

CONCLUSION

After careful review I determine that all workers of the Newburgh, N.Y. plant of V.S.D. Clothing Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 28th day of August, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-25329 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-2938]

WHEELING PITTSBURGH STEEL CORP., WHEELING FABRICATING PLANT, WHEELING, W. VA.

Negative Determination Regarding Application for Reconsideration

By letter dated August 11, 1978, the president of the United Steelworkers of America, Local Union No. 7213, requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of workers and former workers at the Wheeling Fabricating Plant of Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va. The determination was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29381).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In his application, the president of the local union stated that one of the plant's departments, Utility Buildings, has closed down and that there is no intention of reopening it. He also noted that employment of workers engaged in employment related to the production of steel framing has been reduced. Finally, the local union president maintained that other companies are producing steel utility buildings using imported steel to make the finished product cheaper.

Regarding the utility buildings, the Department's investigation determined imports had not contributed importantly to the firm's decision to cease production. None of the customers of the Wheeling Fabricating Plant, contacted in the Department's survey, purchased imported utility buildings. As for the contention that other companies are using imported steel in the production of their utility buildings, that would not affect the Department's determination, since imported steel is not considered to be like and directly competitive with the finished steel utility buildings which were produced by the workers.

Although total employment at the plant decreased in 1977 compared to 1976, the Department's investigation revealed that sales and production of steel framing had increased in 1977 compared to 1976, increasing in each quarter of 1977 compared to the same quarter in 1976. Therefore, the Trade Act test of a decline in sales or production was not found to be met in relation to steel framing.

Under the circumstances, little purpose would be served by granting the requested reconsideration of this denial. I, therefore, recommend a denial.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25330 Filed 9-7-78; 8:45 am]

[4510-28]

[TA-W-3420]

WILKINSON SWORD, INC., BERKELEY HEIGHTS, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3420: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 27, 1978 in response to a worker petition received on March 10, 1978, which was filed on behalf of workers and former workers producing bonded razor blades and packaging razor blades at Wilkinson Sword, Inc., Berkeley Heights, N.J.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wilkinson Sword, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of razor blades increased absolutely and relative to domestic production from 1975 to 1976 and then decreased absolutely from 1976 to 1977. The level of imports in 1977 exceeded the level of imports in 1975.

The Department's investigation revealed that the subject firm transferred their blade assembly operation offshore in November 1977 and closed a related molding operation in October 1977. Company imports of finished and assembled blades increased substantially relative to company sales of these products in the first 5 months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the assembled razor blades produced at Wilkinson Sword, Inc., Berkeley Heights, N.J., contributed importantly to the decline in production and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at Wilkinson Sword, Inc., Berkeley Heights, N.J. who became totally or partially separated from employment on or after October 1, 1977 and before March 18, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of August 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-25331 Filed 9-7-78; 8:45 am]

[6820-49]

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

TWO-DAY MEETING

In accordance with section 10(a) of the Federal Advisory Committee Act (5 USC app. I), announcement is made of the following National Commission meetings schedule to assemble on September 28 and 29, 1978.

National Commission on the International Year of the Child

September 28, 1978—9:00 a.m. to 12 noon; 1 p.m. to 5:00 p.m.

September 29, 1978—9:00 a.m. to 12 noon; 1 p.m. to 3:30 p.m.

New Executive Office Building (Room 2010), 726 Jackson Place NW., Washington, D.C. 20506.

OPEN MEETING.

CONTACT:

Benedict J. Latteri, Administrative Officer, National Commission on the International Year of the Child, Room 6001, 726 Jackson Place NW., Washington, D.C. 20506.

PURPOSE: The National Commission serves as the focal point for the observance of all International Year of the Child activities in the country, and for all United States cooperation on International Year of the Child observances with other countries. It will provide a forum for examining the fundamental needs of children; it will create a better understanding of the needs of children, both in the United States and abroad; it will encourage and/or coordinate Federal, State, and local programs to meet these needs; and it will write a report to the President on its activities and findings, including recommendations of future actions relating to the well-being of children.

The Commission will assess and identify programs which could be endorsed or replicated nationally; receive and disseminate information, ideas, and proposals for improving the well-being of the nation's children; encourage local citizen support for meeting the basic human needs of children; such as health, nutrition, legal rights, education and physical development; and foster the creation of new programs and the improvement of existing programs directed at permanently improving the status of children.

AGENDA: The Commissioners will address the aforementioned issues, especially in relation to the following: (a) media, (b) public awareness, (c) participation of children in program development, (d) children around the world, and (e) the development of special projects.

Attendance by the public will be limited to space available.

BENEDICT J. LATTERI,
Administrative Officer, National Commission on the International Year of the Child.

AUGUST 31, 1978.

[FR Doc. 78-25272 Filed 9-7-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

PRIVACY ACT OF 1974

Amendment of System of Records

Notice is hereby given of an amendment to NSF System of Records No. 6, entitled "Doctorate Records File," as published in the FEDERAL REGISTER Volume 42, No. 195, page 54781 on October 7, 1977. Changes are being made to list the system as jointly owned by the National Science Foundation and the National Institutes of Health, with the National Science Foundation being the controlling agency. Interested persons are invited to submit written data, views or arguments to the Director, National Science Foundation, Attn: General Counsel, Washington, D.C. 20550 on or before October 10, 1978.

NSF-6

System name:

Doctorate Records File.

Security classification:

None.

System location:

National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20418; and National Science Foundation, 1800 G Street NW., Washington, D.C. 20550; and National Institutes of Health, Buildings 31 and 12, 9000 Rockville Pike, Bethesda, Md. 20014.

Categories of individuals covered by the system:

Approximately 99 percent of those individuals who have received earned doctorates from U.S. institutions.

Categories of records in the system:

Name, Social Security number, education history, post grad plans, sex, citizenship, race, and related items.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Information is given to the institution awarding degree. 2. Certain information (name, year, and field of degree) is given to the institution that awarded degrees and to other organizations for address searches and statistical studies. No other routine uses have been identified although data is given to other organizations without identifying particulars for statistical purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tapes and questionnaires are kept by the National Academy of Sciences. Computer tapes are kept by the National Science Foundation and the National Institutes of Health.

Retrievability:

Alphabetically by last name of individual.

Safeguards:

Data are kept in secured areas with access limited to authorized personnel. Questionnaires are kept in locked cabinets. Published findings will be in formats which preclude individual identification.

Retention and disposal:

Destroyed after 75 years.

System manager and address:

Division Director, Science Resources Studies, National Science Foundation.

Notification procedure:

Write to the system manager and provide the following information:

1. System Name: Doctorate Records File.
2. Complete name at time degree was awarded.
3. Complete birthdate and institution awarding degree (to distinguish among duplicate names, if necessary).

Record access procedures:

See "Notification procedure" above.

Contesting record procedures:

See "Notification procedure" above.

Record source categories:

Information obtained from individual.

System exempted from certain provisions of the act:

None.

Dated: August 31, 1978.

RICHARD C. ATKINSON,
Director.

[FR Doc. 78-25455 Filed 9-7-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Co. (the licensee), which revised the license and its appended Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (ANO-1) (the facility) located in Pope County, Ark. The amendment is effective as of its date of issuance.

The amendment adds a license condition relating to the completion of facility modifications for fire protection and modifies the Technical Specifications to require at least five individuals with fire protection training be on site at all times.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, 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 licensee's submittals dated September 17, October 5, 1976; June 16, July 18, August 30, September 6 and 21, October 26, December 12 and 20, 1977; and January 12 and 17, February 3 and 28, March 31, April 12 and 26, June 13, 15, 21, 29, and 30, and July 7, 14, and 25, 1978, (2) Amendment No. 35 to License No. DPR-51, 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 Arkansas Polytechnic College, Russellville, Ark. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 22d day of August 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-25239 Filed 9-7-78; 8:45 am]

[7590-01]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-40 issued to Omaha Public Power District, which revised the license including Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1 located in Washington County, Nebr. The amendment is effective as of its date of issuance.

This amendment adds a license condition relating to the completion of facility modifications for fire protection.

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 licensee's submittals dated December 30, 1976, Feb-

ruary 18, 1977, July 11, 1977, September 27, 1977, October 17, 1977, November 14 and 17, 1977, January 13 and 16, 1978, May 23, 1978, July 11, 13, and 24, 1978, and August 1, 1978, (2) Amendment No. 40 to License No. DPR-40, 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 Blair Public Library, 1665 Lincoln Street, Blair, Nebr. 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, Md., this 23d day of August 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-25240 Filed 9-7-78; 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 September 1, 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

DEPARTMENT OF ENERGY

Energy Extension Service Quarterly Report, IR-80, A, B, and C, quarterly, State energy offices, 228 responses, 11,400 hours, Budget Review Division, 395-4775.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, Inventory of College and University Physical Facilities as of September 15, 1978, NCES 2,300-7, single time, institutions of higher education, 700 responses, 2,100 hours, Laverne V. Collins, 395-3214.

Center for Disease Control, Evaluation of Historical Immunization Data With Antibody Level Determinations Made via Serologic Analysis, single time, households in selected SMSA study site, 2,758 responses, 920 hours, Richard Eisinger, 395-3214.

National Institutes of Health, Epidemiology of Benign Breast Disease, single time, adult women from Los Angeles County coastal health region, 600 responses, 150 hours, Richard Eisinger, 395-3214.

Public Health Service, The Use of Self-Applied Fluoride Programs in Selected U.S. Schools, annually, school administrations, school nurses, 2,000 responses, 500 hours, Human Resources Division, 395-3532.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census, Advance Monthly Retail Trade Report, B-104, B-105, weekly, retail business firms, 19,200 responses, 1,600 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Economic Development Administration, Current and Projected Permanent Employee and Payroll Data, ED-612, on occasion, employers, 1,000 responses, 1,500 hours, Laverne V. Collins, 395-3214.

EXTENSIONS

NATIONAL ENDOWMENT FOR THE ARTS

National Survey of Crafts Orgaizations, single time, all identifiable American crafts member organization, 2,500 responses, 500 hours, Human Resources Division, Warren Topelius, 395-3532.

VETERANS ADMINISTRATION

Request for Statement of Holder or Servicer of Veterans Loan, VA letter, 26-559, on occasion, loan holders, 20,000 responses, 3,333 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census:

Electric Lighting Fixtures (survey of shipments), MA-36L, annually, manufacturing establishments, 400 responses, 400 hours, Office of Federal Statistical Policy and Standard, 673-7956.

Annual Report of Shipments and Production of Sulfuric Acid, MA-28B, annually, manufacturers of sulfuric acid, 163 responses, 163 hours, Office of Federal Statistical Policy and Standard, 673-7956.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control:

Annual Morbidity Reporting Series, annually, State and territorial health departments, 265 responses, 1,802 hours, Office of Federal Statistical Policy and Standards, 673-7956.

Weekly Morbidity and Mortality Reports, weekly, State and territorial health departments, 9,152 responses, 4,035 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF LABOR

Employment Standards Administration, Revised Regulations—Office of Federal Contract Compliance, CC-60, other (see SF-83), Federal contractor and Federal assisted construction contractor and subcontractor, Laverne V. Collins, 395-3214.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-25454 Filed 9-7-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-386]

AMTEL, INC.

Application and Opportunity for Hearing

AUGUST 30, 1978.

Notice is hereby given that Amtel, Inc. ("Applicant") has filed an application, pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from the reporting provisions of sections 13 and 15(d) of that Act.

The Applicant states, in part:

1. Applicant is incorporated under the laws of the State of Rhode Island.

2. As a result of a merger on June 5, 1978, the Applicant became a wholly owned subsidiary of AMCA International Corp.

3. At this time the Applicant has only one shareholder, AMCA.

In the absence of an exemption, Applicant is required to file reports pursuant to sections 13 and 15(d) of the 1934 Act. Applicant believes that its request for an order exempting it from the provisions of sections 13 and 15(d) of the 134 Act is appropriate in view of the fact that the Applicant is a wholly owned subsidiary with only one shareholder. Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit of the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than September 25, 1978, may submit to the Commissioner in writing his views or any substantial facts bearing on this application or the desirability of a hearing

thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25241 Filed 9-7-78; 8:45 am]

[8010-01]

[Release No. 5970; 18-6]

ELMER FOX, WESTHEIMER & CO. RETIREMENT PLAN TRUST

Filing of Application for an Order Exempting From Provisions

AUGUST 31, 1978.

Notice is hereby given that Elmer Fox, Westheimer & Co. ("Applicant"), 2700 Lincoln Center Building, Denver, Colo. 80264, a public accounting firm organized in partnership form under the laws of Kansas, filed an application on January 23, 1978, for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with the Elmer Fox, Westheimer & Co. retirement plan trust (the "Plan"). All interested persons are referred to the application which is on file with the Commission for the facts and representations contained therein, which are summarized below.

I. INTRODUCTION

Applicant's plan provides that partners of the Applicant (except partners who own more than 10 percent of either the capital interest or profits interest in Applicant) and employees of the Applicant are eligible for participations therein if they are at least 25 years of age and have completed 3 years of service with the Applicant. Participation in the plan begins on the first day of June or December, coincident with or next following the date on which a person first becomes eligible for participation. As of May 31, 1977, there were 543 participants in the plan, including 271 employees and 272 partners. The plan is of the type commonly referred to as an "H.R. 10" or "Keogh" plan which covers persons who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), and, therefore, is excepted from the exemption provided by section 3(a)(2) of the Act for interests or participations in certain employee benefit plans of corporate employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of section 5 of the Act any interest or participation issued in connection with a pension or profit sharing plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the Code, if and to the extent the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. DESCRIPTION AND ADMINISTRATION OF THE PLAN

Applicant represents that the plan is a defined contribution H.R. 10 plan originally adopted on May 30, 1970 and most recently amended on March 16, 1977. The plan is subject to the Employee Retirement Income Security Act of 1974 ("ERISA"). The Internal Revenue Service has issued a determination letter to the effect that the plan, as amended to date, continues to meet the requirements of section 401(a) of the Code.

Applicant states that under the plan, Applicant contributes annually with respect to each participant in the plan an amount equal to the lesser of $7,500 or 7 percent of the participant's compensation in excess of $15,300 (an amount which may be changed in accordance with future adjustments in the Social Security wage base) to the extent such excess does not exceed $84,700. Each participant in the plan is permitted, at his or her option, to make voluntary contributions annually in an amount not exceeding 10 percent of his or her compensation paid during the period of participation in the plan.

Three partners of applicant serve as trustees under the plan. The trustees have the power to employ agents, attorneys, accountants and other persons to advise them as they deem necessary. The daily administration of the plan is handled by the plan administrator, an employee of applicant. According to applicant, the plan has real estate investments which the trustees manage, an equity portfolio managed by an independent investment counseling firm, and two bond portfolios, each managed by a bank.

III. DISCUSSION

If applicant's business were organized in corporate form, interests and participations in the plan would be exempt from registration pursuant to section 3(a)(2) of the Act. It is only because of the participation of "employees" within the meaning of section 401(c)(1) of the Code, that the exemption is not available.

Applicant contends that the plan does not present the risks associated with the sale of interests or participations in multiemployer plans by financial institutions with which Congress was primarily concerned when it drafted section 3(a)(2). The plan is not a master or prototype plan designed to be marketed by a promoter to unrelated self-employed persons. The assets of the plan are not commingled in pooled accounts with the assets of other employer's plans.

Applicant states that it exercises substantial administrative responsibility with respect to the plan, and has employed independent experts to provide investment management and advisory services.

Applicant states that because the plan is subject to the requirements of ERISA, applicant must provide descriptive and financial information to plan participants. Applicant further asserts that by the nature of its business, which involves complex financial matters, applicant is able to protect its interests and those of plan participants.

Accordingly, applicant concludes that the granting of an exemption under section 3(a)(2) for interests or participations issued in connection with the plan is appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 26, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Fleeson, Gooing, Coulson & Kitsch, attorneys for applicant, P.O. Box 997, Wichita, Kans. 67201.

Proof of such service (by affidavit or, in the case of any attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the application will be issued as of course following September 26, 1978, unless the Commission thereafter orders a hearing upon re-

quest or upon the Commission's own motion.

Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25242 Filed 9-7-78; 8:45 am]

[8010-01]

[File No. 81-383]

GENERAL FELT INDUSTRIES, INC.

Application and Opportunity for Hearing

AUGUST 30, 1978.

Notice is hereby given that General Felt Industries, Inc. (the "applicant"), has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act"), seeking an exemption from the reporting provisions of section 15(d) of that Act.

The applicant states in part:

1. As a result of a merger on July 25, 1974, the applicant's 9 percent convertible subordinated debentures due June 15, 1982 (the "debentures"), ceased to be convertible, and became the only class of applicant's securities registered pursuant to section 12(g) of the 1934 Act.

2. On July 21, 1978, the applicant filed a certification on form 12g-4, stating that as of July 18, 1978, there were 165 holders of record of debentures in the principal amount of $1,208,800. The registration of the debentures pursuant to section 12(g) will thus terminate 90 days after the certification date.

3. After termination of the section 12(g) registration, the applicant will remain subject to the reporting requirements of section 15(d) of the 1934 Act for the remainder of its fiscal year ending December 31, 1978.

The applicant contends that no useful purpose would be served in filing the required reports because the debentures are not widely held or actively traded, the trustee under the indenture pursuant to which the debentures were issued will continue to receive annual financial statements from the applicant, and the costs of preparing the required reports exceed the insubstantial benefits to be derived by the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice if further given that any interested person not later than September 25, 1978, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securites and Exchange Commission, 500 North Capital Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25243 Filed 9-7-78; 8:45]

[8010-01]

[Release No. 20692; 70-6202]

GEORGIA POWER CO.

Proposed Issuance and Sale of First Mortgage Bonds

AUGUST 31, 1978.

Notice is hereby given that Georgia Power Co. ("Georgia"), 270 Peachtree Street NW., Atlanta, Ga. 30302, an electric utility subsidiary of the Southern Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Georgia proposes to issue up to $100,000,000 principal amount of its first mortgage bonds of a series having a term of not less than 5 years nor more than 30 years ("new bonds"), and to sell the new bonds at competitive bidding for the best price obtainable but for a price to Georgia of not less than 98 percent nor more than 101¾ of the principal amount thereof, plus accrued interest.

Georgia may request by amendment hereto that such sale be excepted from the competitive bidding requirements of rule 50, should circumstances develop which, in the opinion of Georgia's management make such exception in the best interest of Georgia and its investors and consumers.

The new bonds will be issued under the indenture dated as of March 1, 1941, between Georgia & Chemical Bank, as trustee, as heretofore supplemented by various indentures supplemental thereto, and as to be further supplemented by a supplemental indenture to be dated as of October 1, 1978.

It is difficult to determine, under present, bond market conditions, whether it would be more advantageous to Georgia to sell new bonds having a 30-year or some shorter term. It is proposed, therefore, that Georgia decide on the term of the new bonds after the date of public invitation for proposals and then notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of the bidding.

Georgia proposes to use the proceeds from the sale of the new bonds, along with other funds, in financing its 1978 construction costs, estimated at July 1978, to be $500,805,000, and in retiring $14,049,000 principal amount of first mortgage bonds.

A statement of the fees, commissions, and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The proposed transaction has been authorized by the Georgia Public Service Commission. It is stated that no other SAtate commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 27, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of attorney at law, by certificate), should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption

from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25244 Filed 9-7-78; 8:45 am]

[8010-10]

[Rel. No. 10386; 812-4210]

INA CAPITAL BOND TRUST

Filing of Application for an Order of Exemption

AUGUST 31, 1978.

Notice is hereby given that INA Capital Bond Trust ("applicant"), P.O. Box 7728, Philadelphia, Pa. 19101, a trust created under the laws of the Commonwealth of Pennsylvania and an open end, diversified investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on October 25, 1977, and an amendment thereto on July 10, 1978, pursuant to section 6(c) of the Act for an order of the Commission declaring that Norman V. Watson, a trustee of the applicant, shall not be deemed an "interested person" of the applicant or INA Capital Management Corp. ("INA Management") within the meaning of section 2(a)(19) of the Act by reason of his status as an "affiliated person," as defined by section 2(a)(3) of the Act, of Del Securities Corp. ("Del Securities"), a broker-dealer registered with the Commission under the Securities Exchange Act of 1934 (the "1934 Act"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it is limited to investment by pension and profit-sharing plans qualified under section 401(a) of the Internal Revenue Code and subject to the Employee Retirement Income Security Act of 1974. Applicant intends to invest primarily in bonds and other debt securities issued by corporations and other taxable entities. Applicant states that it will be prohibited from purchasing real estate or interests therein.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company, and of an investment adviser of or a principal underwriter for an investment company, to include any broker or dealer registered under the 1934 Act or any affiliated person of such a broker or dealer. Section 2(a)(3) of the Act, in pertinent part, defines an "affiliated person" of another person to include any officer, director, or person owning more than 5 percent of the outstanding voting securities of such person.

Norman V. Watson, who is president, director and owner of 30 percent of the outstanding voting securities of Quadel Corp. ("Quadel"), is a trustee of the applicant. Mr. Watson is also an affiliated person of Del Securities as president, director, and owner of 25 percent of its outstanding voting securities. Consequently, Mr. Watson is, at present, an "interested person" of the applicant and INA Management, applicant's investment manager, as that term is defined in section 2(a)(19) of the Act by virtue of his affiliation with Del Securities.

Applicant represents that Quadel has engaged in two general lines of business: (i) Furnishing real estate management (largely to owners and developers of low and medium income multifamily projects), and (ii) assisting in the syndication of interests in various types of real estate projects, most frequently multifamily residential projects. Applicant submits that these projects have normally been formed and marketed as limited partnerships and individual general partners have made the units of limited partnership available for sale in private offerings pursuant to the exemption contained in section 4(2) of the Securities Act of 1933.

Del Securities was formed as a broker-dealer and registered with the Commission on February 6, 1978. Applicant represents that Del Securities engages or may engage in the sale of interests in partnerships, most of which are or would be formed by Quadel, and invests or may invest, directly or indirectly, in real estate.

Applicant submits that Mr. Watson's Affiliation with Del Securities under the circumstances described in the application should not cause him to be deemed an interested person of applicant or INA Management. Applicant is prohibited from purchasing the type of securities which Del Securities is authorized to sell. The application states that Del Securities will be prohibited from executing principal transactions, directly or indirectly, for applicant. No other accounts advised by INA Management invest in real estate or interests therein. Further, applicant has affirmatively represented that so long as Mr. Watson acts as a trustee, applicant will not effect any agency transactions with Quadel, Del Securities, or any other broker-dealer affiliated with Quadel. Consequently, applicant submits that Mr. Watson's affiliation with Del Securities would not affect or impair his independence in acting on behalf of the applicant and its participating trusts.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 25, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposes to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate), shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25245 Filed 9-7-78; 8:45 am]

[8010-01]

[Release No. 5971; 18-19]

KAYE, SCHOLER, FIERMAN, HAYS, & HANDLER RETIREMENT PLAN

Filing of Application for an Order Exempting From Provisions

AUGUST 31, 1978.

Notice is hereby given that Kaye, Scholar, Fierman, Hays & Handler (hereinafter referred to as the "appli-

cant" or the "firm"), 425 Park Avenue, New York, N.Y. 10022, a law firm organized as a partnership under the laws of the State of New York, on June 21, 1978, filed an application for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the Kaye, Scholar, Fierman, Hays & Handler retirement plan (the "plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

The plan covers the applicant's employees, of whom approximately 63 partners and 243 employees were eligible to participate as of January 1, 1978. All employees are eligible to participate in the plan if they are at least 25 years of age and have completed 1 year of service with the applicant.

Applicant states that the plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, applicant's partners) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "code"), and, therefore, is excepted from the exemption provided by section 3(a)(2) of the Act for interests or participations in employee benefit plans of corporate employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of section 5 of the Act any interest or participation issued connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of section 401(c)(1) of the code, if and to the extent that the Commission determine this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisons of the Act.

Description and Administration of the Plan

Applicant states that the plan was originally adopted in 1965, and was amended and restated in its entirety, effective as of January 1, 1976, in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). The Internal Revenue Service ("IRS") has issued a ruling to the effect that the plan, as so amended and restated, is a qualified plan under section 401(a) of the Code. The plan is an "employee pension benefit plan" subject to the fiduciary standards and to the full reporting and disclosure requirements of ERISA. Applicant makes annual contributions to the plan on behalf of the participants based on a formula designed to fluctuate with changes in the social security wage base and at the same time result in a $7,500 maximum contribution for those at the $100,000 compensation level. Under the plan, participants may make voluntary contributions to the plan of not more than 10 percent of such participant's aggregate compensation for all years during which the person has been a participant, subject to certain limitations.

Applicant states that the United States Trust Co. of New York is trustee (the "trustee") for the plan under an amended trust agreement (the "trust agreement"). Under the trust agreement the executive committee of the firm determines whether the investment of the trust fund shall be managed by: (a) The trustee, (b) directed by one or more investment managers, or (c) managed in part by the trustee and in part by the investment manager. The firm has appointed New Court Capital Management, Inc., a registered investment adviser, as the investment manager of the plan assets. The investment manager directs (subject to the investment objectives and policies approved by the executive committee) the investment and reinvestment of the plan assets. Applicant has retained S. D. Leidesdorf & Co. to provide certain accounting services and the Wyatt Co. to provide actuarial and planning services for the plan.

The plan provides for the appointment of a retirement committee which at present consists of six partners in the firm. The committee has overall responsibility and authority for administration of the plan. The executive committee of the firm has responsibility and authority under the plan for reviewing and approving the plan's investment objectives and policies and for reviewing and evaluating the performance and policies of the trustee and the investment manager.

Applicant states that if the partnership were a corporation, interests and participations in the plan would be exempt under section 3(a)(2) of the Act. Applicant submits that merely because applicant is unincorporated is no reason for subjecting such interests and participations to the registration requirements of the Act. Applicant further submits that the intent of Congress in excluding from the exemption plans in which self-employed persons were participants was to prevent the sale without registration of interests in prepackaged plans offered by financial institutions to self-employed persons lacking the sophistication to protect themselves and their employees, and that the provision permitting the Commission to grant exemption upon application was included in section 3(a)(2) of the Act to make available an exemption for partnership plans where the plan and the entity involved are comparable to corporate plans exempted by section 3(a)(2).

Applicant states that the plan covers partners and employees of a single firm and is not a uniform prototype plan of a type designed to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. Applicant also states that assets of the plan have not been and will not be commingled in any collective investment fund unless such fund has been registered under the Act.

Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the plan (other than such material as applicant is required under ERISA to distribute to participants or to employees) and has not made and does not intend to make any solicitation of voluntary contributions under the plan. Applicant makes available to plan participants, upon request and without charge, copies of the plan, the trust agreement and the latest interim financial statements of the plan.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters and, for that reason as well as the extensive administrative control over the plan maintained by the firm, is able to represent adequately its interests and the interests of its employees who are participants in the plan.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 25, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate), shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following September 25, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commis-

sion's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25246 Filed 9-7-78; 8:45 am]

[8010-01]

[File No. 81-377]

KOHLER CO.

Application and Opportunity for Hearing

AUGUST 30, 1978.

Notice is hereby given that Kohler Co. ("Applicant") has filed an application, pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from the reporting provisions of section 15(d) of that Act.

The applicant states, in part:

1. Applicant is incorporated under the laws of the State of Wisconsin.

2. On June 1, 1978 all of the Applicant's 10½ percent sinking fund debentures were called for redemption, pursuant to the applicant's trust indenture dated June 1, 1970.

3. As a result of the call for redemption, the remaining debentures are held by approximately 58 persons, and there is no trading in such securities.

In the absence of an exemption, applicant is required to file reports pursuant to section 15(d) of the 1934 Act. Applicant believes that its request for an order exempting it from the provisions of section 15(d) of the 1934 Act is appropriate in view of the fact that the Applicant's securities are held by less than 300 persons. Applicant believes that the time, effort and expense involved in preparation of additional periodic reports would be disproportionate to any benefit of the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than September 25, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25247 Filed 9-7-78; 8:45 am]

[8010-01]

[Release No. 15113; SR-OCC-78-3]

OPTIONS CLEARING CORP. ("OCC")

Order Approving Proposed Rule Change

AUGUST 31, 1978.

On June 12, 1978, OCC filed with the Commission, pursuant to section 19(b)(1) of the Securites Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change redefining the term "Government securities" for purposes of OCC's by-laws. The new rule defines government securities as securities issued or guaranteed by the United States and maturing in 10 years or less. Previously, Government securities had been defined to mean securities issued or guaranteed by the United States with initial maturities of 5 years or less. The purpose of the rule change is to increase the number of Government securites that OCC participants can use for margin and clearing fund purposes and that OCC can use for investment purposes.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 34-14868, July 18, 1978) and by publication in the FEDERAL REGISTER (43 FR 31486, July 21, 1978). No written comments were received by the Commission, and there were no written communications with OCC regarding this proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies, and in particular, the requirements of section 17A and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25248 Filed 9-7-78; 8:45]

[8010-01]

[Release No. 15116; SR-PHLX-11]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

AUGUST 31, 1978.

On May 15, 1978, the Philadelphia Stock Exchange, Inc. ("PHLX"), 17th and Stock Exchange Place, Philadelphia, Pa. 19103, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 [17 CFR 240.19b-4] thereunder, copies of a proposed rule change which amends PHLX rule 1014 by addition of paragraph .14 to provide that a registered options trader ("ROT") must spend at least 50 percent of the business days in each quarter on the option floor. To satisfy the new requirement, a ROT must be on the PHLX option floor for a substantial portion of each such business day. The amendment also authorizes the PHLX's committee on options to stipulate a minimum number of contracts which a ROT must trade as principal during any quarter.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 14855, June 15, 1978) and by publication in the FEDERAL REGISTER (43 FR 26660, June 21, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The stated purpose of this amendment to PHLX rule 1014 is to insure that ROT's act in a manner consistent with their affirmative obligations so as to enhance the depth and liquidity of markets in listed options maintained on the PHLX. Insofar as the exchange enforces the minimal attendance and trading requirements[1] contemplated in

[1] The Commission notes that this amendment to PHLX rule 1014 authorizes the committee on options to establish a minimum trading requirement for ROT's but

Footnotes continued on next page

SR-PHLX-78-11, the proposal may facilitate transactions in securities and foster protection of investors and the public interest by adding depth and liquidity to the markets in options traded on the PHLX. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25249 Filed 9-7-78; 8:45 am]

[8010-01]

[File No. 81-393]

PRESTO PRODUCTS, INC.

Application and Opportunity for Hearing

AUGUST 30, 1978.

Notice is hereby given that Presto Products, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting applicant from the provisions of sections 13 and 15(d) of that Act.

The application states, in part:

1. The applicant became subject to the periodic reporting requirements of section 15(d) of the 1934 Act for its common stock in 1972.

2. Applicant's registration under section 12(g) of the 1934 Act, effective in 1972, will be terminated as of September 9, 1978.

3. On May 31, 1978, a merger was consummated whereby the applicant became a wholly-owned subsidiary of Coca-Cola Co.

As a result of the merger, Coca-Cola owns the entire equity interest in the applicant. All of the common stock outstanding prior to the merger has been cancelled.

In the absence of an exemption, applicant would be required to file a report on form 10-K for the period ended September 30, 1978. Applicant believes that its request for an order exempting it from the reporting provisions of sections 13 and 15(d) of the 1934 Act is appropriate in view of the facts that it is now a wholly-owned subsidiary and it has no publicly held securities, that compliance would be unnecessarily time consuming and expensive, and it would not appear to serve the public interest or provide for the protection of investors.

For a more detailed statement of the information presented, all persons are referred to the application which may be examined at the Commission's public reference section, 1100 L Street NW., Washington, D.C. 20549.

Notice is further given that any interested person, not later than September 25, 1978, may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25252 Filed 9-7-78; 8:45 am]

[8010-01]

[Release No. 5972; 18-20]

PROFITSHARING PLAN FOR THE LEGAL STAFF OF DEWEY, BALLANTINE, BUSHBY, PALMER & WOOD

Filing of Application for an Order Exempting From the Provisions

AUGUST 31, 1978.

Notice is hereby given that Dewey, Ballantine, Bushby, Palmer & Wood ("Applicant" or the "Firm"), 140 Broadway, New York, N.Y. 10005, a law firm organized as a New York partnership, filed an application on July 19, 1978, for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the profit sharing plan for the legal staff of Dewey, Ballantine, Bushby, Palmer & Wood (the "plan").

All interested persons are referred to the application which is on file with the commission, for the facts and representations contained therein, which are summarized below.

I. INTRODUCTION

The plan covers the firm's legal staff, of whom approximately 70 associates and 62 partners were participants in the plan as of September 30, 1977. The plan covers persons (in this case applicant's partners) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, as amended ("code"), and therefore the exemption provided by section 3(a)(2) of the Act is inapplicable to the plan. However, the Commission may, pursuant to section 3(a)(2), exempt from the provisions of section 5 of the Act any interest or participation issued in connection with a stock bonus, pension, profit-sharing, or annuity plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. DESCRIPTION AND ADMINISTRATION OF THE PLAN

The plan was originally adopted in 1969 and was amended, effective October 1, 1976, and effective September 30, 1978. The plan has been qualified since inception under section 401 of the Code, and applicant will promptly submit the plan, as revised, to the Internal Revenue Service for a determination that the plan, as amended at September 30, 1978, continues to be qualified under section 401(a) of the Code. Applicant also has a defined benefit pension plan and a defined contribution supplemental benefit plan, both qualified under section 401 of the Code, which cover employees other than members of the legal staff. For economy of administration and diversity of portfolio the assets of the plan are commingled with the asssets of these plans solely for investment purposes. The exemptions requested in the application are requested only for the plan.

Applicant makes contributions to the plan on behalf of each participant out of its profits. Contributions allocated to the account of each participant are based on the participant's regular compensation for the year subject to a social security integration formula. Under the plan participants may

---

Footnotes continued from last page
does not specify the number of contracts which must be traded in each quarter. Whenever the committee determines to adopt (or revise) a stated policy setting forth this minimum trading requirement, that stated policy would, of course, be subject to the filing and review provisions of section 19(b) of the act and rule 19b-4 thereunder.

make voluntary contributions to the plan subject to limitations contained in the plan, the Code, and Income Tax Regulations.

Funds held by the plan for the account of each participant will be allocated between a fixed income securities investment trust (the "fixed income trust") and a general investment trust (the "general trust"), as the participant may direct from time to time. The fixed income trust and the general trust will not hold any assets of the plan but will be used to allocate assets attributable to participants for bookkeeping and accounting purposes only. An account will be maintained for each participant in the plan, and such account will reflect the amount of voluntary and firm contributions to the general trust as well as the amount of voluntary and firm contributions to the fixed income trust.

Applicant expects to enter into a contract with a life insurance company for the purpose of investing assets allocated to the fixed income trust, as well as a portion of the assets allocated to the general trust. Fixed income trust assets will be invested in the general account of the insurance company, and amounts contributed wil be guaranteed by the insurance company, although the annual yield may vary. General trust assets may be invested, pursuant to contract, in a separate account of the life insurance company available to qualified pension and profit sharing plans.

The remainder of the plan assets allocated to the general trust will be held in a trust, the trustee of which is currently The Chase Manhattan Bank, N.A. (the "Chase trust").

MacKay-Shields Financial Corp., a registered investment adviser, is the investment manager of the assets held in the Chase trust. Assets in the Chase trust are invested in fixed income and equity securities. The trustee has no discretionary responsibility for the investment and management of plan assets.

The plan is administered by the retirement committee (the "committee"), currently consisting of three members of the firm. The committee is responsible for all matters relating to funding, eligibility, entitlement to benefits, actuarial determinations and accounting functions in connection with the plan and will be responsible for supervising the activities with respect to the plan of the bank trustee, the insurance company and the investment adviser. The committee has no discretion with respect to the investment or custody of the plan's assets.

The plan is subject to the reporting, disclosure and other requirements, including the fiduciary standard of care, imposed by The Employees' Retirement Income Security Act of 1974 ("ERISA"). Among other things, the firm has complied and complies with the following obligation:

(1) A form EBS-1 describing the plan has been filed with the Department of Labor and is amended within 60 days after each material change is made therein;

(2) A description of the plan, set out in "a manner calculated to be understood by the average plan participant", has been furnished to each participant therein and, upon receipt of a favorable ruling from the IRS with respect to the plan after each material amendment thereto, a like description giving effect to such amendments is furnished to each participant;

(3) An annual report of the plan ("annual report") is filed with the IRS and the Department of Labor;

(4) A summary of each annual report is distributed to each participant in the plan which, among other things, specifies where copies of the complete annual report are available for inspection and copying; and

(5) Each participant is furnished annually with a statement setting forth the status of his account under the plan, including the value of his account, and the respective amounts of the firm's and, if any, his own voluntary contributions made during the year and in the aggregate for all years under the plan.

DISCUSSION

If applicant's business were organized in corporate form, interests and participations in the plan would be exempt from registration pursuant to section 3(a)(2) of the Act. It is only because of the participation of "employees" within the meaning of section 401(c)(1) of the Code, that the exemption is not available.

Applicant contends that the plan does not present the risks associated with the sale of interests or participations in multiemployer plans by financial institutions with which Congress was primarily concerned when it drafted section 3(a)(2). The plan is not a master or prototype plan designed to be marketed by a promoter to unrelated self-employed persons.

Applicant states that it exercises substantial administrative responsibility with respect to the plan, and has employed independent experts to provide investment management and advisory services.

Applicant states that because the plan is subject to the requirements of ERISA, applicant must provide descriptive and financial information to plan participants. Applicant further asserts that by the nature of its business, which involves complex financial matters, applicant is able to protect its interests and those of plan participants.

Applicant does not request (and the exemptive authority vested in the Commission by section 3(a)(2) does not authorize) any exemption from the provisions of section 17 of the Act, any other applicable antifraud provisions contained in the securities laws, or any rules adopted pursuant thereto.

Accordingly, applicant concludes that the granting of an exemption under section 3(a)(2) for interests or participations issued in connection with the plan is appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 26, 1978, submit to the Commission in writing a request for a hearing on the application accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant at the address stated above. Proof of such service (by affidavit or, in the case of any attorney at law, by certificate) shall be filed contemporaneously with the request.

An order disposing of the application will be issued as of course following September 26, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion.

Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issues in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25250 Filed 9-7-78; 8:45 am]

[8010-01]

[File No. 500-1]

WESTERN PREFERRED CORP.

Suspension of Trading

AUGUST 31, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Western Preferred Corp. being traded on a national securities exchange or otherwise is required in

the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:35 a.m. (e.d.t.) on August 31, 1978, through September 9, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-25251 Filed 9-7-78; 8:45 am]

[8010-01]

[Release No. 34-15115; File No. SR-CBOE-1978-25]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 23, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Rule 15.1

** * * Interpretations and Policies*

.01 Every member organization conducting a non-member customer business shall make and keep current a separate, central file for all options-related complaints. The term "separate, central file" shall be deemed to include any log, index or other listing through which options-related complaints can be easily identified and retrieved. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance respecting listed options. Such file shall be maintained in the principal place of business of the member organization or such other principal office as shall be designated by the member organization and shall include a record of what action, if any, has been taken by the member organization with respect to each complaint. Each options-related complaint received by a branch office of the member organization shall be forwarded to the office in which the separate, central file is located not later than 30 days after receipt by the branch office.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The interpretation is designed to establish the requirement that each member organization maintain a single, central file of options-related complaints which will be readily accessible to CBOE examiners. At present, even at those firms which maintain central complaints files, options-related complaints are mixed with all other complaints received by the firm so that review by Exchange examiners of all options-related complaints is sometimes virtually impossible.

The basis under the Act for the proposed rule change is section 6(b)(5) which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

No comments have been solicited or received regarding this proposal.

The Exchange does not believe this proposal will impose any burden upon competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted September 29, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1978.

[FR Doc. 78-25253 Filed 9-7-78; 8:45 am]

[8010-01]

[Release No. 34-15117; File No. SR-PSE-78-15]

PACIFIC STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 23, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange, Inc. ("PSE") hereby requests to amend rule VI, section 11(b) (brackets indicate deletions, and italics indicate additions):

RULE VI.—EXCHANGE OPTIONS TRADING

RESTRICTION OF OUT-OF-THE-MONEY OPTIONS

SEC. 11. (a) No change.

(b)(1) No change.

(2) The entry of a spread order for the purchase and sale of the same number of option contracts of the same class [;or], *provided that, if there is a subsequent liquidation, or expiration of, one side of the spread and if, apart from the exception provided in this subparagraph (2), paragraph (a) would have been applicable to the other side of the spread when the order was entered, there shall be a concurrent liquidation of such other side;*

(3) [Any transaction of a Market Maker pursuant to the provisions of section 79.] *The entry of an order for any opening transaction which would, upon execution, create a spread position for the same number of contracts of the same class of options provided that, if there is a subsequent liquidation, or expiration of one side of the spread and if, apart from the exception provided in this subparagraph (3), paragraph (a) would have been applicable to the other side of the spread when the order was entered, there shall be a concurrent liquidation of such other side;*

(4) The entry of an order for the purchase of a put against a long position in either the underlying stock or a security immediately exchangeable or convertible without restriction, other than the payment of money into the underlying stock; or

(5) Any transaction of a Market Maker pursuant to the provisions of Section 79.

(c) No change.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide for an exception from rule VI, section 11 for those spread orders in which both sides of the spread are not executed simultaneously. Presently, whenever both sides of a spread order are executed at the same time, that order is exempt from the provisions of rule VI, section 11 (see subparagraph (b)). It is often the case, however, that although an order is initially designated as a spread order, market considerations require that either the long option or the short option side of such an order be executed followed by the execution of the remaining "leg." Since the result of such transactions is the creation of a spread position, the exemption from rule VI, section 11, currently extended to spread orders, should also be extended to opening transactions which establishes a spread position which is the same as that of an executed spread order. With respect to proposed rule VI, sec. 11(b)(4), the amendment would permit investors to purchase (opening) restricted puts provided they are offset in the account by long stock or convertible security positions. With the commencement of put option trading, many member firms desire to recommend the purchase of out-of-the-money puts against long stock positions, particularly stock positions that have been utilized to write covered calls. In such situations, the purchase of out-of-the-money puts is viewed as an inexpensive, yet effective, means for investors to protect against a price decline in the underlying stock.

The basis for the proposed rule change is contained in those provisions of section 6(b)(5) of the Act which requires that the Exchange's rules provide for the "promotion of just and equitable principles of trade" and "the protection of investors and the public interest."

Comments were neither solicited nor received from members, participants or other on the proposed rule change.

The proposed rule change will not impose any burden on competition; rather, it will eliminate a potential competitive disadvange among the PSE, the Chicago Board of Options Exchange ("CBOE") and the American Stock Exchange ("AMEX") who currently trade restricted out-of-the-money options in this manner.

On or before October 13, 1978, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and pupblishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securites and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 29, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1978.

[FR Doc. 78-25254 Filed 9-7-78; 8:45 am]

[8010-01]

[Release No. 34-15114; File No. SR-PHLX 78-17]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on August 21, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange ("PHLX") proposes to amend rule 1014 as follows (italics indicate additions):

* * * *Commentary*

.15 Notwithstanding the provisions of Rule 1014(c)(i), for the week preceding the expiration date, the bid/ask differentials for expiring options which are in-the-money may be no more than the lesser of the bid/ask differential of the underlying security or ¼ of $1 where the premium is less than $1, ⅜ of $1 where the premium is less than $3, and ½ of $1 where the premium is less than $6.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The proposed rule change would apply to in-the-money options 1 week prior to the expiration date where the security underlying such options is trading at a bid/ask differential which is greater than the bid/ask differential permitted in the options pursuant to rule 1014(c)(i). This situation will often occur in an options series when the market for the underlying security may not be, at the time, a liquid one. A specialist or an ROT in these options may frequently be required to make a market in the option which permits the purchaser or seller of such options to acquire or sell stock at a price which is more favorable than that which is available by purchasing or selling the underlying security. In such a situation, the specialist or ROT who desires to hedge his options position by purchasing or selling the underlying security or the options frequently incurs a loss. His resulting options markets will frequently provide the minimum depth which is required by PHLX rules, e.g., a two-sided one-contract market.

It is important to realize that these in-the-money options trading 1 week prior to expiration are likely to be exercised immediately or by OCC on an exception basis. Conceptually, the option becomes the economic equivalent of the underlying security. Thus, the bid/ask differentials currently contained in 1014(c)(i) may restrict the specialists and ROT's ability to make markets with depth in the option when the underlying security is trading with a greater bid/ask differential than is permitted the option. The proposed rule change would, however, ameliorate this restriction by permitting the options specialist or ROT to reduce his risk and would therefore result in his ability and tendency to make deeper markets.

The basis for the proposed rule change is found in section 6(b)(5) of the Securities Exchange Act of 1934, which provides, in pertinent part, that the rules of the Exchange be designed to facilitate transactions in securities and to protect investors and the public interest.

No comments have been received from members or others on the proposed rule change.

No burden on competition will be imposed by the proposed rule change.

On or before October 13, 1978, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned

self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Pubic Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before September 29, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 31, 1978.

[FR Doc. 78-25255 Filed 9-7-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

JOHN L. AMATO

Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C. Section 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one years.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Amato, John L., 46 Grove St., Portland, Conn., convicted on April 16, 1974, in the Superior Court, Middlesex County, Middletown, Conn.

Antonelli, George A., 9 Coombs St., Middleboro, Mass., convicted on February 2, 1943, October 8, 1946, and on April 28, 1959, in the Superior Court, Suffolk County, Mass.

Ayers, J. C. Route 1, Box 117, Purlear, N.C., convicted on October 20, 1969, in the United States District Court, Wilkesboro, N.C.; and on March 10, 1972, in the Wilkes County District Court, Wilkesboro, N.C.

Bailey, Robert L., 1101 North 69th Ave., Pensacola, Fla., convicted on May 24, 1954, in the Circuit Court of Santa Rosa County, Milton, Fla.; and on January 8, 1964, in the Criminal Court of Record, Escambia County, Fla.

Ball, James W., P.O. Box 119, Gauley Bridge, W. Va., convicted on January 21, 1976, in the United States District Court, Northern District of Ohio.

Bandur, Anthony J., 3570 Backus Rd., Harbor Creek, Pa., convicted on November 23, 1976, in the United States District Court, Western District of Pennsylvania, Erie, Pa.

Biggerstaff, Wayman W., 3025 South Temple Ave., Indianapolis, Ind., convicted on July 25, 1973, in the Marion County Criminal Court, Division Three, Marion County, Ind.

Boesche, Brian G., 1250 15th St. North, Apt. 11, St. Cloud, Minn., convicted on January 29, 1976, in the District Court of Carver County, Minn.

Braley, James W., Sr., 1632 Church St., Marinette, Wis., convicted on December 30, 1975, in the Marinette County Court, Marinette, Wis.

Brown, Larry F., T-124 Gate 4, Lake Lotawana, Mo., convicted on May 27, 1966, in the United States District Court for the District of Kansas, Topeka, Kans.

Call, Julius H., Route 2, Box 470, Wilkesboro, N.C., convicted on November 17, 1948, in the United States District Court for the Middle District of North Carolina, Wilkesboro, N.C.

Carvalho, Charles, Jr., 1 Ocean Ave., Hanson, Mass., convicted on February 28, 1964, in the Second District Court of Bristol, Bristol County, Mass.

Cicio, Robert, 5020 Bonham, Odessa, Tex., convicted on November 16, 1971, in the 70th Judicial District Court of Ector County, Tex.

Clements, Frederick W., 427 Seymour St., Wasau, Wis., convicted on September 21, 1976, in the County Court, Marathon County, Wis.

Cook, David, E., 2704 Rochester Rd., Avon Park, Fla., convicted on October 23, 1970, and on October 8, 1971, in the Collier County Circuit Court, Collier County, Fla.

Davis, Gerald M., 5007 Ojibway Dr., Kokomo, Ind., convicted on December 12, 1962, in the Howard County Superior Court, Kokomo, Ind.

Ebelt, Larry G., 1125 South Weed St., Shawano, Wis., convicted on December 30, 1963, September 16, 1965, and on April 1, 1969, in the Shawano-Menominee County Court, Wis., and on January 18, 1973, in the Circuit Court, Shawano County, Wis.

Eshelman, Richard D., 9722 Caltor Lane, Oxon Hill, Md., convicted on January 11, 1977, in the United States District Court, District of Maryland, Baltimore, Md.

Foldesi, Thomas R., 1022 West 6th St., Duluth, Minn., convicted on August 30, 1956, and on September 4, 1956, in the 11th District Court, Duluth, Minn.; and on August 27, 1969, in the Douglas County District Court, Superior, Wis.

George, Harry K., 9405 Brakeman Rd., Chardon, Ohio, convicted on January 31, 1974, in the Common Pleas Court of Lake County, Ohio.

Gernannt, David A., Route 1, Box 175-B, Alachua, Fla., convicted on September 11, 1969, in the United States District Court, Jacksonville, Fla.

Goenner, Joseph M., 750 Fountainhead Lane, Naples, Fla., convicted on December 18, 1959, in Nassau County, Mineola, N.Y.

Hall, Robert E., Box 494, Damascus, Va., convicted on February 3, 1975, in the Circuit Court of Greyson County, Grayson County, Va.

Hamblin, James, RFD No. 2, Poultney, Vt., convicted on September 19, 1956, August 11, 1957, and on May 7, 1958, in the Superior Court, Cumberland County, N.J.

Henderson, Stephen M., Route No. 2, Box 38-D, Robertsdale, Ala., convicted on February 4, 1972, in the United States District Court, Southern District of Alabama, Mobile, Ala.

Hendrickson, Kenneth R., 105 South Broadway, Everett, Wash., convicted on December 18, 1961, in the United States District Court for the Western District of Washington, Northern Division; and on October 31, 1962, in the Superior Court of the State of Washington in and for the County of Snohomish, Wash.

Hudson, Harry D., 430 West Columbus St., Kenton, Ohio, convicted on March 10, 1971, in the Court of Common Pleas of Allen County, Ohio.

Hughes, Jerry L., 2318 Iron Ore Dr., No. 1, Huffman, Tex., convicted on April 7, 1976, in the 174th District Court of Harris County, Tex.

Hutsell, Earl L., 817 Antique Ct., Apt. A, Indianapolis, Ind., convicted on September 14, 1931, in the St. Joseph County Circuit Court, Ind.

Hyde, Oscar E., 2857 Vestavia Forst Dr., Birmingham, Ala., convicted on February 27, 1969, and on March 3, 1972, in the United States District Court, Northern District of Alabama.

Johnson, Raymond E., 2823 Addison Dr., Knoxville, Tenn., convicted on or about November 30, 1956, in the Criminal Court of Knox County, Tenn.

Kabbooard, John J., 128 Surf Dr., Cocoa Beach, Fla., convicted on November 21, 1973, in the United States District Court for the Middle District of Florida, Jacksonville Division.

Kuykendoll, John W., Route 3, Box 274, Friendship Rd., Douglasville, Ga. convicted on October 27, 1971, in the Paulding County Superior Court, Dallas, Ga.

Lemley, Alvie D., Route 2, New Hope, Ala., convicted on September 18, 1969, in the United States District Court, Northern District of Alabama, Birmingham, Ala.

McDaniels, Jessie J., 8130 Bonner Dr., Houston, Tex., convicted on October 1, 1974, in the 209th District Court of Harris County, Tex.

McKee, Robert A., 600 A Robinhood Dr., Maitland, Fla., convicted on April 16, 1965, in the United States District Court for the Southern District of Florida, Miami, Fla.

Meals, Raymond E., R.D. No. 3, Box 103-C, Chicora, Pa., convicted on February 2, 1970, in the Court of Common Pleas of Butler County, Pa.

Meredith, Coy, Anneta Route, Leitchfield, Ky., convicted on April 15, 1971, in the Grayson County Circuit Court, Ky.

Nichols, Elwyn H., 620 Cleveland St., Gary, Ind., convicted on November 13, 1973, in

the United States District Court, Middle District, Montgomery, Ala.

Nobbs, Irvine R., 3590 Ridge Rd., Cortland, Ohio, Convicted on January 17, 1952, in the Trumbull County Court of Common Pleas, Ohio.

Palmer, Cleveland F., 706 Mary Jane, Belton, Tex., convicted on May 31, 1976, in the Bell County District Court, Tex.

Parsons, Woodrow W., 30820 Schoolcraft, Livonia, Mich., convicted on November 2, 1937, in the Cabell County Circuit Court, Huntington, W. Va.

Paugh, Paul E., 913 5th St., Laurel, Md., convicted on December 1, 1957, in the Circuit Court of Warren County, Va.

Romesburg, James R., 508 Village Lane, Boise, Idaho, convicted on October 17, 1949, in the District Court, Third Judicial District of Idaho, County of Ada, Idaho.

Rosati, Philip, 40 Monroe Ave., Brentwood, N.Y., convicted on May 27, 1975, in the Supreme Court of the State of New York, County of New York.

Royer, Paul S., R.D. No. 3, Box 38B, Campus Rd., Elizabethtown, Pa., convicted on August 15, 1969, in the Lancaster County Court, Lancaster, Pa.

Rue, Gerald R., 310 South First St., Hornbrook, Calif., convicted on February 10, 1969, in the Siskiyou County Superior Court, Yreka, Calif.

Russell, Donald L., 4239 Josie Ave., Lakewood, Calif., convicted on June 15, 1962, in the Superior Court for the State of California in and for the County of Los Angeles.

Sargent, Gary W., 112 Peggy Lane, Hopkinsville, Ky., convicted on or about March 29, 1974, in the Harlan County Circuit Court, Harlan, Ky.

Schofield, Cannie W., 1001 North Riverhills Dr., Temple Terrace, Fla., convicted on July 23, 1976, in the United States District Court, Middle District of Florida, Tampa Division.

Sealy, Kenneth W., 41 Eleanor Dr., Northport, Ala., convicted on November 8, 1965, in the United States District Court for the Western Division of the Northern District of Alabama, Tuscaloosa, Ala.

Shirkey, Paul D., 1816 Atlantic Ave., Virginia Beach, Va., convicted on September 22, 1964, in the Circuit Court of the City of Virginia Beach, Va.

Shrock, Roger L., 1705 South Armstrong St., Kokomo, Ind., convicted on August 8, 1965, in the Howard County Circuit Court, Kokomo, Ind.

Smith, Lewis M., 2917 Henneberry Rd., Pompey, N.Y., convicted on September 8, 1975, in the United States District Court for the Western District of New York.

Smith, Marshall G., 7212 Government St., Baton Rouge, La., convicted on October 31, 1975, in the United States District Court, Middle Judicial District, Baton Rouge, La.

Strong, Alan D., Rural Route No. 5, Box 236, Auston, Minn., convicted on November 8, 1976, in the Mower County Court, Austin, Minn.

Turner, George H., Route 1, Box 49, Henry, Va., convicted on January 4, 1949, and on July 6, 1949, in the United States District Court, Western District of Virginia, Roanoke Division; and on September 13, 1955, in the United States District Court, Western District of Virginia, Danville Division.

Vealey, William S., 1609 Juniper Hill Dr., Encinitas, Calif., convicted on September 15, 1970, in the United States District Court, Southern District, California at San Diego; and on March 16, 1973, in the California Superior Court, San Diego, Calif.

Westfall, Richard R., 7009 Utica Pl., Lubbock, Tex., convicted on October 21, 1971, in the 137th District Court of Lubbock County, Tex.

White, John M., 4656 Penn St., Philadelphia, Pa., convicted on September 11, 1956, in the Court of Quarter Sessions of the Peace for the County of Philadelphia, Pa.

Whitlock, James, 6275 Brookline, Indianapolis, Ind., convicted on May 22, 1964, in the State Court, Marion County, Ind.

Williams, Jimmy L., 13835 Waterville, Houston, Tex., convicted on April 27, 1960, in the Harris County District Court, Houston, Tex.; and on April 24, 1968, in the District Court of Brazona County, 23rd Judicial District, Houston, Tex.

Williams, Reginald E., 1017 Luzon, Abilene, Tex., convicted on May 9, 1972, in the District Court, Taylor County, 42nd Judicial District of Tex.

Young Bull Bear, Martin A., Box 100, Kyle, S. Dak., convicted on December 4, 1974, in the United States District Court, Judicial District of South Dakota, Rapid City, S. Dak.

Zielinski, Ronald L., 3225 6th St., No. 9, Lewiston, Idaho, convicted on February 8, 1971, in the United States District Court, Laredo, Tex.

Signed at Washington, D.C. this 30th day of August 1978.

JOHN G. KROGMAN,
Acting Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 78-25222 Filed 9-7-78; 8:45 am]

[4810-22]

Office of the Secretary

VISCOSE RAYON STAPLE FIBER FROM AUSTRIA

Antidumping; Tentative Discontinuance of Antidumping Investigation

AGENCY: Department of the Treasury.

ACTION: Tentative discontinuance of antidumping investigation.

SUMMARY: This notice is to advise the public that it has been tentatively determined to discontinue the antidumping investigation of viscose rayon staple fiber from Austria. The case, originally discontinued in January 1978, was reopened to conduct a detailed analysis of the production costs of the sole Austrian exporter in order to determine if sales in the home market are being made at prices below the cost of production. It has been determined that the home market sales are not being made at prices below the cost of production and that the exporter is adhering to the terms of the prior discontinuance. Therefore, the present reopened investigation is also being discontinued.

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 23, 1978, a notice of "discontinuance of antidumping investigation" was published in the FEDERAL REGISTER (43 FR 3234) with respect to viscose rayon staple fiber, except solution dyed, from Austria. Subsequent to that action, the petitioner therein, Avtex Fibers, Inc., Valley Forge, Pa., filed a submission alleging that the home market price charged by the sole Austrian manufacturer, Chemiefaser Lenzing A.G. (Lenzing), as of November 1, 1977, was below the cost of producing that merchandise, and therefore, pursuant to section 205(b), Antidumping Act, 1921, as amended (19 U.S.C. 164(b)) (referred to in this notice as "the Act"), that price provided an inadequate basis for the determination of foreign market value. Avtex requested a reopening of the investigation and simultaneous issuance of a 'withholding of appraisement.'

On March 7, 1978, a notice of "reopening of discontinued investigation" was published in the FEDERAL REGISTER (43 FR 9403) with respect to the subject merchandise. That notice stated in part:

"Based upon a preliminary onsite verification and analysis of a submission by Lenzing with respect to its cost of producing viscose rayon staple fiber, it has been determined that it would be inappropriate to reopen this investigation and simultaneously issue a "withholding of appraisement." This preliminary analysis did not reveal the apparent existence of below cost sales. However, the investigation is being reopened to enable the U.S. Customs Service to conduct a thorough analysis of Lenzing's production costs, according to the information gathering and verification procedures followed in antidumping cases.

A determination will then be made whether home market sales have been made at prices below the cost of producing that merchandise pursuant to § 153.5 of the Customs regulations (19 CFR 153.5) and if there are sales at less than the cost of production, whether there are or are likely to be sales to the United States at less than fair value."

The merchandise covered by this notice is "viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments or plexiform filaments)."

TENTATIVE DISCONTINUANCE OF ANTIDUMPING INVESTIGATION

On the basis of the information developed in the Customs investigation and for the reasons stated below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)) and § 153.33(a) of the Customs regulations (19 CFR 153.33(a)), I hereby determine that the antidumping investigation concerning viscose rayon staple fiber from Austria should be tentatively discontinued.

STATEMENT OF REASONS ON WHICH THIS DISCONTINUANCE IS BASED

The reasons and bases for the above determination are as follows:

a. *Scope of investigation.* This investigation was reopened to determine whether home market sales made by Lenzing, the sole Austrian manufacturer and exporter of viscose rayon staple fiber, are being made at prices less than the cost of producing that merchandise as set forth in § 153.5 of the Customs regulations (19 CFR 153.5).

b. *Basis of comparison.* For purposes of considering whether the merchandise in question was sold in the home market at less than than the cost of production, the proper basis of comparison appears to be between home market price (as defined in § 153.2, Customs regulations (19 CFR 153.2)) and cost of production (as defined in § 153.5, Customs Regulations (19 CFR 153.5)).

c. *Home market price.* The home market price has been calculated on the basis of sales to unrelated purchasers of rayon staple fiber in Austria, net of all discounts and inland freight. Data regarding home market prices was collected for the period from November 1, 1977, through March 31, 1978. November 1, 1977 was chosen as the start of the investigatory period because Lenzing adopted the allegedly below cost home market price on that date.

In determining whether sales had been made at less than cost, an adjustment was made to the home market selling price for the reduced price received on the sale of off-quality production before comparison was made to the cost to produce.

d. *Cost of producing.* The cost of producing the merchandise was determined from the books and records of Lenzing maintained by that company in the ordinary course of its business and reflecting Lenzing's production costs, including the cost of materials, fabrication, and general expenses. In order to determine whether sales below the cost of production are being made pursuant to § 153.5, Customs regulations (19 CFR 153.5), cost information was obtained, verified, and analyzed for the period January 1, 1977, through March 31, 1978.

The petitioner requested that cost data be obtained for the most current period available. Cost data was obtained through March 31, 1978. This date was chosen as the end of an accounting period, and represented the last full quarter for which cost data was available.

The petitioner further claimed that since Lenzing produces certain raw materials internally, all costs incurred in the production of these materials should be verified and that market prices for these materials should be used as a test for purposes of determining whether the full cost to produce was accounted for. All costs were fully verified and all elements of cost were found to be included. It was determined that any further test was unnecessary. These and all other costs were calculated in accordance with generally accepted accounting principles. In particular, all depreciation was calculated using the straight line method. Depreciation costs were low because most structures in Lenzing's plant were built before 1940 and have now been fully depreciated.

A claim by petitioner that the cost of producing include an imputed cost of invested and working capital, as well as of capital tied up in inventory, has been rejected. Section 153.5 of the Customs regulations (19 CFR 153.5), contemplates the calculation of the cost of production by reference to actual costs incurred, as determined in accordance with generally accepted accounting principles in the country of manufacture (unless these artificially distort the results, in which case accounting principles generally accepted in the United States may be applied). In the absence of any evidence that such imputed costs of capital would be regarded as a cost of production under generally accepted accounting principles in the United States, much less in Austria, no adjustment for these costs has been allowed.

A claim was made that Lenzing benefited from artificially low interest rates. The rate of interest paid by Lenzing on its indebtedness was found to be consistent with interest charged on similar loans available to Austrian industry more generally. Therefore this claim was found to be without merit.

It was determined that all social service payments and wage increases during the period under consideration were included in the costs furnished by the respondent. In addition, all overhead costs, including administrative salaries and dues, were included.

An adjustment was granted for additional costs incurred in the production of dyed fibers since only the cost of regular white fiber was under investigation. These costs were for down time in cleaning lines, changing of spindles, and quality control on dyed fiber. All records maintained by Lenzing include costs incurred on the manufacture of all types of viscose rayon staple fiber, not just white, and therefore, those costs associated only with nonwhite fibers are properly disregarded in determining the cost of producing white fiber.

It was determined that the adjustment for the byproduct, sodium sulfate, was appropriately limited to the profit incurred in the sale of that product. It was further determined that due to the extremely brief storage time for the sodium sulfate, no adjustment for possible moisture contamination should be made.

It was determined that although Lenzing has incurred an overall loss in the recent year this loss was attributable to other products of the firm, and that the rayon fiber operation was profitable over the investigatory period.

The cost of production and home market price information collected were chosen to insure the coverage of the period in which the last sale to the United States of this product was made by Lenzing.

e. *Results of comparison.* The cost of producing the merchandise was compared to the home market price, net of all discounts and inland freight. Using these criteria, it has been determined that Lenzing's home market sales of viscose rayon staple fiber are not being made at prices less than the cost of producing the merchandise pursuant to § 153.5, Customs regulations (19 CFR 153.5). Moreover, no violation of the assurances previously supplied by Lenzing, that no future "sales at less than fair value" would be made subsequent to the adoption of a new home market price in November 1977, have been detected.

For the reasons stated above, there appears to be no evidence to indicate that the bases upon which a discontinuance in this case was originally granted on January 23, 1978 (43 FR 3234) are invalid or have subsequently changed. Therefore, this antidumping investigation of viscose rayon staple fiber from Austria is tentatively discontinued in accordance with section 201(b)(1)(c) of the Antidumping Act (19 U.S.C. 160(b)(1)(c)), and § 153.33(a)(3) of the Customs regulations (19 CFR 153.33(a)(3)).

In accordance with § 153.40 of the Customs regulations (19 CFR 153.40), interested parties may present written views or arguments or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to

present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than September 25, 1978. Such request must be accompanied by a statement outlining the issues wished to be discussed.

All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for petitioner and respondent are requested to serve all written submissions, including nonconfidential summaries or approximate presentations of confidential information, on opposing counsel and to file their submissions with the Commissioner of Customs in 10 copies.

This tentative discontinuance and the statement of reasons thereof are published pursuant to § 153.33(b) of the Customs regulations (19 CFR 153.33(b)).

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

SEPTEMBER 1, 1978.

[FR Doc. 78-25274 Filed 9-7-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

AN 820-BED REPLACEMENT VETERANS ADMINISTRATION HOSPITAL, RICHMOND, VIRGINIA

Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "final environmental impact statement for the proposed 820-bed Replacement Veterans Administration Hospital, Richmond, Va.", dated July 1978, has been prepared as required by the National Environmental Policy Act of 1969.

The proposed Replacement Hospital will be on the existing Veterans Administration Hospital property in Richmond, Va. This proposed new construction will provide for 820 hospital beds along with necessary hospital services for the accomplishment of health care delivery to the veterans in the area. The proposed development will replace a functionally inadequate and outmoded 870-bed facility presently existing on the Veterans Administration property.

This final statement responds to comments received on the draft environmental statement for the Replacement Hospital, dated January 1977. The document is being placed for public examination in the Veterans Administration Office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Jack Westall, Assistant Chief Medical Director for Administration (13), Room 600, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Single copies of the final statement may be obtained on request to the above office.

Dated: August 31, 1978.

MAX CLELAND,
Administrator.

[FR Doc. 78-25264 Filed 9-7-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Decided: AUGUST 23, 1978.

Charles Zumstein d.b.a. C. E. Zumstein Co. (MC 134183 and two Subs) has filed an application for approval of contract carrier rental contract No. 2-3053 with Carl S. Ackey, Inc., of Lewisburg, Ohio, lessee, under paragraph (b) of § 1057.6 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057).

Findings:

1. The contract does not contain any guaranteed minimum annual rental agreement.

It is ordered:

1. Applicant's request for approval of the contract carrier rental contract No. 2-3053 is denied.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and W. F. Sibbald, Jr. Board Member Turkington not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25289 Filed 9-7-78; 8:45 am]

[7035-01]

[No. 36966]

PERISHABLE PROTECTIVE TARIFFS, NPFC, TCFB, AND CRIP

AGENCY: Interstate Commerce Commission.

ACTION: Notice to persons interested in participating in this proceeding and decision directing modified procedure.

SUMMARY: In Ex Parte No. 284, "Need for Defining Reasonable Dispatch," 355 ICC 162 (1977), the Commission ordered tariff publication of railroad time schedules governing the transportation of perishable commodities between key producing and consuming points. In accordance with the Commission's decision in Ex Parte No. 284, the National Perishable Freight Committee, the Trans-Continental Freight Bureau, and the Chicago, Rock Island and Pacific Railroad Co. filed the following proposed tariff time schedules:

National Perishable Freight Committee, ICC 58, Perishable Protective Tariff 19, Supplement 19, effective June 24, 1978.

Trans-Continental Freight Bureau, ICC 1838, Supplement 262 to Freight Tariff 44-R, effective July 3, 1978.

Chicago, Rock Island and Pacific Railroad Co., ICC C-14089, Freight Tariff 9001, effective July 8, 1978.

In a decision, dated June 23, 1978, and served June 28, 1978, the Commission on its own motion instituted an investigation into the lawfulness of the above involved tariffs pursuant to its authority under section 15 of the Interstate Commerce Act. Railroad carriers who are parties to these tariff schedules were made respondents in this proceeding. The Commission indicated that all other interested persons should be given an opportunity to participate in the investigation proceeding.

Persons interested in participating in this proceeding shall comply with the instructions and time schedule, as set forth below under "Dates," for filing of participation statements and for modified procedure.

The inquiry into the lawfulness of the involved tariff schedules shall include, but not be limited to, an analysis of the following items:

(1) Whether or not and to what extent the times in the tariff schedules exceed actual operating times or comparable time schedules published in the Official Railway Guide;

(2) Factors taken into consideration when determining the length of time necessary to move perishable commodities between key producing and consuming points;

(3) Provisions in the tariffs which extend the time schedules (e.g., an additional 24 hours being added to a time schedule for reconsignment) or limit the applicability of the time schedules (e.g., when mechanical failures occur);

(4) Definitions and measuring symbols contained in the tariffs;

(5) Key producing and consuming points included in the tariffs;

(6) The manner in which total transit time between origin and destination is determined from the tariffs.

To assist the Commission in its investigation, participants are requested to provide specific information in their pleadings relevant to the items of analysis listed above.

DATES: Any person intending to participate actively in this proceeding shall notify the Commission by filing an original and one copy of a statement of intent to participate, which shall also state the position intended to be taken. Statements must be filed with the Commission within 7 days from date of publication of this notice.

The Office of Proceedings shall then send to all participants a list of names and addresses of all parties. Thereafter, all parties must serve copies of all their pleadings upon all other parties.

The filing and service of pleadings is to be as follows: (a) Opening statements of fact and argument by respondents and any supporting parties will be due within 20 days after service of the participation list; (b) 30 days after that date, statements of fact and argument by parties in opposition; (c) 20 days thereafter, replies by respondents and any supporting parties.

ADDRESSES: Participation statements and modified procedure statements and replies should be sent to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, telephone 202-275-7693.

Issued in Washington, D.C., August 29, 1978.

By the Commission, Robert J. Brooks, Director, Office of Proceedings.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-25290 Filed 9-7-78; 8:45 am]

[7035-01]

MOTOR CARRIER FINANCE PROCEEDINGS

Notice Regarding Dormancy and the Burden of Proof

AGENCY: Interstate Commerce Commission.

ACTION: Notice to the public.

SUMMARY: This notice sets forth the timing and type of information that should be presented in the modified procedure statements to satisfy the burdens of proof under the three-step test set forth in *Central Transport, Inc.*

EFFECTIVE DATE: September 8, 1978.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, Assistant Deputy Director, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7564.

SUPPLEMENTARY INFORMATION: Since issuance of our decision of May 1977 in *Central Transport, Inc.—Pur.—Piedmont Petroleum,* 127 M.C.C. 1 (*Central*), we have received numerous inquiries relating to the appropriate time for filing shipper supporting statements in proceedings handled under the modified procedure.

As stated in *Central,* the tripartite test was merely an articulation of the standard to be used by the Commission in resolving the issue of transferability of dormant rights; we did not envision protracted proceedings.

Applicants' principal proof of the scope of past operations of a carrier being acquired through purchase, or stock acquisition (such carrier hereinafter referred to as transferor) is through: (a) appendix D-4 to form OP-F-44, or (b) appendix B-4 to form OP-F-45. These appendices are commonly known as the abstract of interstate shipments.

Both rule 81 of the Commission's general rules of practice and Commission decisional law set forth the desirability of abstracting relevant data, of summarizing what an exhibit purports to show, and of condensing information into tables. See *Redwing Refrigerated, Inc.—Pur.—Express, Inc.,* 166 M.C.C. 694, 698 (1974).

Giving consideration to the foregoing, in cases designated for modified procedure, applicants' initial verified statement should be summarized to reflect:

(1) Explicitly which shipment moved over which authority(ies).

(2) Explicitly which authority(ies) were not represented by shipments.

(3) Why the transfer of those authority(ies) listed in (2) above will be consistent with the public interest. (This may be explained in the appendix relating the facts and circumstances on which applicant(s) rely to warrant approval of the proposed transaction, provided it is referenced to the particular authority(ies) involved.)

(4) Applicant may introduce evidence of shipper support at this stage if it chooses to do so. This would allow protestants to respond to all of applicant's evidence.

Protestants' are also required to do more than merely assert "vendor's" authority(ies) is (are) dormant. In modified procedure cases each protestant in its initial verified statement will:

(1) Prepare an exhibit showing those portions of vendor's authority(ies) under which it believes vendor has not provided substantial service.

(2) Prepare an exhibit showing the authority of the protestant to provide such service.

(3) Show how it will be significantly harmed if the authority it set forth in (1) above is authorized to be transferred.

In its rebuttal statment, applicant will be permitted to introduce testimony to rebut the allegations contained in protestant's initial statement. Shipper testimony should be submitted in the applicant's rebuttal statement if relied upon to demonstrate how transfer of dormant rights should be allowed despite the harm that may be incurred by protestants, as they have alleged.

If the shipper testimony is submitted by applicants in its rebuttal statement, protestants will have the opportunity to submit a further statement which shall address only that information contained in the shipper testimony.

In an effort to facilitate the consideration of these materials, protestants will be strictly held to rule 38 of the Commission's general rules of practice, which requires a specific statement of the ground upon which the protest is made and a concise statement of the interest of protestant in the proceeding. This will enable the applicant to identify which dormant operating authorities are in need of shipper support to justify their transfer. Shipper statements are not necessary for demonstating public benefit where there is no harm to a protestant. See *Central Transport, Inc.—Pur.—Piedmont Petroleum, Inc.,* 127 M.C.C. 284 (1978) (*Central II*).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.78-25563 Filed 9-7-78; 10:33 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).

CONTENTS

[6320-01]

1

[M-159, Amdt. 1; Sept. 1, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., September 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1a. Docket 29044, Final Rule and Proposed Rule To Amend Part 252 on Smoking Aboard Aircraft (Memo 7323-C, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Board has met several times concerning this rulemaking and had issued instructions to the staff to prepare a revised draft final rule for its consideration. That staff work has been completed and the individual Members have had sufficient time to consider the revised draft. With the departures of former Vice Chairman, Minetti and former Member, West, however, there is now a clear need for further discussion of this matter. Accordingly the following Members have voted that agency business requires that Item 1a be added to the September 7, 1978 agenda and that no earlier announcement of this meeting was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-1809-78 Filed 9-6-78; 3:58 pm]

[6355-01]

2

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: September 13, 1978, 9:10 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Partly open, partly closed.

MATTERS TO BE CONSIDERED: (See following copy of agenda.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

AGENDA

Commission briefing, Wednesday, September 13, 1978, 9:30 a.m., third floor hearing room, 1111 18th Street NW., Washington, D.C.

Open to the public

1. *Holiday safety spots.* The Commission will review the radio and television "spots" prepared for the 1978 Holiday Safety Campaign.

2. *Briefing on chronic hazard priorities.* The Commission and staff will discuss priorities in CPSC's chronic hazards program, and the "Committee B" report on options for action under the Interim Carcinogen Policy.

Closed to the public

3. *Final rule to exempt certain ink cartridges from labeling requirements.* In response to a petition from the Parker Pen Co. (HP 77-4), the Commission, in November 1977 proposed to exempt certain rigid or semirigid ink cartridges from labeling requirements of the Federal Hazardous Substances Act. At this meeting, the Commission will grant this exemption. (Closed-exemption 9, possible frustration of agency action.)

Agenda approved September 5, 1978.

[S-1799-78 Filed 9-6-78; 11:39 am]

[6355-01]

3

CONSUMER PRODUCT SAFETY COMMISSION

DATE AND TIME: September 14, 1978, 9:10 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Partly open, partly closed.

MATTERS TO BE CONSIDERED: (See following copy of agenda.)

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

AGENDA

Commission meeting, Thursday, September 14, 1978, 9:30 a.m., third floor hearing room and eighth floor conference room, 1111 18th Street NW., Washington, D.C.

Open to the public

1. *Recommendation to accept corrective action plan: Howard Commercial Turf Equipment, Inc., riding lawn mower, ID 78-56.* The staff has recommended that the Commission accept the corrective action plan which this company has implemented to deal with a possible brake defect, and that the Commission not pursue a timeliness-of-reporting case. Under the corrective action plan, the firm is refitting all the involved mowers, and has initiated production changes.

2. *Recommendation to accept corrective action plan: Wham-O Manufacturing Co., "Water Wiggle" toy ID 78-75.* The staff has recommended that the Commission accept the corrective action plan Wham-O has implemented to deal with hazards associated with the nozzle design of this toy, which has allegedly caused two drownings. The staff also recommends that the Commission not pursue a timeliness-of-reporting case. The firm has notified customers and dealers, and is recalling the toy.

3. *Recommendation to close possible substantial product hazard case: Chadwick-*

Miller, Inc., ice cream scoop, ID 77-75. Based on its evaluation that these ice cream scoops present less than a substantial product hazard, the staff has recommended that the Commission close this case, and not pursue a timeliness-of-reporting case.

4. *Recommendation to close case: Lambert Cycle of London, Ltd.* In August 1977, the Commission directed the staff to prepare a product ban of bicycles manufactured by Lambert Cycle of London, Ltd. At this meeting, the Commission will consider a staff recommendation to close this case, and not pursue a timeliness-of-reporting case.

5. *Petition on telescope solar eyepiece filters, CP 78-11.* Norman Sperling of Somerville, Mass., has petitioned the Commission to ban eyepiece solar filters sold with certain telescopes. Mr. Sperling has stated that concentrated heat from direct sunlight can shatter or crack these filters and cause temporary or permanent damage to the retina of the user's eye.

6. *Final amendment to the safety standard for architectural glazing materials: Test equipment and procedures.* In October 1977, the Commission proposed to amend the Glazing Standard to change the requirements for xenon-arc weathering and also proposed several minor technical amendments to clarify the standard's intent. At this meeting, the Commission will consider the final version of those amendments.

7. *Final amendment to the safety standard for architectural glazing materials: Decorative glazing materials.* In March 1978, the Commission proposed to amend the Glazing Standard to enlarge the category of decorative glazing materials exempted from the standard. At this meeting, the Commission will consider the final version of the proposed amendment.

8. *Final exemption from special packaging requirements for mebendazole (vermox).* In response to a petition from the manufacturer, Ortho Pharmaceutical, the Commission proposed to exempt certain forms of the drug mebendazole from child-resistant packaging requirements of the Poison Prevention Packaging Act. The proposal was published in October 1977. At this meeting, the Commission will consider the final exemption document.

9. *Proposed revision and amendment of regulations under the Flammable Fabrics Act (FFA).* The Commission will consider a draft FEDERAL REGISTER document which would revise the FFA regulations dealing with guarantees under section 8 of the act, and with the flammability standards for wearing apparel and vinyl plastic film.

10. *Provisional classification tetrachloroethylene (perchloroethylene) under CPS Carcinogen Policy.* At its July 27, 1978, meeting, the Commission conditionally approved the provisional classification of tetrachloroethylene as a category A substance under its Interim Carcinogen Policy. At this meeting, the Commission will discuss additional data on the substance, and will vote once again on provisional classification

Closed to the public

11. *Enforcement matter under the Poison Prevention Packaging Act (OS 576).* The Commission will consider a staff recommendation to initiate an enforcement proceeding for an alleged violation of Poison Prevention Packaging Act requirements.

12. *Possible substantial product hazard enforcement matter.* The Commission will consider a staff recommendation to initiate an enforcement proceeding under section 15 of the Consumer Product Safety Act.

Closed to the public, eighth floor conference room

13. *OMB Management Report.* The Commission will discuss the oral report to the Chairman from the OMB Management Assistance Team. The Chairman will brief the Commission on the report and will obtain informal guidance about possible future management directions.

Agenda approved September 5, 1978.

[S-1800-78 Filed 9-6-78; 11:39 am]

[6570-06]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1783-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:30 p.m. (eastern time). Friday, September 8, 1978.

CHANGE IN THE MEETING: A portion of the meeting will be closed to the public, to consider the following matter:

EEOC policy on disclosure of case files.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of change.—Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; and Ethel Bent Walsh, Commissioner.

Opposed.—None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued September 6, 1978.

[S-1805-78 Filed 9-6-78; 1:35 pm]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:20 p.m. on Tuesday, September 5, 1978, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the deposit liabilities of Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), P.R., which was closed by the Secretary of the Treasury of the Commonwealth of Puerto Rico as of the close of business on September 5, 1978; (2) approve a resulting application from Banco Comercial de Mayaguez, Mayaguez, P.R., for consent to purchase certain assets of and assume the deposit liabilities of the closed bank; and (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board of Directors determined, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), that Corporation business required its consideration of the matters on less than 7 days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observations; and that this meeting was exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(6), (c)(8), and (c)(9)(A)(ii) thereof (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: September 5, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1810-78 Filed 9-6-78; 3:58 pm]

[6714-01]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at its closed meeting held at 10:30 a.m. on September 6, 1978, the Corporation's Board of Directors determined, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), that Corporation business required its addition to the agenda for consideration at that meeting, on less than 7 days' notice to the public, of a memorandum proposing the settlement of litigation arising in connection with the liquidation of Franklin National Bank, New York, N.Y.; that no earlier notice of the change in the subject matter of the meeting was practicable;

that the memorandum was eligible for consideration in a meeting closed to public observation pursuant to subsections (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B) and (c)(10)); and that the public interest did not require consideration of the memorandum in a meeting open to public observation.

Dated: September 6, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1811-78 Filed 9-6-78; 3:58 pm]

[6715-01]

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, September 13, 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, personnel.

• • •

DATE AND TIME: Thursday, September 14, 1978, at 10 a.m., to be continued on Friday, September 15, 1978, if necessary to conclude agenda.

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:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions: AO 1978-28. AO 1978-42. AO 1978-59. AO 1978-63. AO 1978-66. AO 1978-67. AO 1978-50. AO 1978-68.
Nonreporting entities: General Counsel's review of section C, of Commission Memorandum No. 156.
Appropriations and budget—Budget Execution Report.
Earmarked contributions.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Reports from division heads: Reports Analysis Division, Office of General Counsel.
Interpretation and application of 2 U.S.C. 438(b) regarding clearinghouse—Continued from August 31.
Routine administrative matters.

Portions closed to the public:

Any matters not concluded on Wednesday, September 13, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1808-78 Filed 9-6-78; 3:58 pm]

[6740-02]

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 39479, published September 5, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 6, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

M-7. EA 78-2, Proposed Exemption of Aviation Gasoline and Kerosene-Base Jet Fuel From Mandatory Pricing and Allocation Regulations.

KENNETH F. PLUMB,
Secretary.

[S-1801-78 Filed 9-6-78; 11:39 am]

[6720-01]

9

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., Wednesday, September 13, 1978.

PLACE: 1700 G Street NW., 6th floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Agency Office Application—Midwest Federal Savings & Loan Association of Minot, Minot, N. Dak.
Concurrent Consideration of Branch Office Applications: (1) Coast Federal Savings & Loan Association, Sarasota, Fla.; and, (2) Gulf Federal Savings & Loan Association, Fort Myers, Fla., and Limited Facility Application—Naples Federal Savings & Loan Association, Naples, Fla.
Consideration of Proposed Change of Name—Mamaroneck Federal Savings & Loan Association, Mamaroneck, N.Y.
Permission to Organize a Federal Association—Conrad G. Molmgren, et al., Seneca, Oconee County, S.C.
Limited Facility Application—Lincoln Federal Savings & Loan Association, Lincoln, Neb.
Limited Facility Application—Franklin Federal Savings & Loan Association, Columbus, Ohio.
Request for Modification of Insurance Condition—Canajoharie Building Savings & Loan Association, Canajoharie, N.Y.
Proposed Regulations Regarding Forward Commitments to Purchase Securities.
Consideration of Tax and Loan Account Regulations.

No. 179, September 6, 1978.

[S-1812-78 Filed 9-6-78; 3:58 pm]

[6730-01]

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 38991, August 31, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., September 7, 1978.

CHANGE IN THE MEETING: Addition of the following item to the open session:

3. Agreement Nos. 9847-4 and 10028-7: Modifications of cargo revenue pooling agreements in the United States Atlantic/Brazil trades to provide for admission of additional national flag carriers and extend their terms of approval.

[S-1798-78 Filed 9-6-78; 9:07 am]

[6730-01]

11

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., September 13, 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. Monthly report of actions taken pursuant to authority delegated to the managing director.
2. Totem Ocean Trailer Express, Inc.—Petition for declaratory order regarding activities of Sea-Land Service, Inc.

Portion closed to the public:

1. Section 21 Order: Baltic Shipping Co.—Rates and Practices in the Gulf Coast/North Europe Trade—Legal objections to order.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1804-78 Filed 9-6-78; 3:58 pm]

[6210-01]

12

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Wednesday, September 13, 1978. The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed implementation of a Uniform Interagency Trust Rating System for evaluating and rating the condition of commercial bank trust departments.
2. Report to the Comptroller of the Currency regarding the competitive factors involved in the proposed merger of First National Bank in Sidney, Sidney, N.Y., with the National Bank & Trust Company of Norwich, Norwich, N.Y.
3. Proposed extension and revision of the Demand Deposit Ownership Survey (FR 2591).
4. Proposed statement concerning the conditions under which stock exchanges and the National Association of Securities Dealers are authorized to grant extensions of time for brokers and dealers subject to Regulation T (Margin Credit Extended by Brokers and Dealers) to obtain payment from customers affected by a mail strike.

DISCUSSION AGENDA

1. Proposed legislation under consideration by the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Committee on Government Operations regarding enforcement of the Equal Credit Opportunity Act and the Fair Housing Act.
2. Requests for delay of effective date for automatic transfer of savings deposits to demand accounts.
3. Proposed legislation under consideration by the Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Finance, and Urban Affairs relating to the appointment of the Chairman and Vice-Chairman of the Federal Reserve Board.
4. Proposal to implement Executive Order 12044, relating to improving Government Regulations.
5. Proposed extension and revision of the Weekly Condition Report and Related Series (FR 416, FR 416a, FR 416b, FR 416c, FR 416d, and FR 644).
6. Any agenda items carried forward from a previously announced meeting.

Closed portion:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. (This matter was originally announced for a meeting on September 11, 1978.)
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: September 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1807-78 Filed 9-6-78; 1:35 pm]

[7020-02]

13

[USITC SE-78-43A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 38992, August 31, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Thursday, September 7, 1978.

CHANGES IN THE MEETING: The briefing noticed under agenda item No. 5 [Sorbates from Japan (Inv. AA1921-183)—briefing and vote] previously announced as open to the public, was closed to the public by a vote of a majority of the entire membership of the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1802-78 Filed 9-6-78; 9:07 am]

[7020-02]

14

[USITC SE-78-45]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 7, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Emergency meeting—Less than 10 days' prior notice: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
1. Discussion of the MTN study.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1802-78 Filed 9-6-78; 11:39 am]

[7590-01]

15

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

TIME AND DATE: September 5, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open (additional item).

MATTERS TO BE CONSIDERED:

TUESDAY, SEPTEMBER 5

2:30 p.m. (approximate).—Discussion of Commission Order in the Matter of Shearon Harris Plant (approximate ½ hour, public meeting).

ADDITIONAL INFORMATION

By a vote of 4-0 (Commissioner Bradford not participating) on September 1, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's rules that Commission business requires that this agenda item be held on less than 1 week's notice to the public. Prompt scheduling is required for this important matter.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

SEPTEMBER 5, 1978.

[S-1803-78 Filed 9-6-78; 11:39 am]

[7905-01]

16

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9:30 a.m., September 15, 1978.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Ill. 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

1. Delegation of functions by Board.
2. Supplemental annuity computation.
3. Printing of RRB Quarterly Review and Monthly Benefit Statistics.
4. Policing the continuance of disability.

Portions closed to the public:

5. Appeal from referee's denial of disability annuity application, William E. Bowman.
6. Appeal from referee's denial of disability annuity application, Walter H. McClendon.

7. Appeal from referee's denial of disability annuity application, Joe Geiger.
8. Appeal from referee's denial of disability annuity application, Leo P. Hunst.
9. Appeal from referee's denial of annuity application, Edward J. Tracy.
10. Appeal from referee's denial of annuity application, Louis L. Knoche.
11. Appeal from referee's denial of annuity application, James Alexander.
12. Appeal from referee's denial of annuity application, Gilbert H. Skillman.
13. Appeal from referee's denial of annuity application, George D. Waymire.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, COM NO. 312-751-4920; FTS NO. 387-4920.

[S-1806-78 Filed 9-6-78; 1:35 pm]

federal register

FRIDAY, SEPTEMBER 8, 1978
PART II

CIVIL SERVICE COMMISSION

FEDERAL TRADE COMMISSION

POSTAL SERVICE

■

PRIVACY ACT OF 1974

Annual Publication

[6325-01]

CIVIL SERVICE COMMISSION

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: U.S. Civil Service Commission.

Action: Incorporation by reference of Privacy Act Issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice of requirements of the Privacy Act of 1974.

For further information contact: William H. Lynch, Bureau of Personnel Management Information Systems, (202) 254-9778.

Approval of the Director: The notice of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

CSC—2

System name: Civil Service Retirement and Insurance Records—CSC

System location: Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Categories of individuals: The categories of individuals are:

a. Former Federal employees and Members of Congress who performed service subject to the Civil Service Retirement (CSR) System.

b.Current Federal employees who have:

(1) performed Federal service subject to the Civil Service Retirement (CSR) System, other than that with their present agency; or

(2) filed a designation of beneficiary for benefits payable under the CSR System; or

(3) requested the Bureau of Retirement, Insurance, and Occupational Health (BRIOH) to review a claim for health benefits made under the Federal Employees' Health Benefits Program; or

(4) filed a service credit application in connection with former Federal service not subject to the CSR System.

c. Former Federal employees who died subject to or who retired under the CSR System, or their surviving spouses and/or children, who have received or are receiving CSR benefits, Federal Employees' Group Life Insurance benefits and/or Federal Employees' Health Benefits.

d. Former Federal employees who died subject to or who retired under a Federal Government retirement system other than the CSR System, or their surviving spouses and/or children, who have received or are receiving Federal Employees' Group Life Insurance benefits and/or Federal Employees' Health Benefits.

e. Applicants for Federal employment found unsuitable for employment on medical grounds.

Categories of records in the system: This system is comprised of those retirement service history records of employees' service in the Federal Government, other than that service for the agency in which they may presently be employed. It also contains information that supports claims for benefits made under the retirement, health benefits and life insurance programs for Federal employees which the Bureau of Retirement, Insurance, and Occupational Health (BRIOH) administers. These records contain the following information:

a. Documentation of Federal service subject of the CSR System.

b. Documentation of service credit and refund claims made under the CSR System.

c. Retirement claim files, including documents supporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims, and designations of beneficiary.

d. Claim review and correspondence files pertaining to benefits under the Federal Employees' Health Benefits Program.

e. Suitability determination files on applicants for Federal employment found unsuitable for employment on medical grounds.

f. Documentation of claims made for life insurance and health benefits by annuitants under a Federal Government retirement system other than the CSR System.

g. Health Unit Medical records for CSC employees. Authority for maintenance of the system: Section 3301 and chapters 83, 87, and 89 of title 5, United States Code, and Public Laws 83-598, 84-356, and 86-724.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records may be used:

a. To disclose to the Office of Workers' Compensation Program; Veterans Administration Pension Benefits Program; Social Security Old Age, Survivors, and Disability Insurance and Medical Programs; military retired pay programs; Federal civilian employee retirement programs other than the Civil Service Retirement System's or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency, information needed to adjudicate a claim for benefits under BRIOH's or the recipient's benefit program(s), or information needed to conduct an analytical study of benefits being paid under such programs.

b. To disclose to the Federal Employee's Group Life Insurance Office, information necessary to verify enrollment in or to support an individual's claim for life insurance benefits under the Federal Employee's Group Life Insurance Program.

c. To disclose to health insurance carriers contracting with the Commission to provide a health benefits plan under the Federal Employees' Health Benefits Program, information necessary to identify the enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination of benefits provisions of such contract.

d. To disclose to any inquirer, if sufficient information is provided to assure positive identification of an individual on whom a department or agency maintains retirement or insurance records, the fact that an individual is or is not on the retirement rolls and, if so, the type of annuity (employee or survivor) being paid.

e. When an individual to whom a record pertains dies, disclosure of information in the individual's record to the person appointed as representative of the estate, to the person designated by the representative or to a designated beneficiary, information which might properly be disclosed to the individual. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

f. To disclose to the Internal Revenue Service, Department of the Treasury, earnings information as required by the Internal Revenue Code of 1954.

g. to disclose to the Department of the Treasury information necessary to issue benefit checks.

h. To disclose to a Federal, State, or local law enforcement agency, information indicating a possible violation of law, whether civil, criminal, or regulatory in nature.

i. To disclose to a Federal, State or local law enforcement agency, information necessary to obtain information relevant to a BRIOH determination concerning an individual's eligibility for or entitlement to coverage under the retirement, life insurance, and health benefits programs administered by BRIOH.

j. To disclose to an official of any Federal agency information he or she needs to know in the performance of his or her official duties related to the hiring, retention, separation, or retirement of an employee, or issuance of a grant, license, or other benefit.

k. To disclose information to the Office of Management and Budget at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in Circular No. A-19.

l. To disclose to an official of any Federal agency any information he or she needs to know in the performance of his or her official duties related to compiling descriptive statistics and making analytical studies in support of the function for which the records were collected and maintained, or for related personnel research functions and/or manpower studies.

m. To provide information to a congressional office from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

n. when an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who, in the judgment of the Commission, is responsble for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention, and Disposal below.

Storage: Records are maintained on magnetic tapes, disks, and in paper folders.

Retrievability: Records are indexed by name, social security number, date of birth, and/or claim number.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and Disposal: All records relating to a claim for retirement, life insurance, and health benefits are maintained permanently. Medical records not associated with a disability retirement claim file are retained for 1 to 7 years.

System manager(s) and address: Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Notification procedure: Individuals wishing to inquire whether this system of records contains information about them should address their inquiries, providing their full name, any former names, date of birth, name and address of office in which currently and/or formerly employed in the Federal service, and annuity account number, if assigned, to: Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Record access procedures: Individuals wishing to see information in their records or contest information about them should address their inquiries, providing their full name, any former names under which they were employed, date of birth, social security number, name and address of office in which currently and/or formerly employed in the Federal service, and annuity account number, if assigned, to: Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Contesting record procedures: Same as record access procedures above.

Record source categories: The information in this system is obtained from the following sources:

a. The individual whom the information is about.
b. Agency pay, leave, and allowance records.
c. GSA National Personnel Records Center.
d. Federal civilian retirement systems other than the Civil Service Retirement System.
e. Military retired pay system records.
f. Office of Workers' Compensation Programs.
g. Veterans Administration Pension Benefits Programs.
h. Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.
i. Health insurance carriers and plans participating in the Federal Employees' Health Benefits Program.
j. The Office of Federal Employees' Group Life Insurance.
k. Civil Service Commission Government-wide System of General Personnel Records or equivalent agency file.
l. The individual's co-workers and supervisors.
m. Physicians who have seen or treated the individual.

CSC/GOVT—1

System name: Appeals Grievances, and Complaints Records—CSC

System location: U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, offices of the Civil Service Commission as indicated in the appendix, and agency personnel or designated offices.

Categories of individuals: Applicants for Federal employment, current and former Federal employees, agencies, and annuitants who appeal a determination made by an official of an agency or the Civil Service Commission to the Civil Service Commission, a Board established to adjudicate appeals, or an agency.

Categories of records in the system: This system of records contains information or documents relating to a decision or determination made by an agency or the Commission affecting an individual. This system of records includes files of appeals under Part 722 of the Commission's regulations, classification appeals, performance rating appeals files, Fair Labor Standards Act complaints, grievance files, and EEO complaint files.

Authority for maintenance of system: Title 5, U.S.C., Sections 1302, 3301, 3302, 4308, 5115, 5338, 5351, 5388, 7151, 7154, 7301, 7501, 7512, 7701, 8347, Executive Orders 9830, 10577, 10987, 11222, 11478, and Pub. L. 93-259.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in the records may be used:

a. To respond to a request from a Member of Congress regarding the status of an appeal, complaint, or grievance.
b. To provide information to the public on the decision of an appeal, complaint, or grievance required by the Freedom of Information Act.
c. To respond to a court subpoena and/or refer to a district court in connection with a civil suit.
d. To adjudicate an appeal, complaint or grievance.
e. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies. The records may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate individuals for personnel research.
f. To refer pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.
g. To request information from a Federal, State, or local agency maintaining civil, criminal, or other information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or issuance of a grant, license, or other benefit.
h. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.
i. To provide information to a congressional office from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.
j. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.
k. To disclose information to persons named as alleged discriminating officials in Equal Employment Opportunity (EEO) Discrimination Complaint cases, to allow such persons the opportunity to respond to allegations of discrimination which are made against them during the course of the discrimination complaint process.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention, and Disposal below.

Storage: These records are maintained in file folders, binders and index cards.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure.

Retention and Disposal: These records are maintained up to two years from the closing of the case and are transferred to the GSA Regional Federal Records Centers. They are destroyed by the Federal Records Centers when the records are seven years old.

System manager(s) and address: a. Appeals Review Board appeal and reopening petition Control Index Card file: Chairman, Appeals Review, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

b. Appeals under Part 772: Director, Federal Employee Appeals Authority, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

c. Classification appeals to the Commission, performance rating appeals, and complaints records: Director, Bureau of Personnel Management Evaluation, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

d. Agency adverse action appeals records (initiated prior to September 9, 1974), classification appeals in agencies, EEO complaints files, and grievance records: Personnel Officer or designated official, Local Agency Installation.

Notification procedure: Contact the appropriate system manager above. Individuals who have filed appeals or grievances are aware of that fact and have been provided a copy of the record. They may, however, contact the appropriate system manager indicated above regarding the existence of such records pertaining to them. It is necessary to furnish the following information when making inquiries about records:

a. Full name.
b. Date of Birth.
c. Kind of action taken by the agency.

Record access procedures: Individuals who have appealed or filed a grievance about a decision or determination made by an agency or about conditions existing in an agency already have been provided a copy of the record. The contest, amendment, or correction of an appeal or grievance record is permitted during the prosecution of an appeal, grievance, or complaint by the individual to whom the record pertains. However, after an appeal, grievance, or complaint case has been closed, and individual may gain access to, or contest the official copy of, an appeal, greivance, or complaint record by writing the appropriate system manager indicated above. Individuals should provide their name, date of birth, agency in which employed, approximate date, and the kind of action taken by the agency when requesting access to, or contest of, records.

Contesting record procedures: Same as record access procedures above.

Record source categories: The sources of these records are:

a. Individual to whom the record pertains.
b. Agency and/or Commission officials.
c. Affidavits or statements from employee.
d. Testimony of witnesses.
e. Official documents relating to the appeal, grievance, or complaint.
f. Correspondence from specific organizations or persons.

CSC/GOVT—3

System name: General Personnel Record—CSC

System location: These records are located in agencies and the National Personnel Records Center as indicated below.

a. Current Federal employees: Personnel Office or designated office, Department or Agency with which employed, Local Installation.
b. Former Federal employees: National Personnel Records Center, General Services Administration, 111 Winnebago Street, St. Louis, Mo. 63118.

Categories of individuals: Current and former Federal employees.

Categories of records in the system: These records contain information about an individual such as the birth date; social security number; veteran preference; tenure; handicap; past and present salaries, grades, and position titles; letters of commendation, reprimand, charges, and decision on charges; notice of reduction-in-force; locator files; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer, and separation; training files; minority group designator files; records relating to life insurance, health benefits, and designation of beneficiary; performance ratings; awards; medical records; performance appraisals; of appraisals of potential; Central Personnel Data File (CPDF); mobility assignment files under the Intergovernmental Personnel Act; and agency adverse action files.

Authority for maintenance of system: Title 5, U.S.C. Sections 1302, 2951, 4118, 4308, 4506, and Executive Order 10561, dated September 13, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records may be:

a. Used in the selection process by the agency maintaining the record in connection with appointments, transfers, promotions, or qualifications determinations. To the extent relevant and necessary, it will be furnished upon request to other agencies for the same purpose.
b. Disclosed to other Government agencies maintaining relevant enforcement or other information if necessasry to obtain from these agencies information pertinent to decisions regarding hiring or retention.
c. Disclosed to prospective employers or other organizations, at the request of the individual.
d. Disclosed to officials of foreign governments for clearance before employee is assigned to that country.
e. Disclosed to educational institutions for training purposes.
f. Disclosed to the Department of Labor; Veterans Administration; Social Security Administration; Department of Defense; Federal agencies who may have special civilian employee retirement programs; national, State, county, municipal, or other publicly recognized charitable or social security administration agency to adjudicate a claim for benefits under the Bureau of Retirement, Insurance, and Occupational Health's or the recipient's benefit program(s), or to conduct an analytical study of benefits being paid under such program.
g. Disclosed to health insurance carriers contracting with the Commission to provide a health benefits plan under the Federal Employees' Health Benefits Program, to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination of benefits provisions of such contracts.
h. Disclosed to Federal Employees' Group Life Insurance Program in support of an individual's claim for life insurance benefits.
i. Disclosed to labor organizations in response to requests for names of employees and identifying information.
j. If information indicates a possible violation of law, it may be disclosed to law enforcement agencies.
k. Disclosed to district courts to render a decision when an agency has refused to release to current or former Federal employees a record under the Freedom of Information Act.
l. Disclosed to district courts for use in rendering a decision when an agency has refused to release a record to the individual under the Freedom of Information Act (FOIA).
m. Used to provide statistical reports to Congress, agencies, and the public on characteristics of the Federal workforce.
n. Used in the production of summary descriptive statistics and analytical studies. The records may be used to respond to general requests for statistical information (without personal identifier) under FOIA; or to locate individuals for personnel research or other personnel research functions.
o. Disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.
p. Disclosed to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implenenting a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.
q. Disclosed to an agency upon request for determination of an individual's entitlement to benefits in connection with Federal Housing Administration programs.
r. To provide information to a congressional office from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.
s. Used to provide an official of another Federal agency any information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the personnel functions for which the records were collected and are maintained.
t. Disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.
u. Used to select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.
v. Disclosed to another Federal agency or to a court when the Government is party to a suit before the court.
w. To disclose specific Civil Service employment information required under law by the Department of Defense on individuals identified as members of the ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: See Storage, Retrievability, Safeguards, Access, Retention, and Disposal below.

Storage: The records are maintained in file folders, magnetic tape, punched cards, microfiche, lists, and forms.

Retrievability: Records are indexed by any combination of name, birth date, social security number, or identification number.

Safeguards: Records are located in lockable metal file cabinets or in secured rooms with access limited to those whose official duties require access.

Retention and Disposal: The Official Personnel Folder (OPF) is retained by the employing agency as long as the individual is employed with that agency. When the individual transfers to another Federal agency or to another appointing office, the OPF is sent to that agency or office. Within thirty (30) days after an individual separates from the Federal service, the OPF is sent to the National Personnel Records Center. Adverse action files are retained by the agency indefinitely. Other records are maintained for 2 years or destroyed when an individual leaves the agency.

System manager(s) and address: The System Mangers are indicated below.

a. For current Federal employees: Personnel Officer or other designated official, Department or Agency with which employed, Local Installation.

b. For former Federal employees: Director, Bureau of Personnel Management Information Systems, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Notification procedure: The procedures are indicated below.

a. If interest is in specific agency or department, inquiries, including name, date of birth, and social security number, should be addressed to: Director of Personnel, Department or Agency concerned, Washington, D.C.

b. Other inquiries, including name, date of birth, and social security number, should be addressed to: Director, Bureau of Personnel Management Information Systems, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Record access procedures: The procedures are indicated below.

a. Current Federal employees who wish to gain access to their records should contact their: Personnel Office, or designated office, Agency or Department with which employed, Agency or Department Installation.

b. Former Federal employees who wish to gain access to their records should direct such a request in writing, including their name, date of birth, and social security number, to: Director, Bureau of Personnel Management Information Systems, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Contesting record procedures: The procedures for contesting records are indicated below:

a. Same as records access procedures above for current Federal employees.

b. For former Federal employees: Direct such a request in writing, including name, date of birth, and social security number to: Director, Bureau of Personnel Management Information Systems, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information the individual supplied, except information provided by agency officials on pay, leave, and allowance records.

Prefatory Statement of General Routine Use

This agency published (42 FR 59528) a general routine use for all systems of records, the text of which appears below, scheduled to expire October 1, 1978.

To employees of the law firm Rogovin, Stern and Huge of Washington, D.C. while under contract to the Civil Service Commission and for the purpose of conducting an investigation into certain alleged violations of merit and equal employment opportunity principles in the same manner and subject to the same conditions as if they were officers and employees of the Civil Service Commission.

CSC—9

System name: CSC Managerial Potential Rating System. This system was deleted from the Commission's Systems of Records effective July 21, 1978 (see 43 FR 31426).

Availability of 1977 Compilation: "Privacy Act Issuance—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of notices in 1977 compilation: Notice of this agency's systems of records appear in Volume II of the 1977 Compilation at page 48732 (42 FR 48732). The price of this Volume is six dollars and seventy five cents.

The United States Civil Service Commission.

James C. Spry,
Executive Assistant to the Commissioners.

[FR Doc. 78-24619 Filed 9-7-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Federal Trade Commission

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuance—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirement of the Privacy Act for 1978.

For further information contact: Karen C. Gabbert, (202) 523-3721.

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation. In addition, System No. 37 is a proposed new system that should go into effect on or before October 21, 1978.

FTC—1

System name: Biographies of Commissioners and Key Staff Members—FTC

System location: Office of Public Information, Room 496, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Categories of individuals: Commissioners and key Federal Trade Commission Staff members (former and current).

Categories of records in the system: Contains name, biographical data (such as education, employment, etc.), and in some cases a photograph and/or news release on the individual's appointment.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Resource material for writing news releases and FTC publications, and for filing requests for information from member of the media; used by OPI staff members. (With concurrence of individual concerned, information is prepared in biographical sketch format for release to news media and general public upon request.)

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Written documents and glossy photographs in manila folders in lockable file cabinet.

Retrievability: Indexed by name.

Safeguards: Available to public.

Retention and Disposal: Upon or shortly after departure from Commission, individual's biographical sketch and photograph are disposed of in wastebasket.

System manager(s) and address: Public Information Assistant, Office of Public Information, Room 496, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual whose biography and/or picture is contained in the system.

FTC—2

System name: Correspondence Control System—FTC

System location: Comnet, Inc., 5185 MacArthur Blvd., Washington, D.C. 20016.

Categories of individuals: All individuals formally requesting information from, or submitting complaints to, the Federal Trade Commission (including regional offices) in writing; staff members assigned to respond to correspondence.

Categories of records in the system: Writer's name and address; nature of inquiry or complaint, including product and violation codes; name of staff members assigned to respond to letter.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by headquarters and regional office staff as a management tool for tracking correspondence coming into the Federal Trade Commission (including regional offices), including keeping abreast of assignments and response deadlines. Nonpersonal information is abstracted to provide statistical data on the number and types of correspondence to which the Commission responds.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another Federal, State, or local governmental agency to whom matter has been referred.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Daily data temporarily held on Daconics' magnetic disc at FTC; data is then forwarded (daily) to Comnet for long-term storage on a Comnet magnetic disc.

Retrievability: By name.

Safeguards: Access restricted to personnel whose responsibilities require access. Access to Comnet computer restricted to personnel who have knowledge of computer password.

Retention and Disposal: Records are retained in Comnet computer for 6 months after response to correspondence has been made, then purged from system after nonpersonal data has been added to a statistical accounting file. Retention beyond six months is possible if circumstances so require.

System manager(s) and address: Chief, Information Systems Branch, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained; supervisors.

FTC—3

System name: Case/Project Tracking System—FTC

System location: Comnet, Inc., 5185 MacArthur Blvd., Washington, D.C. 20016.

Categories of individuals: Most FTC professional and semi-professional employees and some clerical employees.

Categories of records in the system: Contains name, FTC ID number, organization, occupation category, all cases and projects assigned, and all case and project information both past and present.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Management and budgeting tool within Commission. Responses to congressional inquiries.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc and tape.

Retrievability: By case, program, organization, individual (ID number or name).

Safeguards: Password. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Perpetual retention.

System manager(s) and address: Executive Director, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW. Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual weekly activity reports.

FTC—4

System name: Claimants Under Federal Tort Claims Act and Military Personnel and Civilian Employees' Claims Act—FTC

System location: Federal Trade Commission, Room 561, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Categories of individuals: Individuals who have claimed reimbursement from FTC under Federal Tort Claims Act and military personnel and Civilian Employees' Claims Act.

Categories of records in the system: Information relating to traffic accidents and other incidents in which the FTC may be liable for property damage or loss or personal injuries.

Authority for maintenance of system: Federal Tort Claims Act, 28 U.S.C. Sec. 2671 et seq. Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. Sec. 241 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine whether the FTC should honor claims for personal injuries or loss or damage to property in incidents involving FTC employees. Referral to Department of Justice, GSA, or other federal agency when the matter comes within the jurisdiction of such agency. Used by Tort Claims Officer, other FTC personnel reviewing claim, and personnel of other agencies to whom a matter is referred.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in manila file folders in file cabinet.

Retrievability: The system is filed alphabetically by name of the FTC employee involved in each incident.

Safeguards: The files are stored in an unlocked file cabinet in the Office of the Tort Claims Officer. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: The records are stored for 10 years and then deposited in a wastebasket.

System manager(s) and address: Executive Director, Federal Trade Commission, Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is obtained from claimant, FTC employee involved in incident, official police report (if any), witnesses, and insurance company representing claimant (if any).

FTC—6

System name: Mail Order Rule Complaint Letters, Abstracts of—FTC

System location: Comnet, Inc., 5185 MacArthur Blvd., Washington, D.C. 20016.

Categories of individuals: Any individual whose complaint against a company or organization concerns, or is relevant to the Federal Trade Commission's Trade Regulation Rule concerning Mail Order Merchandise, 16 CFR Sec. 435.

Categories of records in the system: Name; address; nature of complaint (violation code and product code); date of transaction complained of, dollar amount of transaction complained of, if given; name of company complained against.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The computer system is used to produce listings summarizing complaints received about mail order merchandising, which in turn assist Bureau of Consumer Protection and regional office staffs in taking or determining whether to take legal action against companies complained of that may be violating the Mail Order Merchandise Rule.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another Federal, State, or local governmental agency to whom the matter has been referred.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc and tape.

Retrievability: By name.

Safeguards: Access is restricted to those agency personnel whose responsibilities require access and who have knowledge of computer password.

Retention and Disposal: Information is retained indefinitely; no disposal system at present.

System manager(s) and address: Chief, Information Systems Branch, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals who write complaints.

FTC—10

System name: Consumer and Industry Correspondence Files, Division of Credit Practices; Bureau of Consumer Protection—FTC

System location: Division of Credit Practices, 633 Indiana Avenue NW., Washington, D.C. 20580.

Categories of individuals covered by the system: Consumer and Industry Correspondents.

Categories of records in the system: Correspondence.

Authority for maintenance of system: Federal Trade Commission Act, Truth in Lending Act, Fair Credit Reporting Act, Equal Credit Opportunity Act, Fair Credit Billing Act and Fair Debt Collection Practices Act.

Routine uses of records maintained in the system including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other Federal, State, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another Federal, State, or local governmental agency to whom matter has been referred.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in folders.

Retrievability: Indexed by name—usually corporate name.

Safeguards: Maintained in file cabinets. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Selected statutory correspondence maintained indefinitely; other materials retained for a minimum of 3 years, then destroyed.

System manager(s) and address: Assistant Director for Credit Practices, Bureau of Consumer Protection, 633 Indiana Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual.

FTC—12

System name: Consumer Complaint File, Dallas Regional Office

System location: Federal Trade Commission, 2001 Bryan Tower, Suite 2665, Dallas, Tex. 75201.

Categories of individuals: Individuals who have filed complaints or requested information.

Categories of records in the system: Contains name and location of company complained about, violation, date complaint was received, correspondence number.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To identify companies complained about, number of complaints received on a company and to identify problems in a particular industry. To respond to correspondence.

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.

Referral to person, partnership, or corporation complained about when considered appropriate by Commission staff or by another Federal, State, or local governmental agency to whom matter has been referred.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders filed numerically. Indexed stored on Daconics disc.

Retrievability: Indexed by name and correspondence number.

Safeguards: Stored in lockable file cabinets and on Daconics disc. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Retained indefinitely.

System manager(s) and address: Regional Director, Federal Trade Commission, 2001 Bryan Tower, Suite 2665, Dallas, Tex. 75201.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual filing complaint.

FTC—13

System name: Consumer Complaint Files, Division of Marketing Practices; Bureau of Consumer Protection—FTC

System location: Division of Marketing Abuses, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

Categories of individuals: Individuals filing complaints or requesting information.

Categories of records in the system: Name; address; transaction history with persons, partnerships or corporations.

Authority for maintenance of system: Section 5 of the Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other Federal, State, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another Federal, State, or local governmental agency to whom matter has been referred.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Varied size documents.

Retrievability: Name, company involved, or alleged practice.

Safeguards: Filing cabinets in secure buildings. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Records maintained until enforcement action is final and then removed to General Service Administration for permanent storage.

System manager(s) and address: Assistant Director for Marketing Abuses, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Consumer; Federal, State or local enforcement agencies; private organizations (e.g., Better Business Bureaus, consumer hot lines) that receive consumer complaint letters.

FTC—17

System name: Consumer Mailing List, Los Angeles Regional Office—FTC

System location: Federal Trade Commission, 11000 Wilshire Boulevard, Room 13209, Los Angeles, Calif. 90024.

Categories of individuals: Individuals who have requested publications from Los Angeles Regional Office and individuals who receive local Call for Comment.

Categories of records in the system: Name; mailing address; business title, if any.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to mail Los Angeles Regional Office publications, FTC publications, and local Call for Comment to listed names. Used by Regional Office personnel.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Daconics magnetic disc.

Retrievability: By name.

Safeguards: Daconics disc storage. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: By disc erasure when consumer no longer desires publications, or local Call for Comment. List is revised at least annually.

System manager(s) and address: Assistant Director, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Boulevard, Room 13209, Los Angeles, Calif. 90024.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—20

System name: Employee Locator System—FTC

System location: Comnet, Inc., 5185 MacArthur Blvd., Washington, D.C. 20016.

Categories of individuals: Current Federal Trade Commission employees.

Categories of records in the system: Name; employee number; building code and room number; office telephone number; correspondence code; contact code; mail drop code.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to produce Federal Trade Commission telephone book used by all agency personnel and mail locator listings used by mail room personnel; used by library staff to ascertain an employee's identification number for subsequent use in retrieving information from the Automated Serials Routing System (FTC—45).

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 the individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic disc and tape.

Retrievability: By name or employee number.

Safeguards: Access restricted to those agency personnel with knowledge of the computer password for the system.

Retention and Disposal: Information is continuously updated; obsolete data is erased from system.

System manager(s) and address: Chief, Administrative Branch, Information Systems Division, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained; administrative officers.

FTC—25

System name: General Correspondence Records—FTC

System location: Federal Trade Commission, Room 701, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Categories of individuals: Consumers; individuals; public officials; company and corporation officers; attorneys; members of consumer groups, student groups and committees.

Categories of records in the system: Letters of complaint, inquiry, comment, petition, and/or communications concerning FTC actions and activities.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to correspondence. To determine whether any law enforcement or other action by FTC may be warranted. Referral to other Federal, State, or local governmental agencies for appropriate action when matter complained of or inquired about comes within the jurisdiction of such agency. Used by FTC employees and by personnel of any agency to which the matter is referred.

Referral to person, partnership, or corporation complained about, when considered appropriate by Commission staff or by another Federal, State, or local governmental agency to whom matter has been referred.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Legal-size standard file cabinets; computer print-outs.

Retrievability: Indexed by correspondent's name.

Safeguards: Unlocked file cabinets. Office security: blue seal locked doors. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Copies of correspondence and correspondent index are retained for 6 months from date of Commission response. Records disposed of in wastebasket.

System manager(s) and address: Supervisor, Correspondence Branch, Office of the Secretary, Federal Trade Commission, Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FTC—26

System name: General Personnel Records (Official Personnel Folder and records related thereto): Duplicate Personnel files and Automated Record—FTC

System location:

Automated Records
Divisons of Personnel
Federal Trade Commission
Washington, D.C.

Duplicate Records
Federal Trade Commission
6th Street & Pennsylvania Avenue NW.
Washington, D.C. 20580
Atlanta Regional Office
1718 Peachtree Street NW., Room 1000
Atlanta, Ga. 30309
Boston Regional Office
150 Causeway Street
Boston, Mass. 024144
Chicago Regional Office
55 East Monroe Street
Chicago, Ill. 60603
Cleveland Regional Office
Suite 500, Mall Building
118 Saint Clair Avenue
Cleveland, Ohio 44144
Dallas Regional Office
2001 Bryan Tower, Suite 2655
Dallas, Tex. 75201
Denver Regional Office
1405 Curtis Street
Suite 2900
Denver, Colo. 80202
Los Angeles Regional Office
13209 Federal Building
11000 Wilshire Boulevard
Los Angeles, Calif. 90024
New York Regional Office
2243-EB Federal Building
26 Federal Plaza
New York, N.Y. 10007
San Francisco Regional Office
450 Golden Gate Avenue
San Francisco, Calif. 94102
Seattle Regional Office
28th Floor Federal Building
915 Second Avenue
Seattle, Wash. 98174

Categories of individuals: Current Federal Trade Commission employees.

Categories of records in the system: This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service. These records contain information about an individual relating to

birth date; social security number; veteran preference; tenure; handicap; past and present job salaries, grades, and position titles; letter of commendation, reprimand, charges, and decision on charges; notice or reduction-in-force; locator files; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer, and separation; training; minority group designator; records relating to life insurance, health benefits, and designation of beneficiary; performance ratings; data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

Authority for maintenance of system: Title 5 U.S.C. Sections 1302, 2951, 4118, 4308, 4506, and Executive Order 10561, September 13, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information in these records is used or a record may be used:

a. By agency officials for purposes of review in connection with appointments, transfers, promotions, reassignments, adverse actions, disciplinary actions, and determination of qualifications of an individual.

b. By the Civil Service Commission for purposes of making a decision when a Federal employee or former Federal employee is questioning the validity of a specific document in an individual's record.

c. By the district courts to render a decision when an agency has refused to release to current or former Federal employeees a record under the Freedom of Information Act.

d. To provide information to a prospective employer of a Government employee or former Federal employee.

e. To provide data for the automated Center Personnel Data File (CPDF).

f. To provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and Security Investigations Index on new hires, adverse actions, and terminations.

g. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force.

h. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

i. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information or other pertinent information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

j. To refer, where there is an indication of a violation or potential violation of the law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

k. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions of manpower studies; may also be utilized to locate specific individuals for personnel research or other personnel management functions.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, and punched cards.

Retrievability: Records are indexed by any combination of name, birth date, social security number, or identification number.

Safeguards: Duplicate records—Records are located in lockable metal file cabinets or in metal file cabinets in secured rooms with access limited to those whose official duties require access. Automated files—Restricted password to access data.

Retention and Disposal: Duplicate files—The Official Personnel Folder (OPF) is retained indefinitely. The OPF is sent to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal Service. Some records such as letters of reprimand, indebtedness, and vouchers are maintained for 2 years or destroyed when an individual resigns, transfers, or is separated from the Federal service. Automated files—Files of individuals are erased after they leave the FTC; only statistical turnover information is retained.

System manager(s) and address: Duplicate file—Regional Director, Regional Office (see name and address of regional office listed in location above). Automated records—Director of Personnel, Division of Personnel, Federal Trade Commission, Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information in this system of records either comes from the individual to whom it applies or is derived from information he supplied, except information provided by agency officials.

FTC—27

System name: Assignment Control System, Bureau of Consumer Protection—FTC

System location: Optimum Systems, Inc., 5615 Fishers Lane, Rockville, Md. 20852.

Categories of individuals: Professional staff of the Bureau of Consumer Protection.

Categories of records in the system: Control number, subject and status, staff attorney, Office of the Director liaison, staff deadline, Office of the Director liaison deadline, Office of the Director deadline, and completion date.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Bureau Director, Deputy Directors, Regional Directors, Assistant Directors and Assistants to the Director for management purposes and recording and tracking all internal assignments.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in the computer.

Retrievability: By attorney name, control number and organization code.

Safeguards: Password protected, distribution of reports restricted to agency personnel whose responsibility requires access.

Retention and Disposal: Retained indefinitely.

System manager(s) and address: Records Division, Bureau of Consumer Protection, Room 485, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Assignments under the responsibility of the Bureau of Consumer Protection, and information and instructions from the staff.

FTC—29

System name: Litigation Information Management system for Investigations, Rulemaking, Adjudicatory Proceedings—FTC

System location: Room 401, 13th Street & Pennsylvania Avenue NW., Washington, D.C.

Categories of individuals: Individual respondents, witnesses, informants, and interested parties in certain selected, complex investigations, or rulemaking or adjudicatory proceedings; individuals submitting comments or named in records obtained in the course of such investigations or proceedings.

Categories of records in the system: Information on individuals generally concerns relations or transactions with or knowledge about

respondents, or general business and isolated personal information on individual respondents, and other items of information relating to the individual's involvement in the matter in question.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: This computer system is only utilized in certain select, complex matters where data storage, retrieval, and manipulation requires such use. It is used for general law enforcement purposes (including investigation, litigation, and rulemaking) by Commission employees; used by management in allocating resources and in assessing progress of programs; used to provide information to Congress; used by consultants and contractors to create data bases and to perform calculations and interpret data for FTC attorneys; used to refer matters to Federal, State, or local enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in original, microform and computer data bases.

Retrievability: Retrieved by name, title, date, company concerned, or any fact entered on data entry form (document control form).

Safeguards: Access to records only to those working on the particular matter and only within their particular function. Security and confidentiality controls prevent unauthorized access to original records and computerized records.

Retention and Disposal: Retained for life of program plus any additional retention period specified by Commission. Disposal is by shredding, burning, or other physical destruction.

System manager(s) and address: Chief, Legal Support Branch, Room 401, 13th Street & Pennsylvania Avenue NW., Washington, D.C. 20004.

Notification procedure: Records in this system generally do not contain personal information about individuals and are generally exempt from mandatory disclosure under 5 U.S.C. Sec. 552a(k)(2). However, some personal information relating to individuals may be included and may be disclosable; and access to such information may be requested by mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580. In order for personal information in this system to be retrieved, a request must specify the name of the party subject to the investigation or adjudicatory proceeding.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Public and confidential information received from industry, government, and individuals.

Systems exempted from certain provisions of the Act: Pursuant to 5 U.S.C. Sec. 552a(k)(2), records in this system generally are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. Sec. 552a. See Section 4.13(m) of the Federal Trade Commission Rules of Practice, 16 CFR Sec. 4.13(m).

FTC—30

System name: Consultant Files, Bureau of Competition—FTC.

System location: Federal Trade Commission, Bureau of Competition, Washington, D.C. 20580.

Categories of individuals: Consultants consisting of experts in various fields including economic and legal.

Categories of records in the system: Contains name, curriculum vitae, resumé of employment, lists and copies of publications in field, copies of application forms submitted to FTC.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For identification of background, previous publications, and current research work.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Letter and/or legal size files in regulation cabinet.

Retrievability: Indexed by name.

Safeguards: Secured as are other files by locking of office door at night. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Maintained indefinitely for future reference.

System manager(s) and address: Administrative Officer, Bureau of Competition, Room 944, Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20005.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, address as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FTC—31

System name: Payroll Processing System—Federal Trade Commission

System location: Division of Budget and Finance, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Categories of individuals: All FTC personnel

Categories of records in the system: All payroll information on individual FTC employees including basic employment information, pay and deduction information, and leave and tax information.

Authority for maintenance of system: Public Law 89-554, Sec. 1; 5 U.S.C. Sec. 1301; Federal Personnel Manual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Salary and wage processing in accordance with applicable laws and regulations. Used by Division of Budget and Finance personnel and by other agency personnel whose responsibilities include salary and wage processing and evaluation.

Referral of unemployment compensation information to State and local unemployment compensation boards.

Referral to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in comprehensive computer listing and tape and payroll file folders at the system location in Washington and on computer tape at the Treasury Department in San Francisco.

Retrievability: By name and Social Security Number

Safeguards: Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Maintained according to GSA/Archives schedules of retention and disposal.

System manager(s) and address: Chief, Division of Budget and Finance (address same as System Location).

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Pay forms completed by individual on whom the records are maintained; personnel system.

FTC—32

System name: Payroll—Retirement Cards—FTC

System location: Division of Budget and Finance, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Categories of individuals: All Federal Trade Commission personnel who qualify for Federal retirement benefits.

Categories of records in the system: Payroll information relating to retirement benefits.

Authority for maintenance of system: 5 U.S.C. Secs. 5301, 5501, 6101, 6301, 8301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Calculation of retirement benefits. Referred to succeeding employer of U.S. Government Agency or otherwise to Civil Service Commission upon withdrawal or retirement from Federal Service.

Referral to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information for the Commission to carry out its Government-wide personnel management functions.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer tape at the Treasury Department in San Francisco.

Retrievability: Indexed by name.

Safeguards: Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Held for length of service of employee while at FTC; information forwarded to next employing agency or Civil Service Commission.

System manager(s) and address: Chief, Division of Budget and Finance (address same as System Location).

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Payroll system; personnel system.

FTC—33

System name: Preliminary Investigation Files—FTC

System location:

Indiana Building
633 Indiana NW.
Washington, D.C.
Star Building
1101 Pennsylvania Avenue NW.
Washington, D.C.
Gelman Building
2120 L Street NW.
Washington, D.C.
Pennsylvania Building
425 13th Street NW.
Washington, D.C.
M Street Building
1726 M Street NW.
Washington, D.C.
6th Street & Pennsylvania Avenue NW.
Washington, D.C.
Atlanta Regional Office
1718 Peachtree Street NW.
Atlanta, Ga. 30309
Boston Regional Office
150 Causeway Street
Boston, Mass. 02114
Chicago Regional Office
55 East Monroe Street
Chicago, Ill. 60603
Cleveland Regional Office
Suite 500, Mael Building
118 Saint Clair Avenue
Cleveland, Ohio 44114
Dallas Regional Office
2001 Bryan Tower Suite 2665
Dallas, Tex. 75201
Denver Regional Office
1405 Curtis Street
Suite 2900
Denver, Colo. 80202
Los Angeles Regional Office
13209 Federal Building
11000 Wilshire Boulevard
Los Angeles, Calif. 90024
New York Regional Office
2243-EB Federal Building
26 Federal Plaza
New York, N.Y. 10007
San Francisco Regional Office
450 Golden Gate Avenue
San Francisco, Calif. 94102
Seattle Regional Office
28th Floor Federal Building
915 Second Avenue
Seattle, Wash. 98174

Categories of indivduals: Respondents and correspondents in preliminary investigations.

Categories of records in the system: Information on individuals generally concerns relations or transactions with or knowledge about respondents, or general business and isolated personal information on individual respondents, and other items of information relating to the individual's involvement in the matter in question. This system is composed of files of preliminary investigations (investigations which have not yet become formal and assigned a 7-digit number), but is limited to those files from which personal information is retrieved by the name of an individual or other identifying particular assigned to the individual.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine whether a formal investigation or other action is appropriate. Referral to Federal, State, or local enforcement authorities for investigation and possible criminal prosecution, civil action, or regulatory order. Used by Commission staff assigned to reviewing, or supervising matter; used by Commission personnel with recordkeeping, managerial, and budgeting responsibilities; used by personnel of other agencies to whom a matter is referred.

Referral to experts, when considered appropriate by Commission staff.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file folders and magnetic disc and tape.

Retrievability: Indexed by name of respondent or correspondent.

Safeguards: Access to use of these records is limited to those whose official duties require such access.

Retention and Disposal: Records are tranferred to the Records Division if the preliminary investigation becomes a formal investigation; otherwise records are retained by office that conducted the preliminary investigation. No disposal system at present.

System manager(s) and address: Office of Secretary or Director of Bureau or Regional Office conducting investigation.

Notification procedure: Records in this system generally do not contain personal information about individuals and are generally exempt from mandatory disclosure under 5 U.S.C. Sec. 55a(k)(2).

However, some personal information relating to individuals may be included and, if retrievable, may be disclosable; access to such information may be requested by mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580. In order for personal information in this system to be retrieved, a request must specify the name of the party subject to the investigation or adjudicatory proceeding. The request should also specify the Bureau (and Division, if possible) or Regional Office conducting the investigation.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual respondent or proposed respondent, company records, compliance, informants, witnesses or other third parties.

Systems exempted from certain provisions of the Act: Pursuant to 5 U.S.C. Sec. 552a(k)(2), records in this system generally are exempted from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of 5 U.S.C. Sec. 552a. See Section 4.13(m) of the Federal Trade Commission Rules of Practice, 16 CFR Sec. 4.13(m).

FTC—34

System name: Public Contact Report System, Atlanta Regional Office—FTC

System location: Atlanta Regional Office, 1718 Peachtree Street NW., Room 1000, Atlanta, Ga. 30309.

Categories of individuals: Individual members of the public who file complaints or request information either by telephone or in person concerning matters believed to be of interest or within the jurisdiction of the FTC.

Categories of records in the system: Consists of completed form listing the name of the individual, name of the company about which the individual inquires or complains and the matter complained of. System also includes an index of the individual with whom contact was made.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Filed for future reference as to possible witnesses if company complained of should come under investigation by the FTC. Also may be used for reference to another office of the FTC or other federal agencies for law enforcement purposes when deemed appropriate. Used by Atlanta Regional Office personnel and by personnel of other FTC units or other agencies to whom a matter is referred.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Public contact forms maintained in letter size file folders; index cards consist of 3 inch by 5 inch cards maintained in card file.

Retrievability: Contact form filed alphabetically by name of company; index card filed alphabetically by name of individual.

Safeguards: Contact forms in standard file cabinet and index cards in standard card file. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Retained for a minimum of one year and disposed of by delivery to and placing in a local government incinerator.

System manager(s) and address: Regional Director, 1718 Peachtree Street NW., Room 1000, Atlanta, Ga. 30309.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information obtained from the individual.

FTC—35

System name: Public Information Mailing List—FTC

System location: Comnet, Inc., 5185 MacArthur Blvd., Washington, D.C. 20016.

Categories of individuals: Individuals, businesses and organizations which have indicated an interest in receiving FTC materials; selected news media and special interest (i.e., organizations to be reached on specific FTC matters).

Categories of records in the system: Contains some or all of the following: name, title, company or organization, mailing address, occupation, and capacity/interest codes.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Producing address lables for mailing FTC materials by Office of Public information and other Commission personnel.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer disc storage

Retrievability: Labels for individual addressees can be retrieved by name or computer-assigned identification number.

Safeguards: Retrieval of records is restricted to Office of Public Information and computer support personnel who have knowledge of computer password.

Retention and Disposal: Records are retained until a purge action occurs or a request to delete is received. A purge action occurs when an affirmative response to a purge inquiry is not received, and each list entry receives a purge inquiry annually. News media and special interest addresses are retained indefinitely or for a specified length of time unless removal from the list is requested by the individual.

System manager(s) and address: Director, Office of Public Information, Room 496, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual who wishes to receive FTC material, and FTC material, and FTC staff referring mailing list request.

FTC—37

System name: Individual Claims Submitted Pursuant to Consent Agreement in Bachman v. Pertschuk

System location: Office of the Secretary, Federal Trade Commission, Room 164, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Categories of individuals: Current and former FTC economists, accountants, attorneys, computer specialists, research analysts, and consumer protection specialists and applicants for those positions who file individual claims of discrimination pursuant to consent agreement in Bachman v. Pertschuk, CA No. 76-0079 (D.D.C. 1978).

Categories of records in the system: Individual claims and related documents submitted by claimants, interview reports, FTC application files, resumes, etc.

Authority for maintenance of system: Part VIII of consent agreement in Bachman v. Pertschuk, CA No. 76-0079 (D.D.C. 1978).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Will be used by Administrator of Bachman agreement, his assistants, and magistrate of U.S. District Court for District of Columbia in deciding claims presented.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In cabinet in locked office; held by attorney-advisor to Administrator of agreement.

Retrievability: By name of claimant.

Safeguards: Available only to authorized individuals conducting inquiry into claims.

Retention and Disposal: No disposal system at present.

System manager(s) and address: Benjamin I. Berman, Office of the Secretary, Room 164, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Claimants submissions, FTC personnel records.

FTC—38

System name: Public Information Mailing List, Seattle Regional Office—FTC—REVOKED

FTC—39

System name: Staff Advisory Opinion Records—FTC

System location: Office of Assistant General Counsel, Legal Counsel, Room No. 576, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Categories of individuals: Applicants for advisory opinions under Sec. 1.1 of the Commission's Rules of Practice and Procedure.

Categories of records in the system: Name and address of requester; business information; proposed courses of business action.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff and members of the public. To provide staff advice responsive to public request; to maintain record of advice given for use of the staff for preparation of future staff or Commission opinions and to coordinate and assure consistency of position; possible referral to other parts of the FTC or to appropriate Federal or State agencies for advice or where law enforcement action may be warranted; used by staff of Office of General Counsel and other FTC personnel or agencies to whom a matter is referred.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in binders in Public Reference Room. Available to the public. Also stored in file cabinets in General Counsel's Office.

Retrievability: Generally indexed by name of requesting party.

Safeguards: Maintained in lockable office.

Retention and Disposal: Maintained from 6-1-62; no present disposal program.

System manager(s) and address: Assistant General Counsel for Legal Counsel, Room No. 576, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual proprietorship, corporation, or other business organization, or counsel representing any of them, seeking or receiving a staff advisory opinion.

FTC—41

System name: Unofficial Personnel Records—FTC

System location:

Federal Trade Commission
6th Street & Pennsylvania Avenue NW.
Washington, D.C. 20580

Indiana Building
633 Indiana Avenue NW.
Washington, D.C.

Star Building
1101 Pennsylvania Avenue NW.
Washington, D.C.

Gelman Building
2120 L Street NW.
Washington, D.C.

Pennsylvania Building
425 13th Street NW.
Washington, D.C.

M Street Building
1726 M Street NW.
Suite 1100
Washington, D.C.

Regional Offices:

Atlanta Regional Office
1718 Peachtree Street NW.
Atlanta, Ga. 30309

Boston Regional Office
150 Causeway Street
Boston, Mass. 02144

Chicago Regional Office
55 East Monroe Street
Chicago, Ill. 60603

Cleveland Regional Office
Suite 500, Mall Building
118 Saint Clair Avenue
Cleveland, Ohio 44114

Dallas Regional Office
2001 Bryan Tower, Suite 2665
Dallas, Tex. 75201

Los Angeles Regional Office
13209 Federal Building
11000 Wilshire Boulevard
Los Angeles, Calif. 90024

New York Regional Office
2243-EB Federal Building
26 Federal Plaza
New York, N.Y. 10007

San Francisco Regional Office
450 Golden Gate Avenue
San Francisco, Calif. 94102

Seattle Regional Office
28th Floor Federal Building
915 Second Avenue
Seattle, Wash. 89174

Categories of individuals: Current and former employees of the Federal Trade Commission.

Categories of records in the system: This system of records contains information or documents about the employment and work history of individual employees. The types of records maintained vary with each supervisor and Commission unit. Each supervisor may maintain some or all of the following records: written notes or memoranda on employee performance (i.e., Attorney Evaluation Employment Forms), leave, work assignments, disciplinary problems.

Authority for maintenance of system: Title 5 U.S.C. Sections 4301-4308; Sections 6101-6106; Sections 6301-6326; Sections 7301-7352; Sections 7501-7533.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To be used by the employee's supervisor in evaluating performance, preparing promotion and award recommendations, preparing informal or formal disciplinary actions, approving leave, making work assignments.

Referral to the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry out its Government-wide personnel management functions.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in file folders.

Retrievability: These records are indexed by the names of individuals on whom they are maintained.

Safeguards: Access to and use of these records are limited to those whose official duties require such access. Personnel screening is used to prevent unauthorized disclosure.

Retention and Disposal: Records are destroyed when no longer relevant to the purpose for which they were compiled and maintained. Generally, records are destroyed when the employee no longer works in the Bureau or Office which compiled and maintained the information.

System manager(s) and address: Employee supervisor, Federal Trade Commission.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual to whom record pertains; supervisors of employee.

FTC—42

System name: Basis Computerized System. Bureau of Competition—FTC

System location: Computer Services Corporation, Infunct Center, 650 N. Sepulveda Boulevard, Los Angeles, Calif. 90245.

Categories of individuals: Professional staff of the Bureau of Competition.

Categories of records in the system: Name of professional staff member, sequence number (assigned to attorney), case assignment, deadline, expenditure of time, supervising attorney, assistant director responsible for overall case.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by supervisory personnel of Bureau of Competition for management purposes, including management of caseload and as budgeting tool.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer magnetic discs indexed by data basis.

Retrievability: By name of professional, sequence number, or other data element.

Safeguards: By password only. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Retained indefinitely.

System manager(s) and address: Assistant Director for Evaluation, Bureau of Competition, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information obtained from reports from Assistant Directors, Bureau of Competition, and from professional assigned to case.

FTC—43

System name: Internal Assignment Tracking System, Office of General Counsel—FTC

System location: Optimum Systems, Inc., 5615 Fishers Lane, Rockville, Md. 20852.

Categories of individuals: Professional staff of the Office of General Counsel.

Categories of records in the system: Control number, subject, and status of assignment, supervising attorney, date received, current deadline, original deadline, date completed, and, if Freedom of Information Act appeal, whether access granted.

Authority for maintenance of system: Federal Trade Commission Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by supervisory personnel of General Counsel's Office for management purposes, including controlling attorney workload, tracking the status of assignments, and evaluating attorney performance.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in computer.

Retrievability: By name of attorney, control number, or other data element.

Safeguards: By password only. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Retained indefinitely.

System manager(s) and address: Administrative Officer, Office of General Counsel, Room 566, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Assignments under responsibility of Office of General Counsel and instructions from staff.

FTC—49

System name: Freedom of Information Act Requests and Appeals from Other Than Governmental Agencies and the Commission's Responses Thereto—FTC

System location:

Records Division
Office of the Secretary
Federal Trade Commission
6th Street & Pennsylvania Avenue NW.
Washington, D.C. 20580

Information Division
Office of the Secretary
Federal Trade Commission
6th Street & Pennsylvania Avenue NW.
Washington, D.C. 20580

Office of the General Counsel
Room 551
Federal Trade Commission
6th Street & Pennsylvania Avenue NW.
Washington, D.C. 20580

Categories of individuals: Persons filing requests for access to information under the Freedom of Information Act.

Categories of records in the system: Name, address, sometimes purpose of request, and intended use of information, and agreement to pay fees, if any.

Authority for maintenance of system: Federal Trade Commission Act; Freedom of Information Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff of the Secretary's Office, General Counsel's Office, enforcement Bureaus with respect to active or pending investigations or proceedings, and of the Commissioners, to make recommendations and determinations in response to Freedom of Information Act requests and appeals. Referral to the Office of Management and Budget and to the Congress for annual reports required by the Freedom of Information Act. Referral to federal enforcement authorities to assist with administrative processing and litigation.

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.

Request and appeal letters, and agency responses thereto, are available to the public for inspection and copying.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: 1. Copies of request and appeal letters, and agency responses thereto, are stored in binders in the Public Reference Room (available to the public). 2. Original request letters, copies of appeal letters (if any) and agency responses, and related internal memoranda, are stored in folders in lockable file cabinets in the Freedom of Information and Privacy Acts Branch of the Information Division. 3. Original appeal letters, copies of request letters and agency responses, and related internal memoranda are stored in folders in lockable file cabinets in General Counsel's Office.

Retrievability: Generally indexed by name of requesting party.

Safeguards: Maintained in lockable file cabinets or office.

Retention and Disposal: Full grant response letters and files are destroyed after two (2) years. Denials and appeal files are destroyed four (4) years after final determination by agency or three (3) years after final adjudication by courts, whichever is later.

System manager(s) and address: Secretary, Federal Trade Commission (address same as System Location). Assistant General Counsel for Legal Counsel, Federal Trade Commission (address same as System Location).

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom the record is maintained.

FTC—50

System name: Holders of Registered Identification Numbers—FTC

System location: Division of Energy and Product Information, Federal Trade Commission, 633 Indiana Avenue NW., Washington, D.C. 20680.

Categories of individuals covered by the system: Persons marketing wool products, textile fiber products, or fur or fur products, in commerce, who have filed an application with the Secretary of the Commission for issuance of a requested identification number pursuant to the Commission's Rules of Practice, 16 CFR 1.32.

Categories of records in the system: Name of applicant, address, nature of business, nature of product.

Authority for maintenance of the system: Federal Trade Commission Act, Wool Products Labeling Act of 1939, Fur Products Labeling Act, Textile Fiber Products Identification Act.

Routine uses of records maintained in the system, including categories of users and purposes of such uses: Applications are used by the Commission to issue registered identification numbers to qualified applicants; such numbers are for use as required identification in lieu of the name of the person to whom the number has been issued in satisfying the identification requirement for labeling under the respective Acts identified above. Used by staff of the Division of Energy and Product Information and available to the public.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in files. Available to the public.

Retrievability: Indexed alphabetically by name of applicant and indexed in numercial sequence.

Safeguards: Maintained in file cabinets.

Retention and Disposal: Maintained from 1-1-51; no present disposal program.

System manager(s) and address: Assistant Director for Energy and Product Information, Bureau of Consumer Protection, Federal Trade Commission, 633 Indiana Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FTC—51

System name: Privacy Act Requests and Appeals—FTC

System location:

Information Division
Office of the Secretary
Federal Trade Commission
6th Street & Pennsylvania Avenue NW.
Washington, D.C. 20580
Office of the General Counsel
Room 563
Federal Trade Commission
6th Street & Pennsylvania Avenue NW.
Washington, D.C. 20580

Categories of individuals: Persons filing requests for access to, correction of, or an accounting of disclosures of personal information contained in system of records maintained by the Commission, pursuant to the Privacy Act of 1974.

Categories of records in the system: Name, address; sometimes purpose of request; intended use of information; agreement to pay fees, if any; and nature of correction of information requested.

Authority for maintenance of system: Federal Trade Commission Act; Privacy Act of 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by staff of the Secretary's Office, General Counsel's Office, and Commissioners, to make recommendations and determinations in response to Privacy Act request and appeals. Referral to the Office of Management and Budget and to the Congress for annual reports required by the Privacy Act. Referral to federal enforcement authorities to assist with administrative processing and litigation.

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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Initial requests stored in lockable files in Secretary's Office. Appeals stored in lockable files in General Counsel's Office.

Retrievability: Indexed by request index number, date of request, and name of requester or appellant.

Safeguards: Maintained in lockable offices. Access restricted to those agency personnel whose responsibilities require access.

Retention and Disposal: Full grant correspondence and files are destroyed after two (2) years. Denials and appeal files are destroyed four (4) years after final determination by agency or three (3) years after final adjudication by courts, whichever is later.

System manager(s) and address: Secretary, Federal Trade Commission (address same as System Location). Assistant General Counsel for Legal Counsel, Federal Trade Commission (address same as System Location).

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW. Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individual on whom record is maintained.

FTC—52

System name: Equal Employment Opportunity Statistical Reporting System—FTC

System location: Optimum Systems, Inc., 5615 Fishers Lane, Rockville Md. 20852.

Categories of individuals: Current FTC employees.

Categories of records in the system: Coded minority group designations.

Authority for maintenance of system: 5 U.S.C. Sections 1301, 3301, 7151, 7154, and Executive Order 10577, Nov. 22, 1954.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by the Equal Employment Opportunity Director in composite statistical form only, for analyses and reports within the Commission and to the Civil Service Commission as required by law.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored on magnetic disc.

Retrievability: minority group designations may be retrieved by name or group, or by cross-reference to title and grade information contained in FTC System 26, General Personnel Records (Official Personnel Folder and Records Related Thereto): Duplicate Personnel Files and Automated Records.

Safeguards: Access may be obtained only by written authorization of the Equal Employment Opportunity Director.

Retention and Disposal: Coded information is erased when the individual ceases employment at the FTC.

System manager(s) and address: Equal Employment Opportunity Director, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Notification procedure: By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, D.C. 20580.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Visual identification of each employee by Division of Personnel staff and administrative officer in each regional office.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume I of the 1977 Compilation at 47403 (42 FR 47403). The price of this Volume is six dollars and fifty cents.

By direction of the Commission. Dated August 17, 1978.

James A. Tobin,
Acting Secretary.

[FR Doc. 78-24579 Filed 9-7-78; 8:45 am]

[7710-12]

POSTAL SERVICE

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Agency: U.S. Postal Service

Action: Annual Report and final notice of minor records system description changes.

Summary: The primary purpose of this document is to publish the annual notice under 5 U.S.C. 552a(e)(4) of the systems of records, as defined in the Privacy Act of 1974, Pub. L. 93-579, which are maintained by the Postal Service. In the interest of providing complete, current information to the public in an easily accessible format, this document also provides final notice of several minor records system description changes. All changes have been incorporated into the list of systems descriptions herein.

Date: Parts 1, 2, and 3 effective October 10, 1978.

Address: Records Officer, U.S. Postal Service, Washington, D.C. 20260.

For further information contact: Mr. John E. Finlay (202) 245-4142.

Supplementary information: The last complete list of Postal Service Systems of Records was published in the Federal Register on September 30, 1977 (42 FR 53499). Changes to this complete list appeared in the Federal Register on November 21, 1977 (42 FR 59833), November 30, 1977 (42 FR 60990), June 15, 1978 (43 FR 25893), and on July 27, 1978 (43 FR 32478). In accordance with a provision of the Privacy Act Implementation guidelines issued by the Office of Management and Budget (40 FR 28961:1), the Postal Service has instituted a regular program of review of its record keeping practices. As a result of the latest comprehensive review, the Postal Service has deemed it appropriate to (1) revise certain systems descriptions as a result of the automation of several manual systems, (2) make certain general records systems description changes to reflect more accurately the nature and scope of the systems described, and (3) make minor editorial corrections and revisions in the description of various systems. Postal Service regulations concerning the privacy of information appear in 39 CFR Part 266. Those Postal Service systems of records which are exempt from certain provisions of the Privacy Act are listed in 39 CFR 266.9(b).

Part I—System Modifications Due to Implementation of Automation Improvements

1. The Postal Service has implemented a common, computerized index system for six currently published records systems maintained by the Law Department. The index feature is designed to facilitate information cross-indexing and access. The following affected records systems descriptions have been revised accordingly:

USPS 030.030
USPS 120.220
USPS 120.230
USPS 120.240
USPS 190.010
USPS 200.020

The revisions to each of these six systems are as follows:

Storage: Change to read, "Paper documents and computer tape/disk."

Safeguards: Change to read, "Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area."

Retention and Disposal: Change to read, "Selected records are maintained on an active basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period."

2. In addition, the Postal Service has automated several manual systems to improve their operating efficiency. The systems affected and the changes made to them are set forth below:

a. The Postal Service has modified a segment of USPS 120.190, Personnel Records—Supervisors Personnel Records, permitting automated capture of information on work-related employee activities. As is the case under the present manual environment, automated records will be used as an optional management tool for more efficiently supervising assigned personnel. The system revision is:

Storage: Change to read, "Paper files, index cards, magnetic tape and disk, computer printouts."

Safeguards: Change to read, "Paper documents/index cards are locked in supervisor's desk or filing cabinets. Computer readable media are maintained in secured data processing facilities."

b. The Postal Service has also converted the following previously published records systems from manual to computer operation:

USPS 070.020
USPS 080.010
USPS 100.010
USPS 100.020
USPS 130.010

The above five system descriptions have been revised accordingly. The description changes are in the Storage, Retrievability, Safeguards, and Retention and Disposal sections of the amended notices of those systems which are set forth below, in sequence, by USPS Identification Number.

Part 2—General System Description Revisions

The Postal Service has determined that it is desirable to make certain general records system description changes to reflect more accurately the nature and scope of the systems described. As a result of the revisions, USPS 120.150 and 120.180 have been deleted from the list of Privacy Act systems of records presently published in the Federal Register, and three new records descriptions are substituted. The new records systems are USPS 120.151, 120.152, and 120.153. These revisions do not reflect any changes in the operation or function of the described systems. They are only changes to the descriptions themselves for the purpose of presenting to the public a clearer picture of the records being maintained.

Part 3—Editorial Corrections and Revisions

The Postal Service has determined that it is necessary to make certain minor editorial corrections and revisions to various systems of records descriptions. These corrections and revisions do not reflect changes in the systems themselves, but are provided only as changes to the descriptions. These changes do not affect the general character or purpose of any system described, nor do they expand the population of individuals to which the systems apply. The modifications merely provide a more accurate description of the affected systems of records. The following constitutes final notice of the necessary changes:

1. USPS 040.010—Customer Programs—Memo to Mailers Address File

System location: Change to read, "USPS Headquarters, Customer Services Department and at a contractor site."

Record access procedures: Change to read, "See NOTIFICATION above."

Contesting record procedures: Change to read, "See NOTIFICATION above."

2. USPS 050.020—Finance Records—Payroll System.

System location: Add, "Also, certain information from these records may be stored at emergency records centers."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete, "7. Information from these records may be stored at emergency records centers."

3. USPS 120.100—Personnel Records—Performance Awards System Records

Retention and Disposal: Change to read, "Records are maintained for four years and then destroyed by shredding."

4. USPS 130.040: Philately—Philatelic Product Sales and Distribution

System location: Change to read, "USPS Headquarters, Customer Services Department and at a contractor site."

5. USPS 160.010—Special Mail Services—Insured and Registered Domestic Mail Inquiry and Application for Indemnity Records.

Storage: Change to read, "Handwritten and typed forms, microfilm, computer readable media and printouts."

6. USPS 160.020—Special Mail Services—Insured and Registered International Mail Inquiry and Application for Indemnity Records.

Storage: Change to read, "Handwritten and typed forms, microfilm, computer readable media and printouts."

Finally, as a result of an internal organization change, there is a new system manager for four records systems. The systems descriptions are modified to reflect this change as follows:

System manager(s) and address: Delete each reference to "APMG, Customer Services Department", and add, "APMG, Delivery Services Department." The system notices affected are:

USPS 010.020—Collection and Delivery Records—Boxholder Records

USPS 010.050—Collection and Delivery Records—Delivery of Mail Through Agents

USPS 090.020—Non-Mail Services—Passport Application Records

USPS 140.020—Postage—Postal Meter Records

Roger P. Craig,
Deputy General Counsel.

Annual Notice of Systems of Records

The following points are relevant to the annual notice of Postal Service systems of records provided in this document:

a. All systems containing contract records, as well as other legal records relating to those contracts, are considered business records by the Postal Service, rather than systems of personal records, as that term is defined in the Privacy Act. Accordingly, these systems are not listed.

b. All Postal Service records described in this list are subject to:

1. The subpoena of a court of competent jurisdiction;

2. Review by Congress or its representatives upon request.

c. The "routine use" portion of each system notice contains, as the first item, the system "purpose." The "purpose" is included to provide clarity and promote understanding of the system by the layman. It may be defined as that activity performed by those officers and employees of the Postal Service who have a need for component records of the system in the performance of their duties. Disclosure accounting is not maintained by the Postal Service for any activity listed as a "purpose."

USPS 010.010

System name: Collection and Delivery Records—Address Change and Mail Forwarding Records, 010.010

System location: Post Offices.

Categories of individuals: Postal customers requesting mail forwarding services from their local postal facilities.

Categories of records in the system: Records contain customer name, old address, new mailing address, mail forwarding instructions, effective date, information as to whether the move is permanent or temporary and the customer's signature.

Authority for maintenance of system: 39 U.S.C. 403, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide mail forwarding and address correction services to postal customers who have changed address. Use—

1. Records about any named individual are made available to any member of public upon request.

2. 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.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before in a court of administrative body.

4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: This source document is stored in filing cabinets at the delivery unit. They are filed alphabetically by name within month or quarter. Records generated from the source document are stored on cards or list forms or recorded on magnetic tape where central markup is computerized. These records are filed alphabetically by name and route number or zone.

Retrievability: This system of records is indexed by name and address. Information may be retrieved by route number or ZIP Code where a computerized system is in use.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and Disposal:

a. Source document retained for 1 year from effective date and then destroyed by shredding or burning.

b. Information on magnetic tape is retained for 1 year from effective date. At the end of that period, the tapes are erased.

System manager(s) and address: APMG, Delivery Service Department, headquarters.

Notification procedure: Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address, effective date of change order, route number (if known) and ZIP Code.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: The individual to whom the record pertains.

USPS 010.020

System name: Collection and Delivery Records—Boxholder Records, 010.020

System location: Post Offices

Categories of individuals: Postal customers who have applied for lockbox or caller service, whether for private or public purposes.

Categories of records in the system: Records are in card form and contain names, addresses, a record of payments, and the names of persons or agents whether family members or business associates or employees.

Authority for maintenance of system: 39 U.S.C. 403, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide post office box services to postal patrons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Disclosed to Federal, State and local government agencies for use in connection with official business.

3. Disclosed to persons authorized by law to serve judicial process when necessary to serve process.

4. Disclosed to public when box is being used for purpose of doing or soliciting business with the public.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. 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.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored on card form filed in metal file cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips.

Retrievability: Information is filed according to local needs, and the volume of records. Billing forms are filed numerically by box number within month in which rent is due. Applications are filed alphabetically by name of individual or firm.

Safeguards: Access limited to employees working in the boxholder section.

Retention and Disposal:

a. Billing forms are destroyed by shredding 2 years after closeout of the last entry.

b. Boxholder applications are retained for 2 years after termination of the rental.

System manager(s) and address:

APMG, Delivery Services Department.

APMG, Finance Department, Headquarters.

APMG, Rates & Classification Department, headquarters.

Notification procedure: Inquiries should be addressed to the local postmaster; requestors in person should identify themselves with drivers license, military, government or other form of identification.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: The individual to whom the record pertains.

USPS 010.030

System name: Collection and Delivery Records—Carrier Drive-Out Agreements, 010.030

System location: District Offices, Sectional Centers, Post Offices, Postal Data Centers.

Categories of individuals: Letter carriers who use privately owned vehicles to transport the mails pursuant to a valid agreement with the local postmaster.

Categories of records in the system: Information in these records contain Route Number, name and address of carrier, social security number and effective dates of the agreement.

Authority for maintenance of system: 39 U.S.C. 1206.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide reimbursement to carriers driving their own vehicles.

Use—

1. Provide necessary tax information to Internal Revenue Service.
2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
3. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
4. 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.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is contained on preprinted forms, magnetic tape and computer printout reports.

Retrievability: The system is indexed by employees' social security number, pay location number and pay period.

Safeguards: Normal precautions of filing equipment and limited access and the physical security measures of the computer facility.

Retention and Disposal: Magnetic tape records are retained for two calendar years (January-December) and then deleted. Source forms are retained until a new or changed agreement and then destroyed by shredding or burning after 1 year.

System manager(s) and address: APMG, Delivery Services Department, Headquarters.

Notification procedure: A carrier wishing to know if there is information in this system of records concerning him should notify the post office worked of the pay periods the agreement was in force, the route worked, give his name and social security number.

Record access procedures: See NOTIFICATION above.

Record source categories: The individual to whom the record pertains.

USPS 010.040

System name: Collection and Delivery Records—City Carrier Route Records, 010.040

System location: Postal Service Headquarters, Regional Headquarters, District Offices, Sectional Centers, Post Offices, Automatic Data Processing Centers, Postal Data Centers and ADP Contractor sites.

Categories of individuals: Letter Carriers, substitute carriers and flexible employees.

Categories of records in the system: Employee name, social security account number, age, route number, length of service, leave time and whether or not a transportation agreement exists. It also includes information pertaining to work load, work schedule, performance analysis and individual's work habits. Inspection reports of employees, work load and work load adjustments. Employee and Examiner's comments on route adjustments and inspections. Statistical engineering record of carrier and route characteristics.

Authority for maintenance of system: 39 U.S.C. 403, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To assist management in evaluating mail delivery and collection operations and administering these functions efficiently.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.
7. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is contained on printed forms, computerized media, or computer printouts.

Retrievability: The system is indexed by route number, employee name, or postal facility name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and Disposal: Route inspection records are retained for 2 years where inspections are made annually or more frequently, and for 5 years where inspections are made less than annually. Disposal of records is by shredding or burning.

b. Other records in system are retained for a period of up to 1 year depending upon the criticality of the information and then destroyed by shredding or burning.

c. Statistical engineering records are retained for 5 years and then further retained on a year-by-year basis as specifically justified.

System manager(s) and address: APMG, Delivery Services Department, Headquarters; SAPMG Operations Group, Headquarters (Statistical Engineering Records).

Notification procedure: Inquiries should contain employees name and social security number, specify the type of information being requested, and forwarded to post office where employed.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: From employees, carrier supervisors, and route inspectors.

USPS 010.050

System name: Collection and Delivery Records—Delivery of Mail Through Agents, 010.050

System location: Sectional Centers, Post Offices

Categories of individuals: Postal customer requesting delivery of mail through an agent and the agent to whom the mail is to be delivered.

Categories of records in the system: Records contain the name and address of customer, name and address of agent and the signatures of both parties.

Authority for maintenance of system: 39 USC, 403, 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—it serves as the written authority for the delivery of mail other than as addressed.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file cabinets on pre-printed forms.

Retrievability: Forms are filed by customer name.

Safeguards: Access is limited to postal employees in the delivery section.

Retention and Disposal: Records are maintained until contract is terminated then destroyed by shredding.

System manager(s) and address: APMG, Delivery Services Department.

Notification procedure: Submit to local postmaster proof of personal identity and name.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Co-signers of the request for delivery of mail through an agent.

USPS 010.070

System name: Collection and Delivery Records—Mailbox Irregularities, 010.070.

System location: District Offices, Sectional Centers, Post Offices

Categories of individuals: Postal Service customers whose mailbox does not comply with USPS standards and regulations.

Categories of records in the system: Information consists of the reports of irregularities as submitted by the carrier or route inspector, the name and address of customer and the date and signature of the postmaster.

Authority for maintenance of system: 39 USC, 403, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide for the efficient delivery of the mail.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
2. 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.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is recorded on pre-printed forms.

Retrievability: Information is organized around route number.

Safeguards: File in cabinets and access is limited to those USPS personnel having a working requirement.

Retention and Disposal: Retained for one year after completed action and destroyed by shredding or burning.

System manager(s) and address: APMG, Delivery Services Department, Headquarters.

Notification procedure: Information may be obtained from the local postmaster, by presenting identification as to name and address and zip code.

Record access procedures: Make request of the local postmater.

Contesting record procedures: Make request of the local postmaster.

Record source categories: Carrier or route inspector.

USPS 010.080

System name: Collection and Delivery Records—Rural Carrier Routes, 010.080.

System location: Post Offices having rural carriers operations; Delivery Services Department, Sectional Centers; Regions; Districts; Postal Data Centers.

Categories of individuals: Postal customers receiving rural mail delivery services, and rural carriers, substitute carriers and flexible employees.

Categories of records in the system: Records contained in this system are: Employee workload, work schedule and performance analysis. Inspection reports of employees, workload and workload adjustments, route travel description, employee and examiners' comments on adjustments and inspection. Employee name, route number, age, length of service, physical condition, quality of service and vehicle adequacy. Customer addresses and names of persons at address location (some rural routes only).

Authority for maintenance of system: 39 USC 403, 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To assist management in evaluating rural mail delivery and collection operations and administering these functions efficiency and provide basis for payment of salary and vehicle maintenance allowance carriers.

Use—

1. Provide Bureau of the Census, Department of Commerce address information as requested to assist them in their statutory requirement of census taking.
2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency whether Federal, state, or local, charged with the responsibility of investigating or, prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
3. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
4. 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.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713 and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

8. Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Preprinted forms or lists in ordinary file equipment or on computer tape and printouts.

Retrievability: Records are maintained by name and address of customer, and by route number, employee name or postal facility name.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access.

Retention and Disposal: a. Records in card or list form are maintained as long as the customer resides on the route; they are destroyed by shredding one year after the customer moves. b. Route travel description records, and establishment and discontinuance orders are retained until route is discontinued and then transferred to the Federal Records Center within two years after discontinuance date. c. Trip reports are retained for three years and then disposed of by shredding or burning. d. Route inspection reports and mail count records (mail counts made annually or more frequently) are retained for two years. Where mail counts are made less than annually records are retained until the next mail counts. Disposal of records is by shredding or burning. e. Other carrier records in system are retained for a period of up to one year depending upon the criticality of the information and then destroyed by shredding or burning.

System manager(s) and address: APMG, Delivery Services Department, Headquarters.

Notification procedure: Customers wishing to know whether information about them is maintained in this system of records should address inquiries to their local postmaster. Inquiries should contain full name and address. Employee inquiries should state employee name and social security number, route number, specify the type of information being requested, and forward to post office where employed.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: The customer to whom the record pertains and from employees, carrier supervisors and route inspectors.

USPS 020.010

System name: Communications (Public Relations)—Biographical Summaries of Management Personnel for Press Release, 020.010

System location: Office of Public and Media Relations, Headquarters

Office of Communications and Public Affairs, Regional Headquarters

Categories of individuals: USPS executives, directors and managers to include regional staff officers, division directors, district managers, sectional center managers and other key management officials who may have frequent contact with news media or public speaking engagements.

Categories of records in the system: Biographical summaries on sheets of paper plus photographs. Summaries include information as to present title and responsibility, length of service, age, place of birth, marital status and participation in local community activities.

Authority for maintenance of system: 39 USC 401, 1001

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose and Routine Use—

1. To provide the public with background information on postal management personnel in connection with public relations matters such as speaking engagements, media appearances, appearances before civic, fraternal and employee organizations.
2. 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.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained on regular bond paper in file cabinets.

Retrievability: Information is filed by name and title.

Safeguards: File cabinets are located in communications offices where information is available only to individuals having a need for access.

Retention and Disposal: a. Biographical sketches maintained at regions are retained while the individual is assigned within the region. If individual is promoted to or assigned to a position within the USPS outside the Region, biographical information is forwarded to the appropriate Public Affairs office; if employment with the USPS is terminated, the sketch is destroyed by shredding.

b. Biographical sketches maintained at USPS, Washington, D.C., are retained indefinitely.

System manager(s) and address: APMG, Employee and Public Communications, Headquarters.

Notification procedure: Inquiries should contain name and position held and presented to the Manager of Communications and Public Affairs where currently, or previously, employed.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: The individual to whom the record pertains.

USPS 020.030

System name: Communications (Public Relations)—School Mailing Lists, 020.030.

System location: Customer Services Department, Headquarters

Categories of individuals: School principals and teachers of the participating schools in the various USPS educational material mailing programs.

Categories of records in the system: Principal's name or teacher's name, school and address.

Authority for maintenance of system: 39 U.S.C. 403, 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To mail educational material.

Use—

1. 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.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and typed or handwritten forms.

Retrievability: Zip Code, Principal or teacher name, school name.

Safeguards: Normal USPS physical security

Retention and Disposal: During length of program—3 years then destroyed by shredding or burning.

System manager(s) and address: APMG, Customer Services Department, Headquarters.

Notification procedure: Inquiries should be addressed to the SYSTEM MANAGER shown above providing the name and Zip Code.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information mail-out to principals and teachers.

USPS 030.010

System name: Equal Employment Opportunity—EEO Discrimination Complaint Investigations, 030.010

System location: Office of Equal Employment Compliance, Employee Relations Headquarters, EEO Office at Regions, Post Offices, Sectional Centers, Bulk Mail Centers, Automatic Data Processing Centers and Postal Data Centers.

Categories of individuals: Current and former postal employees, applicants for positions within the USPS and third party complainants

Categories of records in the system: Records contain names, work locations, dates, social security numbers, and other information as included on affidavits, interviews and investigative forms.

Authority for maintenance of system: Public Law 92-261, Equal Employment Act of 1972; Executive Order 11478.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—Used by EEO officers and the Civil Service Commission to adjudicate complaints of alleged discrimination and to evaluate the effectiveness of the EEO Program.

Use—

1. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.
2. Disclosed to courts and counsel in the event of litigation.
3. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
5. 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.
6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
7. Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.

Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in paper case files. Status information required by the Civil Service Commission is maintained on ADP records.

Retrievability: Files are accessed by case number, the custodian must also be furnished with the name of the complainant and the place where the complaint was filed. Case number consists of the last two digits of the year with case in chronological sequence.

Safeguards: Case files are maintained in file cabinets within locked rooms. ADP records are protected with password security.

Retention and Disposal: a. Precomplaint records—Counselor's notes are destroyed three months after a formal report is submitted to the EEO officer or three months following the final adjustment when made at that level. b. Formal complaint records—All closed cases are removed from the system quarterly. Each closed case is retained as follows: Official file, 4 years; any copies, 1 year; background documents not in case file, 3 years. c. ADP records—Closed case information is removed quarterly and stripped of personal identifiers. It is then moved to an inactive file (Not a system of records) for future comparative analyses.

System manager(s) and address: APMG, Employee relations Department, Headquarters.

Notification procedure: Individuals interested in finding out if there is information in this records system pertaining to them should contact EEO officers at the Region or Headquarters level, giving complainant name, postal location, region, file number and year.

Record access procedures: See Notification procedure above.

Contesting record procedures: See Notification procedure above.

Record source categories: Information is received from the complainant, respondent and from investigations and interviews.

Systems exempted from certain provisions of the Act: Reference 39 CFR 266.9 for details.

USPS 030.020

System name: Equal Employment Opportunity—Equal Employment Opportunity Staff Selection Records, 030.020

System location: Employee Relations Department, Headquarters, Regional Headquarters, Federal Records Centers

Categories of individuals: Candidates considered by Promotion Boards for EEO staff position.

Categories of records in the system: Name of candidate, level, address, service computation date, date of birth, Social Security Number, postal background, personal information required to assess employee qualifications for position, estimate of potential and record of members of Board.

Authority for maintenance of system: 39 U.S.C. 1001, Executive Orders 11478 and 11590

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide headquarters with information needed to complete selection process.

Use—

1. USPS Promotion Board reviews these records to determine applicant's eligibility for appointment.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
4. 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.
5. Disclosure may be made from the record of an individual, where pertient, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.
7. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Forms, paper files.

Retrievability: Name of applicant and pay location.

Safeguards: Maintained in locked file cabinets within secured facility.

Retention and Disposal: Records are transferred to the Federal Records Center and maintained indefinitely.

System manager(s) and address: APMG, Employee Relations Department, Headquarters

Notification procedure: Inquiries should be addressed to the ahead of the facility where application was made. Inquiries should contain full name, position applied for, the date the Promotion Board met and Social Security Number.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Employee, and employee personnel data.

USPS 03.030

System name: Equal Employment Opportunity—EEO Administrative Litigation Case Files, 030.030

System location: Law Department, Regional and National Headquarters.

Categories of individuals: Employees and applicants for employment involved in EEO Litigation.

Categories of records in the system: (a) Formal pleadings and memoranda of law; (b) Other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

Authority for maintenance of system: 39 U.S.C. 401, 409(d)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent, in any legl proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. 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.

4. Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents and computer tape/disk

Retrievability: By name of litigant(s).

Safeguards: Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys Computer terminals and tape/disk files are located in a secured area.

Retention and Disposal: Selected records are maintained on an active basis until subject matter has no information value and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

System manager(s) and address: General Counsel, Law Department, Headquarters.

Notification procedure: Persons interested in reviewing records within specific case files should submit their name, and case number, if known; to the General Counsel, Law Department, National Headquarters.

Record access procedures: See "System Manager" above.

Contesting record procedures: See "System Manager" above.

Record source categories: (a) Individuals involved in EEO Litigation; (b) Counsel(s) and other representative(s) for parties in action other than Postal Service; (c) Other individuals involved in the development of EEO litigation. Source documents include administrative complaint/action file, and other records relevant to the case.

USPS 040.010

System name: Customer Programs—Memo to Mailers Address File, 040.010

System location: USPS Headquarters, Customer Services Department and at a contractor site.

Categories of individuals: Subscribers to Memo to Mailers monthly newletter.

Categories of records in the system: Subscribers' mailing addresses and status of membership in Postal Customers Councils.

Authority for maintenance of system: 39 USC 403, 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To prepare mailing labels for the monthly mailing of Memo to Mailers.

Use—

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.

Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and computer printout.

Retrievability: Records are maintained by subscriber's name, city, state and ZIP Code.

Safeguards: The list contractor is forbidden by contract to use the list for any other means than to produce mailing labels for the U.S. Postal Service.

Retention and Disposal: The master file is maintained indefinitely, and is updated each month.

System manager(s) and address: APMG, Customer Services Department, Headquarters

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the SYSTEM MANAGER and supply their name and address.

Record access procedures: See "NOTIFICATION PROCEDURE" above.

Contesting record procedures: See "NOTIFICATION PROCEDURE" above.

Record source categories: Subscribers, Postmasters, USPS Customer Service Representatives.

USPS 040.020

System name: Customer Programs—Sexually Oriented Advertisements, 040.020

System location: Rates and Classification Department, Headquarters; Postal Data Center, Headquarters; Postal Data Center, New York; Postal Inspector-In-Charge NYC and Los Angeles, CA.

Categories of individuals: Any adult who elects to have his name and address and that of his children under 19 years of age, placed on the list of persons who do not wish to receive sexually oriented advertisements through the mail.

Categories of records in the system: Records contain the name and address of head of household or other adult, the names and birth dates of children under 19 years of age.

Authority for maintenance of system: 39 U.S.C. Section 3010

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To maintain a list, available to mailers of sexually oriented advertisements, of persons desiring not to receive such matter through the mails.

Use—

1. Upon payment of prescribed fee, provide mailers of sexually oriented advertisements a list of individuals who do not wish to receive SOA.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

3. 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.

4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored on magnetic tape, computer printouts, microfiche cards and preprinted forms.

Retrievability: Information is stored in ZIP Code sequence and in application number sequence.

Safeguards: Printouts and microfiche are retained by the Office of Mail Classification and Postal Inspection Service; hard copy is maintained in file cabinets at Headquarters with limited access.

Retention and Disposal: a. Names are retained on the computerized list for a maximum of five years as prescribed by law.

b. Forms, printouts and microfiche are retained indefinitely.

c. Any records that are to be destroyed are shredded.

System manager(s) and address: APMG, Rates and Classification Department, Headquarters

Notification procedure: Customers will furnish the system manager their name, address, application number and the date of filing.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Customers filing to have their names placed on lists so as not to receive SOA.

USPS 050.005

System name: Finance Records—Accountants Receivable File Maintenace, 050.005

System location: Postal Data Centers

Categories of individuals: Present and former employees, contractors, vendors and other individuals indebted to the Postal Service.

Categories of records in the system: Invoice number, location name, Social Security Number, employee name, designation code.

Authority for maintenance of system: 39 U.S.C. 401

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To monitor and record collections made by the USPS.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
4. 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.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on printed forms, punched cards and magnetic tapes.

Retrievability: Records are normally retrieved by invoice number but may be retrieved, when necessary, by name of employee, contractor, vendor, or other indebted individual.

Safeguards: Authorization is limited to personnel of the General Accounting Section. Computerized records are subject to the security of the computer room.

Retention and Disposal: All information is retained for four years after claim is payed and then destroyed by burning or scratched.

System manager(s) and address: APMG, Finance Department, Headquarters

Notification procedure: Individuals requesting information from this system of records will apply to the pertinent postal facility and present the debtor's name and Social Security Number.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Information is passed to this system from the Payroll Section, General Accounting Section, Claims Section, and Postmasters and Regional Offices.

USPS 050.010

System name: Finance Records—Employee travel Records (Accounts Payable), 050.010

System location: Postal Data Centers, Postal Service Personnel Offices.

Categories of individuals: USPS Employees on official travel.

Categories of records in the system: Travel vouchers and travel advances containing employee name, social security number, Finance Number, basic travel information, and relocation data.

Authority for maintenance of system: 39 U.S.C. 1001, 2008

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—Reimburse Employees for official travel.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collctive bargaining representative of postal employees in an appropriate bargaining unit.
4. 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.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record ar needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is stored on pre-printed forms and magnetic tape.

Retrievability: Information is indexed by social security number.

Safeguards: Access is subject to computer center access control

Retention and Disposal: Retained four years after payment and destroyed by burning or magnetic tape by scratching and reuse.

System manager(s) and address: APMG, Finance Department, Headquarters.

Notification procedure: Requests for information should be presented to Employee's Personnel Officer, furnishing name and social security number.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is received from the employee filing a voucher.

USPS 050.020

System name: Finance Records—Payroll System, 050.020

System location: Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

Categories of individuals: USPS Employees.

Categories of records in the system: Records contain general payroll information including retirement deductions, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding, allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

Authority for maintenance of system: 39 USC 401, 1003, 5 USC 8339

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.
2. To provide information to USPS Managment and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection Committee and Regional Postmasters General.
3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs Newsletter, etc.
4. To support USPS Personnel Programs such as Executive Leadership, Nonbargaining Position Evaluations, Evaluations of Probationary Employees, Merit Evaluations, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Civil Service Commission a roster of all USPS employees under Title 5 USC, Section 8334, along with a check.

2. Tax information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdictions.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W-2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FI (SS Tax) Deduction—To SS Administration as record of earnings under the SS Act for all casual employees not under retirement.

7. Determine eligibility for coverage and payment of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and authorizing payment of that amount and transfer related records as appropriate.

9. Transfer to Office of Workers' Compensation Program, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. 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.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide data for the automated Central Personnel Data File (CPDF) maintained by the U.S. Civil Service Commission.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the invetigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

Retrievability: These records are organized by location, name and social security number.

Safeguards: Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

Retention and Disposal: Records are retained and updated throughout employment with the Postal Service. Upon separation records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records Center nearest the pay location.

System manager(s) and address: APMG, Finance Department, Headquarters, APMG, Employee Relations Department.

Notification procedure: Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees should submit requests to the System Manager.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is furnished by employees, supervisors and the Postal Source Data System.

USPS 050.040

System name: Finance Records—Uniform Allowance Program, 050.040

System location: Postal facilities employing personnel entitled to uniform allowances and the Postal Data Center, St. Louis, MO 63180

Categories of individuals: USPS Employees entitled to uniform allowances.

Categories of records in the system: Information maintained includes name, social security number, designation code, account balance and pay location.

Authority for maintenance of system: 39 U.S.C. 1206.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To fund the procurement of uniforms.

Use—

1. Certain information may be furnished to a duly licensed uniform vendor from whom individual employees have made purchases for the purpose of accounting for payments.

2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. 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.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is

properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

7. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained on preprinted forms, microfilm and magnetic tape.

Retrievability: Systems of records is indexed by social security number.

Safeguards: Forms are kept in file cabinets and magnetic tape and microfilm is subject to Computer Center access control.

Retention and Disposal: a. The Uniform Allowance Payment Record Card is destroyed by shredding 90 days after payment.

b. Pay listing information is retained for 12 years and then destroyed by shredding or burning.

System manager(s) and address: APMG, Finance Department, Headquarters.

Notification procedure: Correspond with the head of the facility where employed, furnishing name and social security number.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Payroll system and Postmasters have input to this system of records.

USPS 060.010

System name: Fraud and False Representation Records—Consumer Protection Case Records, 060.010

System location: Consumer Protection Office, Law Department, USPS Headquarters.

Categories of individuals: Respondents in proceedings initiated pursuant to 39 U.S.C. subsection 3005; names of attorneys representing parties; assigned Postal Inspectors; and promoter of scheme.

Categories of records in the system: Describes and provides history of the above and identifies interested parties.

Authority for maintenance of system: 39 USC subsection 3005.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—Ready reference source for determining status of pending case and identification of postal employees most familiar therewith.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on printed forms.

Retrievability: Records are maintained by an alphabetic indexing by name of respondent.

Safeguards: Records are maintained in closed filing cabinets under general scrutiny by personnel of the Law Department.

Retention and Disposal: Records in this system are maintained indefinitely.

System manager(s) and address: Assistant General Counsel, Consumer Protection Office, Law Department, USPS Headquarters.

Notification procedure: Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the above SYSTEM MANAGER. Inquiries should contain full name, name by which respondent in proceeding may have been designated; approximate time period in which proceedings may have been initiated.

Record access procedures: See SYSTEM MANAGER above.

Contesting record procedures: See SYSTEM MANAGER above.

Record source categories: Complaints, correspondence between parties involved and Postal Inspection Service investigative reports.

USPS 060.020

System name: Fraud and False Representation Records—Prohibitory Order, 060.020

System location: Consumer Protection, Law Department, Headquarters, Postal Service Centers, Regional Headquarters, Sectional Management Centers.

Categories of individuals: Persons requesting prohibitory orders, the mailers against whom such orders are issued.

Categories of records in the system: Applications for prohibitory orders, the mailing upon which request is predicated, the issued order and the registered mail receipt signed by mailer against whom order was issued.

Authority for maintenance of system: 39 USC 3008.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To process request of an order to prohibit pandering advertisement and to determine whether violations of orders have occurred. Used by Consumer Protection Office and Regional Counsel to investigate violations of postal statutes.

Use—

1. To refer, where there is in indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. 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.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
4. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained in letter form, handwritten and typed.

Retrievability: Data may be found by prohibitory order number or by name of person requesting order.

Safeguards: Records are maintained in closed filing cabinets.

Retention and Disposal: Information is retained indefinitely.

System manager(s) and address: Assistant General Counsel, Consumer Protection Office, Law Department, Headquarters.

Notification procedure: Name and address of person requesting prohibitory order should be furnished the SYSTEM MANAGER.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Persons requesting prohibitory orders.

USPS 070.010

System name: Inquiries and Complaints—Correspondence Files of the Postmaster General, 070.010

System location: Office of the Postmaster General, USPS Headquarters.

Categories of individuals: USPS employees and Postal Service customers who have corresponded with the Office of the Postmaster General.

Categories of records in the system: General postal information.

Authority for maintenance of system: 39 USC 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To maintain reference to letters from persons communicating with the Postmaster General.

Use—
1. Periodically transferred to custody of National Archives and Records Service (NARS) for keeping as historical documentation.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In original typed, printed, or handwritten form.

Retrievability: Records are filed by individual's name, chronologically by date and by subject.

Safeguards: Records are maintained in locked filing cabinets under scrutiny of PMG's secretary and in secured locked storage room with limited access.

Retention and Disposal: Records are maintained indefinitely.

System manager(s) and address: Postmaster General, Headquarters.

Notification procedure: Inquiries should be addressed to the SYSTEM MANAGER above and should contain full name, date of letter, and subject.

Record access procedures: See SYSTEM MANAGER above.

Contesting record procedures: See SYSTEM MANAGER above.

Record source categories: Persons communicating with the Postmaster General.

USPS 070.020

System name: Inquiries and Complaints—Government Officials' Inquiry System, 070.020

System location: Government Relations Department, USPS Headquarters.

Categories of individuals: Employees, former employees, applicants for employment, contractors, lessors, and customers who have written to nonpostal government officials, congressmen and other government officials corresponding with the USPS in behalf of postal customers/employees and various individuals to whom Postal Service announcements/greetings are directed.

Categories of records in the system: Information stemming from correspondence described above, and lists of individuals for announcements/greetings.

Authority for maintenance of system: 39 U.S.C. 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide USPS officials with the means of responding to inquiries from and/or for other government officials and to serve as a work load reporting system for which a description appears as USPS 170.010.

Use—
1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
2. 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.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In original, typed, printed, or handwritten form and on magnetic tape/disk and computer printouts.

Retrievability: Subject category as derived from correspondence and the name of the inquirer and/or official inquiring in his/her behalf.

Safeguards: Records are maintained in closed file cabinets under general scrutiny of personnel of Government Relations Department. Computer readable media are maintained in a secured data processing facility.

Retention and Disposal: Paper records are maintained for four years and then destroyed by shredding; magnetic tape/disk records are kept for three years and then erased.

System manager(s) and address: APMG, Government Relations Department, USPS Headquarters.

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the above System manager. Inquiries should contain full name, the name of the government official to whom he wrote, the nature of his inquiry and the approximate date.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Nonpostal government officials.

USPS 070.040

System name: Inquiries and Complaints—Customer Complaint Records, 070.040

System location: Consumer Advocate, USPS, Regional and National Headquarters, District Offices, Post Offices

Categories of individuals: USPS customers who have initiated complaints against the USPS.

Categories of records in the system: The complainant's name, address, and nature of the specific complaint, and resolution of same.

Authority for maintenance of system: 39 U.S.C. 403, 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To process USPS customer complaints regarding mail services.

Use—
1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining respresentative of postal employees in an appropriate bargaining unit.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file cabinets.

Retrievability: Complaints are filed chronologically and by name of complainant.

Safeguards: Records are maintained in closed filing cabinets.

Retention and Disposal: These records are retained for a period of one year after the complaint has been satisfied.

System manager(s) and address: APMG, Customer Services Department, Headquarters

Notification procedure: Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the same facility to which they submitted their complaint.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: USPS customers.

USPS 080.010

System name: Inspection Requirements Investigative File System 080.010

System location: Chief Postal Inspector, Headquarters; Inspection Service Regional Headquarters; Division Headquarters.

Categories of individuals: Persons related to investigations, including subjects of investigations, complainants, informants, witnesses, etc.

Categories of records in the system: Reports of investigations conducted in criminal, civil, and personnel suitability background matters, and information in various forms received from individuals, other law enforcement agencies and from the public, including information compiled for the purpose of identifying criminal offenders and reports identifiable to individuals. Personal information in this system may include fingerprints, handwriting samples, reports of confidential informants, physical identifying data, voiceprints, polygraph tests, photographs, and individual personnel and payroll information

Authority for maintenance of system: 39 U.S.C. 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide information related to investigation of criminal matters; employee and contractor background investigations or other Inspection Service activities. Use—A record maintained in this system of records may be disseminated as a routine use of such records as follows:

1. In any case in which there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, the record in question may be disseminated to the appropriate Federal, State, local, or foreign agency charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law;

2. In the course of investigating the potential or actual violation of any law, whether civil, criminal, or regulatory in nature, or during the course of a trial or hearing or the preparation for a trial or hearing for such violation, a record may be disseminated to a Federal, State, local or foreign agency, or to an individual or organization, if there is reason to believe that such agency, individual or organization possesses information relating to the investigation, trial, or hearing and the dissemination is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an informant.

3. A record relating to a case or matter may be disseminated to a Federal, State, or local administrative or regulatory proceeding or hearing in accordance with the procedures governing such proceeding or hearing;

4. A record relating to a case or matter may be disseminated in an appropriate Federal, State, local or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice;

5. A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings;

6. A record relating to a case or matter that has been referred by an agency for investigation, prosecution, or enforcement, or that involves a case or matter within the jurisdiction of an agency, may be disseminated to such agency to notify the agency of the status of the case or matter or of any decision or determination that has been made, or to make such other inquiries and reports as are necessary during the processing of the case or matter;

7. A record relating to a person held in custody pending or during arraignment, trial, sentence, or extradition proceedings, or after conviction of after extradition proceeding; may be disseminated to a Federal, State, local or foreign prison, probation, parole, or pardon authority, or to any other agency or individual concerned with the maintenance, transportation or release of such a person;

8. A record relating to a case or matter may be disseminated to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States or to an executive agreement;

9. A record may be disseminated to a Federal, State, local, foreign or international law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

10. A record may be disseminated to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

11. A record from this system may be disclosed to the public, news media, trade associations, or organized groups to provide information of interest to the public concerning the activities and the accomplishment of the Postal Service or its employees;

12. A record may be disseminated to a foreign country, through the United States Department of State or directly to the representative of such country, to the extent necessary to assist such country in apprehending and/or returning a fugitive to a jurisdiction which seeks his return.

13. 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.

14. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

15. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

16. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

17. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

18. To provide members of the American Insurance Association Index System with certain information relating to accidents and injuries.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is collected on handwritten documents and certain investigative material is automated.

Retrievability: Information is located by the name of the individual.

Safeguards: Investigative records are maintained in locked file cabinets, safes, or secured areas under the scrutiny of Inspection Service personnel who have been subjected to security clearance procedures. Access is further restricted by computer passwords.

Retention and Disposal: 1. Case records are maintained for 15 years. Exceptions may be granted in specific instances for longer retention. All case records are destroyed by burning, pulping or shredding.

2. Duplicate copies of investigative memoranda maintained by postal officials other than the Inspection Service are retained in accordance with official but not Inspection Service disposition schedules.

System manager(s) and address: Chief Postal Inspector, Headquarters.

Notification procedure: Persons wishing to know whether information about them is contained in this system of records or if they were the subject of an investigation should furnish the SYSTEM MANAGER sufficient identifying information to distinguish them from other individuals of like name; identifying data will include name, address, type investigation, dates, places and the individuals involvement.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Personal interviews, written inquiries, and other records concerning persons involved with an investigation, whether subjects, applicants, witnesses, references, or custodians of record information.

Systems exempted from certain provisions of the Act: Reference 39 CFR 266.9 for details.

USPS 080.020

System name: Inspection Requirements—Mail Cover Program, 080.020

System location: USPS Inspection Service National and Regional headquarters; Divisional Headquarters

Categories of individuals: Individuals on whom a mail cover has been duly authorized to obtain information in the interest of (1) protecting the national security (2) locating a fugitive and (3) obtaining evidence of the commission or attempted commission of a crime which is punishable by imprisonment for a term exceeding one year.

Categories of records in the system: Names and addresses of individuals, inter-office memorandums, and correspondence with other agencies.

Authority for maintenance of system: 39 U.S.C. 401,404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To investigate the commission or attempted commission of acts constituting a crime that is punishable by law.

Use—

1. Information from this system of records may be disclosed to an appropriate law enforcement agency, whether Federal, State or local, charged by law with the responsibility for investigating, prosecuting or otherwise acting with respect to protecting the national security, locating a fugitive, or obtaining evidence of commission or attempted commission of a crime.

2. A record relating to a case or matter may be disseminated in an appropriate Federal, State, local, or foreign court or grand jury proceeding in accordance with established constitutional, substantive, or procedural law or practice.

3. A record relating to a case or matter may be disseminated to an actual or potential party or his attorney for the purpose of negotiation or discussion on such matters as settlement of the case or matter, plea bargaining, or informal discovery proceedings.

4. 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.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original typed documents and/or duplicate copies.

Retrievability: Subject's name filed alphabetically by fiscal year.

Safeguards: Mail cover data is stored in locked cabinets or in a safe. Classified mail cover material and any mail cover data which involves national security is stored in a safe or in metal file cabinets equipped with either steel lockbar hasp and staple, or locking device and an approved three or more combination dial-type padlock from which the manufacturer's identification numbers have been obliterated.

Retention and Disposal: Files and records pertaining to mail covers are retained for eight years, and older data is destroyed by shredding or burning.

System manager(s) and address: Chief Inspector, UPSPS Headquarters.

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the above SYSTEM MANAGER. Inquiries should contain full name and current address, together with previous addresses for past eight years when applicable.

Record access procedures: See SYSTEM MANAGER above.

Contesting record procedures: See SYSTEM MANAGER above.

Record source categories: Correspondence from requesting authority and record of action taken upon that request.

Systems exempted from certain provisions of the Act: Reference 39 C.F.R. 266.9 for details.

USPS 080.030

System name: Inspection Requirements—Vehicular Violations Record System, 080.030

System location: USPS National Headquarters (Procurement and Supply Department, Washington, DC 20260; Planning and New Development Department, Rockville, MD 20852). inspection Service, Special Investigations Division, Washington, DC 20260 and Rockville, MD 20852. Divsion HEADQUARTERS AT Washington, DC 20260, Denver, CO 80201; Seattle, WA 98111; Atlanta, GA 30302.

Categories of individuals: Persons who have been issued courtesy violation notices or violation notices by Security Police Officers.

Categories of records in the system: Individual violator's name, State operator permit, State operator permit number, violation cited, date of citation, citation number issued, State automobile license tag number, dates of court appearances.

Authority for maintenance of system: 40 U.S.C. 318, annually made applicable to the Postal Service by general provisions of the Treasury, Postal Service, and General Government Appropriation Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide USPS management with information necessary for appropriate administrative remedial action. Use—

1. To provide information to local, State, and Federal enforcement, prosecutive and judicial officials.

2. 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.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body

Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In original, typed, printed or handwritten form.

Retrievability: Records filed by name or violator in alphabetical order and by automobile license tag number.

Safeguards: Records maintained in limited access Security Force Control Centers manned 24 hours and in National Headquarters, in locked filing cabinets in Procurement and Supply Department and Planning and New Development Department under general scrutinizing of authorized personnel.

Retention and Disposal: Records are maintained for two years and then destroyed. Some records may be retained longer when required for law enforcement investigations or court proceeding.

System manager(s) and address: Chief Postal Inspector, USPS Headquarters.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should furnish name and residence address as follows:

a. For National Headquarters: Inspector in Charge, Special Investigations Division, 475 L'Enfant Plaza West, SW, Washington, DC 20260.

b. For the Field: Inspector in Charge, USPS with appropriate field division title and address as listed above under "System Location."

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: individual violators, Security Police Officers, personnel observation, state motor vehicle registration bureau, USPS Personnel Department, supervisory personnel of tenant firms, USPS Parking Control Officer, prosecutive and judicial officials; motor vehicle operators' permits, violator's personal identification cards, personnel locator listing and parking applications.

USPS 090.020

System name: Non-Mail Services—Passport Application Records, 090.020

System location: Eight-hundred (800) Post Offices in all states except New Jersey.

Categories of individuals: Persons applying for passports.

Categories of records in the system: Name, telephone number, and services received.

Authority for maintenance of system: 39 USC 401, 411, 22 USC 214

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To process the application of passports.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, 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 stature, or rule, regulation, or order issued pursuant thereto.

2. Records may be transferred to the State Department.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. Disclosure may be made to congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on printed forms in hard copy.

Retrievability: By name of applicant.

Safeguards: Information in this system of records is maintained in file cabinets in the Accounting Unit.

Retention and Disposal: Information is retained at post offices for three months following the close of the quarter in which application is made.

System manager(s) and address: APMG Delivery Services Department.

Notification procedure: A customer wishing to know whether information about this is maintained in this system of records should address inquiries to the postmaster of the post office where a passport application was made. Inquiries should contain full name and date of application.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Information in this system of records is obtained from the applicant.

USPS 090.030

System name: Non-Mail Service—U.S. Savings Bonds Application Record, 090.030

System location: Selected Post Offices throughout the United States where the Postal Service is the issuing agent.

Categories of individuals: Persons applying for U.S. Savings Bonds to be issued in the names of natural persons in their own right only.

Categories of records in the system: Name and address, number of bonds applied for and total amount of purchase.

Authority for maintenance of system: 39 U.S.C. 401, 411.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To process applications for U.S. Savings Bonds.

Use—

1. 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.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

3. To refer, where there is an indication of a violation or potential violator of law, whether civil, criminal, or regulatory in nature, 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, or rule, regulation, or order issued pursuant thereto.

4. Records may be transferred to the Treasury Department.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on printed forms in hard copy.

Retrievability: By name of applicant.

Safeguards: Information in this system of records is maintained on secure premises in file cabinets.

Retention and Disposal: Information in this system is maintained for two years and then destroyed.

System manager(s) and address: AMPG, Finance Department.

Notification procedure: Customers wishing to know whether information about them is maintained in this system of records should address inquiries to the postmaster in whose facility the application was filed, inquiries should contain full name and address of customer.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information in this system of record is obtained form the applicant.

USPS 100.010

System name: Office Administration—Carpool Coordination/Parking Records System, 100.010

System location: Procurement and Supply Department, Headquarters and various field installations.

Categories of individuals: USPS employees, other building tenants, and other individuals who are members of carpools with USPS employees.

Categories of records in the system: Applications, letters of violations, letters of suspensions, payment data.

Authority for maintenance of system: 39 U.S.C. 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—Provide parking and carpooling services to employees.

Use—

1. To provide each employee of Headquarters, USPS, who desires to join or establish a carpool with the listing of employees who live in his/her ZIP Code area.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. 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.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Preprinted forms and magnetic tape/disc.

Retrievability: Carpool member name and ZIP Code, space or license number.

Safeguards: Folders containing paper documents are maintained in locked file cabinets to which only authorized personnel have access. Computer equipment is located in secured area, and magnetic tape/disc files are kept in locked steel cabinets.

Retention and Disposal: All carpool and parking service records are retained for a period of six months following termination of service. At end of retention period, paper records are destroyed by shredding and tape/disc records are erased.

System manager(s) and address: AMPG, Procurement and Supply Department, Headquarters, Executive Manager, PST & DI Centers.

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the system manager where employed.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: From carpool and parking service applicants/users.

USPS 100.020

System name: Office Administration—Customer Services Communicator Letter, 100.020

System location: Customer Services Department, Headquarters.

Categories of individuals: Headquarters and Regional Customer Services personnel, District Managers, District Directors of Customer Services, Sectional Center Directors of Customer Services, BMC General Managers and Customer Engineers, selected postmasters and requesters, Customer Services representatives, Sectional Center Man-

agers of Retail Sales and Services, Post Office Managers of Customer Services.

Categories of records in the system: Name and home/business address of employees receiving newsletter.

Authority for maintenance of system: 39 U.S.C. 401, 1001.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To distribute a sales and marketing newsletter to Postal Service Customer Services employees.

1. 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.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Addressograph plates, magnetic tape, computer printouts and paper forms.

Retrievability: Name of recipient of communicator letter.

Safeguards: Addressograph plates and paper forms are kept in closed file cabinets accessible only by authorized customer services personnel. Magnetic tapes and computer printouts are maintained in a secured ADP facility.

Retention and Disposal: Records are maintained on a year-to-year basis subject to reverification each year. At the end of retention period, paper records are shredded, computer records are erased, and addressograph plants are destroyed.

System manager(s) and address: Assistant Postmaster General, Customer Services Department, Headquarters.

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where they are employed.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Information in this system is obtained from payroll system and in-house listings of interested readers.

USPA 110.010

System name: Personal Property—Management—Accountable Property Records, 110.010

System location: All USPS Components.

Categories of individuals: Employees assigned accountable property.

Categories of records in the system: Records controlling the issuance of accountable Postal Service property, such as equipment, credentials, and controlled documents.

Authority for maintenance of system: 39 USC 401

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide a record of accountable property on hand and to whom it has been assigned.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate law enforcement agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its requests when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on printed forms.

Retrievability: Name of recipient of accountable property and types of equipment.

Safeguards: Physical security.

Retention and Disposal: As long as individual is charged with equipment, records are returned to individual when he is no longer accountable.

System manager(s) and address: (1) Chief Postal Inspector, Headquarter; (2) APMG, Procurement and Supply Department, Headquarters.

Notification procedure: Employees wishing to know whether information about them is maintained in this system should address inquiries to the Custodian in the facility where assignment was made. Headquarters employees should submit request to the SYSTEM MANAGER.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is obtained by the individual to whom the record pertains.

USPS 120.010

System name: Personal Records—Architect Engineers Selection Records, 120.010

System location: Real Estate and Buildings Department, USPS Headquarters and Postal Regions.

Categories of individuals: Professional Architect Engineers.

Categories of records in the system: Information profile on individual's past experience and present qualifications in the field of providing architect engineering services.

Authority for maintenance of system: 39 USC 401

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To facilitate the review and assessmant of the qualifications of architect-engineer firms which have potential for selection and award of a contract to perform architect-engineer services under a designated facility project.

Use—

1. 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.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on printed forms.

Retrievability: Records are indexed by State, city and name of individual or firm.

Safeguards: Records access is limited to authorized personnel in the Department of Real Estate and Buildings. Records are retained in filing receptacles in locked quarters and in a secured building facility.

Retention and Disposal: Architect/Engineer service questionnaires are retained for one year and then destroyed by shredding or burning. Project forms other than those related to successful awards, are retained on an active basis for one year or until the Architect/Engineer project contract is awarded, whichever is later. Project forms related to successful awards are retained for five years on an active basis and for one additional year on an inactive basis before destruction.

System manager(s) and address: APMG, Real Estate and Building Department, USPS Headquarters.

Notification procedure: Persons desiring information about this system of records should address their inquiries to the designated SYSTEM MANAGER and provide his name and project title.

Record access procedures: See SYSTEM MANAGER above.

Contesting record procedures: See SYSTEM MANAGER above.

Record source categories: Persons and firms interested in being considered for the negotation and award of architect-engineering service contracts under the Major Facilities Program.

USPS 120.020

System name: Personnel Records—Blood Donor Record System, 120.020

System location: Health Units at USPS Facilities; District Chapters of the American Red Cross.

Categories of individuals: USPS employees who volunteer to join the USPS Blood Donor Program.

Categories of records in the system: Name, address, pay location number, and information as to month they wish to donate blood.

Authority for maintenance of system: 39 USC 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide the USPS Blood Donation Program with Blood Bank information so that donors can be spread throughout the year in their donation.

Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on magnetic tape, punched cards, preprinted forms and computer printed reports.

Retrievability: Employee's name and social security number.

Safeguards: Maintained in closed file cabinets in secured facilities.

Retention and Disposal: These records are retained for a period of two years and then destroyed by shredding and automatic deletion in the case of computer information.

System manager(s) and address: APMG, Employee Relations Department, Headquarters

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the SYSTEM MANAGER. Inquiries should contain full name and social security number.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is obtained from the individual.

USPS 120.030

System name: Personnel Records—Contract Employee Assignment Records, 120.030

System location: Logistics Department, Headquarters; Regional Offices, Sectional Centers; Bulk Mail Centers, Post Offices.

Categories of individuals: Persons under contract with the USPS.

Categories of records in the system: Name and social security number.

Authority for maintenance of system: 39 USC 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To ascertain employees having an assignment requiring access to mail or postal premises under contract with the USPS.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original typed, printed or handwritten form.

Retrievability: Name of contract employee.

Safeguards: Retained in locked file cabinets by Administrative Official.

Retention and Disposal: Contract records are maintained for the life of the contract. Upon expiration of the contract, the records are held one year and then destroyed by shredding.

System manager(s) and address: APMG, Mail Processing Department, Headquarters.

Notification procedure: Contractors wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the Regional Office where employed. Inquiries should contain full name and region where employed. Headquarters contractors should submit requests to the SYSTEM MANAGER.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is obtained from the contractor.

USPS 120.033

System name: Personnel Records—Contractor Employee Fingerprint Records, 120.033

System location: Logistics Department, Headquarters; Regional Headquarters; Sectional Centers; Bulk Mail Centers, Post Offices.

Categories of individuals: Persons under contract with the USPS.

Categories of records in the system: Name and social security number, fingerprints.

Authority for maintenance of system: 39 USC 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide information to the Contracting Officer with regard to the USPS screening procedures if a contractor employee has had a previous arrest record.

Use—

1. All USPS fingerprint charts are sent to the Federal Bureau of Investigations.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In original typed, printed or handwritten form.

Retrievability: Contractor employee name.

Safeguards: Maintained in locked file cabinets by Administrative Officials.

Retention and Disposal: Records are kept until employee leaves employment of USPS and then destroyed one year later by shredding.

System manager(s) and address: APMG, Mail Processing Department, Headquarters

Notification procedure: Inquiries should be addressed to the Regional Postmaster General within the region where employed. Inquiries should contain full name and social security number.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Contractor employed by the USPS.

USPS 120.035

System name: Personnel Records—Employee Accident Records, 120.035

System location: Safety offices in any USPS facility.

Categories of individuals: All postal employees that have an accident that involves 100 dollars or more damage and/or an occupational injury or illness.

Categories of records in the system: Name, address, age, sex and type of accident.

Authority for maintenance of system: Public Laws 91-596 and 94-82, Executive Orders 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide data for analytical studies.

Use—

1. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.
2. To furnish the U.S. Department of Labor with serious accident reports, information to reconcile claims filed with the Office of Worker's Compensation, and quarterly and annual summaries of occupational injuries and illnesses; and to make information available to the Secretary of Labor upon his request.
3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.
4. To a court, party, or counsel for a party, to litigation involving accident or to which it is relevant or to persons insurance companies or counsel for the foregoing settlement or attempting to settle claims involving the accident.
5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
7. 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.
8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on index cards, magnetic tape, preprinted forms and computer print-outs.

Retrievability: Employee name and social security number.

Safeguards: Maintained in closed file cabinets within secured facilities.

Retention and Disposal: Records are maintained locally for two years. Copies are maintained at National Headquarters for five years following the end of the calendar year to which they relate as required by OSHA.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the SYSTEM MANAGER. Inquiries should contain full name, address, finance number and social security number.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: USPS Accident Reports and OWCP claim forms.

USPS 120.036

System name: Personnel for Non-Bargaining Unit Employees Records—Employee Discipline, Grievance and Appeals Records, 120.036

System location: All postal facilities

Categories of individuals: Records are maintained on non-bargaining employees in the Postal Service (PS), Postal Management Salary (PMS), Post Technical, Adminstrative, and Clerical (PTAC), Postal Executive Salary (PES) (except officers) and Non-City Delivery (NCD) who have completed six months of continuous service in the U.S. Postal Service or a minimum of twelve months of combined service, without break of a work day, in positions in the same line of work in the Civil Service and the Postal Service, unless any part of such service was pursuant to a temporary appointment in the competitive service with a definite time limitation.

Categories of records in the system: Notice to employee of proposed action, reply to notice, summary of oral reply, employee notice of grievance, employee notice of appeal, records of hearing proceedings, appeal decisions from installation head, region or Headquarters, notice of action, investigative reports and related records.

Authority for maintenance of system: 39 USC 1001

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—Provides a grievance and appeal procedure for an employee, not subject to the provisions of a collective bargaining agreement, who alleges that his rights regarding compensation, benefits, or other terms and conditions of employment have been adversely affected. Use—

1. To respond to a request from a member of Congress regarding the status of an appeal, complaint or grievance.
2. To respond to a court subpoena and/or refer to a court in connection with a civil suit.
3. To adjudicate an appeal, complaint, or grievance.
4. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.
5. To request information from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.
6. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.
7. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
8. Records from the employee file will be disclosed to the Federal Employees Appeals Authority Office of the Civil Service Commission for action on Veterans Preference Appeals.
9. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

10. 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.

11. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

12. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is property engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on paper in the form of letters, forms, notices. In some instances, records of hearing proceedings are on magnetic tape.

Retrievability: Employee name.

Safeguards: Records are kept in locked filing cabinets or secured record storage rooms and are available only to authorized officials.

Retention and Disposal: Appeal records are kept for two years after close of file. All others are kept one year after close of file. Records are destroyed by shredding.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Field employees must submit a written request to the head of the field installation where the action was initiated. Headquarters employees must submit a written request to the System Manager. He may also request permission to listen to or record tape recordings of hearings. This must be done in the presence of a postal official. He must identify himself to the satisfaction of official authorized to approve request.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Employee initialing actions; employee's supervisors, management, complaining customer, law enforcement agencies, and others.

USPS 120.038

System name: Personal Records—Employee Bicentennial Awards List, 120.038.

System location: Customer Services Department, Headquarters.

Categories of individuals: U.S. Postal Service employees nominated for Bicentennial award.

Categories of records in the system: Employee's name, work location, supervisor and involvement in the Bicentennial.

Authority for maintenance of system: 39 USC 403, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To verify bicentennial involvement and to notify supervisor.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. 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.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original letters in files.

Retrievability: Employee name.

Safeguards: Normal physical security with access limited to those members of the Bicentennial Branch.

Retention and Disposal: Three years, then destroyed by shredding or burning.

System manager(s) and address: APMG, Customer Services Department, Headquarters.

Notification procedure: Inquiries should be addressed to the SYSTEM MANAGER as shown above, providing the employee's name and state.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Bicentennial groups and Postal Service employees.

USPS 120.040

System name: Personnel Records—Employee Job Bidding Records, 120.040.

System location: Most departments, facilties and certain contractor sites of the Postal Service.

Categories of individuals: Employees who have made a "Bid for Preferred Assignment" with the USPS.

Categories of records in the system: Knowledge of schemes, vacant position characteristics, seniority of the employee, level of the candidate, and craft.

Authority for maintenance of system: 39 USC 1001, 1206.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide the Office of Personnel with fair and impartial information to match vacant position to the most qualified candidate.

Use—

1. To provide information for official bulletin boards and release to various employee organizations.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. 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.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are stored on magnetic tape, punched cards, preprinted forms and computer printed reports.

Retrievability: This system is indexed by employee name and Social Security Number.

Safeguards: Computer center access control and limitation within offices to those employees maintaining the system.

Retention and Disposal: Computer records are saved two years, then automatically deleted. Paper records are kept six months after a vacancy is filled, then destroyed. Some records are retained until employee separation.

System manager(s) and address: APMG, Labor Relations Department, Headquarters.

Notification procedure: The employee should state the position of bid and identify himself with name, Social Security Number, closing date of the bid notice, and forward this information to the head of the facility where employed. Headquarters employees should submit requests to the System Manager.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Employee personnel data, scheme knowledge, qualifications of the job and of the candidate, successful bidders notices from vacant duty assignment postings.

USPS 120.050

System name: Personnel Records—Employee Suggestion Control, 120.050

System location: USPS Headquarters, Regional Headquarters, Post Offices, Bulk Mail Centers, Postal Data Centers.

Categories of individuals: USPS employees.

Categories of records in the system: Name of employee, employee number, employment location, suggestion number, subject, and decision. If adopted, estimate of benefits and recognition granted.

Authority for maintenance of system: Chapter 45 of Title 5, USC.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide a source of data on individual performance which is often one factor in identifying nominees for other individual recognitions including cash awards. This information also provides data on the effectiveness of the program which is summarized in an Annual Report.

Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information in this system is maintained on printed forms and on magnetic tape.

Retrievability: Employee name, region where employed, pay location, and district.

Safeguards: This information is maintained in file cabinets in secured facilities.

Retention and Disposal: Information in this system is retained for two years and then destroyed by shredding and automatic deletions for computer tapes.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should contact the head of the facility where employed. Also, employees who have appealed decisions or whose suggestions have been adopted nationwide should submit requests to the System Manager. Headquarters employees should submit all requests to the System Manager.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Information is obtained from the individual making the suggestion.

USPS 120.060

System name: Personnel Records—Employment and Financial Interest Records, 120.060

System location: Law Department, Headquarters, Offices of Associate Ethical Conduct Officers at Headquarters, Regional Headquarters, and Postal Data Centers.

Categories of individuals: USPS employees in levels 22 and above and Special Employees as determined by criteria established in Executive Order 11222 as implemented by Postal Service regulations, viz., 39 CFR 447.41(a).

Categories of records in the system: Employee name, title, salary, date of appointment to present position; list of organizations in which employee has a financial interest, types of indebtedness, interest in real property.

Authority for maintenance of system: Executive Orders 11222 and 11590.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To review a statement by designated Postal Service officials for possible conflicts of interest.

Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. 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.
4. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Original preprinted forms.

Retrievability: Records are filed by name of employee, but organized according to organizational components.

Safeguards: Records are kept in locked safe and access is limited to designated Postal Service officials on need-to-know basis.

Retention and Disposal: Records are maintained for as long as employee is subject to reporting requirements and for two years thereafter. They are destroyed by shredding.

System manager(s) and address: General Counsel, Law Department, Headquarters.

Notification procedure: Employees wishing to gain access to information pertaining to them should direct inquiries to the head of the facility where employed. Headquarters employees should submit requests to the SYSTEM MANAGER. Inquiries should contain full name and place of employment.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information submitted by individual employee on PS Form 2417 and 2418.

USPS 120.070

System name: Personnel Records—General Personnel Folders (Official Personnel folders and records related thereto), 120.070

System location: Personnel Offices of all USPS facilities; St. Louis Personnel Records Centers, Personnel Service Centers.

Categories of individuals: Present and former USPS employees.

Categories of records in the system: Applications, resumes, merit evaluations, promotion/salary change and other personnel actions, letters of commendation, records of disciplinary action, health benefit and life insurance elections and other documents pertaining to preemployment, prior Federal employment and current service as prescribed by the Federal Personnel Manual and related USPS guidelines.

Authority for maintenance of system: 39 USC 1001, 1005.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—Used by administrators in Personnel Office and by individual employee supervisors to perform routine personnel functions.

Use—

1. To provide information to a prospective employer of a USPS employee or former USPS employee.
2. To provide data for the automated Central Personnel Data File, CPDF, maintained by the Civil Service Commission.
3. To provide statistical reports to Congress, agencies, and the public on characteristics of the USPS work force.

4. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary.

5. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

7. To provide data for the compilation of a local seniority list that is used by management to make decisions pertaining to appointment and assignments among craft personnel. The list is posted in local facilities where it may be reviewed by USPS employees.

8. Transfer to the CSC upon retirement of an employee for processing retirement benefits.

9. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

10. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

11. 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.

12. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding, to which the Postal Service is a party before a court or administrative body.

13. Disclosure of relevant and necessary information pertaining to an employee's participation in health, life insurance and retirement programs may be made to the Civil Service Commission and private carriers for the provision of related benefits to the participant (also see USPS 050.020).

14. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

15. Inactive folders are transferred to the GSA National Personnel Records Center for storage.

16. Information pertaining to an employee who is retired military officer will be furnished to the appropriate service finance center as required under the provisions of the Dual Compensation Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, preprinted forms, Official Personnel Folders, magnetic tape and other computer storage devices.

Retrievability: Employee name and location of employment and social security number.

Safeguards: Folders are maintained in locked cabinets to which only authorized personnel have access and are also protected by computer passwords and tape or disc library physical security.

Retention and Disposal: (1) Official Personnel Folder (OPF) Records considered to be permanent are maintained until employee is separated, and then are sent to the National Personnel Records Center, St. Louis, for storage, or to another Federal agency to which the individual transfers employment. Most records considered to be temporary are destroyed one year after creation. (2) Records Related Thereto—Refer to official Postal Service disposition schedules.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Employees wishing to gain access to their Official Personnel folders should inquire to the facility head where employed. Headquarters employees should submit requests to the System Manager. Former Employees should submit request to any Postal Service personnel officer, giving name, date of birth and social security number.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Individual employee, personal references, former employers and USPS 050.020 (Finance Records—Payroll System).

USPS 120.080

System name: Personnel Records—Master Minority File Records, 120.080.

System location: Employee Relations Department, Headquarters and Postal Data Centers.

Categories of individuals: All USPS employees.

Categories of records in the system: Consists of the Minority Designation Code and social security number of USPS employees.

Authority for maintenance of system: 42 U.S.C. 2000e-16, Executive Orders 11478 and 11590.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide the USPS Office of Equal Employment Opportunity with minority statistics as required.

1. Disclosure may be made to the Civil Service Commission for the oversight and enforcement of Federal EEO regulations.

2. Information contained in this system fo records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tapes.

Retrievability: Employee's social security number.

Safeguards: Computer Password security, physical security, specialized access instructions.

Retention and Disposal: Computer records are retained for two years.

System manager(s) and address: APMG, Employee Relations Department.

Notification procedure: Employees wishing to know whether a minority code is maintained for them, should address inquiries to the SYSTEM MANAGER. Inquiries should contain full name and social security number.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is obtained from the employee.

USPS 120.090

System name: Personnel Records—Medical Records, 120.090.

System location: Postal Service medical facilities, control points and designee offices.

Categories of individuals: USPS employees present and former.

Categories of records in the system: Name, address, and pertinent medical information, i.e., history, findings, diagnosis, and treatment.

Authority for maintenance of system: 39 U.S.C. 401, 1001.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide employees with necessary health care and to determine fitness for duty.

Use—

1. Information in these records may be provided to the Civil Service Commission in making the following determinations related to:

a. Veterans Preference.

b. Disability Retirement.

c. Benefit Entitlement.

2. Information in these records may be provided to officials of other Federal agencies responsible for other Federal benefit programs administered by:

a. Office of Workers' Compensation Programs.
b. Retired Military Pay Centers.
c. Veterans Administration.
d. Social Security Administration
e. Specific private contractors engaged in providing benefits under Federal contracts.

3. Information in these records is used or a record may also be used:

a. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

b. To request information from a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

c. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

d. Used as a record in line of duty injury cases and referred to Public Health Services, HEW.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an injury from that congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Records in this system may be disclosed to a private physician or other medical personnel retained by the Postal Service to provide medical services in connection with an employee's health or physical condition which is related to his or her employment.

9. May be disclosed to an outside medical service when that organization performs the physical examinations and submits the evaluation to the Postal Service pursuant to a contract with the USPS as part of an established Postal Service health program; for the purpose of determining a postal employee's fitness for duty.

10. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

11. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Preprinted forms and paper files.

Retrievability: Records are retrieved by employee name.

Safeguards: Maintained in locked files.

Retention and Disposal: Records are destroyed by the 6th year after employee leaves the USPS. All records are shredded after six years.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: An employee wishing to know whether information about him is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System manager. Inquiries should contain full name.

Record access procedures: See Notification procedure above.

Contesting record procedures: See Notification procedure above.

Record source categories: USPS employees and medical staff.

USPS 120.098

System name: Personnel Records—Office of Workers' Compensation Program (OWCP) Record Copies, 120.098.

System location: All postal facilities.

Categories of individuals: Postal employees who have voluntarily filed for injury compensation.

Categories of records in the system: Copies of Department of Labor forms consisting of claims and supporting information; Postal Service forms and correspondence related to the claim.

Authority for maintenance of system: 39 U.S.C. 1005.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used to provide injury compensation to qualifying employees and to maintain a record of the events as a basis for managerial decisions.

Use—

1. To provide information to the Department of Labor for the purpose of determining whether a claimant qualifies for compensation and to what extent qualification applies.

2. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

3. 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.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

6. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, 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.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Printed forms and correspondence.

Retrievability: Records are retrieved alphabetically by name.

Safeguards: Maintained in locked filing cabinets within the exclusive custody of the injury compensation control point.

Retention and Disposal: Records are destroyed two years after the employee has left the Postal Service.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System manager.

Record access procedures: See Notification procedure above. (Note: The original case file is maintained by OWCP and must be requested from that organization as provided for under department of Labor Privacy Act System DOL/ESA—14.)

Contesting record procedures: The contents of OWCP records may be contested only by contacting OWCP as provided for under the Department of Labor Privacy Act System DOL/ESA—14.

Record source categories: Information is obtained from the claimant, the supervisor, witnesses, physicians, and Department of Labor.

USPS 120.100

System name: Personnel Records—Performance Awards System Records, 120.100

System location: Headquarters Personnel Division and Inspection Service, and Inspection Service Regional and Divisional Offices; District Offices; Post Offices; Bulk Mail Centers; Postal Data Centers.

Categories of individuals: USPS employees.

Categories of records in the system: Name of employee, employee number, pay location, basis for award and award granted.

Authority for maintenance of system: Chapter 45 of Title 39, USC

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To control and measure the effectiveness of the Cash Awards Program.

Use—

1. Information is summarized and furnished to the Civil Service Commission annually, to be included in the CSC report on incentive awards to the president.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

4. 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.

5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and printed forms.

Retrievability: Employee name, region where employed, pay location and district.

Safeguards: Physical security.

Retention and Disposal: Records are maintained for four years and then destroyed by shredding.

System manager(s) and address: APMG, Employee Relations Department, Headquarters

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the SYSTEM MANAGER. Inquiries should contain full name, and pay location.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is obtained in summary printouts supplied to each region by Postal Data Centers.

USPS 120.110

System name: Personnel Records—Preemployment Investigation Records, 120.110

System location: Post Offices/Facilities; Regional and National Headquarters.

Categories of individuals: Postal Employees and applicants for employment.

Categories of records in the system: Replies from character references, former employers and local police records; drug history records and other investigative reports used to determine suitability for employment. Other records filed with these are: Civil Service Commission records (privacy system—CSC/GOVT-4) compiled through a National Agency Check and Inquiry (NACI) and forwarded to the USPS for assistance in making a hiring decision.

Authority for maintenance of system: 39 USC 410(b), 1001.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To determine suitability for employment.

Use—

1. To any agency from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

2. In the event of an indication of any violation or potential violation of the law, whether civil, criminal, or regulatory in nature, and whether arising by statute, or by regulation, rule or order issued pursuant thereto the relevant records in the 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 charge with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; such referral shall also include, and be deemed to authorize (1) any and all appropriate and necessary uses of such records in a court of law and before an administrative board or hearing, including referrals related to probation and parole matters, and (2) such other interagency referrals as may be necessary to carry out the receiving agency's assigned law enforcement duties.

3. To a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on matters.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. 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.

6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Information is maintained on preprinted forms and correspondence.

Retrievability: Information is indexed alphabetically by name.

Safeguards: Information is stored in locked file cabinets accessible to those with an appropriate security clearance.

Retention and Disposal: a. If an applicant is found unsuitable for employment, or if an employee is found unsuitable after he has begun work, all local investigative records which support the decision of unsuitability will be retined for a period of two years from the date action was taken to deny or terminate employment. b. If an employee is initially found suitable for employment as a result of a local investigation, and is ultimately retained upon receipt of the NACI report from the Civil Service Commission, the local investigative reports will be retained for a period of two years from the date the employee is initially found suitable for employment. c. CSC NACI reports are retained in the same fashion as local investigative records.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Apply to the head of the postal facility where employed giving name. Headquarters employees should submit requests to the System Manager.

Record access procedures: a. Local Investigative records—Apply to the head of the postal facility where employed. Headquarters employees should submit requests to the System manager. b. CSC NACI reports—Apply to the Civil Service Commission as instructed by privacy system CSC/GOVT-4.

Contesting record procedures: See Record access procedures above.

Record source categories: Information is obtained primarily from local police records, former employers, and character reference.

Systems exempted from certain provisions of the Act: Reference 39 CFR 266.9 for details.

USPS 120.120

System name: Personnel—Personnel Research and Test Validation Records, 120.120

System location: USPS National Test Administration Center, Los Angeles, CA; USP National and Regional Hedquarters; Bulk Mail Centers; District Offices; and the Oklahoma City Computer Center.

Categories of individuals: Applicants for postal employment and USPS employee applicants for reassignment and/or promotion.

Categories of records in the system: Computer scannable information and the applicants' answers to the test questions.

Authority for maintenance of system: 39 USC 401, 1001

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide verification of the applicants' test score.

Use—

1. Data are collected on a project by project basis and are used for the construction, analysis, and validation of written tests; for research on personnel measurement and selection methods and techniques and research on personnel management practices such as performance evaluation or productivity. Routine use includes the exchange of personnel records between the Civil Service Commission and the Postal Service for personnel research purposes and the use of personnel identifier such as employee name to identify employees included in research studies that extend over a period of time (longitudinal studies). No personnel decisions are made in the use of these research records. Many data are collected under conditions assuring their confidentiality. This confidentiality will be protected. Personnal information in this system of records is used by the personnel research staff in the Civil Service Commission or the U.S. Postal Service.
2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or order issued pursuant thereto.
3. To request information from a Federal, State or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.
4. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.
5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
7. 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.
8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
9. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Answer sheets in handwritten form.

Retrievability: This system of records is indexed by employee name, batch number or employee's date of examination and examination center administering the examination.

Safeguards: These records are maintained in closed file cabinets in a secured facility.

Retention and Disposal: These records are maintained for six months and then destroyed by shredding

System manager(s) and address: APMG, Employee Relations Department, Headquarters

Notification procedure: Persons wishing to know whether this system or records contains information on them should address inquiries to the head of the Test Administration Center where they were examined. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name, social security number, date of examination, examination number, and place of participation in the examination.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Applicants' test answers.

Systems exempted from certain provisions of the Act: Reference 39 CFR 266.9 for details.

USPS 120.130

System name: Personnel Records—Postmaster Selection Program Records, 120.130

System location: USPS Headquarters; Regional Headquarters.

Categories of individuals: USPS employees desiring to be considered for promotion to Postmaster position.

Categories of records in the system: Name, address, date of birth, social security number, education summary, postal background, other employment experience, Postal Inspector's Investigative Memorandum, and other pertinent personal information.

Authority for maintenance of system: 39 USC 401, 1001.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide Regional Management Selection Board and the National Management Selection Board with fair and impartial information to match requirements for Postmaster position to the best qualified candidate.

Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
2. 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.
4. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.
5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Printed, typed or handwritten forms.

Retrievability: Applicant's name and post office for which application was made.

Safeguards: Locked file cabinets in a secured facility.

Retention and Disposal: Records for positions 24 and above are maintained at National Headquarters for two years. All records are maintained at Regional Headquarters for five years. Records are destroyed by shredding or burning.

System manager(s) and address: SAPMG, employee and Labor Relations Group, Headquarters.

Notification procedure: Employees wishing to know whether this system of records contains information on them should address inquiries to the Regional Postmaster General of the region in which the application was made. Inquiries should contain full name, the postal facility to which application was made, title and place of employment.

Record access procedures: See Notification procedure above.

Contesting record procedures: See Notification procedure above.

Record source categories: Information is obtained from the employee, postal background personnel data, and from forms completed by the employee.

Systems exempted from certain provisions of the Act: Reference 39 CFR 266.9 for details.

USPS 120.140

System name: Personnel Records—Program for Alcoholic Recovery (PAR), 120.140

System location: PAR offices.

Categories of individuals: USPS employees who volunteer for the Program.

Categories of records in the system: Number of counseling contacts and leave usage while participating in the Program, name and personal information necessary to assist employees in a Program of recovery.

Authority for maintenance of system: 39 USC 401

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide Counselors with information to maintain caseload and follow-up counseling of individuals under the Program. Used as a management data source for statistical reporting on the Program

Use—None

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Printed forms and paper files.

Retrievability: Employee name and case number.

Safeguards: These confidential files are maintained in locked file cabinets with limited access to PAR personnel and in secured facilities.

Retention and Disposal: 1. Case card is destroyed six years following close of case. 2. Correspondence and reports are destroyed after three years (field) or ten years (headquarters). 3. Historical case records card is destroyed six years after close of case file. 4. Case files are destroyed three years after recovery or one year after participant terminates enrollment. All records are destroyed by shredding.

System manager(s) and address: APMG, Employee Relations Dept., Headquarters.

Notification procedure: Employees participating in the Program should address inquiries to the head of the facility where participating in the Program. Inquiries should contain employees name and location of employment. Headquarters employees should submit requests to the SYSTEM MANAGER.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: The participating employee, PAR counselor and the referring source.

USPS 120.151

System name: Personnel Records—Recruiting, Examining and Appointment Records, 120.151

System location: U.S. Postal Service personnel offices and/or other offices within Postal Service facilities authorized to engage in recruiting or examining activities or make appointments to positions.

Categories of individuals: Job applicants.

Categories of records in the system: Personal and professional resumes, personal applications, test scores, academic transcripts, letters of recommentation and registers of eligibles.

Authority for maintenance of system: 39 U.S.C. 401, 1001.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide managers and personnel officials information in recruiting and recommending appointment of qualified persons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.
2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.
3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.
4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
6. 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.
7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issued involved in the complaint.
9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

Retrievability: Job applicant name and/or social security number.

Safeguards: Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

Retention and Disposal: Records are retained for period of usefulness which varies by type of record and ranges from one day to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. At the end of period of usefulness, records are destroyed with the exception of lists of eligibles and examination cards which are transferred to the National Personnel Records Center, St. Louis, Mo. Certain records of examination are maintained as part of USPS 120.120, Personnel Records—Personnel Research and Test Validation Records.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Persons wishing to know whether information is contained on them in this system of records should address inquiries to the head of the facility to which job application was made. Inquiries should contain full name, social security number, and if applicable, approximate date of application submitted and residence.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Individual, school officials, former employers, supervisors, named references.

Systems exempted from certain provisions of the Act: Reference 39 CFR 266.9 for details.

AUSPS 120.152

System name: Personnel Records—Career Development and Training Records, 120.152

System location: Postal Education and Development Centers (PEDCs) and other facilities within the Postal Service where career development and training activities are conducted or authorized.

Categories of individuals: Current and former postal employees.

Categories of records in the system: Career development records and applications for and records of postal and non-postal training. Also contains examination and skills bank records, including records of special qualifications, skills or knowledge; career goals; education and work histories or summaries.

Authority for maintenance of system: 39 U.S.C. 401, 1001.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide managers and supervisors with decisionmaking information to employee career development, training and assignment.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation

or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency, in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant, or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. 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.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

Retrievability: Employee name and social security number.

Safeguards: Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are maintained in secured facilities.

Retention and Disposal: Records are retained for a period of usefulness which varies by type of record and ranges from one to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. At the end of period of usefulness, records are destroyed. Certain records of examinations are maintained as part of USPS 120.120, Personnel Records—Personnel Research and Test Validation Records.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Current and former field employees wishing to know whether information is contained on them in this system of records should address inquiries to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name and social security number.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Information is obtained from the subject, subject's employment records and his/her supervisor.

Systems exempted from certain provisions of the Act: Reference 39 CFR 266.9 for details.

USPS 120.153

System name: Personnel Records—Individual Performance Evaluation/Measurement, 120.153.

System location: U.S. Postal Service facilities where individual performance evaluation/measurement activities are conducted.

Categories of individuals: Current and former postal employees.

Categories of records in the system: Individual performance evaluation and measurement records.

Authority for maintenance of system: 39 USC 401, 1001.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide managers and supervisors with decision making information for training needs, promotion and assignment considerations, or other employee/job related actions.

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, 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, or rule, regulation or order issued pursuant thereto.

2. To request information from a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, relevant to a decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. Disclosure may be made to a Federal agency in connection with the hiring or retention of an employee, the letting of a contract or issuance of a license, grant or other benefit to the extent that the information is relevant and necessary to the agency's decision on that matter.

4. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. 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.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper filed, index cards, magnetic tape, punched cards, preprinted forms and computer printed reports.

Retrievability: Employee name and social security number.

Safeguards: Paper records are maintained in closed filing cabinets under scrutiny of designated managers. Computer records are manintained in secured facilities.

Retention and Disposal: Records are retained for period of usefulness which varies by type of record and ranges from one to 10 years. Retention periods for individual record types may be found in official USPS records retention schedules. PES Merit Evaluation forms are physically manintained on the left side of the Official Personnel Folder (USPS 120.070) for a period of two years. At the end of the period of usefulness, records are destroyed.

System manager(s) and address: Assistant Postmaster General having jurisdiction over the functional or administrative area which developed the particular performance evaluation/measurement procedure.

Notification procedure: Current and former field employees wishing to know whether information is maintained on them in this system of records should address inquiries to the head of the appropriate employment facility. Headquarters employees should submit requests to the System Manager. Inquiries should contain full name and social security number.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Information is obtained from the subject, subject's employment records and his/her supervisor, or program director.

USPS 120.170

System name: Personnel Records—Safe Driver Award Records, 120.170

System location: Motor Vehicle Offices of Postal Facilities.

Categories of individuals: USPS employees who are full-time drivers of postal vehicles.

Categories of records in the system: Contains employees' name, yearly Safe Driver Awards and record of any accidents in which employee is involved.

Authority for maintenance of system: 39 U.S.C. 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide information for awarding Safe Driver Awards.

Use—

1. To furnish information to the National Safety Council for award purposes.
2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
3. Pursuant to the National Labor Relation Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
4. 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.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.
6. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on index cards.

Retrievability: Filed alphabetically by name of employee.

Safeguards: Kept in closed file cabinet with limited access.

Retention and Disposal: Maintained on each full-time driver until he retires, or otherwise separates from full-time driving, and then destroyed by shredding.

System manager(s) and address: APMG, Employee Relations Department, Headquarters

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit the request to the SYSTEM MANAGER. Inquiries should contain full name.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Information is obtained from the driver and from USPS accident reports.

USPS 120.190

System name: Personnel Records—Supervisors Personnel Records, 120.190

System location: Any Postal facility.

Categories of individuals: USPS Employees.

Categories of records in the system: Records consist of summaries or excerpts from the following other USPS personnel systems: 120.036, 120.070, 120.150, 120.180, 120.210; as well as records of discipline. In addition, copies of other Postal Service records and records originated by the supervisor may be included at the supervisor's discretion.

Authority for maintenance of system: 39 USC 401, 1001.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To enable supervisors to efficiently manage assigned personnel.

Use—

1. 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.
2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
3. Disclosure of records of discipline may be further made to a labor organization pursuant to the National Labor Relations Act upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
4. Records of discipline may become part of USPS 120.070 and would therefore be subject to disclosure under the routine uses of that system of records.
5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, index cards, magnetic tape and disk, computer printouts.

Retrievability: Indexed by employee name.

Safeguards: Paper documents/index cards are locked in supervisor's desk or filing cabinets. Computer readable media are maintained in secured data processing facilities.

Retention and Disposal: 1. Except for those records of discipline described in subparagraphs 2, 3, and 4 below, supervisor's personnel records may be retained for the duration of the supervisor-employee working relationship. Upon separation of an employee from the Postal Service, the entire file pertaining to that employee is destroyed by burning or shredding within 30 days.

2. Counseling Records shall be destroyed after one year if there has been no disciplinary action initiated against the employee during that period.

3. Letters of Warning shall be destroyed after two years if there has been no disciplinary action initiated against the employee during that period.

4. A record of counseling, a letter of warning, or other disciplinary record, which has been relied upon in a subsequent suspension or discharge, will be retained in this system in accord with subparagraphs 1 through 3 above. Such records also will be permanently filed in USPS 120.070, if the subsequent suspension or dicharge ultimately is sustained or modified in a manner requiring the preparation of a Form 50.

System manager(s) and address: APMG, Employee Relations Department, Headquarters.

Notification procedure: Employees wishing to know whether this system of records contains information on them should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the System Manager.

Record access procedures: See Notification procedure above.

Contesting record procedures: See Notification procedure above.

Record source categories: Other personnel records systems, supervisor notes, employees, postal customers.

USPS 120.210

System name: Personnel Records—Vehicle Maintenance Personnel and Operators Records, 120.210

System location: Vehicle Service Operations at Post Offices, Sectional Centers, District Offices, Regional Offices, Headquarters, Bulk Mail Centers, Postal Data Centers and Automatic Data Processing Centers.

Categories of individuals: USPS employees.

Categories of records in the system: Employee workload, work schedule, performance analysis and work habits. Employee name, age, length of service, physical condition, vehicle accidents, driving citations, safety awards records, driver license revocation and suspen-

sion, driving habits, vehicle training, results of driving tests, qualifications to drive vehicles.

Authority for maintenance of system: 39 U.S.C. 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To provide local post office managers, supervisors and Director of Fleet Management Operations with information to adjust workload, change schedules, change type equipment operated, lists of equipment assigned to employee, and used as a basis for corrective action or safe driving awards.

Use—

1. To provide GSA and USPS driver credentials.
2. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local, 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.
3. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any state of the legislative coordination and clearance process as set forth in that Circular.
4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
5. 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.
6. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
7. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Printed forms, and computer tapes.

Retrievability: Employee name, vehicle number, route number, work order number and facility name.

Safeguards: Records are maintained in closed file cabinets in secured facilities.

Retention and Disposal: a. Records pertaining to postal-owned vehicle driver's individual testing and driver's records are retained for three years after separation of the employee and destroyed by shredding.

b. Accident reports are retained for three years and destroyed by shredding.

c. Inspection reports are retained for two years after the date of the report and destroyed by shredding.

d. Other records are retained as long as the individual is employed as a vehicle operator, held for one year from the date of reassignment and destroyed by shredding.

System manager(s) and address: APMG, Delivery Services Department, Headquarters.

Notification procedure: Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Inquiries should contain employee's full name, social security number, route number, work station and facility where employed.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: The employee, medical doctors, driver examiner/instructor state vehicle departments and supervisors.

USPS 120.220

System name: Personnel Records—Arbitration Case Files, 120.220

System location: Law Department, Regional and National Headquarters.

Categories of individuals: Employees involved in labor arbitration.

Categories of records in the system: (a) Formal pleadings and memoranda of law; (b) Other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and personnel; (d) Correspondence and telephone records.

Authority for maintenance of system: 39 U.S.C. 401, 109(d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.
3. 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.
4. Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.
5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents and computer tape/disk.

Retrievability: By name of litigant(s).

Safeguards: Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area.

Retention and Disposal: Selected records are maintained on an active basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of the retention period.

System manager(s) and address: General Counsel, Law Department, Headquarters.

Notification procedure: Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

Record access procedures: See "System Manager" above.

Contesting record procedures: See "System Manager" above.

Record source categories: (a) Employees involved in labor arbitration cases; (b) Counsel(s) or other representative(s) for parties involved in the arbitration case other than Postal Service; (c) Arbitrators; (d) Other individuals involved in labor arbitration cases. Source documents include the formal case file, and other records relevant to the case.

USPS 120.230

System name: Personnel Records—Adverse Action Appeals (Administrative Litigation Case Files)120.230

System location: Law Department, Regional and National Headquarters.

Categories of individuals: Employees involved in Veterans' Appeal and other adverse action appeals.

Categories of records in the system: (a) Formal pleadings and memoranda of law; (b) Other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

Authority for maintenance of system: 39 U.S.C. 401, 409(d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as

the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. 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.

Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents and computer tape/disk.

Retrievability: By name of litigant(s).

Safeguards: Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals are located in a secured area.

Retention and Disposal: Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

System manager(s) and address: General Counsel, Law Department, Headquarters.

Notification procedure: Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

Record access procedures: See "System Manager" above.

Contesting record procedures: See "System Manager" above.

Record source categories: (a) Employees involved in Veterans Appeals and other adverse actions appeals; (b) Counsel(s) or other representative(s) for parties in administrative litigation other than Postal Service; (c) Other individuals involved in appeals. Source documents include the formal case file, and other records relevant to the case.

USPS 120.240

System name: Personnel Records—Garnishment Case Files, 120.240

System location: Law Department, Headquarters; Regional Counsel Offices, Regional Headquarters.

Categories of individuals: Employees involved in garnishment cases.

Categories of records in the system: (a) Formal pleadings and memoranda of law; (b) Other relevant documents; (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

Authority for maintenance of system: 39 U.S.C. 401, 409(d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. 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.

4. Transferred to Department of Justice, when needed by that department to perform properly its duties a legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents and computer tape/disk.

Retrievability: By name of litigant(s) or case and State of court action.

Safeguards: Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals are located in a secured area.

Retention and Disposal: Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

System manager(s) and address: General Counsel, Law Department, Headquarters.

Notification procedure: Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

Record access procedures: See "System Manager" above.

Contesting record procedures: See "System Manager" above.

Record source categories: (a) Employees involved in garnishment cases; (b) Counsel(s) or other representatives for parties other than Postal Service; (c) Other individuals involved in garnishment cases. Source documents include internal memoranda and court related documents.

USPS 130.010

System name: Philately—Ben Franklin Stamp Club Sponsors and Direct Mail Responders List, 130.010

System location: Customer Services Department, Headquarters, and at a contractor computer center.

Categories of individuals: Adult sponsors of stamp clubs for youth groups as well as club presidents of adult groups.

Categories of records in the system: Name and address of club sponsors or presidents.

Authority for maintenance of system: 39 U.S.C. 401, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—As an adjunct to a philatelic program, lists of club sponsors or presidents of stamp clubs are used by Sectional Center personnel and District personnel as well as individual postmasters as follows:

1. To assist sponsors in forming stamp clubs.

2. Making contact with clubs to assist in program presentation and USPS cooperation at stamp shows and philatelic exhibits.

3. Responsiveness to philatelic sales requests.

4. Determining USPS needs for films, graphics, and publications related to philately.

5. To mail newsletters to stamp club sponsors and club presidents.

Use—

1. 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.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files and computer tape/disk.

Retrievability: Indexed by name of individual and ZIP Code within the club or stamp group to which he/she is associated.

Safeguards: Paper records are maintained in locked steel file cabinets in a secured facility; computer media are stored in a fire resistant and secured facility.

Retention and Disposal: Records are maintained on a year-to-year basis subject to reverification each year. At the end of retention period, paper records are shredded and computer tape/disk records are erased.

System manager(s) and address: APMG, Customer Services Department, Headquarters.

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should con-

tain full name, address, and the club or stamp group with which he/she is associated.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Information is obtained from the individual to which the record refers.

USPS 130.040

System name: Philately—Philatelic Product Sales and Distribution, 130.040

System location: USPS Headquarters, Customer Services Department and at a contractor site.

Categories of individuals: Customers who have intitated correspondence expressing an interest in philately by (1) responding to various philatelic product sales promotion programs by submitting order forms, business reply cards, or cut outs from posters and promotional literature, (2) providing postal clerks with name and address information to receive future philatelic product announcements, (3) opening subscription accounts for philatelic products, or (4) requesting products in unsolicited correspondence, such as letters.

Categories of records in the system: Customer/subscriber name and account number, address, funds on deposit, remittance type and amount, order/product specifications, order history; also, special lists identifying individuals who have submitted bad checks, special services customers/subscribers, and individuals who have registered multiple service complaints.

Authority for maintenance of system: 39 USC 401, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—(1) to operate a subscription service for customers who remit money for a particular philatelic product or products; (2) to maintain a file to send philatelic product announcements and sales literature to customers or subscribers; (3) to serve as a source for statistical data for research and market analysis, billing and inventory data, and mailing basis for product shipment and (4) to identify discrete groups of customers/subscribers for better order control and service.

Use—

1. Disclosure may be made where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.
2. 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.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in original typed or handwritten form, or microform, and on magnetic tape or disk and computer printouts.

Retrievability: Records are indexed by customer/subscriber name and by account number, if assigned.

Safeguards: Paper and microform records are maintained in closed filing cabinets under general scrutiny of personnel of the Phalatelic Sales Division and the Building Security Guard Force, and when maintained on magnetic tape and disk, the information is protected by ADP physical, technical software and administrative security of the Headquarters Data Center or by contractors providing similar protection which is subject to the audit and inspection of the USPS Inspection Service.

Retention and Disposal: ADP and microform records are maintained for three years after the individual has failed to make a purchase or has indicated no other interest. ADP records are obliterated after their period of usefulness; microform records are incinerated. Correspondence and other paper documents are retained for 3 years and then destroyed by shredding.

System manager(s) and address: APMG, Customer Services Department, Headquarters.

Notification procedure: Individuals wishing to know whether information about them is maintained in this system of records should address inquiries to the System Manager above. Inquiries should contain full name and address.

Record access procedures: See Notification procedure above.

Contesting record procedures: See Notification procedure above.

Record source categories: Information is obtained directly from the individual as is described in "Category of Individuals Covered by the System" above.

USPS 140.020

System name: Postage—Postal Meter Records, 140.020

System location: Post Offices

Categories of individuals: Meter users.

Categories of records in the system: Customer Name and address, meter update activity, schedule for meter upgradings for on-site meter settings, license application, and transaction documents.

Authority for maintenance of system: 39 U.S.C. 401, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To enable responsible administration of postal meter activities.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.
2. To disclose identity and address of meter user and identity of agent of user to any member of public upon request.
3. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
4. 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.
5. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Printed forms.

Retrievability: Records are indexed by customer name and by numeric file of postage meters.

Safeguards: Records are maintained in closed file cabinets in secured facilities.

Retention and Disposal: Records are maintained for one year after final entry or the duration of the license and then destroyed by shredding.

System manager(s) and address: APMG, Delivery Services Department.

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the local postmaster from which license was obtained supplying name and meter number.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Information is obtained from the individual and officials making entries to reflect activities.

USPS 150.010

System name: Records and Information Management Records—Information Disclosure Accounting Records (Freedom of Information Act), 150.010

System location: Records Officer, USPS Headquarters, and records Custodians at all USPS facilities.

Categories of individuals: USPS employees and citizens requesting information under the Freedom of Information Act.

Categories of records in the system: Name of requestor and the type of information requested.

Authority for maintenance of system: 39 U.S.C. 401, 412; 5 USC 552; Public Law 93-502.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—These records are kept in order to determine the status of information requested and to facilitate the processing of requests.

Use—

1. 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.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: Individuals name and date of request.

Safeguards: Locked file drawers and access control.

Retention and Disposal: Records are maintained by Custodians and the Records Officer for a period of two years. The Headquarters Library and General Counsel keep permanently copies of legal proceedings and appeals related to these records.

System manager(s) and address: Postal Service Records Officer, Headquarters.

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the Custodian at the facility where request was sent. Inquiries should contain full name and date of request.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Information is obtained from the individual making the request.

USPS 150.015

System name: Records and Information Management Records—Freedom of Information Appeals System, 150.015

System location: USPS National Headquarters, Law Department.

Categories of individuals: The system encompases all individuals who submit appeals under the Freedom of Information Act from denials of access to or copies of records maintained by the Postal Service.

Categories of records in the system: The system consists of copies of all correspondence relating to appeals from the denials of requests for access to or copies of records pursuant to the Freedom of Information Act, of pleadings on civil actions arising under the Act, and of other documents incidental thereto.

Authority for maintenance of system: 5 USC 552.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To enable the General Counsel to carry out his duties as appellate authority and to comply with reporting requirements. Use—

1.These records are used to provide information and records to the Department of Justice in its coordination of responses to requests for information and its representation of the Postal Service in civil actions, and to prepare reports required by 5 USC 552(d).

2. 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.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored in paper folders.

Retrievability: Alphabetically, by name of the requester except in those instances where a requester has an appeal filed on his behalf by an attorney. In those cases, the attorney's name might appear as the requester appellant.

Safeguards: These records are stored in locked filed cabinets.

Retention and Disposal: These records are kept indefinitely.

System manager(s) and address: General Counsel, Law Department, National Headquarters.

Notification procedure: Inquiries should be addressed to the System Manager above and should contain the name of the requester and the name of that person's attorney.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: The individual to whom the record pertains, and that person's attorney.

USPS 150.020

System name: Records and Information Management Records—Information Disclosure Accounting Records (Privacy Act), 150.020.

System location: Records Officer, USPS Headquarters and records Custodiams at all USPS facilities.

Categories of individuals: Any USPS employee or citizen who makes an inquiry under the Privacy Act.

Categories of records in the system: Name of inquirer and the type of information requested and USPS response thereto.

Authority for maintenance of system: 39 USC 401; Public Law 93-579, 88 Statute 1896.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—These records are to provide information related to requestors of personal information under the Privacy Act.

Use—

1. 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.

2. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: Requesters' name and date of inquiry.

Safeguards: Locked file drawers and access control.

Retention and Disposal: Request letters and related correspondence are retained for two years. Accountings of disclosures are retained for five years or the life of the disclosed record, whichever is longer. All records are destroyed by burning or shredding.

System manager(s) and address: Postal Service Records Officer, Headquarters.

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquires to the Custodian at the facility where request was sent. Inquiries should contain full name, and date of the request.

Record access procedures: See "NOTIFICATION" above.

Contesting record procedures: See "NOTIFICATION" above.

Record source categories: Information is obtained from the individual making the request.

USPS 150.025

System name: Records and Information Management Records—Privacy Appeals System, 150.025

System location: Postal Service, National Headquarters.

Categories of individuals: The system encompasses all individuals who submit appeals under the provisions of the Privacy Act of 1974.

Categories of records in the system: The system consists of copies of all correspondence relating to appeals from Postal Service denials of amendment of records pursuant to the Privacy Act, of pleadings in civil actions arising under the Act, and of other documents incidental thereto.

Authority for maintenance of system: 5 U.S.C. 552a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—To enable the USPS Privacy Appeals Officer to carry out his duties as appellate authority and to comply with reporting requirements. Use—

1. These records are used to provide information and records to the Department of Justice in its coordination of responses to requests for information and its representation of the Postal Service in civil actions and to prepare reports required by 5 U.S.C. 552a(p).

2. 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.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

4. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are stored as paper files.

Retrievability: Alphabetically, by name of the requester except in those instances where a requester has an appeal filed on his behalf by

an attorney. In those cases, the attorney's name might appear as the requester appellant.

Safeguards: These records are stored in locked cabinets.

Retention and Disposal: These records are kept indefinitely.

System manager(s) and address: Postal Service Privacy Appeals Officer, Headquarters.

Notification procedure: Inquiries should be addressed to the System Manager above and should contain the name of the requester and name of attorney if applicable.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: The individual to whom the record pertains, and that person's attorney.

USPS 160.010

System name: Special Mail Services—Insured and Registered Domestic Mail Inquiry and Application for Indemnity Records, 160.010.

System location: Rates and Classification Department, Headquarters, Postal Data Center, St. Louis, MO, and Post Offices.

Categories of individuals: Insured and registered domestic mail claimants/inquiries including mail senders and addresses.

Categories of records in the system: Name and address of mail sender and addressee; declaration of claimant/inquirer; claim/inquiry status information.

Authority for maintenance of system: 39 U.S.C. 401, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used in responding to inquiries on the status of domestic insured and registered mail, and in the adjudication of claims related to such mail.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, State or local 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.
2. 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.
3. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court of administrative body.
4. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
5. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Handwritten and typed forms, microfilm, computer readable media and printouts.

Retrievability: Claimant/inquirer name, case number, registered article number.

Safeguards: Handwritten and typed forms are maintained in steel file cabinets with use limited to claims personnel. Computer readable media are stored in protected areas, and access to the media is confined to authorized data processing personnel.

Retention and Disposal: Domestic inquiries are maintained for two years. Claim records are maintained for one year at St. Louis Postal Data Center and then transferred to the Federal Records Center and maintained for another three years. All records are destroyed by shredding.

System manager(s) and address: APMG, Rates and Classification Department, Headquarters.

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where the insured or registered domestic claim was filed. If claim has been filed, inquiry should include claim number, date of claim, insured or registered number of article mailed.

Record access procedures: NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Information from the individual completing the claim/inquiry form.

USPS 160.020

System name: Special Mail Services—Insured and Registered International Mail Inquiry and Application for Indemnity Records, 160.020

System location: Rates and Classification Department, USPS Headquarters; Postal Data Center, St. Louis, MO; and International Adjusting Offices in Chicago, New York, New Orleans and San Francisco.

Categories of individuals: Insured and registered international mail claimants/inquirers, including mail sender and addresses, declaration of claimants/inquirers, claim/inquiry status information.

Authority for maintenance of system: 39 U.S.C. 401, 404.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used in responding to inquiries regarding international mail, and in the adjudication of insured and registered international mail claims.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether international, Federal, State or local 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.
2. 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.
3. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
4. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
5. To refer an international mail inquiry or claim to the appropriate foreign postal authority when required for claim resolution.
6. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Handwritten and typed forms, microfilm, computer readable media and printouts.

Retrievability: Claimant/inquirer name, case number, registered article number.

Safeguards: Handwritten and typed forms are maintained in steel file cabinets with use limited to claims personnel. Computer readable media are stored in protected areas, and access to the media is confined to authorized data processing personnel.

Retention and Disposal: International inquiries are maintained for three years. Claim records are maintained for one year at St. Louis Postal Data Center and then transferred to the Federal Records Center and maintained for another three years. All records are destroyed by shredding.

System manager(s) and address: APMG. Rate and Classification Department, Headquarters.

Notification procedure: Persons wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where the insured or registered foreign mail claim was filed. If claim has been filed, inquiry should include claim number, date of claim, insured or registered number of article mailed.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Information from the individual completing the claim/inquiry form.

USPS 160.030

System name: Special Mail Services—Express Mail Service Insurance Claims for Loss, Delay and Damage 160.030

System location: Customer Services Department, USPS Headquarters.

Categories of individuals: Express Mail claimants and representatives.

Categories of records in the system: Postal Service forms and correspondence related to the claims.

Authority for maintenance of system: 39 U.S.C. 401, 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used in the adjudication of express mail service claims for loss, delay and damage.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether international, Federal, State or local, 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.
2. Pursuant to the National Labor Relations Act, to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
3. 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.
4. Where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file cabinets in original, typed, handwritten, copied or printed form.

Retrievability: Claims are ordered by date of mailing but are retrieved by name of claimant through visual scanning.

Safeguards: Maintained in steel file cabinets within the exclusive custody of Express Mail Marketing personnel in the Customer Services Department and Claims Personnel in the Rates and Classification Department.

Retention and Disposal: Records are retained for one year then destroyed by shredding.

System manager(s) and address: APMG, Customer Services Department, Headquarters.

Notification procedure: Claimants wishing to know whether information about them is maintained in this system of records should address inquiries to the SYSTEM MANAGER.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Information is obtained from the claimant or designated representative.

USPS 170.010

System name: Workload Reporting Records, 170.010

System location: Workload Reporting Records are located and/or maintained in various Departments and Facilities of the USPS.

Categories of individuals: USPS employees and contract employees assigned to work on specific projects.

Categories of records in the system: May include employee initials and surname, organizational unit and division, work hours on daily, weekly, or pay period basis by course number designated, social security number, systems code, weekly totals and pay period totals, project number, project name, name of customer contact, estimated completion date, estimated resources, actual contact, and general remarks about the development of the project.

Authority for maintenance of system: 39 U.S.C. 401, 404

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—The system is used to determine project costs for billing customers for services and by management to schedule work loads and staffing.

Use—

1. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.
2. 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.
3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.
4. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
5. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Civil Service Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 5 CFR 713, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Printed forms, magnetic tape and disks.

Retrievability: Employee initials and name, project number, system code, social security number, pay period or project name.

Safeguards: Maintained in secured area within secured facility.

Retention and Disposal: In some cases, records are retained for one year and then automatically deleted from computer disks and paper files are destroyed by shredding. Some records are maintained on computer tape beyond one year for historical and trend analyses.

System manager(s) and address: The department or facility head where such records are required.

Notification procedure: Employees wishing to gain access to this information should address inquiries to the department or facility head where employed at the time of work load reporting. Inquiries should contain full name and project name and number.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Prepared by employee or supervisor as activities occur.

USPS 180.010

System name: Tort Claims—Tort Claims Records, 180.010

System location: Law Department at Headquarters and regions, Postal Inspection Service, Division Headquarters, Post Offices and Postal Data Centers.

Categories of individuals: Persons involved in accident as a result of postal operations or alleging money damages under the provisions of the Federal Tort Claims Act.

Categories of records in the system: Accident reports, tort claims filed, documentary evidence in support of tort claims, and litigation arising out of tort claims.

Authority for maintenance of system: 28 U.S.C. 2671-80; 39 U.S.C. 409(c).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—Used by attorneys and other employees of the Postal Service to consider, settle and defend against tort claims made against the USPS under the Federal Tort Claims Act. To refer to accident prevention and safety officers, manufacturers of equipment and supplies and their insurers.

Use—

1. Transferred to Department of Justice, other government agencies, and other persons involved in a claim against the Postal Service, or use in adjudication, civil litigation and criminal prosecution.
2. To provide members of the American Insurance Association Index System with certain information related to accidents and injuries.
3. Provide information to USPS accident prevention and safety officers.
4. Furnish information to insurance companies that have named the United States as an additional insured or co-insured in liability insurance policies.
5. Provide information to equipment manufacturers and their insurers for claims considerations and possible improvement of equipment.
6. To respond to a subpeona dueces tecum and other appropriate court order and summons.
7. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request

when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

8. 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.

9. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

10. Inactive records may be tranferred to a GSA Federal Records Center prior to destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper form, original or copies, preprinted or handwritten forms.

Retrievability: Information may be retrieved by person's name or Postal Inspection Service case number.

Safeguards: Records are maintained in ordinary filing equipment under general scrutiny of postal personnel.

Retention and Disposal: Paid claims records at Headquarters are retained for seven years after payment; Postal Inspection Service files are retained for 25 years after closing; all other files are retained for five years after closing. All records are destroyed by shredding or burning.

System manager(s) and address: General Counsel, Law Department, Headquarters

Notification procedure: Furnish person's name, data and place of occurrence giving rise to a claim under the Federal Tort Claims Act, to the head of the facility where the claim was filed.

Record access procedures: See NOTIFICATION above.

Contesting record procedures: See NOTIFICATION above.

Record source categories: Claimants making demands for money damages, reports of postal employees involved in accidents, local police reports, Inspection Service investigative reports and American Insurance Association Index reports.

USPS 190.010

System name: Labor Law Civil Action—Civil Action Case Files, 190.010

System location: Law Department, Regional and National Headquarters.

Categories of individuals: Individuals involved in litigation pertaining to employee and labor relations.

Categories of records in the system: (a) Formal pleadings and memoranda of law; (b) Other relevant documents (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

Authority for maintenance of system: 39 U.S.C. 401, 409(d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.

3. 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.

4. Transferred to Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.

5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency; whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper form, original or copies, preprinted or handwritten forms.

Retrievability: By name of litigant(s).

Safeguards: Records are maintained in ordinary filing equipment under general scrutiny of USPS legal counsels and staff.

Retention and Disposal: These case files are maintained for three (3) years following close of matter.

System manager(s) and address: General Counsel, Law Department, Headquarters.

Notification procedure: Persons interested in reviewing records within specific case files should submit their name; case number and court of record, if known, to the General Counsel, Law Department, National Headquarters.

Record access procedures: See "System Manager" above.

Contesting record procedures: See "System Manager" above.

Record source categories: (a) Individuals involved in litigation pertaining to employee and labor relations; (b) Counsel(s) and other representatives for parties in litigation other than Postal Service; (c) Other individuals involved in litigation pertaining to employee and labor relations. Source documents include administrative complaint/action file, grievance file, and /or other records relevant to the case.

USPS 200.010

System name: Non-Mail Monetary Claim—Relocation Assistance Claims 200.010

System location: USPS National Headquarters (Real Estate and Buildings Department), Washington, D.C. 20260, and all Regional Real Estate and Buildings Departments.

Categories of individuals: Owners and tenants of real property purchased or leased by the U.S. Postal Service.

Categories of records in the system: Completed claim forms and other documents related to indemnifying occupants of property acquired by the U.S. Postal Service.

Authority for maintenance of system: Uniform Relocation and Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) and 39 USC 401.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used to adjudicate claims for reimbursement of relocation expenses incurred by owners and tenants of real property acquired by the U.S. Postal Service.

Use—

1. 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.

2. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of legislative coordination and clearance process as set forth in that Circular.

3. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body, or in connection with the settlement of any claim or the resolution of any dispute.

4. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, 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.

5. Inactive records may be transferred to a GSA Federal Records Center for storage prior to destruction.

6. May be disclosed to a Federal compliance investigator for case or program review.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Stored in file cabinets in original, typed, printed or handwritten form.

Retrievability: Claims are ordered and retrieved alphabetically by claimant name within project file.

Safeguards: Maintained in locked file cabinets within the exclusive custody of Real Estate and Buildings Department management personnel.

Retention and Disposal: Records are retained for the life of the facility and then destroyed.

System manager(s) and address: APMG, Real Estate and Buildings Department, Headquarters.

Notification procedure: Claimants wishing to know whether and what information about them is maintained in this system of records

should address inquiries to the same facility to which they applied for relocation benefits.

Record access procedures: See NOTIFICATION PROCEDURE above.

Contesting record procedures: See NOTIFICATION PROCEDURE above.

Record source categories: Information is obtained from previous dwelling owner or tenant claimant and Postal Service claim reviewers and adjudicators.

USPS 200.020

System name: Non-Mail Monetary Claims—Monetary Claims involving Present or Former employees (case files), 200.020

System location: Law Department, Headquarters; Regional Counsel Offices, Regional Headquarters.

Categories of individuals: Individuals involved in monetary claims cases.

Categories of records in the system: (a) Formal pleadings and memoranda of law; (b) Other relevant documents (c) Miscellaneous notes and case analyses prepared by Postal Service attorneys and other personnel; (d) Correspondence and telephone records.

Authority for maintenance of system: 39 USC 401, 409(d).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Purpose—This information is used to provide legal advice and representation to the Postal Service.

Use—

1. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.
2. Disclosure may be made from the record of an individual, where pertinent in any legal proceeding to which the Postal Service is a party before a court or administrative body or other tribunal.
3. 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.
4. Transferred to the Department of Justice, when needed by that department to perform properly its duties as legal representative of the Postal Service.
5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper documents and compute tape/disk.

Retrievability: By name of litigant(s).

Safeguards: Folders containing paper documents are kept in locked filing cabinets under the general scrutiny of Postal Service attorneys. Computer terminals and tape/disk files are located in a secured area.

Retention and Disposal: Selected records are maintained on an active basis until subject matter has no information value, and on an inactive basis for an additional three years. All other records are maintained for five years. Paper records are shredded and computer tape/disk records are erased at the end of retention period.

System manager(s) and address: General Counsel, Law Department, Headquarters.

Notification procedure: Persons interested in reviewing records within specific case files should submit their name; and case number, if known, to the General Counsel, Law Department, National Headquarters.

Record access procedures: See "System Manager" above.

Contesting record procedures: See "System Manager" above.

Record source categories: (a) Individuals involved in monetary claims cases, (b) Counsel(s) or other representatives for parties in litigation other than Postal Service. Source documents include records relevant to the case.

List of U.S. Postal Service Facilities Referenced Herein

The address of each Postal Service facility to which requests may be sent (referred to in each system notice), other than post offices, and the geographical area served, is provided on the pages following. The addresses of individual post offices are not provided because of their large number and because that information is available locally to all concerned individuals.

The addresses of all Postal facilities, to include locations in the Canal Zone, Guam-Samoa, Puerto Rico, and the Virgin Islands, are contained in THE DIRECTORY OF POST OFFICES, Publication 26, Stock Number 3900-00247, available for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402—Price 3.90.

Postmasters, upon request, will supply the addresses of the District Offices and Sectional Management Centers to which they report.

The following excerpt of addresses and areas serviced is provided for convenience of Privacy Act correspondents, and obviates the repetition in each notice. All "Headquarters" addresses are:

(Office), U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

POSTAL SERVICE REGIONAL OFFICES

Regional Postmaster General, Central Region, Main PO Bldg., Chicago, IL 60699. (States serviced: IL, MI, OH, IN, HY, WI, MN, IA, MO, ND, SD, NE, KS (Except 679).)

Regional Postmaster General, Eastern Region, PO Box 8601, Philadelphia, PA 19101. (States serviced: VA, WV, MD, DE, PA, DC, and those portions of New York State and New Jersey outside the Greater New York City Metropolitan area.)

Regional Postmaster General, Southern Region, 5100 Popular Ave., Memphis, TN 38166. (States serviced: TN, AL, MS, TX, LA, GA, FL, NC, SC, OK, AR and KS (679).)

Regional Postmaster General, Northeast Region, Main PO Bldg., New York, NY 10098. (States serviced: New York City, RI, MA, NH, VT, ME and those portions of New York State, Connecticut, and New Jersey within the New York City Metropolitan area, also Puerto Rico and Virgin Islands.)

Regional Postmaster General, Western Region, 850 Cherry St., San Bruno, CA 94099. (States serviced: CA NV, HI, AK, WA, OR, MT, ID, WY, UT, CO, AZ, NM, El Paso, TX Dist. and Guam.)

INSPECTION SERVICE

Chief Postal Inspector, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.

TRAINING INSTITUTE

Postal Service Training and Development Institute, 7900 Wisconsin Avenue, Washington, D.C. 20014.

BULK MAIL CENTERS

Atlanta, 1805 Bolton Road, NW., Atlanta, GA 30369.
Chicago, 7500 West Roosevelt Road, Building No. 1, Forest Park, IL 60130.
Cincinnati, 3055 Crescentville Road, Cincinnati, OH 45235.
Dallas, P.O. Box 21106, Dallas, TX 75211.
Denver, 7755 East 56th Avenue, Commerce City, CO 80022.
Des Moines, 4000 NW., 109th Street, Des Moines, IA 50395.
Detroit, 17500 Oakwood Boulevard, Allen Park, MI 48101.
Greensboro, 3701 West Wendover Avenue, Greensboro, NC 27495.
Jacksonville, 7415 Commonwealth Avenue, Jacksonville, FL 32099.
Kansas City, 4900 Speaker Road, Kansas City, KS 66106.
Los Angeles, 4701 South Eastern Avenue, Bell, CA 90201.
Memphis, 1921 Elvis Presley Boulevard, Memphis, TN 38136.
Minneapolis-St. Paul, 3165 South Lexington Avenue, St. Paul, MN 55121.
New York, 80 County Road, Jersey City, NJ 07307.
Philadelphia, 1900 Byberry Road, Philadelphia, PA 19116.
Pittsburgh, R.D. No. 2, Wexford, PA 15090.
St. Louis, 5800 Phantom Drive, Hazelwood, MO 63042.
San Francisco, 2501 Rydin Road, Richmond, CA 94850.
Seattle, P.O. Box 5000, Federal Way, WA 98002.
Springfield, 190 Fiberloid Street, Springfield, MA 01151.
Washington, 9201 Edgeworth Drive, Washington, D.C. 20027.

[FR Doc. 78-24583 Filed 9-7-78; 8:45 am]

federal register

FRIDAY, SEPTEMBER 8, 1978
PART III

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 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 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 in 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 DETERMINATIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL78-1031	Apr. 7, 1978.
Arizona:	
AZ78-5114	Aug. 11, 1978.
AZ78-5115; AZ78-5116	July 28, 1978.
California:	
CA78-5006	Jan. 27, 1978.
Florida:	
FL75-1080	Sept. 5, 1975.
FL-1141	Nov. 25, 1977.
Maryland:	
MD78-3020	Apr. 14, 1978.
Massachusetts:	
MA78-3022	Apr. 21, 1978.
Minnesota:	
MN77-2046	May 6, 1977.
Nevada:	
NV78-5010	Mar. 10, 1978.
NV78-5011; NV78-5018	Mar. 17, 1978.
New Jersey:	
NJ78-3047	June 16, 1978.
Pennsylvania:	
PA78-3053	Aug. 11, 1978.
Utah:	
UT78-5012	Mar. 17, 1978.
West Virginia:	
WV78-3018	June 9, 1978.

SUPERSEDEAS DECISIONS 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. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL77-1140 (AL78-1069)	Nov. 25, 1977.
Florida:	
FL75-1012 (FL78-1073)	May 14, 1976.
Georgia:	
GA76-1033 (GA78-1075)	Feb. 27, 1976.
GA78-1016 (GA78-1077)	Apr. 7, 1978.
Idaho:	
ID78-5017 (ID78-5120)	Do.
South Dakota:	
SD78-5023 (SD78-5126)	Apr. 21, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C., this 1st day of September 1978.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 78-25135 Filed 9-7-78; 8:45 am]

DECISION #AL78-1031 - Mod. #1
(43 FR 14840 - April 7, 1978)
Lawrence, Limestone & Morgan Counties, Alabama

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers:					
Bricklayers, Marble Masons, Stonemasons, Painters, Cleaners and Caulkers	$10.10				
Cement Masons	9.35				
Ironworkers:					
Structural, Ornamental, Reinforcing	9.305	.60	.60		.08
Plasterers and troweling machine operator	9.60				
Terrazzo workers and tile setter	9.85				

DECISION #AZ78-5114 - Mod. #1
(43 FR 35828 - August 11, 1978)
Statewide Arizona

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Globe-Miami Area:					
Zone A: The area within 16 road miles beginning where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing:					
Electricians	$13.93	.60	11%		1%
Cable Splicers	14.18	.60	11%		1%
Zone B: 16 to 28 miles from above-mentioned base point:					
Electricians	14.67	.60	11%		1%
Cable Splicers	14.92	.60	11%		1%
Zone C: 28-to 46 miles from above-mentioned base point:					
Electricians	15.30	.60	11%		1%
Cable Splicers	15.55	.60	11%		1%
Zone D: 46 miles and over from above-mentioned base point:					
Electricians	16.05	.60	11%		1%
Cable Splicers	16.30	.60	11%		1%
Tucson Area:					
Zone A: Area within 16 road miles from the City Hall in Tucson and Douglas. Nogales and Sierra Vista shall be limited to 16 road miles from from the center of the respective towns:					
Electricians	13.93	.60	11%		1/2%
Cable Splicers	14.18	.60	11%		1/2%
Zone B: Area from the outer limits of the 16 mile radius extending up to and including 12 road miles:					
Electricians	14.67	.60	11%		1/2%
Cable Splicers	14.92	.60	11%		1/2%

DECISION #AZ78-5114 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians (Cont'd):					
Tucson Area (Cont'd):					
Zone C: Area from 12 road miles up to and including 30 road miles:					
Electricians	$15.30	.60	11%		1/2%
Cable Splicers	15.55	.60	11%		1/2%
Zone D: Area from 30 road miles extending to the outside limits of the union's jurisdiction:					
Electricians	16.05	.60	11%		1/2%
Cable Splicers	16.30	.60	11%		1/2%
Flagstaff Area:					
Zone A: In the City of Flagstaff, that area lying in a square extending 20 miles North-South, East and West of the Post Office; For Williams, Winslow and Sedona that area covering a square extending 5 miles North-South, East and West of the Post Office in each town	12.50	.96	3% + .88		1/2%
Zone B: All territorial jurisdiction allotted outside of Zone A	14.90	.96	3% + .88		1/2%
Gallup Area - Apache County north of Hwy. #66:					
Electricians	13.62	.60	2% + .70		1/2%
Cable Splicers	14.76	.60	2% + .70		1/2%
Line Construction:					
Zone 1: Phoenix and Tucson 30 mile radius from center of town:					
Groundmen	9.97	8%	9%		1/2%
Equipment Operators; Powdermen; Mechanics	11.47	8%	9%		1/2%
Linemen; Technicians; Crane Operators	12.90	8%	9%		1/2%
Cable Splicers	13.30	8%	9%		1/2%

DECISION #AZ78-5114 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction (Cont'd):					
Zone 1-A: Douglas, Flagstaff, Globe, Kingman, Prescott and Yuma 10 mile radius from center of town:					
Groundmen	$10.81	8%	9%		1/2%
Equipment Operators; Powdermen; Mechanics	12.24	8%	9%		1/2%
Linemen; Technicians; Crane Operators	13.72	8%	9%		1/2%
Cable Splicers	14.20	8%	9%		1/2%
Zone 2: Other areas:					
Groundmen	11.59	8%	9%		1/2%
Equipment Operators; Powdermen; Mechanics	13.03	8%	9%		1/2%
Linemen; Technicians; Crane Operators;	14.52	8%	9%		1/2%
Cable Splicers	14.95	8%	9%		1/2%
Painters:					
Tucson and Yuma Areas:					
Zone A: 0-30 miles from Stone and Congress in Tucson and from the County Courthouse in Yuma:					
Brush	9.43	.67	.40		.04
Spray and Sandblasters	9.93	.67	.40		.04
Swing Stage under 40 ft.:					
Brush	9.73	.67	.40		.04
Spray	10.23	.67	.40		.04
Swing Stage over 40 ft.:					
Brush	10.18	.67	.40		.04
Spray	10.68	.67	.40		.04
Structural Steel; Tanks:					
Brush	10.43	.67	.40		.04
Spray and Sandblasters	10.93	.67	.40		.04

DECISION #AZ78-5114 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters (Cont'd):					
Tucson and Yuma Areas (Cont'd):					
Zone B: 31-40 miles from Stone and Congress in Tucson and from the County Courthouse in Yuma:					
Brush	$10.18	.67	.40		.04
Spray and Sandblasters	10.68	.67	.40		.04
Swing Stage under 40 ft.:					
Brush	10.48	.67	.40		.04
Spray	10.98	.67	.40		.04
Swing Stage over 40 ft.:					
Brush	10.93	.67	.40		.04
Spray	11.43	.67	.40		.04
Structural Steel; Tanks:					
Brush	11.18	.67	.40		.04
Spray and Sandblasters	11.68	.67	.40		.04
Zone C: 41-50 miles from Stone and Congress in Tucson and from the County Courthouse in Yuma:					
Brush	10.93	.67	.40		.04
Spray and Sandblasters	11.43	.67	.40		.04
Swing Stage under 40 ft.:					
Brush	11.23	.67	.40		.04
Spray	11.73	.67	.40		.04
Swing Stage over 40 ft.:					
Brush	11.68	.67	.40		.04
Spray	12.18	.67	.40		.04
Structural Steel; Tanks:					
Brush	11.93	.67	.40		.04
Spray and Sandblasters	12.43	.67	.40		.04
Zone D: 51 miles and over from Stone and Congress in Tucson and from the County Courthouse in Yuma:					
Brush	11.43	.67	.40		.04
Spray and Sand lasters	11.93	.67	.40		.04
Swing Stage under 40 ft.:					
Brush	11.73	.67	.40		.04
Spray	12.23	.67	.40		.04
Swing Stage over f0 ft.:					
Brush	12.18	.67	.40		.04
Spray	12.68	.67	.40		.04

DECISION #AZ78-5114 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters (Cont'd):					
Tucson and Yuma Areas (Cont'd):					
Zone D (Cont'd):					
Structural Steel; Tanks:					
Brush	$12.43	.67	.40		.04
Spray and Sandblasters	12.93	.67	.40		.04
Phoenix Area:					
Zone A: 0-40 miles from Court House in Phoenix, Mesa and including Luke and Williams Air Force Bases:					
Brush and roller; Sandblaster (Nozzleman); Sandblaster (Pot tender)	10.00	.60	.40		.08
Spray	10.25	.60	.40		.08
Creosote Applier	10.33	.60	.40		.08
Swing Stage:					
Brush, sandblaster	10.40	.60	.40		.08
Spray	10.65	.60	.40		.08
Steeplejack	10.86	.60	.40		.08
Steel and bridge, brush Steel Sandblaster	10.93	.60	.40		.08
Steel and bridge, spray	11.13	.60	.40		.08
Zone B: 41-60 miles from Court House in Phoenix:					
Brush and roller; Sandblaster (Nozzleman); Sandblaster (Pot tender)	11.00	.60	.40		.08
Spray	11.25	.60	.40		.08
Creosote Applier	11.33	.60	.40		.08
Swing Stage:					
Brush, sandblaster	11.40	.60	.40		.08
Spray	11.65	.60	.40		.08
Steeplejack	11.86	.60	.40		.08
Steel and bridge, brush Steel Sandblaster	11.93	.60	.40		.08
Steel and bridge, spray	12.13	.60	.40		.08

DECISION #AZ78-5114 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters (Cont'd):					
Phoenix Area (Cont'd):					
Zone C: 60 miles and over from Court House in Phoenix:					
Brush and roller; Sandblaster (Nozzleman); Sandblaster (Pot tender)	$12.25	.60	.40		.08
Spray	12.50	.60	.40		.08
Creosote Applier	12.58	.60	.40		.08
Swing Stage:					
Brush, sandblaster	12.65	.60	.40		.08
Spray	12.90	.60	.40		.08
Steeplejack	13.11	.60	.40		.08
Steel and bridge, brush Steel Sandblaster	13.18	.60	.40		.08
Steel and bridge, spray	13.38	.60	.40		.08
Plumbers; Steamfitters:					
FREE ZONE 0-15 Miles					
The "Free Zone" (Zone 1) shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson, and Douglas. The "Free Zone" from Phoenix shall be 15 miles radius from the stated base point. In addition, all areas within the city limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow and Holbrook will be included as Free Zones. Any work contracted for outside of these Zones will be determined from the Phoenix and Tucson basing points.					
Zone 1: 0-15 miles	13.24	.75	1.35		.13
Zone 2: 15-30 miles	13.64	.75	1.35		.13
Zone 3: 30-40 miles	14.09	.75	1.35		.13
Zone 4: 40 miles and over	15.59	.75	1.35		.13

DECISION #AZ78-5114 (Cont'd):

Change (Cont'd):	Basic Hourly Rates C&S	Basic Hourly Rates N	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Except Pile-driving and Steel Erection):						
Group 1	$8.93	$10.555	$1.05	$1.00		.08
Group 2	9.30	10.925	1.05	1.00		.08
Group 3	9.76	11.385	1.05	1.00		.08
Group 4	10.29	11.915	1.05	1.00		.08
Group 5	10.82	12.445	1.05	1.00		.08
Group 5-A	11.13	12.755	1.05	1.00		.08
Group 6	11.46	13.085	1.05	1.00		.08
Group 7	12.06	13.685	1.05	1.00		.08

DECISION #AZ78-5114 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Tucson Area:					
Asbestos; Shinglers; Tile and Waterproofing:					
Zone A: 0-44 miles from Tucson	$9.27	.845	.20		
Zone B: Over 44 miles from Tucson	11.02	.845	.20		

DECISION #AZ78-5115 - Mod. #1
(43 FR 33018 - July 28, 1978)
Maricopa County, Arizona

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Zone A: 0-40 miles from Court House in Phoenix, Mesa and including Luke and Williams Air Force Bases:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot tender)	$9.69	.60	.40		.08
Spray; Paperhangers	9.94	.60	.40		.08
Creosote Applier	10.02	.60	.40		.08
Swing Stage:					
Brush, sandblaster	10.09	.60	.40		.08
Spray	10.34	.60	.40		.08
Zone B: 41-60 miles from Court House in Phoenix:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot tender)	10.69	.60	.40		.08
Spray; Paperhangers	10.94	.60	.40		.08
Creosote Applier	11.02	.60	.40		.08
Swing Stage:					
Brush, sandblaster	11.09	.60	.40		.08
Spray	11.34	.60	.40		.01
Zone C: 61 miles and over from Court House in Phoenix:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot tender)	11.94	.60	.40		.08
Spray; Paperhangers	12.19	.60	.40		.08
Creosote Applier	12.27	.60	.40		.08
Swing Stage:					
Brush, sandblaster	12.34	.60	.40		.08
Spray	12.59	.60	.40		.08

DECISION #AZ78-5115 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers; Steamfitters:					
FREE ZONE 0-15 miles					
The "Free Zone" (Zone 1) shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 mile radius from the stated base point. In addition, all areas within the City limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow and Holbrook will be included as Free Zones. Any work contracted for outside of these zones will be determined from the Phoenix and Tucson basing points:					
Zone 1: 0-15 miles	$13.24	.75	$1.35		.13
Zone 2: 15-30 miles	13.64	.75	1.35		.13
Zone 3: 30-40 miles	14.09	.75	1.35		.13
Zone 4: 40 miles and over	15.59	.75	1.35		.13
Power Equipment Operators:					
Except Piledriving and Steel Erection:					
Group 1	8.93	1.05	1.00		.08
Group 2	9.30	1.05	1.00		.08
Group 3	9.76	1.05	1.00		.08
Group 4	10.29	1.05	1.00		.08
Group 5	10.82	1.05	1.00		.08
Group 5-A	11.13	1.05	1.00		.08
Group 6	11.46	1.05	1.00		.08
Group 7	12.06	1.05	1.00		.08

DECISION #AZ78-5116 - Mod. #1
(43 FR 33014 - July 28, 1978)
Pima County, Arizona

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Zone A: 0-16 miles from City Hall in Tucson	$9.88	.60	3%		1/2%
Zone B: 26-32 miles from City Hall in Tucson	10.42	.60	3%		1/2%
Zone C: 32-48 miles from City Hall in Tucson	10.96	.60	3%		1/2%
Zone D: 48 miles and over from City Hall in Tucson	11.50	.60	3%		1/2%
Painters:					
Zone A: 0-30 miles from Tucson Post Office:					
Brush	9.43	.67	.40		.04
Structural Steel, brush	10.43	.67	.40		.04
Zone B: 31-40 miles from Tucson Post Office:					
Brush	10.18	.67	.40		.04
Structural Steel, brush	11.18	.67	.40		.04
Zone C: 41-50 miles from Tucson Post Office:					
Brush	10.93	.67	.40		.04
Structural Steel, brush	11.93	.67	.40		.04
Zone D: 51 miles and over from Tucson Post Office:					
Brush	11.43	.67	.40		.04
Structural Steel, brush	12.43	.67	.40		.04

DECISION #AZ78-5116 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers; Steamfitters:					
FREE ZONE 0-15 miles					
The "Free Zone" (Zone 1) shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 miles radius from the stated base point. In addition, all areas within the City limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow and Holbrook will be included as Free Zones. Any work contracted for outside of these zones will be determined from the Phoenis and Tucson basing points.					
Zone 1: 0-15 miles	$13.24	.75	$1.35		.13
Zone 2: 15-30 miles	13.64	.75	1.35		.13
Zone 3: 30-40 miles	14.09	.75	1.35		.13
Zone 4: 40 miles and over	15.59	.75	1.35		.13
Power Equipment Operators:					
Except Piledriving and Steel Erection:					
Group 1	8.93	1.05	1.00		.08
Group 2	9.30	1.05	1.00		.08
Group 3	9.76	1.05	1.00		.08
Group 4	10.29	1.05	1.00		.08
Group 5	10.82	1.05	1.00		.08
Group 5-A	11.13	1.05	1.00		.08
Group 6	11.46	1.05	1.00		.08
Group 7	12.06	1.05	1.00		.08
Roofers:					
Zone A: 0-44 miles from Tucson	9.27	.845	.20		
Zone B: Over 44 miles from Tucson	11.02	.845	.20		

DECISION NO. CA78-5006 - Mod. #1 (43 FR 3859 - January 27, 1978) San Diego County, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS:					
Brush; Painter Burner	$11.58	1.23	1.28	.75	.07
Brush (swing stage); Spray	11.83	1.23	1.28	.75	.07
Paperhanger; Spray (swing stage)	12.08	1.23	1.28	.75	.07
Sandblaster; Iron, Steel and Bridge painters (groundwork); Iron, Steel and Bridge painters, Spray (groundwork), Riggers (climbing steel); Brush (climbing steel and bridge); Spray (climbing steel and bridge)	12.33	1.23	1.28	.75	.07
Sandblaster (swing stage), Iron, Steel and Bridge painters (swing stage); Iron, Steel and Bridge painters (spray)	12.58	1.23	1.28	.75	.07
Steeplejack	13.23	1.23	1.28	.75	.07
DECISION # FL75-1080 - Mod. # 2 (40 FR-41358 - September 5, 1975) Alachua, Bradford, Calhoun, Citrus, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lake, Lafayette, Leon, Levy, Liberty, Madison, Marion, Pasco, Putnam, Sumter, Suwanee, Taylor, Union, Wakulla, and Washington, Counties, Florida.					
Change:					
Laborers:					
Unskilled	2.65				
Truck drivers	2.65				
Power Equipment Operators:					
Earth movers	2.65				
Decision # FL77-1141 - Mod. # 4 (42 FR-60552 - November 25, 1977) Volusia County (except Cape Kennedy, Kennedy Space Flight Center, Cape Canaveral Air Force Station), Florida.					
Change:					
Modification # 2 published in the Federal Register of August 11, 1978 to read:					
Mod # 3					

DECISION #MD78-3020 - Mod. #4
(42 FR - 16045 - April 14, 1978)
Counties of Anne Arundel (excluding the D. C. Training School), Baltimore, and Baltimore City, Maryland, and for Heavy Construction Projects in Harford & Howard Counties, Maryland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Zone 1	$10.90	.80	3%+.90		½%
Zone 2	11.15	.80	3%+.90		½%
Zone 3	11.40	.80	3%+.90		½%
Line Construction:					
Zone 1 - From Baltimore City Hall to 25 miles;					
Linemen, cable splicers, digging & equipment operator	12.10	.50	3%		
Winch trucks & trucks with pole or steel handling	8.11	.50	3%		
Trucks without winch	7.56	.50	3%		
Groundmen	7.62	.50	3%		
Zone 2 - From 25 miles to 45 miles from Baltimore City Hall:					
Linemen, cable splicers, digging & equipment operators	12.35	.50	3%		
Winch trucks & trucks with pole or steel handling	8.36	.50	3%		
Truck without winch	7.81	.50	3%		
Groundmen	7.87	.50	3%		
Zone 3 - Over 45 miles from Baltimeore City Hall:					
Linemen, Cable splicers, digging and equipment operators	12.60	.50	3%		
Winch trucks & trucks with pole or steel handling	8.61	.50	3%		
Truck without winch	8.06	.50	3%		
Groundmen	8.12	.50	3%		
Marble, Tile, & Terrazzo Workers Finishers	6.875	.40	.20		

DECISION #MD78-3020 - Mod. #4 (Continued)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
DIVERS AND TENDERS:					
Zone 1 - Anne Arundel County (the City of Annapolis and that portion of the county south and east of the following line: beginning at Rte. 3 and the Patuxent River, north of Rte. 3 to the junction of Benfield Rd., then right on Benfield Rd. to the junction of Jumpers Hole Rd. left on Jumpers Hole Rd. to the junction of Ritchie Hwy., left on Ritchie Hwy. to the junction of Rte. 100, right on Rte. 100 to Rte. 177 and continuing in an easterly direction on Rte. 177 to Gibson Island):					
Divers	$20.365	.80	.60		.05
(Depth rate: From 60' to 100' the diver shall receive an extra 50¢ per foot per day)					
Diver tenders	11.803	.80	.60		.05
DECISION NO. MA78-3022 - Mod.#2 (43 FR 17175 - April 21, 1978) Barnstable Co., Massachusetts					
CHANGE:					
Electricians	$10.50	.90	3% + .85		a
DECISION #MN77-2046 - Mod. #7 (42 FR 23404 - May 6, 1977) Benton, Sherburne & Stearns Counties, Minnesota					
CHANGE:					
Plumbers & Steamfitters: Benton & Stearns Counties & the Western ½ of Shereburne County	$10.82	.53	.50		.06

DECISION #NV78-5010 - Mod. #1
(43 FR 10229 - March 10, 1978)
Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$13.52	$1.10	$1.30		
Carpenters:					
Carpenters	10.79	.85	1.10	.80	.03
Floor Layers	10.815	.85	1.10	.80	.03
Millwrights	11.29	.85	1.10	.80	.03
Cement Masons:					
Cement Masons	9.40	1.00	.70	2.00	.08
Floor Finishing Machine	9.75	1.00	.70	2.00	.08
Painters:					
Brush; Roller	10.76	.75	.65	1.50	.06
Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers; Buffing; Sandblasters, Steel	11.11	.75	.65	1.50	.06
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 7	10.36	1.10	2.00	.35	
Group 7-A	10.07	1.10	2.00	.35	
Group 7-B	9.96	1.10	2.00	.35	
Group 7-C	9.72	1.10	2.00	.35	
Sheet Metal Workers	12.57	1.03	1.61	1.50	.10
Sprinkler Fitters	15.50	.75	1.05		.08
Truck Drivers:					
Group 1	11.30	.46	.80		
Group 2	11.41	.46	.80		
Group 3	11.46	.46	.80		
Group 4	11.62	.46	.80		
Group 5	11.80	.46	.80		

DECISION #NV78-5011 - Mod. #5
(43 FR 11441 - March 17, 1978)
Washoe County, Nevada

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Washoe County, does not include Lake Tahoe Area:					
Electricians; Technicians	$14.18	.99	3% +$1.22		.08
Cable Splicers	15.60	.99	3% + 1.22		.08
Lake Tahoe Area:					
Electricians; Technicians	15.18	.99	3% + 1.22		.08
Cable Splicers	16.60	.99	3% + 1.22		.08
Painters:					
Brush and Roller	12.70	.70	.75		
Spray; Taper; Paperhangers	13.20	.70	.75		
Spray - Swing stage, up to 40 ft.; Spray - steel	13.45	.70	.75		
Brush - Swing stage, up to 40 ft.; Brush - steel; Sandblaster	12.95	.70	.75		
Plaster Mod Carriers:					
Plaster Mod Carriers serving Plasterers	10.95	.95	1.05		
Plaster Mod Carriers working on any type of gun	11.55	.95	1.05		

DECISION #NV78-5018 - Mod. #4
(43 FR 11447 - March 17, 1978)
Clark County (does not include the Nevada Test Site), Nevada

Change:					
Glaziers	$9.83	.65	.40		.05
Laborers:					
Group 1	9.95	.66	1.53		
Group 2	10.16	.66	1.53		
Group 3	10.26	.66	1.35		
Group 4	10.35	.66	1.53		
Group 5	10.45	.66	1.53		
Soft Floor Layers	13.47	.65			.15

MODIFICATIONS P. 19

DECISION #NV78-5018 (Cont'd): LABORERS

Group 1: Cutting torch operator (demolition); Dry packing of concrete and filling of form-bolt holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Flagman, spotter, debris handler and dumpman; Gas and oil pipeline laborer; Guinea chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborer, temporary water lines (Portable type); Landscape gardener and nurseryman; Tarman and mortarman, kettleman, potman and man applying asphalt, lay-kold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground laborer, including caisson bellowers; Window cleaner

Group 2: Asphalt raker, ironer, spreader, luteman; Buggymobile man; Cement dumper (on one yd. or larger mixers and handling bulk cement); Cesspool digger and installer; Chucktender (except tunnels); Concrete core cutter; Concrete curer, impervious membrane and oiler of all materials; Concrete saw man, excluding tractor type, cutting, scoring old or new concrete; Gas and oil pipeline wrapper, pot tender and form man; Making and caulking of all non-metallic pipe joints; Operators and tenders of pneumatic and electric tools, vibrating machines, hand propelled trenching machines, impact wrench multiplate and similar mechanical tools not separately classified herein; Operator of cement grinding machine; Riprap stonepaver; Roto-scraper; Sandblaster (pot tender); Scaler; Septic tank digger and installer (lead man); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredders

Group 3: Gas and oil pipeline wrapper, 6-in. pipe and over; Jackhammer and/or pavement breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe and underground tile; Oversize concrete vibrator operator, 70 lbs. and over; Rock slinger; Scaler (using bos'n chair or safety belt or power tools)

Group 4: Cribber or shorer, lagging, sheeting, trench bracing, hand guided lagging hammer; Head rock slinger; Powderman - blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (nozzleman); Steel header-board man

Group 5: Driller (core, diamond or wagon), Joy driller model TW-M-2A, Gardner-Denver model DH 143 and similar type drills

DECISION #NJ78-3047 - Mod. #2
(43 FR - 26235 - June 16, 1978)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey

MODIFICATIONS P. 20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drop:					
Lathers:					
Zone 1 and Zone 2					
Drop:					
Monmouth County from Zone 2 for Carpenters, Millwrights, & Insulators					
Add:					
Carpenters, Millwrights, & Insulators:					
Zone 6 - Monmouth County					
Carpenters & Insulators	$11.70	8%	7%		1/5%
Millwrights	11.95	8%	7%		1/5%
Lathers: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties	11.40	.15	.40		.02
Change:					
Bricklayers, Stonemasons, Marble Masons, Cement Masons, Plasterers Tile Layers, and Terrazzo Workers					
Zone 1					
Bricklayers, Stonemasons, Marble Masons, & Plasterers	10.87	.75	.80		.02
Cement Masons, Tile Layers, & Terrazzo Workers	10.62	.75	.80		.02
Zone 5	11.97		.63		.02
Carpenters, Millwrights, & Insulators					
Zone 1	11.70	8%	7%		.2%
Electricians & Cable Splicers					
Zone 1	11.95	7%	3%+1.80		.01
Glaziers:					
Atlantic & Cape May Counties	7.80		.50		
Plumbers & Pipefitters:					
Zone 1	12.78	4%	.52		.025
Truck Drivers:					
Zone 1					
Group 1	8.15	t	u	j+k	
Group 2	8.25	t	u	j+k	
Group 3	8.40	t	u	j+k	
Group 4	8.55	t	u	j+k	

FOOTNOTES:

t. Employer contributes $5.90 per day per employee to Health ans Welfare Funds.

u. Employer contributes $2.80 per day per employee to the Pension Fund.

DECISION #PA78-3053 - Mod. # 1
(43 FR 35871 - August 11, 1978)
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$13.775	1.075	1.00		.02
Stonemasons					
Zone 1	10.03	.87	1.07		
Tile Setters					
All other work	9.77	1.35	1.13		.14
Sheet metal workers					
Zone 1 (Commercial)	13.30	1.02	1.18		.13
Truck Drivers:					
Class 1	8.695	.7675	.775	a+b	
Class 2	8.795	.7675	.775	a+b	
Class 3	8.995	.7675	.775	a+b	

Footnote:
b. Paid Holidays: Memorial Day; Independence Day; Labor Day; Veterans Day and (5) personal holidays for employees who have worked a minimum of thirty days and are on the employer's senority list, provided he works the schedule work days before and after the said holidays.

Add:					
Ironworkers:					
Rigger, machinery mover	12.20	1.14	1.36		

DECISION #UT78-5012 - Mod. #5
(43 FR 11454 - March 17, 1978)
Statewide Utah

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
North section of Utah - Box Elder, Cache, Davis County (north to 41st Parallel), Morgan, Rich, Weber Counties:					
Zone 1: That area 10 miles on either side of Interstate Hwy. #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Hwy. #91 - Interstate 15 junction south of Brigham City; at this point go go east and north through Logan and continue north to the 42nd Parallel in Cache County on Hwy. #91:					
Electricians; Technicians	$11.60	.70	3% + .75		8/10%
Cable Splicers	11.85	.70	3% + .75		8/10%
Zone 2: That area not included in Zone 1 that less east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel and south of the 40th Parallel in Cache, Morgan, Weber Counties:					
Electricians; Technicians	12.10	.70	3% + .75		8/10%
Cable Splicers	12.35	.70	3% + .75		8/10%

DECISION #UT78-5012 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Electricians (Cont'd):					
North section of Utah - Box Elder, Cache, Davis County (north to 41st Parallel), Morgan, Rich, Weber Counties (Cont'd):					
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Hwy. #87:					
Electricians; Technicians	$12.60	.70	3% + .75		8/10%
Cable Splicers	12.85	.70	3% + .75		8/10%
Zone 3-A: That area from a point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Hwy. #91:					
Electricians; Technicians	12.60	.70	3% + .75		8/10%
Cable Splicers	12.85	.70	3% + .75		8/10%
Zone 4: All other area west of Zones 3 and 3-A in Box Elder County:					
Electricians; Technicians	14.35	.70	3% + .75		8/10%
Cable Splicers	14.60	.70	3% + .75		8/10%
In the above Zones 2, 3, and 3-A, on any job or project not exceeding $200,000 electrical, labor and material including, Zone 1 rates shall apply.					

DECISION #UT78-5012 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers:					
Remaining Counties	$9.51	.51	.40	b+$1.12	
Laborers:					
Building Construction:					
Group 1	7.77	.50	.35		.04
Group 2	7.90	.50	.35		.04
Group 3	8.02	.50	.35		.04
Group 4	8.27	.50	.35		.04
Group 5	8.77	.50	.35		.04
Heavy and Highway Construction:					
	AREA 1	AREA 2			
Group 1	$7.77	$9.27	.50	.35	.04
Group 2	7.90	9.40	.50	.35	.04
Group 3	8.02	9.52	.50	.35	.04
Group 4	8.27	9.77	.50	.35	.04
Group 5	8.77	10.27	.50	.35	.04
Tunnel and Shaft Work:					
Group 1	7.92	9.42	.50	.35	.04
Group 2	8.02	9.52	.50	.35	.04
Group 3	8.22	9.72	.50	.35	.04
Group 4	8.67	10.17	.50	.35	.04

DECISION #WV78-3018 - Mod. #2
(43 FR - 25278 - June 9, 1978)
State of West Virginia excluding the Counties of Berkeley, Jefferson, & Morgan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers, Stone Masons, Marble Masons, Terrazzo Workers, & Tile Layers:					
Zone 3	9.65				
Electricians:					
Marion, Monongalia, Taylor, Preston, & Tucker Counties:					
Contracts under $12,000:					
Wiremen	5.50	.50	3%+1.02	1.52	.02
Contracts over $12,000:					
Wiremen	10.05	.50	3%+1.02	1.52	.02
Cable Splicers	10.20	.50	3%+1.02	1.52	.02
Hardy and Pendleton Counties:					
Contracts under $30,000:					
Wiremen	6.45	.50	3%		3/4%
Contracts $30,000 or more:					
Wiremen	10.20	.50	3%		3/4%
Glaziers:					
Area 1	10.73				
Laborers:					
Area 8					
Group 1	8.70	.70	.70		.10
Group 2	8.80	.70	.70		.10
Group 3	8.865	.70	.70		.10
Group 4	8.90	.70	.70		.10
Group 5	9.05	.70	.70		.10
Group 6	9.03	.70	.70		.10
Group 7					
50' to 100'	9.03	.70	.70		.10
100' to 150'	9.20	.70	.70		.10
over 150'	9.60	.70	.70		.10
Group 8	9.38	.70	.70		.10
Group 9	8.945	.70	.70		.10
Group 10	9.23	.70	.70		.10
Group 11	9.03	.70	.70		.10
Group 12	9.53	.70	.70		.10

DECISION #WV78-3018 - Mod. #2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Barbour, Doddriidge, Harrison, Lewis, Randolph. & Upshur Counties:					
Linemen & Equipment Operators	9.65	.50	3%+.52	2.02	½%
Cable Splicers	10.615	.50	3%+.52	2.02	½%
Groundmen & Truck Drivers	7.72	.50	3%+.52	2.02	½%
Painters:					
Area 2:					
An area with in 50 miles of Huntington, W.V.	9.02	.30	.35		.02
An area 50 miles and beyond of Hintington, W.V.	10.27	.30	.35		.02
Vinyl & all other wall covering; drywall taping -					
An area within 50 miles of Huntington, W.V.	9.52	.30	.35		.02
An area 50 miles and beyond of Huntingtod, W.V.	10.77	.30	.35		.02
Repaint work (limited to Public Schools) -					
An area within 50 miles of Huntington, W.V.	7.18	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	8.43	.30	.35		.02
Area 6:					
New Construction:					
Brush	9.06		.30		.01
Roller	9.32		.30		.01
Spray & Blast	10.08		.30		.01
Pot-men	10.08		.30		.01
Commercial Repaint:					
Brush	7.64		.30		.01
Roller	7.92		.30		.01
Paperhanger	9.06		.30		.01
Drywall	9.51		.30		.01
Spray, pot-men	10.08		.30		.01
Paper & vinyl hangers	9.06		.30		.01
Open structural steel	9.41		.30		.01
Drywall pointers & tapers	9.51		.30		.01
Liquid tile brush	9.83		.30		.01

DECISION #WV78-3018 - Mod. #2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters (continued)					
Stacks, vents pipes. flag poles, electrical, radio & T.V. towers & tanks over 30' high	10.01		.30		.01
Hydroject, steam cleaning & glove work	10.08		.30		.01
Operating mechanical taping machines	10.51		.30		.01
Truck Drivers:					
Area 6					
Group 1	8.50	s			
Group 2	8.51	s			
Group 3	8.55	s			
Group 4	8.58	s			
Group 5	8.60	s			
Group 6	8.83	s			
Group 7	9.13	s			
Group 8	9.23	s			
Area 7					
Group 1	8.11	.80	1.05		
Group 2	8.26	.80	1.05		
Group 3	8.46	.80	1.05		
Group 4	8.65	.80	1.05		
Group 5	8.89	.80	1.05		

FOOTNOTES:

s. Employer contributes $21.50 per week per employee.

STATE: Alabama COUNTY: Tuscaloosa
DECISION NO.: AL78-1069 DATE: Date of Publication
Supersedes Decision NO.: AL77-1140 dated November 25, 1977 in 42 FR 60551
DESCRIPTION OF WORK: Building Construction (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.
Bricklayers	9.35		.40		.05
Carpenters	8.50				.015
Cement masons	5.50				
Electricians	11.05	.55	3%+.40		½ of 1%
Glaziers	8.03	.50	.50		
Ironworkers	10.75	.60	.815		.06
Laborers:					
Laborers, unskilled	4.05	.20	.15		
Mason tenders	4.05	.20	.15		
Painters, brush	10.05		.70		
Plumbers	9.08				
Roofers	7.80	.20			.10
Sheet metal workers	10.05	.69	.82		.09
Soft floor layers	7.25				
Terrazzo workers	7.25				
Tile workers	8.25				
Truck drivers	8.25	.20			.05
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Bulldozers	7.69				
Cranes, derricks, draglines	7.40	.17			
Rollers	5.70				
Tractors	4.55				

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Bay
DECISION NUMBER: FL78-1073 DATE: Date of Publication
Supersedes Decision No.: FL75-1012 dated May 14, 1976 in 41 FR-20130
DESCRIPTION OF WORK: Building construction (excluding 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.
Bricklayers	5.00				
Carpenters	5.40				
Carpet layers	5.00				
Cement masons (finishers)	3.75				
Drywall hanger	6.00				
Electricians	10.27	.50	.3%		0.5%
Elevator constructors	8.65	.495	.32	4%+a+b	.02
Elevator constructors' helpers	6.04	.495	.32	4%+a+b	.02
Ironworkers	8.77	.30	.35		
Laborers:					
Laborers	2.98				
Plasterers tenders	3.50				
Painters	4.50				
Plasterers	6.00				
Plumbers & pipefitters	6.00				
Roofers	4.50				
Sheet metal workers	6.00				
Soft floor layers	3.50				
Sprinkler fitters	9.61	.50	.80		.10
Tile setters	5.00				
Welders - rate for craft to which welding is incidental					
POWER EQUIPMENT OPERATORS:					
Bulldozers	3.25				
Crane	3.75				
Forklift	3.25				

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTIES: CLAYTON, COBB, DEKALB, FULTON, & GWINNETT
DECISION NUMBER: GA78-1075 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA76-1033, dated February 27, 1976, in 41 FR 8642.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION - consisting of single family homes and garden type apartments up to and including 4 stories.

RESIDENTIAL CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING & HEATING MECHANICS	$ 6.28				
BRICKLAYERS	7.01				
CARPENTERS	6.35				
CEMENT MASONS	5.52				
DRYWALL FINISHERS	6.27				
DRYWALL HANGERS	6.35				
ELECTRICIANS	6.35	9%	11%		½ of 1%
IRONWORKERS	5.00				
LABORERS	4.07				
PAINTERS	6.27				
PLASTERERS	8.37				
PLUMBERS & PIPEFITTERS	6.40				
ROOFERS	5.85				
SHEET METAL WORKERS	6.35				
SOFT FLOOR LAYERS	6.35				
TILE SETTERS	8.50				
TILE SETTERS' FINISHERS	5.00				
TRUCK DRIVERS	4.07				
WELDERS - RATE FOR CRAFT.					
POWER EQUIPMENT OPERATORS:					
BACKHOE	5.48				
BULLDOZER	5.00				
FRONT END LOADER	5.32				

SUPERSEDEAS DECISION

STATE: GEORGIA

COUNTIES: CLAYTON, DEKALB, & FULTON

DECISION NO.: GA78-1077

DATE: DATE OF PUBLICATION

Supersedes Decision No. GA78-1016, dated April 7, 1978, in 43 FR 14834.

DESCRIPTION OF WORK: Building Construction (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	$10.40	.55	.75		.10
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS & STONE MASONS	9.60	.55	.50		.05
CARPENTERS, DRYWALL HANGERS, & RESILIENT FLOOR LAYERS	9.65	.50	.45		.02
CARPET LAYERS	7.70	.50	.45		.02
CEMENT MASONS	8.95	.40	.55		
ELECTRICIANS:					
Wiremen	10.45	9%	11%		½ of 1%
Cable splicers	11.35	9%	11%		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.595	.745	.56	4%+a+b	.035
Helpers	6.72	.745	.56	4%+a+b	.035
GLAZIERS	8.95	.70	.43	.75	.11
IRONWORKERS - Structural, Reinforcing, & Ornamental	9.60	.65	.57		.07
LATHERS	8.75	.40	.35		.05
LEAD BURNERS	10.75	.40	.25	c	.01
MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	9.45	.55	.50		
MARBLE, TILE, & TERRAZZO FINISHERS	6.40				
MILLWRIGHTS	9.90	.45	.50		.05
PAINTERS:					
Brush, roller, & drywall finishers	9.45	.55	.75		.05
Paperhangers	9.70	.55	.75		.05
Drywall taping (where pressurized tools are used), boatswain chair & window-jack work, all steel above 25' (where no scaffold is erected), & any scaffold above 25' (where not floored solid)	9.95	.55	.75		.05
Spray, steamcleaning, waterblasting, sandblasting, steeplejack work, gold leafing, stencil designing, & graining, marbelizing	10.45	.55	.75		.05

DECISION NO. GA78-1077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PILEDRIVERMEN	$ 9.80	.50	.45		.02
PLASTERERS	9.42	.40	.55		
PLUMBERS & PIPEFITTERS	10.75	.65	.50		.11
ROOFERS	7.45	.30	.20		
SHEET METAL WORKERS	10.20	.50	.81		.06
SPRINKLER FITTERS	10.35	.65	.95		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day, provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. GA78-1077

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$6.45	.20	.33		.05
Group 2	6.67	.20	.33		.05
Group 3	6.95	.20	.33		.05
Group 4	7.20	.20	.33		.05
Group 5	7.52	.20	.33		.05
Group 6 (25¢ above rate for classification under which employed)					

Group 1 - Batch plant man; buggy rollers (Ga.); cleaners, brick or lumber; clearing of right-of-way & building site (hand tools); concrete curer-sealer and liquid hardner; conveyor operator, used in tending plasterers & bricklayers; electricians laborer; excavator, backfiller, grader, hand; forklift operator, walk-type mech. used in tending plasterers and bricklayers; form oilers; form stripper; metal pan handler; plumber laborer; pipe doper; precast slab layer (floor, roofs, walks, curbs); puddlers, concrete; rail porter; railroad track laborer; reinforcing steel handler; scaffolds and staging for masons & plasterers, erecting & removing; scarifyer, concrete, mech. or hand; sheeting and shoring laborers; steam jennies, used in cleaning equipment; tenders (all crafts); tool room man; truck-spotter dumper; water boy; winch handler (manual); wrecking buildings & miscellaneous structures.

Group 2 - All tool operators: air, electric or gas powered, such as jackhamer, paving breaker, tampers, vibrator, spade, chipping hammer, & barco tamp.; bucket dump man, concrete; burner demolition work; chain saw operator; flagman; form setter, steel; mixer, mortar, cement grout clay, etc. (hand machine oper.); mortar mixer used in connection with hose for gypsum roofs, plastering, asbestos, fiber, soundproofing, etc.; mortorized post hole digger; power saw operator, concrete, outside building; steam cleaning machine operator; sewer pipe layer, yarner, wiper & pot man; slip form raiser, steel or wood, jack or screw type; wheelbarrow operator, motorized.

Group 3 - Powderman helper; wagon drill operator, track or wheel type and other equipment used in drilling for blasting.

Group 4 - Caisson work, hole man; tunnel laborer.

Group 5 - Nozzleman, concrete pneu.; powderman.

Group 6 - Chimneys or stacks, isolated.

DECISION NO. GA78-1077

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 9.10	.50	.75		.07
GROUP B	8.75	.50	.75		.07
GROUP C	7.08	.50	.75		.07
GROUP D	7.43	.50	.75		.07
GROUP E	6.53	.50	.75		.07
GROUP F	6.83	.50	.75		.07
GROUP G	5.86	.50	.75		.07

GROUP A: Backhoe operators, clamshell operator, conc. mix operator, cent, mix plant, conc. pump operator-Ridley or similar type, crane operator (truck, tower, crawler, or locomotive), derrick operator, dragline operator, drill operator-caisson foundation type, elevating grader operator, forklift operator that comes within the jurisdiction of the Operating Engineers hoisting engine operator, locomotive operator, mechanics-heavy duty, oilers on cranes with earth boring drill attached with a separate power source, concrete paving mixer operator, pile driver operator, rock crusher operator, shovel operator, trenching machine operator over 6 ft. depth capacity, well point system operator (including the operation of all pumps on project operated by the contractor) generator operator-75 K. VA. and over, tugger hoist operator, winch truck operator, hoisting material, air compressor operator, 365 C.F.M. and over furnishing air simultaneously for more than one contractor.

GROUP B: Bulldozer operator, dozer shovel operator, drill operator-Quarry master type, firemen-sationary or portable, motor grader operator, motor scraper operator (pans), pusher dozer operator, self-propelled compactor operator with blade, tractor operator with special equipment, trenching machine operator up to and including 6 ft. depth capacity.

GROUP C: Air compressor operator 600 cu. ft. and over, air compressor operator batt, of two, 300 cu. ft. and over, hydrohammer operator, concrete batch plant operator.

GROUP D: Oiler-grease truck, truck or locomotive crane.

GROUP E: Oiler-unspecified, pump operator over 4" up to batteries of 4, welding machine operator, batteries of 4 or more, portable, gasoline or diesel driven.

GROUP F: Concrete mixer operator skip types except paving mixers, concrete finishing machine operator, concrete paving machine operator, roller operator, well drill operator.

GROUP G: Air compressor operator up to and including 300 cu. ft. or one machine over 300 but less than 600 cu. ft. conveyor operator, belt type, sand blasting machine operator, water pump operator 4" or less. water pump operator over 4" (one only).

SUPERSEDEAS DECISION

STATE: Idaho
COUNTIES: Statewide
DECISION NUMBER: ID78-5120
DATE: Date of Publication
Supersedes Decision No. ID78-5017 dated April 7, 1978 in 43 FR 14841
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north half), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	$ 13.54	.51	$ 1.20		
Remaining Counties and Idaho County (south half)	11.21	.84	1.20		
BOILERMAKERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	12.025	1.075	1.00	.75	.02
Remaining Counties	11.825	1.075	1.00	.75	.02
BRICKLAYERS; Stonemasons:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties	11.15	.75	1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida & Power Cos.	11.05	.50	.50		
Benewah, Bonner, Boundary, Kootenai and Shoshone Counties	13.00				
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls Counties	9.90	.35	.40		
Clearwater, Idaho, Latah, Lewis, Nez Perce and Shoshone Counties	11.01	.65	.70		.04
CARPENTERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the northern boundary of Township #29 North), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Carpenters	11.59	.78	.85		.075
Piledrivermen; Sawfilers; Stationary power woodworking tool operator; Floor Layer; Floor Finisher; Floor Sander	11.74	.78	.85		.075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Carpenters (burned, charred, creosoted or similarly treated material); Boom Man	$ 11.84	.78	.85		.075
Millwrights and Machine Erectors	12.09	.78	.85		.075
Piledriver (creosoted material)	11.99	.78	.85		.075
Remaining Counties and Idaho County (south of the northern boundary of Township #29 North):					
*Zone 1:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator and Installer	10.15	.75	.70	.65	.10
Saw Filer; Piledrivermen; Bridgeman and Wharf Builders	10.32	.75	.70	.65	.10
Millwrights; Machine Erectors; Piledriverman's boom man	10.44	.75	.70	.65	.10
Zone 2:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator and Installer	11.40	.75	.70	.65	.10
Saw Filer; Piledriverman; Bridge and Wharf Builders	11.57	.75	.70	.65	.10
Millwrights; Machine Erectors; Piledrivermen's boom man	11.69	.75	.70	.65	.10

*For definition of Zones, see POWER EQUIPMENT OPERATORS - AREA 2.

CEMENT MASONS
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
Cement Masons	$10.93	$11.58	$11.83	$12.28	$12.73
Gunnite; Power Machine; Power Troweling Machine; Power Magnesite or other material with oxichloride base	11.08	11.73	11.98	12.43	12.88
Power Tools	11.38	12.03	12.28	12.73	13.18

FRINGE BENEFITS:

Health & Welfare	$ .75
Pensions	1.00
Apprenticeship Training	.05

Zone Pay

Zone 1: Area within a 15 mile radius from the center of the Cities listed below.

Zone 2: Area within 15 - 30 miles radius from the center of the Cities listed below.

Zone 3: Area withon 30 - 45 miles radius from the center of the Cities listed below.

Zone 4: Area within 45 - 90 miles radius from the center of the Cities listed below.

Zone 5: Area over 90 miles radius from the center of the Cities listed below.

Spokane Coeur d'Alene Lewiston

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Remaining Counties and Idaho County (south of 46th Parallel)					
*Zone 1:					
Cement Masons	$ 9.67	.84	.55	.80	.15
Power trowel; Power grinder; Gunnite and composition floor layer	9.87	.84	.55	.80	.15
Zone 2:					
Cement Masons	10.92	.84	.55	.80	.15
Power trowel; Power grinder; Gunnite and composition floor layer	11.12	.84	.55	.80	.15
*For Definition of Zones See POWER EQUIPMENT OPERATORS - AREA 2.					
ELECTRICIANS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Cos.:					
Electricians	11.35	.70	3%+.75		1%
Cable Splicers	12.485	.70	3%+.75		1%
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Electricians	13.47	.73	3%+.40		.02
Cable Splicers	13.87	.73	3%+.40		.02
Remaining Counties:					
Electricians; Technicians	11.70	.75	3%+.75		1%
Cable Splicers	12.87	.75	3%+.75		1%
ELEVATOR CONSTRUCTORS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Elevator Constructors	12.965	.745	.56	3%+a	.025
Elevator Constructors' Helpers	9.075	.745	.56	3%+a	.025
Elevator Constructors' Helpers (Prob.)	6.48				
Remaining Counties, except Adams, Lemhi, Valley and Washington Cos.:					
Elevator Constructors	10.555	.745	.56	3%+a	.025
Elevator Constructors' Helpers	7.39	.745	.56	3%+a	.025
Elevator Constructors' Helpers (Prob.)	5.28				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western part of County from a line running north and south through the eastern limits of the City of Bliss), Idaho County (southern part of County from a line running east and west through the north limits of Elk City), Owyhee, Payette, Valley and Washington Counties	$ 10.00	.35	.30		.10
Benewah, Clearwater, Idaho County (north of 46th Parallel), Latah, Lewis and Nez Perce Counties	9.53	.40	.35	b	
Bonner, Boundary, Kootenai, and Shoshone Counties	10.49	.35	.10	b+.43	
Remaining Counties	7.62	.21		b	
IRONWORKERS:					
Ornamental; Reinforcing; Structural:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	12.60	.93	1.45		.10
Those portions of Adams, Idaho, Valley and Washington Counties located south of the 46th Parallel and north of the Weiser-Gibbonsville Line	12.60	.93	1.45		.10
Remaining Counties and those portions of Adams, Idaho, Valley and Washington Counties located south of the Weiser-Gibbonsville Line	11.44	.70	1.25		.02
LATHERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	10.55	.75	1.00		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties	$ 11.15	.75	$ 1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida & Power Cos.	10.25	.50	.50		
Benewah, Bonner, Boundary, Kootenai and Shoshone Counties	13.00				
Clearwater, Idaho, Latah, Lewis and Nez Perce Counties	11.01	.65	.70		.04
PAINTERS:					
Ada, Adams, Boise, Canyon, Elmore (except Mt. Home AFB), Gem, Gooding (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley and Washington Counties:					
Painters and Tapers	8.75	.45	.30		.07
Elmore (Mt. Home AFB):					
Painters and Tapers	9.75	.45	.30		.07
Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except the City of Bliss and western third of County), Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton and Twin Falls Counties:					
Brush; Roller, Perfataper	8.76	.40	.30		.005
Structural Steel; Swing Stage; Spray	9.21	.40	.30		.005
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Brush	11.22	.40	.90		.02
Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle); Finish Drywall Taper	11.47	.40	.90		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Swing Stage; Over 30 ft. high	$ 11.57	.40	.90		.02
Bitumastic; Sand Blast; Bridge; Towers; Stacks; Steeples; Tanks on legs	11.62	.40	.90		.02
PLASTERERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	10.73	.75	1.00		
Remaining Counties	8.83	.74	.45	.70	
PLASTERERS' TENDERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	10.00	.82	.90		.05
PLUMBERS:					
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce and Shoshone Cos.	15.19	.85	1.26		.12
Remaining Counties and Idaho County (south of the 46th Parallel)	12.32	.79	1.10		.10
ROOFERS:					
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley and Washington Counties:					
Roofers; Kettlemen	9.25	.60	.30	.50	
Roofers working with coal tar and pitch products	11.25	.60	.30	.50	
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton Counties	9.15		.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (Cont'd)					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	$ 9.69	.60	.75		.02
SHEET METAL WORKERS:					
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power and Teton Counties	10.52	.41	.25+.22		.08
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	13.88	3%+.68	1.14		.14
Remaining Counties	10.94	.57	.52		.14
SOFT FLOOR LAYERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley and Washington Cos.	7.76	.49	.10		.10
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	10.52	.40	.60		
SPRINKLER FITTERS	11.83	.75	1.05		.08
TERRAZZO WORKERS & TILE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties	10.90	.75	1.10		
Bannock, Bear Lake, Bingham County (South half), Caribou, Franklin, Oneida and Power Cos.	10.25	.50	.50		
Benewah, Bonner, Boundary, Kootenai and Shoshone Counties	13.00				
Clearwater, Idaho, Latah, Lewis and Nez Perce Counties	10.75	.65	.70		

WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate for 6 months' to 5 years' service, to Vacation Plan. Six Paid Holidays: A through F.

b. All employees who have been employed for a period of one year shall have 2 weeks' vacation with pay. Also 7 Paid Holidays: A, B, C, E, F, plus Veterans' Day and the Day after Thanksgiving.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS: (AREA 1):					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Cable Splicers; Leadman Pole Sprayer	$ 13.29	.45	3%+.40	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	12.00	.45	3%+.40	.10	1/2%
Tree Trimmer	10.84	.45	3%+.40	.10	1/2%
Line Equipment Man	10.34	.45	3%+.30	.10	1/2%
Head Groundman (chipper); Head Groundman; Powderman; Jackhammer Man	9.04	.45	3%+.30	.10	1/2%
Groundman; Tree Trimmer Helper	8.50	.45	3%+.30	.10	1/2%

ZONE PAY:

Each classification will receive the base rate plus zone A - $1.25, Zone B - $2.00, Zone C - $2.75, Zone D - $4.00.

BASE ZONE - 0 to 3 miles from geographical center of towns listed below.
ZONE A - 3 to 20 miles radius from geographical center of towns listed below
ZONE B - 20 to 35 miles radius from geographical center of towns listed below
ZONE C - 35 to 50 miles radius from geographical center of towns listed below
ZONE D - in excess of 50 miles from geographical center of towns listed below

Spokane	Coeur d'Alene	Kellog
Orofino	Sand Point	Lewiston

LINE CONSTRUCTION WORKERS: (Cont'd) (AREA 2)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties:					
Lineman	$ 10.72	.45	3%+.35		1/2%
Line Equipment Mechanic:					
Base Shop	9.47	.45	3%+.35		1/2%
Right-of-way	10.14	.45	3%+.35		1/2%
Line Equipment Serviceman	9.47	.45	3%+.35		1/2%
Line Equipment Operator	9.63	.45	3%+.35		1/2%
Groundman	7.87	.45	3%+.35		1/2%
Cable Splicer	11.83	.45	3%+.35		1/2%
LABORERS: (AREA 1) Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Building Construction:					
Group 1	9.45	.82	.90		.05
Group 2	9.70	.82	.90		.05
Group 3	9.95	.82	.90		.05
Group 4	10.20	.82	.90		.05
Group 5-A	10.15	.82	.90		.05
Group 5-B	10.20	.82	.90		.05
Group 5-C	10.60	.82	.90		.05
Group 5-D	10.65	.82	.90		.05

LABORERS (AREA 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Heavy and Highway Construction

Group No.	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$9.45	$10.10	$10.35	$10.80	$11.25
2	9.70	10.35	10.60	11.05	11.50
3	9.95	10.60	10.85	11.30	11.75
4	10.20	10.85	11.10	11.55	12.00
5-A	10.15	10.80	11.05	11.50	11.95
5-B	10.20	10.85	11.10	11.55	12.00
5-C	10.60	11.25	11.50	11.95	12.40
5-D	10.65	11.30	11.55	12.00	12.45

FRINGE BENEFITS:

Health & Welfare	$.82
Pensions	.90
Apprenticeship Training	.05

Definition of Zones:

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 miles radius from the center of the Cities listed below

Zone 3: Area within 30-45 miles radius from the center of the Cities listed below

Zone 4: Area within 45-90 miles radius from the center of the Cities listed below

Zone 5: Area over 90 miles radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

LABORERS (AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Building, Heavy and Highway Construction

Group 1: Brush Hog Feeder; Concrete Crewman; Concrete Signalman; Crusher Feeder; Demolition; Dumpman; Fence Erector; Flagman; General Laborer; Grout Machine Header Tender; Nipper; Riprap Man; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural Mover; Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Track Laborer (RR); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Carpenter Tender; Cement Finisher Tender; Cement Handler; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Form Cleaning Machine, feeder, stacker; Form Setter, paving; Grade Checker using level; Jackhammer Operator; Nozzleman (squeeze and flo-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, corrugated metal Culvert; Pipelayer, multi-section; Pot Tender; Power Buggy Operator; Power Tool Operator, gas, electric, penumatic; Railroad equipment, power driven except dual mobile power spiker or puller; Railroad power spiker or puller, dual mobile; Rodder and Spreader; Sandblast Tailhoseman; Tamper; Trencher; Shawnee; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven

Group 3: Air Track Drill; Brush Machine; Caisson worker, free air; Chain Saw Operator and faller; Concrete Stack; Gunite; High Scaler; Hod Carrier; Laser Beam Operator; Monitor Operator, Air Track or similar mounting; Mortar Mixer; Nozzleman (jet blasting nozzleman, over 1200 lbs., jet blast machine power-propelled, sandblast nozzle); Pipelayer (working topman, caulker, collarman, jointer, mortarman, rigger, jacker, shorer, valve or meter installer); Pipewrapper; Vibrator, 4 inches and over

Group 4: Drills with dual masts; Powderman; Welder, electric, manual or automatic

TUNNEL AND SHAFT, Free Air

Group 5:

Class A: Bull Gang; Pump Crete Crewman, including distributing Pipe, Assembling and dismantle and Nipper; Concrete crewman; Dumpman

Class B: Brakeman; Finisher; Vibrator; Form Setter

Class C: Miner and Nozzleman for concrete and Laser Beam Operator on tunnels

Class D: Raise and Shaft Miner; Laser Beam Operator on raises and Shafts

LABORERS: (AREA 2)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Remaining Counties and Idaho County (south of the 46th Parallel)						
Group 1	$ 8.11	$ 9.36	.80	$ 1.17	.40	.10
Group 2	8.21	9.46	.80	1.17	.40	.10
Group 3	8.31	9.56	.80	1.17	.40	.10
Group 4	8.41	9.66	.80	1.17	.40	.10
Group 5	8.46	9.71	.80	1.17	.40	.10
Group 6	8.71	9.96	.80	1.17	.40	.10
Group 7	8.96	10.21	.80	1.17	.40	.10
Underground Work:						
Group 8	8.26	9.51	.80	1.17	.40	.10
Group 9	8.41	9.66	.80	1.17	.40	.10
Group 10	8.71	9.96	.80	1.17	.40	.10

ZONE PAY:

ZONE 1: Area located within 20 miles on either side of Interstate 80 North, from the Oregon-Idaho State Line on the west to the intersection of Interstate 80 North and Interstate 15 West in Cassia County; then following Interstate 15 West to Pocatello; then following Interstate 15 North to Idaho Falls; then following State Highway 191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg); then following Interstate 15 south through the City of Pocatello to a point approximately 1 mile south of the City of Downey, which point is located by extending the northerly boundary of Franklin County to the west.

ZONE 2: Remaining area of that portion of the State of Idaho south of Parallel 46 (Washington-Oregon State Line extended eastward toward Montana) that is not included in ZONE 1.

LABORERS (AREA 2)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: General Laborers; Sloper, clearing and grading; Form Stripper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Hopper Tender; Heater Tender; Stake Jumper; Choker Setter; Spreader and Weighman; Power Wheelbarrow; Scouring Concrete; Rip Rap Man (hand placed); Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Crusher Helper; Cribbing and Shoring (in open ditches); Machinery and Parts Cleaner; Leverman - manual or mechanical; Demolition - Salvage; Landscaper; Tool Room Man; Janitor

Group 2: Chuck Tender; Driller Helper; Air Tampers; Gunite Nozzleman Tender; Pipewrapper; Tar Pot Tender; Concrete Sawyer; Signalman, handling cement; Dumpman; Steam Nozzleman; Air and Water Nozzleman (Green Cutter, concrete); Vibrator (less than 4"); Pumpcrete and Grout Pump Crew; Hydraulic Monitor

Group 3: Pipelayer, including sewer, drainage, sprinkler systems and water lines; Free Air Caisson; Jackhammer; Paving Breaker; Powderman Helper; Asphalt Raker; Gasoline powered Tamper; Electric Ballast Tamper; Sand Blasting; Form Setter - airport paving; Gunman (gunite); Manhole Setter; Hand guided machines, such as Roto Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc.; Form Setter (highway - curb and gutter); Vibrator (4" and over); Timber Faller and Bucker; Metal Pan Installer

Group 4: Hod Carrier; Mason Tender; Plaster Tender; Mason Tender (concrete); Terrazzo-Tile Tender

Group 5: Highscaler; Wagon Drill; Grade Checker; Gunite Nozzleman

Group 6: Diamond Drills; Drillers on Drills with manufacturers' rating 3"

Group 7: Powderman

UNDERGROUND WORK

Group 8: Reboundman; Chucktender ; Nipper; Dumpman; Vibrator (less than 4"); Brakeman; Mucker; Bullgang

Group 9: Form Setter and Mover

Group 10: Miners; Machinemen; Timbermen; Steelmen; Drill Doctors; Spaders and Tuggers; Spilling and/or Caisson Workers; Vibrator (over 4")

POWER EQUIPMENT OPERATORS (AREA 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group No.	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$9.80	$10.45	$10.70	$11.15	$11.60
2	10.10	10.75	11.00	11.45	11.90
3	10.65	11.30	11.55	12.00	12.45
4	10.80	11.45	11.70	12.15	12.60
5	10.95	11.60	11.85	12.30	12.75
6	11.20	11.85	12.10	12.55	13.00
7	11.45	12.10	12.35	12.80	13.25

FRINGE BENEFITS:

Health and Welfare	$1.10
Pensions	1.30
Apprenticeship Training	.03

ZONE PAY

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 miles radius from the center of the Cities listed wbelow

Zone 3: Area within 30-45 miles radius from the center of the Cities listed below

Zone 4: Area within 45-90 miles radius from the center of the Cities listed below

Zone 5: Area over 90 miles radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

POWER EQUIPMENT OPERATORS (Area 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors, under 2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Drillers' Helper; Fireman and Heater Tender; Grade Checker; Helper (mechanic or welder, H.D.); Oiler; Oiler and Cable Tender; Mucking Machine; Pumpman; Roller, all types on Subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer (asphalt); Bagley or stationary Scraper; Batch Plant and Wet Mix Operator, single unit (Concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more - gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker (Hydra-hammer and similar); Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator, (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (Pipeline); Concrete Pumps (squeeze-crete, flow-crete, pumpcrete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevatong Grader-type Loader (Dumor, Admas, or similar); Equipment Serviceman, Greaser and Oiler; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loaders (overhead and front-end under 4 yds., R/T); Locomotive Engineer; Mixermobile; Mucking Machine; Paver or Curb Extruder (asphalt and concrete); Pump (Grout or Jet); Rollerman (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yds.); Screed Operator; Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (crawler including Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing Machine; Trenching machines (under 7 ft. depth capacity); Turnhead Operator; Vacuum Drill (reverse circulation drill, under 8")

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the I46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group 4: Asphalt Plant Operator; Crusher; Grizzle and Screening Plant Operator; H.D. Mechanic; H.D. Welder; Refrigeration Plant Engineer (under 1,000 tons); Rubber-tired Scraper, Multi-engine power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scraper, one motor with one scraper (40 yards and over); Surface Heater and Planer Machine; Turnhead (with re-screening)

Group 5: Automatic Subgrader (ditches and trimmers) (Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoe (under 3 yards); Batch and Wet Mix Operator - multiple units (2 and including 4); Chipper (with crane); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes all (under 65 tons); Derricks and Stiffleg (under 65 tons); Draglines (under 3 yds.); Drilling Equipment (8" bit and over) (Robbin's Reverse Circulation and similar); Loader Operator (Front End and Overhead 4 yds. to 8 yds.); Piledriving Engineers; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, multi-engine, power with one scraper (Euclid, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with two scrapers; Shovels (under 3 yds.); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 ft. depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yds. and over); Cranes, all - 65 tons and over; Derricks and Stiffleg (65 tons and over); Draglines (3 yds. and over); Elevating Belt (Holland type); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (overhead and front-end over 8 yds. to 12 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. and over); Tower Crane; Whirleys and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (AREA 2)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties and Idaho County (south of the 46th Parallel)	ZONE 1	ZONE 2				
Group 1	$ 9.56	$10.81	1.00	$ 1.00		.10
Group 2	9.72	10.97	1.00	1.00		.10
Group 3	10.09	11.34	1.00	1.00		.10
Group 4	10.40	11.65	1.00	1.00		.10
Group 5	10.57	11.82	1.00	1.00		.10
Group 6	10.75	12.00	1.00	1.00		.10
Group 7	11.11	12.36	1.00	1.00		.10
Group 8	11.34	12.59	1.00	1.00		.10
Group 9	11.57	12.82	1.00	1.00		.10
Group 10	11.81	13.06	1.00	1.00		.10

Definitions of Zones:

Zone 1: Area located within 20 miles on either side of Interstate 80 North, from the Oregon-Idaho State Line on the west to the intersection of Interstate 80 North and Interstate 15 west in Cassia County; then following Interstate 15 west to Pocatello; then following Interstate 15 North to Idaho Falls; then following State Highway 191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg); then following Interstate 15 South through the City of Pocatello to a point approximately 1 mile south of the City of Downey, which point is located by extending the northerly boundary of Franklin County to the west.

Zone 2: Remaining area of that portion of the State of Idaho south of Parallel 46 (Washington-Oregon State Line extended eastward toward Montana) that is not included in Zone 1.

POWER EQUIPMENT OPERATORS (Area 2)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Brakemen; Crusher; Plant Feeder (mechanical); Deckhand; Drill Helpers; Grade Checkers; Heater Tender; Land Plane; Oilers; Pumpman

Group 2: Air Compressor; Assistant Refrigeration Plant Operator; Bell Boy; Bit Grinder; Blower Operator (Cement); Bolt Threader Machine Operator; Broom; Cement Hog; Concrete Mixer; Concrete Saw - multiple cut; Discing - harrowing or mulching (regardless of motive power); Distributor Leverman; Drill Steel Threader Machine Operator; Fireman - all; Heavy Duty Mechanic Helper or Welder Helper; Hoist - single drum; Hydraulic Monitor Operator - skid mounted; Oiler (single piece of equipment); Pugmixer - box or screed Operator; Spray Curing Machine; Tractor - rubber-tired farm type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Ross Carrier, Hyster on construction jobs); Battery Tunnel Locomotive; Belt Finishing Machine; Cable Tenders (underground); Chip Spreader Machine (self-propelled); Hoist, 2 or more drums or Tower Hoist; Hydralift - Fork Lift and similar (when hoisting); Oiler (underground); Power Loader (Bucket Elevator, Conveyors); Road Roller (regardless of motive power)

Group 4: Boring Machine (earth or rock) (Quarry Master - Joy) (Tractor mounted); Drills: Churn - Core - Calyx or Diamond; Front End and Overhead Loaders and similar machines - (up to and including 4 yds.) - (rubber-tired); Grout Pump; Hydrahammer; Locomotive Engineer; Longitudinal Float Machine; Mixermobile; Spreader Machine; Tractor - rubber-tired - using Backhoe, Transverse Finishing Machine, Trenching Machine, Waggoner Compactor and similar, Asphalt Spreaders

POWER EQUIPMENT OPERATORS (AREA 2) (CONT'D)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 5: Concrete Plant Operator; Concrete Road Paver (dual); Elevating Grader Operator; Euclid Elevating Loader; Generator Plant Operator - mechanic (diesel - electric); Post Hole Auger or Punch Operator; Power Shovels and Draglines - under 1 yard; Pump-crete; Refrigeration Plant Operator; Road Roller (Finishing High type Pavement); Skidder - rubber-tired; Subgrader; Multiple Station Beltline Operator (Teton Dam Project Only); Service Oiler

Group 6: Asphalt Pavers - self-propelled; Asphalt Plant Operator; Blade Operator (motor patrol); Concrete Slip Form Paver; Cranes up to and including 50 ton; Crusher Plant Operator; Derrick Operator; Drilling Equipment (Bit under 8 inches)(Robbins Reverse Circulation and similar); Front End and Overhead Loaders and similar machines (over 4 yds. to and including 7 yds.); Koehring Scooper; Heavy Duty Mechanic or Welder; Mucking Machine (undeground); Multi-batch Concrete Plant Operator; Piledriver Engineer; Power Shovels and Draglines (1 yd. to and including 3½ yds.); Tower Crane Operator; Tractor - Crawler type - including all attachments; Refrigeration Plant Operator (over 1,000 tons); Trimmer Machine Operator; Tournapulls - Euclid and similar - to and including 40 yds.

Group 7: Cableway Operator; Continuous Excavator (Barber Greene WL-50); Cranes - over 50 ton; Dredges; Drilling Equipment (Bit 8 inches and over) (Robbins Reverse Circulation and similar); Fine Grader - CMI or Equivalent; Front End and Overhead Loaders and similar machines (over 7 yds.); Power shovels and Draglines (over 3½ yds.); Quad type tractors with all attachments; Tournapulls Euclid and similar - over 40 yds. to and including 50 yds.; Multiple Scraper Units

Group 8: Tournapulls - Euclid and similar - over 50 yds. to and including 75 yds.

Group 9: Tournapulls - Euclid and similar - over 75 yds. to and including 100 yds.

Group 10: Tournapulls - Euclid and similar - over 100 yds.

TRUCK DRIVERS (AREA 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group No.	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$10.98	$11.63	$11.88	$12.33	$12.78
2	11.02	11.67	11.92	12.37	12.82
3	11.08	11.73	11.98	12.43	12.88
4	11.17	11.82	12.07	12.52	12.97
5	11.38	12.03	12.28	12.73	13.18
6	11.42	12.07	12.32	12.77	13.22
7	11.48	12.13	12.38	12.83	13.28
8	11.52	12.17	12.42	12.87	13.32
9	11.63	12.28	12.53	12.98	13.43
10	11.67	12.32	12.57	13.02	13.47
11	11.98	12.63	12.88	13.33	13.78
12	12.12	12.77	13.02	13.47	13.92
13	12.28	12.93	13.18	13.63	14.08
14	12.42	13.07	13.32	13.77	14.22

FRINGE BENEFITS:

Health and Welfare	$ 1.07
Pensions	.80

Definitions of ZONES:

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 mile radius from the center of the Cities listed below

Zone 3: Area within 30-45 mile radius from the center of the Cities listed below

Zone 4: Area within 45-90 mile radius from the center of the Cities listed below

Zone 5: Area over 90 mile radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

TRUCK DRIVERS (AREA 2) Remaining Counties and Idaho County (South of the 46th Parallel)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Group 1	$ 9.18	$10.43	.85	.75	.60	.10
Group 2	9.24	10.49	.85	.75	.60	.10
Group 3	9.30	10.55	.85	.75	.60	.10
Group 4	9.36	10.61	.85	.75	.60	.10
Group 5	9.41	10.66	.85	.75	.60	.10
Group 6	9.67	10.92	.85	.75	.60	.10
Group 7	9.73	10.98	.85	.75	.60	.10
Group 8	9.79	11.04	.85	.75	.60	.10
Group 9	9.90	11.15	.85	.75	.60	.10
Group 10	9.96	11.21	.85	.75	.60	.10
Group 11	10.02	11.27	.85	.75	.60	.10
Group 12	10.08	11.33	.85	.75	.60	.10
Group 13:						
Class A	9.56	10.81	.85	.75	.60	.10
Class B	9.77	11.02	.85	.75	.60	.10
Class C	9.90	11.15	.85	.75	.60	.10
Class D	10.08	11.33	.85	.75	.60	.10
Class E	10.19	11.44	.85	.75	.60	.10
Class F	10.31	11.56	.85	.75	.60	.10
Class G	10.59	11.84	.85	.75	.60	.10
Class H	10.82	12.07	.85	.75	.60	.10
Class I	11.05	12.30	.85	.75	.60	.10
Group 14	10.74	11.72	.85	.75	.60	.10

Definitions of Zones:

Zone 1: Area located within 20 miles on either side of Interstate 80 North, from the Oregon-Idaho State Line on the west to the intersection of Interstate 80 North and Interstate 15 west in Cassia County; then following Interstate 15 west to Pocatello; then following Interstate 15 North to Idaho Falls; then following State Highway 191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg); then following Interstate 15 South through the City of Pocatello to a point approximately 1 mile south of the City of Downey, which point is located by extending the northerly boundary of Franklin County to the west.

Zone 2: Remaining area of that portion of the State of Idaho south of Parallel 46 (Washington-Oregon State Line extended eastward toward Montana) that is not included in Zone 1.

TRUCK DRIVERS (AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. and under; Fuel Truck Driver (steam cleaner and washer); Helper and Swamper; Leveeperson loading trucks at bunkers; Pickup hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck 1,800 gallons and under

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flaherty Spreader, Box Driver, Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, bootperson, leverperson helper); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Trucks, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); water Tank Truck (over 6,001 to 8,000 gallons)

Group 7: Dumptor (over 6 yds.); Transit Mixers and Trucks hauling Concrete (6 yds. to 10 yds.); Trucks, side, end and bottom dump (over 12 yds. including 20 yds.)

Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 to 10,000 gallons)

TRUCK DRIVERS (AREA 1) (CONT'D)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group 9: Transit Mixers and Trucks hauling concrete, (10 yds. to 15 yds.); Trucks, side, end and bottom dump (over 20 yds. including 30 yds.) Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yds. to 20 yds.); Trucks, side, end and bottom dump (over 30 yds. to 40 yds.); Water Tank Truck (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds); Trucks, side, end and bottom dump (over 40 yds. to 50 yds.)

Group 13: Truck, side, end and bottom dump (over 50 yds. to 100 yds.)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yds.)

TRUCK DRIVERS (AREA 2)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Leverman loading at Bunkers; Pilot Car or Escort Driver

Group 2: Flat Bed - 2 axle and pickup hauling materials; Water Tank Truck (1,800 gallons and under); Fork Lift (3,000 and under)

Group 3: Flat Bed - 3 axle; Fuel Truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggymobile; Man Haul (Shuttle Truck or Bus)

Group 4: Transit Mix Truck - 3 yds. and under; Truck Helpers; Slurry or concrete pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 4,000 gallons); Semi-trailer - Low Boy - up to 96,000 lbs. GVW; Bulk Cement Tanker - up to 96,000 lbs. GVW; Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift); Ross, Hyster and similar straddle equipment; "A" Frame Truck (Sewdish Crane, Iowa 3,000, Hydro-lift)

TRUCK DRIVERS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 6: Transit Mix Truck, over 3 yds. - 6 yds.

Group 7: Water Tank Truck - (over 4,000 gallons); Fuel Truck - over 1,000 gallons; Distributor or Spreader Truck

Group 8: Transit Mix Truck - over 6 yds. - 8 yds.; Dumptors; Field Tireman; Serviceman

Group 9: Transit Mix Truck - over 8 yds. to 10 yds.; Snow Plow (Truck mounted)

Group 10: Low Boy - 96,000 lbs. GVW and over; Bulk Cement Tanker - 96,000 lbs. GVW and over

Group 11: Transit Mix Truck - over 10 yds.

Group 12: Turnarocker and similar equipment

Group 13: Truck - side, end and bottom dump
Class A: 6 yds. and under
Class B: Over 6 yds. - including 12 yds.
Class C: Over 12 yds. - including 20 yds.
Class D: Over 20 yds. - including 30 yds.
Class E: Over 30 yds. - including 40 yds.
Class F: Over 40 yds. - including 50 yds.
Class G: Over 50 yds. - including 75 yds.
Class H: Over 75 yds. - including 100 yds.
Class I: Over 100 yds.

Group 14: Truck Mechanic

SUPERSEDEAS DECISION

STATE: South Dakota
DECISION NUMBER: SD78-5126
COUNTIES: Meade & Pennington
DATE: Date of Publication
Supersedes Decision No. SD78-5023 dated April 21, 1978, in 43 FR 17239
DESCRIPTION OF WORK: Building construction (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	$11.44	.50	1.00		
Boilermakers	12.30	.85	1.00		.02
Bricklayers, stonemasons	10.25		.30		
Carpenters:					
Carpenters, acoustical & drywall applicators	10.26	.30			.05
Piledrivermen	10.51	.30			.05
Millwrights	10.76	.30			.05
Cement Masons	8.90	.35	.40		
Electricians:					
Within 15 mile radius of Rapid City post office					
Electricians	10.30	.40	3%	6%	4%
Cable Splicers	10.85	.40	3%	6%	4%
Within 15 to 35 miles radius of Rapid City post office					
Electricians	10.70	.40	3%	6%	4%
Cable Splicers	11.25	.40	3%	6%	4%
Outside 35 miles radius of Rapid City post office					
Electricians	11.80	.40	3%	6%	4%
Cable Splicers	12.35	.40	3%	6%	4%
Ironworkers	11.05	.70	1.25		.25
Laborers:					
Laborers; power tool operator (all mechanical, air, gas, or electric tools, including self-propelled buggies, wagon and air track drills); pipelayer (nonmetallic); sandblasting	6.62	.50	.15		
Mortar mixer, mason tender, plaster tender	6.77	.50	.15		
Gunnite nozzleman, powderman, miner, timberman	7.12	.50	.15		
Painters:					
Brush	7.79				
Spray	8.29				
Tapers	8.04				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers	$9.25				
Plumbers, steamfitters	10.28	.65	.60		.03
Sheet Metal Workers	10.60				.005
Sprinkler Fitters	10.55	.75	1.05		.08
Riggers, Welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.					

federal register

FRIDAY, SEPTEMBER 8, 1978
PART IV

DEPARTMENT OF ENERGY

Office of Energy Conservation and Solar Application

■

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking and Public Hearing Regarding Sampling Requirements of Appliance Test Procedures

[3128-01]

DEPARTMENT OF ENERGY

Office of Energy Conservation and Solar Application

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking and Public Hearing Regarding the Sampling Requirements of Appliance Test Procedures

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy proposes to amend its test procedures for appliances in order to prescribe sampling provisions applicable to any appliance testing required under the Energy Policy and Conservation Act relating to representations respecting the energy consumption of, or cost of energy consumed by, appliances and relating to the labeling of appliances. The test procedures are a part of the energy conservation program for appliances established under the Act and are intended to provide standard methods of determining energy consumption for appliances covered by the program. The Department of Energy will be working closely with the Federal Trade Commission in prescribing these sampling provisions.

DATES: Comments by November 1, 1978. Requests to speak by September 19, 1978; hearing to commence on October 10, 1978.

ADDRESSES: Comments, requests to speak at the hearing, and statements to: Christopher Keller, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. Hearing to be held at: 9 a.m., in Room 332 of the Federal Trade Commission, Pennsylvania Avenue at Sixth Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, Office of Consumer Products, Department of Energy, Room 2243, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4815.

Jim Merna, Media Relations, 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Robert Mussler, Office of the General Counsel, 12th and Pennsylvania Avenue NW., Room 7148, Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

A. Background

Title III, part B, of the Energy Policy and Conservation Act ("Act") (42 U.S.C. 6291 et seq.) establishes an energy conservation program for appliances ("program"). The program is designed to encourage manufacturers to produce, and consumers to purchase, significantly more energy efficient home appliances. The Act divides major responsibilities for accomplishing these goals between the Department of Energy ("DOE") and the Federal Trade Commission ("FTC"). Section 323 of the Act directs DOE to develop the test procedures for the program. Section 324 directs FTC to prescribe appliance labeling rules which, through use of the infomation derived from performing the DOE test procedures, will provide consumers with information regarding energy consumption which will be of assistance in making purchasing decisions. The FTC also has enforcement responsibility with respect to the conformance of representations respecting energy consumption and energy costs with the requirements of section 323(c) of the Act.

Section 323(b)(1) requires that the test procedures prescribed by DOE not be unduly burdensome to conduct. DOE has recognized that manufacturers cannot reasonably be required to test each individual unit which they produce. Therefore, DOE has proposed and promulgated test procedures for each type of appliance covered by the program (sometimes referred to as "covered product") which include sampling provisions designed both to maximize the confidence with which test results of units actually tested can be applied to similar units not tested and to minimize the testing burden on manufacturers.

Since only the program aspect concerning representations subject to section 323(c) was operative at the time final test procedures were prescribed, DOE promulgated sampling provisions (10 CFR 430.24), applicable only to testing in connection with the representations subject to section 323(c). In so doing, DOE recognized the eventual necessity of amending the test procedures to prescribe sampling provisions for other aspects of the applicance program as those other aspects became operative.

On July 14, 1978, FTC issued proposed labeling rules for covered products under section 324 ("Rules for Using Energy Cost and Consumption Information in Labeling and Advertising of Consumer Appliances under the Energy Policy and Conservation Act," 43 FR 31806, July 21, 1978). To complete the test procedures upon which these FTC rules will be based, DOE is today proposing to amend its test procedures by adding § 430.23 to specify sampling provisions which will be applicable to both relevant program aspects, i.e. labeling under section 324 of the Act and representations under section 323(c) of the Act. Accordingly, § 430.24 is proposed to be deleted since its provisions are covered by the new § 430.23, except that a still operative provision of § 430.24 relating to ranges and ovens is being moved to the ranges and ovens test procedure appendix where it more appropriately belongs.

B. Proposed Amendment

The provisions proposed today are statistically identitical in substance to the sampling provisions already promulgated at 10 CFR 430.24 applicable to testing in connection with representations subject to section 323(c) of the Act. As described later in this notice, however, DOE is considering other sampling approaches and is interested in receiving comments on alternative methods of sampling.

Proposed § 430.23 is intended to provide an acceptable level of assurance that test results are applicable to all units of a basic model, without creating an undue testing burden for manufacturers. This sampling approach, described by "two-sided confidence limits," places both upper and lower limits on the range or interval in which the true mean is likely to be found. The benefit of the two-sided method is to maximize the precision of any representations respecting energy consumption. Under this approach any represented value for energy consumption must, with a specified degree of certainty, fall within a specific range which includes the true mean.

C. Alternative Method

One alternative sampling approach under consideration be DOE is described by "one-sided confidence limits." The one-sided method places either an upper limit or a lower limit on the range or interval in which the true mean is likely to be found. This method offers added flexibility by allowing for the testing of fewer units and, therefore, reduced testing costs.

The following provision pertaining to electric refrigerators and electric refrigerator-freezers is representative of the provisions which might be prescribed if one-sided confidence limits were adopted.

(1) When testing of any electric refrigerator or electric refrigerator-freezer is required to comply with section 323(c) of the Act or to comply with rules prescribed under section 324 of the Act, the represented value of any measure of energy consumption of a basic model which has been sampled and tested in accordance with this subpart shall be, in the case of a measure of energy consumption for which consumers would favor lower values, no lower than the the adjusted sample mean, and, in the case of a measure of energy consumption for which consumers would favor higher values, no higher than the adjusted sample mean. The adjusted sample mean shall be deter-

mined in accordance with paragraph (2) of this section.

(2) The adjusted sample mean shall be the value for which the following statement can be made.

(i) For estimated annual operating cost, energy consumption, or other measure of energy consumption for which consumers would favor lower values, there is 97½ percent confidence that the true mean of such measure of the basic model is not greater than 110 percent of the adjusted sample mean.

(ii) For energy factor, or other measure of energy consumption for which consumers would favor higher values, there is 97½ percent confidence that the true mean of such measure of the basic model is not less than 90 percent of the adjusted sample mean.

(3) In no case shall the represented energy factor, or other measure of energy consumption for which consumers would favor higher values, be greater than the sample mean. In no case shall the represented value of estimated annual operating cost, energy consumption, or other measure of energy consumption for which consumers would favor lower values, be less than the sample mean of such measure.

If the number of units tested is small, it is likely that the sampling provision will not be satisfied if the sample mean is used as the measure of energy consumption. In lieu if the sample mean, the adjusted sampled mean would be determined by statistical methods such that the requirements of paragraph 2(i) or 2(ii), as appropriate in the example above, are satisfied. An adjusted sample mean for a measure of efficiency would be less than the sample mean. An adjusted sample mean for energy consumption or estimated annual operation cost would be greater than the sample mean. Under this approach, if a manufacturer believed that advertising the higher energy consumption, higher estimated annual operating cost, or lower efficiency would place his product at a competitive disadvantage, he could test more units and probably arrive at more favorable energy consumption data. The manufacturer further has the option to use values for measures of energy consumption which consumers would consider less favorable as compared to both the sample mean and the adjusted sample mean.

In using either the one-sided or two-sided confidence limits, the number of units to be tested for any given basic model will be identical if the one-sided confidence limits are based on appropriately higher confidence levels. Accordingly, for electric refrigerators and electric refrigerator-freezers the contemplated one-sided confidence statement specifies 97½ percent confidence whereas the two-sided confidence statement of § 43.024 specifies 95 percent confidence. These distinct sampling plans will require the same number of units to be tested if the sample means are to be used for measures of energy consumption. The one-sided confidence limits, however, provide manufacturers the option of testing fewer units and using adjusted measures of energy consumption which differ from the sample means.

When applied to other consumer products covered by the appliance program, this alternative method of sampling might also specify 97½ percent confidence levels wherever 95 percent confidence levels were specified in § 430.24. Similarly, this alternative method may specify 95 percent confidence levels wherever 90 percent confidence levels were specified in § 430.24. By constructing one-sided confidence limits in this manner, the number of units to be tested will be unchanged if the manufacturer uses sample means as measures of energy consumption.

Documents entitled "Determining the Number of Units to be Tested for Sampling Methods Employing a Two-Sided Confidence Statement" and "Determining the Number of Units to be Tested for Sampling Methods Employing a One-Sided Confidence Statement" have been prepard by DOE to provide a detailed technical explanation of the sampling methods under consideration. Copies are available upon request by contacting James A. Smith, Office of Consumer Products, Department of Energy, Room 2243, 20 Massachusetts Avenue NW., Washington, D.C. 20545, telephone 202-376-4815.

In addition, DOE will hold a briefing on the sampling aspects of its appliance test procedures and related topics on September 18, 1978. This briefing will include methods of computing the number of units to be tested and a review of the types of information which would better enable DOE to resolve any issues raised by the sampling proposal. Attendees will have an opportunity to ask question of DOE representatives.

The briefing will begin at 9 a.m., September 18, 1978, at 2000 M Street NW., Room 2105, Washington, D.C. 20461.

D. Comments on the Testing Burden and the Reliability of Measures of Energy Consumption for Electric Refrigerators, Electric Refrigerator-Freezers and Freezers

On September 8, 1977, DOE prescribed test procedures for electric refrigerators and electric refrigerator-freezers, and freezers (42 FR 46140, September 14, 1977). Those test procedures included the following provisions applicable to representations regarding energy consumption:

§ 430.24 Representations regarding measures of energy Consumption.

(a) *Refrigerators and refrigerator-freezers.* (1) Except as provided in paragraph (a)(3) of this section, no manufacturer, distributor, retailer, or private labeler of electric refrigerators or electric refrigerator-freezers may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(a) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption, there is 95 percent confidence that the true mean of such measures of the basic model lies within ±10 percent of the mean of such measures of the sample.

Section 430.24(b) established the same statistical sampling requirements for freezers. Following the prescription of these provisions, DOE received comments from industry groups stating that the sampling requirements of § 430.24 (a) and (b) render these test procedures unduly burdensome.

Based on the information presently available, DOE has determined that the degree of burden imposed by the sampling requirements that appeared in § 430.24 (a) and (b) merits further analysis. For this reason comments are specifically solicited to assist in DOE's analysis of the need for modifying the sampling requirements, and to invite public participation in the identification of alternative sampling parameters for these particular products. Supporting data, when possible, should accompany any comments submitted. Comments are specifically requested on the following areas of interest:

1. What period of time is needed to reach temperature equilibrium and perform the measurements required by section 3 of appendix A1 to 10 CFR Part 430, Subpart B for each different setting of the temperature controls and antisweat heater switch?

2. How many different settings of the temperature controls and antisweat heater switch are necessary to test a unit of each basic model according to section 3 of appendix A1 to 10 CFR Part 430, Subpart B?

3. For manufacturers submitting comments, how many basic models do you currently produce? List the volume and type of defrost system for each basic model.

4. How frequently are new basic models brought into production, including those resulting from modification of existing basic models? For manufacturers submitting comments, provide a listing and brief description of new basic models which you have introduced during the previous 3 years, and those which you expect to introduce during the next 2 years. The description should relate volume, type of defrost system and energy consuming characteristics which distinguish the new basic model from earlier basic models.

5. For manufacturers submitting comments, how many refrigerators

and refrigerator-freezers, and how many freezers, can the test facilities you use accommodate at any one time under the test conditions specified in the Federal test procedures?

6. Under the Federal test procedures as prescribed, how many units of each basic model would be needed to satisfy each of the following sampling requirements:

a. 95 percent confidence with ±10 percent tolerance on the mean,
b. 95 percent confidence with ±20 percent tolerance on the mean,
c. 90 percent confidence with ±10 percent tolerance on the mean?

For manufacturers submitting comments, what would be the cost of testing all your basic models using the Federal test procedures, under each of these sampling alternatives? Itemize and describe the methodology by which costs are determined.

7. The test methodology contained in the Federal test procedures is identical to the test methodology described in the Association of Home Appliance Manufacturers (AHAM) Standard HRF-2-ECFT. Are there any reasons why the data base previously gathered by manufacturers to support the AHAM certification program could not be used in fulfilling the sampling requirements of the Federal test procedurers? If so, explain.

8. To what extent do the Federal test procedures require additional testing compared to either the AHAM certification program or manufacturers' own testing programs? Describe any additional testing, the cost of such testing, and the methodology by which costs are determined.

E. Comments on Testing Burden and the Reliability of Measures of Energy Consumption for Covered Products Other Than Electric Refrigerators, Electric Refrigerator-Freezers, and Freezers

DOE is presently reviewing the need, if any, for modifying the sampling requirements to either lessen the testing burden or improve the accuracy of measures of energy consumption. Comments will be considered which address the need for modifying the sampling requirements. Supporting data, when possible, should accompany any comment submitted.

Comments are specifically requested on: The time required to test one unit, the frequency of introducing new basic models, the number of units of each basic model which would be tested to satisfy sampling provisions empoying any modified sampling parameters, the extent that existing test results can be used to fulfill the requirements of Federal programs, and the extent of testing beyond the level previously conducted to support programs either administered by trade associations or conducted for manufacturers' own purposes. For manufacturers submitting comments, comments are specifically requested on: The number of basic models the commenter currently produces, the energy-consuming characteristics or features that distinguish the commenter's basic models, the capacity of test facilities used by the commenter, and the cost of testing all the commenter's basic models (including an itemization and description of the methodology by which costs are determined).

F. Public Comment and Hearing Procedures

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed sampling provisions set forth in this notice to Christopher Keller, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. Comments should also address, if applicable or appropriate, any alternative sampling approaches, including the one discussed in paragraph C of this preamble.

Because the FTC and DOE proposals are interrelated, it is likely that may interested parties will wish to comment on both proposals. Consequently, for the convenience of these parties and in order to provide a comprehensive basis for analyzing both proposals, FTC will receive all comments and will provide copies of all comments to DOE.

The comment period for the DOE proposal will end after the comment period for the FTC proposal ends. Therefore, until the close of the FTC comment period, September 19, 1978, all comments should be identified on both the document and the envelope as "Consumer Appliances Rulemaking Comment." After the close of the FTC comment period on September 19, 1978, comments should be limited to the DOE proposal but should still be submitted to the FTC and identified as "Consumer Appliances Rulemaking Comment—Test Procedure Sampling." All comments received by the FTC by (60 days from date of publication) an other relevant information will be considered by DOE before final action is taken on the proposed regulation. All comments should be furnished when possible in five copies.

Also, there will be a single public hearing on the two proposals, with commenters having an opportunity to comment on either or both of the proposals. The hearing will be conducted by the FTC, in accordance with the hearing procedures set out in the FTC proposals at 43 FR 31847-48, with appropriate DOE participation.

The public hearing will commence at 9 a.m. on October 10, 1978, in room 332 of the Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C.

G. Environmental and Significance Review

As required by section 7(c)(2) of the FEA Act, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires DOE to assess the environment impacts of any proposal issued by the Department for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the energy conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quality or distribution of energy usage, DOE has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, DOE has determined that, with respect to the prescribing test procedures under the energy conservation program for appliances, no environmental impact statement is required.

DOE recently published a proposal (43 FR 18634, May 1, 1978) for implimenting Executive Order 12044, "Improving Government Regulations." Until such time as a final rule is issued, DOE is following this proposal in order to determine whether or not a proposed regulation is "significant" within the meaning of the Executive order.

In compliance with this proposal, DOE has determined that this proposed regulation to establish sampling requirements for appliance test procedures is significant since it will determine the accuracy and reliability of appliance energy consumption information that will be provided to the public to assist them in making purchasing decisions. It has further been determined that this proposal is not likely to have a substantial effect on any of the goals of the national energy plan and is not likely to impose gross economic costs of $100 million per year, or cause a major increase in cost or prices: Consequently, this regulation will have no major economic impacts requiring a regulatory analysis.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, it is proposed to amend Part 430 of

Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., September 5, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

1. Part 430 of chapter II of title 10, Code of Federal Regulations, is amended by establishing a new § 430.23, to read as follows:

§ 430.23 Units to be tested.

(a) When testing of a covered product is required to comply with section 323(c) of the Act or to comply with rules prescribed under section 324 of the Act, a sample of sufficient size shall be tested to insure that:

(1) For each basic model of electric refrigerators and electric refrigerator-freezers, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±10 percent of the mean of the sample.

(2) For each basic model of freezer, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±10 percent of the mean of the sample.

(3) For each basic model of dishwashers, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±5 percent of the mean of the sample.

(4) For each basic model of clothes dryers, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±5 percent of the mean of the sample.

(5) For each basic model of water heater, there is 90-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±10 percent of the mean of the sample.

(6) For each basic model of room air conditioners, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±5 percent of the mean of the sample.

(7) For each basic model of vented home heating equipment (not including furnaces), there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±5 percent of the mean of the sample.

(8) For each basic model of unvented home heating equipment (not including furnaces), there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±7.5 percent of the mean of the sample.

(9) For each basic model of television sets, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies with ±5 percent of the mean of the sample.

(10) For each basic model of kitchen ranges and ovens, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±5 percent of the mean of the sample.

With respect to conventional ranges and microwave/conventional ranges, representations made with respect to, or based upon, measures of energy consumption described in § 430.22(i) shall be derived from test results obtained from application of the test method of appendix I to this subpart to basic models of conventional cooking tops, conventional ovens and microwave ovens which comprise the cooking appliance to which such representations apply.

(11) For each basic model of clothes washers, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±5 percent of the mean of the sample.

(12) For each basic model of humidifiers, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±5 percent of the mean of the sample.

(13) For each basic model of dehumidifiers, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±10 percent of the mean of the sample.

(14) For each central air-conditioner condenser unit, (based on selected condenser-evaporator-coil combination) there is a 90-percent confidence that the true mean of any measure of energy consumption of such condenser-evaporator-coil combination lies within ±5 percent of the mean of the sample.

The condenser-evaporator-coil combination selected for test shall be that combination likely to have the largest volume of retail sales. For all other combinations of a particular condenser and evaporator coils there shall be at least 90-percent confidence that the true mean of any measure of energy consumption lies with ±5 percent of the mean of the sample even though actual testing is not performed.

(15) For each basic model of furnaces, there is 95-percent confidence that the true mean of any measure of energy consumption of such basic model lies within ±5 percent of the mean of the sample.

(b) The value of any measure of energy consumption of a basic model which has been sampled and tested in accordance with this subpart shall be the sample mean obtained after satisfying the requirements of paragraph (a) of this section.

(c) The sample selected for testing pursuant to paragraphs (a) of this section shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

2. In part 430 of chapter II of title 10, Code of Federal Regulations, § 430.24 is deleted and paragraph 2.2.2.4 is added to appendix I to read as follows:

2.2.2.4 *Test gas.* A basic model of a convertible cooking applicance appliance must be tested with natural gas, but may be tested with propane. Any basic model of a conventional range, conventional cooking top, and conventional oven which is designed to operate using only natural gas as the gas energy source must be tested with natural gas. Any basic model of a conventional range, conventional cooking top, and conventional oven which is designed to operate using only LP gas as the gas energy source must be tested with propane gas.

[FR Doc. 78-25267 Filed 9-7-78; 8:45 am]