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highlights

CORRECTION

In the highlights for the Friday, December 8, 1978, FEDERAL REGISTER, the page citation for the SEC document on 1979 wage and price standards should be corrected to read "57596." The table of contents listing for this document should be similarly corrected.

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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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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.

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NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75 cents. Order by stock number 022-003-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, Telephone 202-275-3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

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

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[3410-10-M]

Title 7—Agriculture

SUBTITLE A—OFFICE OF SECRETARY OF AGRICULTURE

[Amdt. 6]

PART 16—LIMITATION ON IMPORTS OF MEAT

Section 204 Import Regulations; Restrictions on the Importation of Meat From Nicaragua

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the final rule published on November 30, 1978 (43 FR 56014) regarding limitations on the importation of certain meats from Nicaragua. Imports of such meat from Nicaragua were previously limited to 59.5 million pounds for calendar year 1978 in order to carry out the 1978 restraint program pursuant to Section 204 of the Agricultural Act of 1956. This amendment increases this limitation to 62.6 million pounds for calendar year 1978 in view of the changes which have been made in the restraint levels for various countries participating in the 1978 restraint program. The global level of imports has not been changed.

EFFECTIVE DATE: December 13, 1978. See supplementary information.

FOR FURTHER INFORMATION CONTACT:

John E. Riesz (FAS), 202/447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and E.O. 12044.

EFFECTIVE DATE

Meat released under the provisions of Section 448(b) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery)) prior to December 13, 1978, shall not be denied entry.

Section 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7, of the Code of Federal Regulations is amended as follows:

In paragraph (b) "59.5 million pounds" is deleted and "62.6 million pounds" is inserted in lieu thereof.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733).)

Issued at Washington, D.C., this 13th day of December 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-35097 Filed 12-13-78; 4:39 pm]

[3410-10-M]

[Amdt. 5]

PART 16—LIMITATION ON IMPORTS OF MEAT

Section 204 Import Regulations; Restrictions on the Importation of Meat from Australia and New Zealand

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final Rule.

SUMMARY: This document amends the final rule published on November 30, 1978 (43 FR 56014) and December 1 (43 FR 56205), regarding limitations on the importation of certain meats from Australia and New Zealand. Imports of such meat from these countries were previously limited to 766.2 million and 314.8 million pounds, respectively, for calendar year 1978 in order to carry out the 1978 restraint program pursuant to Section 204 of the Agricultural Act of 1956. This amendment increases these limitations to 806.0 million and 331.1 million pounds, respectively, for calendar year 1978 in view of the changes which have been made in the restraint levels for various countries participating in the 1978 restraint program. The global level of imports has not been changed.

EFFECTIVE DATE: December 13, 1978. See supplementary information.

FOR FURTHER INFORMATION CONTACT:

John E. Riesz (FAS), 202/447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and E.O. 12044.

EFFECTIVE DATE

Meat released under the provisions of Section 448(b) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery)) prior to December 13, 1978, shall not be denied entry.

Section 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7, of the Code of Federal Regulations is amended as follows:

1. In paragraph (a) "766.2 million pounds" is deleted and "806.0 million pounds" is inserted in lieu thereof.

2. In paragraph (c) "314.8 million pounds" is deleted and "331.1 million pounds" is inserted in lieu thereof.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733).)

Issued at Washington, D.C. this 13th day of December 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-35096 Filed 12-13-78; 4:39 pm]

[6720-01-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 78-701]

PART 523—MEMBERS OF BANKS

Reduction of Liquidity Requirement

DECEMBER 6, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final Rule.

SUMMARY: This amendment reduces the overall liquidity requirement of each Federal Home Loan Bank member from 6½ to 6 percent of its liquidity base and reduces each member's short-term liquidity requirement from 2½ to 2 percent of such base. This action is taken because savings flows into members have continued at a reduced pace, increasing pressure on the supply of mortgage funds as indicated by increases in interest rates charged on mortgage loans. The new requirement unfreezes funds for mortgage lending that were previously required to be held in liquid assets.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel. Telephone number 202-377-6440.

SUPPLEMENTARY INFORMATION: This action will free up about $2 billion in funds that are presently required to be held in liquid assets and which will now be available for mortgage lending. Increased pressure on the supply of mortgage funds has been indicated by increases in interest rates charged on mortgage loans, and this action should ease those pressures, although the mortgage market reflects the influence of general economic and financial developments and the impact of monetary policy. Further reductions in liquidity requirements will be considered if they appear needed.

The Bank Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11, because this amendment relieves restriction, and (2) publication of this amendment for the 30-day notice specified in 5 U.S.C. 553(d) and 12 CFR 508.14 prior to effective date is unnecessary for the same reason.

Accordingly, the Bank Board hereby revises §523.11(a) of the Regulations for the Federal Home Loan Bank System (12 CFR 523.11(a)) to read as set forth below, effective January 1, 1979.

§ 523.11 Liquidity requirements.

(a) *General.* Except as otherwise provided in subsections (b) and (d) of this section, for each calendar month, each member, other than a mutual savings bank with an election under subsection (e) of this section in effect, shall maintain an average daily balance of liquid assets not less than 6 percent of the average daily balance of its liquidity base during the preceding calendar month, and each member, other than a mutual savings bank or an insurance company, shall maintain an average daily balance of short-term liquid assets not less than 2 percent of the average daily balance of its liquidity base during the preceding calendar month.

* * * * *

(Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 252, as amended, sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425a, 1437. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78-35099 Filed 12-15-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-EA-64; Amdt. 39-3370]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to DeHavilland DHC-6 type airplanes and requires repetitive inspections on fuselage side frame flanges at Station 218.125 and 219.525 for inter-rivet cracks. The purpose of the inspection and repair or replacement is to prevent structural weakness due to cracks which were caused by stress corrosion induced by riveting during fabrication.

DATE: December 20, 1978. Compliance is required as set forth in the AD.

ADDRESS: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT:

C. Birkenholz, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been reports of inter-rivet cracking on airplanes in service at Station 218.215 and 219.525. This amendment will require repetitive inspections and repairs where necessary. It also permits replacement of the frames in accordance with DeHavilland Service Bulletin No. 6/371 and discontinues the inspections. Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exist for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

DEHAVILLAND: Applies to DHC-6 airplanes, S/N 1 thru 411 Inclusive, Certificated in all categories.

Compliance required as indicated, unless already accomplished.

To detect inter-rivet cracking in the fuselage side frame flanges at Station 218.125 and 219.525, accomplish the following:

(a) Within the next 200 hours in service or 30 days, whichever occurs first, after the effective date of this AD, unless already accomplished within the last 400 hours in service or 60 days, inspect the subject fuselage side frames for cracking by either a "Visual" or "Radiographic 'X-ray' Technique" as described in DeHavilland Service Bulletin No. 6/371, excluding the "COMPLIANCE" section, or by an approved equivalent inspection method.

(b) If cracking is not evident, repeat inspections in paragraph (a) at intervals not to exceed 600 hours in service or 90 days, whichever occurs first, from the last inspection.

(c) If cracking is evident but does not exceed limits given in DeHavilland Service Bulletin No. 6/371, Figure 3, it is permissible to continue operations provided that the inspection in paragraph (a) is repeated at intervals not to exceed 300 hours in service or 45 days, whichever occurs first, from initial findings of cracks.

(d) If cracking exceeds the limits given in DeHavilland Service Bulletin No. 6/371, Figure 3, affected frames must be repaired or replaced before further flight.

(e) Repetitive inspection required by paragraphs (b) and (c) may be discontinued following a complete repair consisting of the installation of repair angles over the full length of the fuselage side frames.

(f) If partial repairs are accomplished, repetitive inspections required by paragraphs (b) and (c) will apply to the unrepaired frame areas.

(g) Repetitive inspections required by paragraphs (b) and (c) may be discontinued following the incorporation of DeHavilland Service Bulletin No. 6/371 Replacement Modification No. 6/1461 and 6/1462.

(h) All frames must be replaced within 2400 hours in service or 360 days, whichever occurs first, from initial finding of cracks, irrespective of incorporation of repair, or from the date of the incorporation of a complete repair on an uncracked frame.

(i) Partial repairs, complete repairs, and parts must be in accordance with DeHavilland Service Bulletin No. 6/371 or an approved equivalent alteration and parts.

(j) Those aircraft that have incorporated DeHavilland Service Bulletin No. 6/354 (Modification No. 6/1553) need not comply with this AD for fuselage side frames at Station 218.125.

(k) Where the AD requires repair or replacement before further flight, the airplane may be flown in accordance with FAR 21.197 to a base where the repair or replacement can be performed.

(l) Equivalent inspections, repairs, replacements, or parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(m) Upon request, with substantiating data submitted through an FAA Maintenance Inspector, the compliance times of this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Effective Date: This amendment is effective December 20, 1978.

Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.

Issued in Jamaica, New York, on December 6, 1978.

TIMOTHY L. HARTNETT,
Acting Director,
Eastern Region.

[FR Doc. 78-34972 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Docket No. 78-GL-7; Amdt. 39-3373]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison 250-C28B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the FEDERAL REGISTER and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to known operators of Bell Model 206L-1 helicopters with Detroit Diesel Allison 250-C28B engines installed. The AD requires an interim deactivation of the N2 overspeed control system followed by an engine electrical harness change which are needed to prevent engine power loss due to electromagnetic interference. The AD was prompted by reports of engine power loss during flight.

DATES: Effective December 18, 1978, except with respect to certain persons specified in the body of the AD.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable engine bulletin may be obtained from Detroit Diesel Allison, Div. of General Motors Corporation, P.O. Box 894, Indianapolis, Indiana 46206.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Cornelius Biemond, Engineering and Manufacturing Branch, Flight Standards Division, AGL-217, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on November 3, 1978, and made effective immediately by air mail letter as to all known operators of Model 250-C28B engines installed in but not limited to Bell Model 206L-1 helicopters because of several instances of power loss on 250-C28B turboshaft engines installed in Bell 206L-1 rotorcraft. The cause of these power losses was determined to be electromagnetic interference which activated the N_2 overspeed control causing the engine to decelerate. That AD required interim deactivation of the N_2 overspeed control system followed by an engine electrical harness change which protects the overspeed control system from radiated electromagnetic interference and allows reactivation of the system.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately as to all known operators of Bell Model 206L-1 helicopters with Detroit Diesel Allison Model 250-C28B engines installed. These conditions still exist and the AD is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

DETROIT DIESEL ALLISON. Applies to Model 250-C28B engines installed in but not limited to Bell Model 206L-1 rotorcraft certificated in all categories.

Compliance required as indicated, unless previously accomplished. To preclude possible engine power loss resulting from electromagnetic interference, accomplish the following:

(A) Before further flight accomplish the following unless the engine electrical system has been previously modified in accordance with Detroit Diesel Allison Commercial Engine Bulletin 73-2003.

(1) Pull the N_2 overspeed circuit breaker and secure by wrapping with tape or placing a Ty-Wrap around the breaker stem.

(2) Install placard which states "Eng Ovsp Circuit Deactivated" in ¼" or larger letters adjacent to N_2 overspeed circuit breaker. Note: The engine overspeed test outlined in Section 2 of the RFM will no longer function with the circuit breaker deactivated.

(B) Not later than February 1, 1979 modify the engine electrical system in accordance with Detroit Diesel Allison Commercial Engine Bulletin 73-2003 unless previously accomplished. Concurrent with the accomplishment of CEB 73-2003 reactivate the N_2 overspeed control by engaging the N_2 overspeed circuit breaker and removing the placard "Eng Ovsp Circuit Deactivated," and remove the No. 4 plug from the outlet vent of the N_2 overspeed solenoid valve if installed in accordance with Detroit Diesel Allison Commercial Service Letter 2008.

The Detroit Diesel Allison Commercial Engine Bulletin identified in this directive is incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). The Detroit Diesel Allison Commercial Engine Bulletin incorporated herein may be obtained upon request to Detroit Diesel Allison, Division of General Motors Corporation, P.O. Box 894, Indianapolis, Indiana 46206. This document may also be examined at the FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018 and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and the Great Lakes Region.

(Detroit Diesel Allison Commercial Service Letter 250-C28B CSL-2008 also pertains to this subject.)

This amendment becomes effective upon publication in the FEDERAL REGISTER, as to all persons except those persons to whom it was made immediately effective by the air mail letter dated November 3, 1978, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 F.R. 9582; March 8, 1978).

Issued in Des Plaines, Illinois on December 8, 1978.

WAYNE J. BARLOW,
Acting Director,
Great Lakes Region.

NOTE: The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 78-34970 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-19; Amdt. 39-3369]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman American

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Grumman American G-164, G-164A, and G-164B type airplanes and requires a repetitive inspection of lower wing panel attachment fittings for corrosion and repair or replacement where necessary. The purpose of the inspection is to prevent a failure of the fittings due to corrosion which results from the use of chemicals in agricultural spraying operations.

DATE: December 20, 1978. Compliance is required as set forth in the AD.

ADDRESSES: Grumman American Service Bulletins may be acquired from the manufacturer at P.O. Box 147, Elmira, N.Y. 14902.

FOR FURTHER INFORMATION CONTACT:

I. Mankuta, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exist for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

GRUMMAN: Applies to Models G-164, G-164A and G-164B aircraft, certificated in all categories, that have been in service for either more than 500 hours or six months.

Compliance is required as indicated:

To detect corrosion of the lower wing attachment fittings, P/N's A1050-1, -3, -4, -101, -102, -103, -104, -13, -19, -20, -411, -412 and 3050-13, -14, -15, -16, accomplish the following:

(a) Within the next 25 hours in service and thereafter at intervals not to exceed 500 hours in service or six months, whichever comes first, since the last inspecton, visually inspect the lower wing panel attachment fittings for corrosion.

(b) If surface corrosion (corrosion which is evidenced by dulling, pitting, blistering, scaling, roughness, or localized discoloration of the metal surface) is found on the attachment fittings, remove the wing and the corrosion. If it is required to clean up corrosion of the rear fittings follow the procedure below:

1. Press wing attachment bolt bushing below corroded surface. Do not fully remove the bushing.
2. Remove corrosion.
3. Equalize the amount the bushing extends from each surface of the fitting.
4. Measure gap in fuselage fitting.
5. Fabricate shims for both sides of fitting so that total width of fitting does not exceed gap of fuselage and bushing does not exceed width of fitting by more than .020".

If the front or rear wing attachment fitting dimensions are found to be in excess of the minimum limits specified in paragraph (c), (d), or (e), protect the surface from further corrosion in accordance with FAA Advisory Circular 43.13-1A, Paragraph 250(b) or equivalent.

(c) For G-164 aircraft S/N's 001 thru 400: If after removal of the corrosion, the thickness of the front or rear fitting is found to be less than .231", or the distance from the edge of the hole to the edge of the fitting is found to be less than .290", install an unused fitting of the same part number or an equivalent.

(d) For G-164A aircraft S/N's 401 and up. If after removal of the corrosion, the thickness of the front or rear fitting is found to be less than. 220", or the distance from the edge of the hole to the edge of the fitting is found to be less than .340", install on unused fitting of the same part number or an equivalent.

(e) For G-164B aircraft S/N's 001 and up. If after removal of the corrosion, the thickness of the front or rear fitting is found to be less than .230", or the distance from the edge of the hole to the edge of the fitting is found to be less than .515", install an unused fitting of the same part number or an equivalent.

Equivalent parts and corrosion protection must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Upon request, with substantiating data submitted through an FAA Maintenance Inspector, the compliance times specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

The aircraft may be flown in accordance with FAR 21.197 to a location where the AD can be accomplished.

Grumman Service Bulletin No. 65 dated October 16, 1978, covers this same subject.

Effective Date: This amendment is effective December 20, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89).

Issued in Jamaica, New York, on December 6, 1978.

TIMOTHY L. HARTNETT,
Acting Director,
Eastern Region.

[FR Doc. 78-34971 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-25-AD; Amdt. 39-3372]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires modification of Universal Oil Products Company, Aerospace Division, seats installed on DC-10 airplanes by installing two stops for the seatback tray table retention clip. This airworthiness directive is needed to assure automatic deployment of the passenger oxygen masks should the passenger cabin depressurize.

DATES: Effective December 22, 1978. Initial Compliance—within 30 days after the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from:

Universal Oil Products Company, Aerospace Division, Bantam, CT 06750.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: There have been incidents reported in which passengers have inadvertently restricted the opening capacity of the oxygen compartment door on Universal Oil Products Company Model 900-400 Series seats installed on DC-10 aircraft. The FAA has determined that the design of the tray table retention clip is such that it can be easily rotat-

ed to a position in which it prevents proper deployment of the oxygen compartment door should the passenger cabin depressurize. These seats are known to have been installed on United Airlines DC-10 aircraft by STC SA3358WE-D. Since this condition exists on other airplanes of the same type design, an airworthiness directive is being issued to require the installation of stops to prevent the tray table retention clip from rotating to a point where it prevents automatic deployment of the oxygen mask during cabin depressurization.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

MCDONNELL DOUGLAS: Applies to DC-10-10, -10F, -30, -30F, and -40 airplanes certificated in all categories which have Universal Oil Products Company Model 900-400-C3C seats through Serial No. 3860, installed.

Compliance reqired within the next 30 days after the effective date of this AD, unless already accomplished.

To assure that the seatback tray table retention clip cannot be rotated to a position in which it prevents automatic deployment of oxygen masks during depressurization, accomplish the following:

(a) Modify the Universal Oil Products Company Model 900-400-C3C seat through serial No. 3860, in accordance with Universal Oil Products Service Bulletin No. 25-494, original issue dated September 18, 1978.

(b) Equivalent modification may be used when approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

(c) Special Flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

This amendment becomes effective December 22, 1978.

[Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (40 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)), and 14 CFR 11.89.]

Issued in Los Angeles, California on December 7, 1978.

LEON C. DAUGHERTY,
Director,
FAA Western Region.

[FR Doc. 78-34969 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Docket No. 78-CE-21-AD; Amendment 39-3371]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models A150M and A152 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models A150M and A152 airplanes. The AD requires replacement of the two Part Number 0431009-3 vertical fin attach brackets with new brackets obtained from Cessna. This action will result in removal of any brackets that may be contaminated with impurities and assure necessary structural integrity of the vertical fin attachment to the airplane.

EFFECTIVE DATE: December 22, 1978.

COMPLIANCE: Within 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Service Letter Number SE78-62, dated October 13, 1978, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685-9111. A copy of the Service Letter is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: During a routine preflight inspection on a Cessna Model 152 airplane, the pilot discovered a failed Cessna Part Number 0431009-3 vertical fin attach bracket. Two of these brackets provide the primary attachment of the vertical fin aft spar to the airplane.

Inspection of the failed bracket revealed that the failure was caused by impurities in the metal extrusion from which the bracket was made. Further investigation revealed that an unknown number of vertical fin attach brackets were made from extrusions contaminated with impurities and placed in service. By checking shipping dates for extrusions and comparing these dates with production dates for Models 150, A150, 152 and A152 airplanes, Cessna determined that certain serial numbers of Models 150M, A150M, 152 and A152 airplanes may have Part Number 0431009-3 brackets installed that were manufactured from extrusions containing impurities.

To correct this condition on in-service airplanes, Cessna issued Single Engine Service Letter SE78-62, dated October 13, 1978, which recommends replacement of both P/N 0431009-3 vertical fin attach brackets on certain Model A150M and A152 airplanes within 25 hours time-in-service and visual inspection of the brackets on certain Models 150M and 152 airplanes for cracks at every normal inspection.

The FAA has determined that, (1) failure of a P/N 0431009-3 vertical fin attach bracket on a Model A150M or A152 (acrobatic) airplane is likely to result in separation of the fin from the airplane, and (2) failure of a P/N 0431009-3 vertical fin attach bracket on Model 150M and 152 (non-acrobatic) airplanes is unlikely to result in separation of the fin from the airplane. For these reasons, mandatory corrective action for affected A150M and A152 (acrobatic) airplanes is being taken now. An airworthiness alert is being issued, applicable to Models 150M and 152 airplanes, recommending visual inspection of the fin attach brackets for cracks at each 100-hour or annual inspection and during preflight inspections. In addition, FAA personnel are monitoring service reports carefully and additional corrective action will be taken against affected Model 150M and 152 airplanes if or when warranted.

Accordingly, since an unsafe condition is likely to exist in other airplanes of the same type design, an AD is being issued applicable to certain serial numbers of Cessna Model A150M and A152 airplanes, making compliance with the Cessna Service Letter mandatory.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b)

is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

CESSNA: Applies to Models A150M (Serial Numbers A1500645 through A1500734 and A152 (Serial Numbers A1520735 through A1520833) airplanes.

Compliance: Required as indicated, unless already accomplished. To assure necessary structural integrity of the vertical fin attachment to the airplane, in accordance with the instructions contained in Cessna Single Engine Service Letter SE78-62, dated October 13, 1978, or later revisions, within the next 25 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Replace the two existing Part Number 0431009-3 vertical fin attach brackets with two new Part Number 0431009-3 attach brackets obtained from Cessna.

(B) Return the two brackets removed from each airplane to the Cessna factory for metallurgical examination.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective December 22, 1978.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89).

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri on December 7, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-34966 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-12-AD; Amdt. 39-3367]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch Model TPE 331-1, -2, -3, -5, -6 and TSE 331-3 Series Engines

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires incorporation of a modified engine fuel control drive gear train in the main reduction gearbox of the TSE331-3 and TPE331-1, -2, -3, -5 and -6 series engines. Incorporation of this modified fuel control drive system, commonly referred to as the "direct drive fuel control," will prevent a destructive overspeed of the turbine rotor in the event of any one of several single failures in the drive line between the turbine and the planetary reduction gearing.

DATES: Effective January 19, 1979.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from:

AiResearch Manufacturing Company of Arizona, P.O. Box 5217, Phoenix, Arizona 85010, telephone: 602-267-3011.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: On August 28, 1978, the FAA proposed to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to AiResearch TPE331-1, -2, -3, -5, -6 turboprop and TSE331-3 turboshaft engines (43 FR 38413). The proposal was prompted by three reported occurrences of destructive overspeed of the engine turbine rotor resulting from failures of the reduction gear drive system in the main reduction gearbox common to the TSE331-3 and TPE331-1, -2, -3, -5, -6 engines. Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the notice of proposed rulemaking. Except as specifically discussed, this amendment and the reasons for it are the same as those contained in the notice.

In response to the proposal several comments were received. The manufacturer recommended that the required incorporation start date of the AD be delayed six months and the manufacturer and several other operators recommended that the five year maximum time for compliance be deleted entirely. The FAA believes that these actions would increase the hazard associated with the unsafe condition for those few operators who would not normally have their engines overhauled during the next five years. The manufacturer further commented that scheduling delays may be encountered at the manufacturer's overhaul facility at the end of the five year period with many affected engines being returned at the same time requiring a more expensive method of compliance. The FAA feels five years is a reasonable time for final compliance with the AD and that the manufacturer's concern about possible stacking up of the engines at its overhaul facility is only a speculative possibility, not a certainty.

The manufacturer further requested that the TSE331-3 turboshaft engine be deleted from the applicability of the proposed AD due to reduced recommended overhaul periods of that engine. The FAA does not concur with this recommendation due to the reported increased wear rate of main gearbox components which is, in part, the reason for the reduced recommended overhaul time of the turboshaft engine design.

Both an organization representing over two hundred operators of AiResearch TPE331 engines, as well as the foreign air authority (British CAA), whose area of jurisdiction includes the three engine overspeed conditions reported in the proposal, support this AD action.

It has come to the attention of the FAA that the "direct drive fuel control" has been incorporated in all new engines manufactured (approximately) after May of 1973, not after 1971 as stated in the preamble to the proposal.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

AIRESEARCH MANUFACTURING COMPANY OF ARIZONA: Applies to AiResearch Model TSE331-3 and TPE331-1, -2, -3, -5, -6 series engines.

Compliance required as indicated.

To prevent destructive overspeed of the tubine rotor in the event of any one of several single engine failures in the main reduction gear drive accomplish the following:

(a) Within the next 3100 hours time in service after the effective date of this airworthiness directive, or prior to January 1, 1984, or at next engine overhaul, whichever comes first, unless already accomplished, incorporate the modified engine fuel control drive gear train in the main reduction gearbox of the TSE331-3 and TPE331-1, -2, -3, -5, and -6 series engines in accordance with AiResearch Service Bulletin TPE331-72-0061, dated February 1, 1974.

(b) Equivalent procedures may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued per FAR 21.197 and 21.199 to authorize operation of aircraft to a base where this modification required by this AD may be performed.

This amendment becomes effective January 19, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on December 5, 1978.

LEON C. DAUGHERTY,
Director,
FAA Western Region.

[FR Doc. 78-34953 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-81; Amdt. 39-3368]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends airworthiness directive AD 77-23-09 applicable to Piper PA-23-250 and PA-E23-250 type airplanes which required revisions to the airplane flight manual and concerned fuel crossfeed problems. The purpose of the amendment is to add serial numbers to the AD.

DATE: December 19, 1978. Compliance is required as set forth in the AD.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 11745.

FOR FURTHER INFORMATION CONTACT:

F. Covelli, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Since the same air safety concern exists as for the original AD, notice and public procedure hereon are impractical and good cause exist for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 77-23-09, as follows:

Proposed Revision to AD 77-23-09 (Amend.)

1. Add Piper Report No. 1630 and the following applicable aircraft serial numbers to paragraph a. under Airplane Flight Manual Revisions:

27-4426, 27-4574 to 27-7554168 Incl., 5200# Gross Weight Only, 1630.

Effective Date: This amendment is effective December 19, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, New York, on December 5, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-34954 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-61]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: New York, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the New York, N.Y., Transtition Area. This alteration will provide protection to aircraft executing the new Copter RNAV-241 instrument approach which has been developed for the New York Terminal Area. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: December 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the New York, N.Y., Transition Area. On page 37710 of the FEDERAL REGISTER for August 24, 1978, the FAA published a proposed amendment to the subject terminal area. Interested parties were given time in which to submit comments. No objections were received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective December 18, 1978, as published:

1. Amend § 71.181 of part 71 of the Federal Aviation regulations by amending the description of the New York, N.Y., 700-foot floor transition area by adding after, "a point 40°36'21" N., 74°04'34" W., extending from 5.5 miles northeast to 11.5 miles southwest of said point;" the following, "within 3 miles northwest and 5.5 miles southeast of 229° bearing from a point 40°56'27" N., 73°38'43" W., extending from said point to 8.5 miles southwest of said point;"

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on November 29, 1978.

BRIAN J. VINCENT,
Acting Director,
Eastern Region.

[FR Doc. 78-34955 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-55]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area: Beckley, W. Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the Beckley, W. Va., Control Zone and Transition Area, over Raleigh County Memorial Airport, Beckley, W. Va. This alteration will provide protection to aircraft executing the new VOR/DME RWY 1 standard instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 37711 of the FEDERAL REGISTER for August 24, 1978, the FAA published a NPRM proposing to alter the Control Zone and Transition Area for Beckley, W. Va. Interested parties were given time in which to submit to comment. No objections have been received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT February 22, 1979, as published.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on December 4, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

1. Amend § 71.171 of part 71 of the Federal Aviation Regulations by deleting the description of the Beckley, W. Va. control zone and inserting the following in lieu thereof; "Within a 6.5-mile radius of the center, 37°46'54" N., 81°07'27" W., of Raleigh County Memorial Airport, Beckley, W. Va.; within 3 miles each side of the Beckley VORTAC 284° radial, extending from the 6.5-mile radius zone to 8.5 miles west of the VORTAC; within 3 miles each side of the Beckley VORTAC 001° radial, extending from the 6.5-mile radius zone to 8.5 miles north of the VORTAC, and within 4 miles each side of the Beckley VORTAC 200° radial, extending from the 6.5-mile radius zone to 10.5 miles south of the VORTAC.".

2. Amend § 71.181 of part 71 of the Federal Aviation Regulations by deleting the description of the Beckley, W. Va., 700-foot floor transition area and by inserting the following in lieu thereof; "That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 37°46'54" N., 81°07'27" W. of Raleigh County Memorial Airport, Beckley, W. Va.; within a 14-mile radius of the center of Raleigh County Memorial Airport, extending clockwise from a 025° bearing to a 215° bearing from the airport; within 4.5 miles north and 9.5 miles south of the Beckley VORTAC 284° radial, extending from the VORTAC to 18.5 miles west of the VORTAC and within 4.5 miles each side of the Beckley VORTAC 200° radial, extending from the VORTAC to 11.5 miles south of the VORTAC.".

[FR Doc. 78-34956 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-58]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area; Grove City, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Grove City, Pa., Transition Area, over Grove City Airport, Grove City, Pa. This alteration will provide protection to aircraft executing the new RNAV RWY 9 and RNAV RWY 27 instrument approaches which have been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 G.m.t. January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Grove City, Pa., Transition Area. On page 36973 of the FEDERAL REGISTER for August 21, 1978, the FAA published a proposed amendment to the subject transition area. Interested parties were given time in which to submit comments. No objections were received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t. January 25, 1979, as published:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Grove City, Pa. 700-foot floor transition area and by inserting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 41°08'42" N., 80°09'54" W., of Grove City Airport, Grove City, Pa.; within 2 miles each side of the Ellwood City, Pa. VORTAC 005° radial, extending from the 5-mile radius area to 16.5 miles north of the VORTAC; within 2.5 miles each side of a 261° bearing from a point 41°08'48" N., 80°10'18" W., extending from said point to 5.5 miles west; within 2.5 miles each side of a 081° bearing from a point 41°08'48" N., 80°09'36" W., extending from said point to 9 miles east.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on November 29, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-34958 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-63]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone: Fort Indiantown Gap, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will designate an Fort Indianatown Gap, Pa., Control Zone over Muir Army Air Field, Fort Indiantown Gap, Pa. This designation will provide protection at the request of the Army Air Field to aircraft executing instrument approaches which have been developed for the airport. An instrument approach procedure re-

quires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 G.m.t. February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 37709 of the FEDERAL REGISTER for August 24, 1978, the FAA published a NPRM proposing to designate a Fort Indiantown Gap, Pa., Control Zone over Muir Army Air Field. Interested parties were given time to comment. Mr. Bendigo of Bendigo Airport, Tower City, Pa., and Mr. Reigle of Reigle Field Airport, Palmyra, Pa., responded with objections. Mr. Bendigo objected to the zone because it would have impact on his airport when within the zone. However, the zone has been reduced in size so as to exclude Bendigo Airport. Mr. Reigle generally objected to the impact on his student training activity since the zone would remove practice areas from use. However, at present, restricted area R-5802 and the airport traffic area for Muir Army Air Field constitute a sizeable part of the proposed zone, no large areas have, practically, been removed from general aviation use. But, the IFR trafffic at Muir must also be accommodated and protected. Thus, the zone will be implemented but in a reduced form. Since this reduction is less restrictive than the NPRM, notice and public procedure hereon are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 22, 1979, as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by designating a Fort Indiantown Gap, Pennsylvania control zone as follows:

FORT INDIANATOWN GAP, PA.

Within a 5-mile radius of the center 40°26'00" N., 76°34'00" W., of Muir AAF, Fort Indiantown Gap, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 215° bearing to a 290° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 032° bearing to a 075° bearing from the airport; within 2.5 miles each side of the 097° bearing from the Bellgrove, Pa. RBN, extending from the RBN to 6 miles east of the RBN. This control zone is effective from 0800 to 1630 hours, local time, Sunday and Monday and from 0800 to 2300 hours, local time, Tuesday through Saturday, excluding Federal legal holidays, or during the specific dates and times established in advance by a Notice to Airmen which thereafter will be continuously published in the Airport/Facility Directory.

(Sec. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York, on December 4, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-34959 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket Number 78-CE-26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREAS LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Designation of Transition Area—Fairbury, Nebraska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a 700' transition area at Fairbury, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Fairbury Municipal Airport, which is based on a non-directional radio beacon (NDB) navigational aid installed on the airport.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: The City of Fairbury, Nebraska, has installed a Non-Directional Radio Beacon (NDB), a navigational aid, on the Fairbury Municipal Airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at Fairbury, Nebraska, at and above 700' above the ground (AGL), within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregaton of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

DISCUSSION OF COMMENTS

On Pages 48653 and 48564 of the FEDERAL REGISTER dated October 19, 1978, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Fairbury, Nebraska. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended effective 0901 G.m.t. February 22, 1979, by adding the following new transition area:

FAIRBURY, NEBRASKA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fairbury Municipal Airport (latitude 40°10'59"N, longitude 97°09'54"W). Within 3 miles each side of the 173° course, extending 3 miles north from the 5-mile radius; within 2 miles each side of the 192° course, extending 3 miles north from the 5-mile radius.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri, on December 5, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-34961 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-NE-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREAS LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Portsmouth, New Hampshire (Pease AFB) 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Portsmouth, New Hampshire (Pease AFB), 700-foot transition area to provide added pro-

tected airspace for helicopters executing a new special standard instrument approach (RNAV-024) to the private Wheelabrator-Frye Heliport.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION: On Tuesday, October 10, 1978, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER, Volume 43, 196, Page 46549, stating that the Federal Aviation Administration proposes to enlarge the Portsmouth, New Hampshire (Pease AFB), 700-foot transition area so as to provide added protected airspace for helicopters executing a new special instrument approach procedure identified as RNAV-024, serving the private Wheelabrator-Frye Heliport.

Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the Federal Aviation Administration.

No objections were received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator the description of the Portsmouth, New Hampshire (Pease AFB), 700-foot transition area in Subpart G of Part 71.181 of the Federal Aviation Regulations [14 CFR 71.181] is amended, effective 0901 GMT, January 11, 1979, by adding the following:

And within 2.5 miles each side of the Pease AFB VOR 188° radial, extending from the 11 mile radius area to 14 miles south of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts, on December 1, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-34963 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-NE-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREAS LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Hartford, Connecticut, 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Hartford, Connecticut 700-foot transition to provide added protected airspace for aircraft executing two (2) new special MLS standard instrument approach procedures to Runways 4 and 22 at Rentschler Field, East Hartford, Connecticut.

EFFECTIVE DATE: January 11, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION: On Thursday, October 26, 1978, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER, Volume 43, No. 208, Page 49989, stating that the Federal Aviation Administration proposes to enlarge the Hartford, Connecticut, 700-foot transition area. This action would provide added protected airspace for aircraft executing new standard instrument approach procedures, to Runways 4 and 22, Rentschler Field, East Hartford, Connecticut.

Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the Federal Aviation Administration.

No objections were received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator the description of the Hartford, Connecticut, 700-foot transition area in Subpart G of Part 71.181 of the Federal Aviation Regulations [14 CFR 71.181] is amended, effective 0901 GMT, January 11, 1979, by:

Deleting from the description, line 7, the words:

Within 3.5 miles each side of a 130° bearing from the Brainard NDB extending from the NDB to 11.5 miles southeast of the NDB; within 2 miles each side of the centerline of Runway 4 extending 10 miles from the end of the runway; within 2 miles each side of the centerline of Runway 22 extended 10 miles from the end of the runway.

And substituting in lieu thereof the words:

Within 4.0 miles each side of Runway 4 centerline extended from the 9-mile radius to 10 miles southwest of the runway threshold and within 4.5 miles each side of Runway 22 centerline extended from the 9-mile radius to 10 miles northeast of the runway threshold; within 3.5 miles each side of a 130° bearing from the Brainard NDB extending from the NDB to 11.5 miles southeast of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 USC 1348(a); sec. 6(c), Department of Transportation Act (49 USC 1655(c)).)

Issued in Burlington, Massachusetts, on December 1, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-34964 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-WE-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes V-8 north alternate airway between Seal Beach, Calif., and Pomona, Calif., and redesignates it from the INT of the Seal Beach 073° and Pomona 202° radials to Pomona. This action designates as an airway the route that is presently used as an arrival radar vector route, thereby reducing the communication and coordination time required for its use.

EFFECTIVE DATE: February 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 23, 1978, the FAA published for comment a proposal to realign a segment of V-8N Airway from Pomona to terminate at the INT of Pomona 202°T(187°M) and Seal Beach 073°T(058°M) radials rather than at Seal Beach (43 FR 49313).

This action improves an arrival route into the Long Beach, Calif., terminal airspace by designating a radar vector route as an airway. Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection to the proposal. Section 71.123 of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations realigns the portion of V-8N southwest of Pomona, so that it begins near the AHEIM intersection, rather than at Seal Beach. This route is used as an arrival route and its designation as an airway will reduce the flight planning and communication time required to use it.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) and amended (43 FR 39753, 44480) is further amended, effective 0901 GMT, February 22, 1979, as follows:

Under V-8, "including a N alternate from Seal Beach to Morman Mesa via Pomona, Calif.," is deleted and "including a N alternate from the INT of Seal Beach 073° and Pomona, Calif., 202° radials to Morman Mesa via Pomona," is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 8, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-34973 Filed 12-15-78; 8:45 am]

[4910-13-M]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 18583; Amdt. No. 1126]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; 2. The FAA Regional Office of the region in which the affected airport is located; or 3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or 2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs in unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing,

amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective February 22, 1979.*

Benton Harbor, MI—Ross Field, VOR Rwy 9, Amdt. 4.
Benton Harbor, MI—Ross Field, VOR Rwy 27, Amdt. 13.
Detroit, MI—Detroit City, VOR Rwy 33, Amdt. 18.

** * * Effective January 25, 1979.*

San Luis Obispo, CA—San Luis Obispo County, VOR-A, Amdt. 3.
Daytona Beach, FL—Daytona Beach Regional, VOR Rwy 34, Original.
Crystal Lake, IL—Crystal Lake, VOR Rwy 26, Amdt. 5.
Grayslake, IL—Campbell, VOR-A, Amdt. 1.
Lockport, IL—Lewis-Lockport, VOR Rwy 9, Amdt. 3.
Vandalia, IL—Vandalia Municipal, VOR Rwy 18, Amdt. 8.
LaPorte, IN—LaPorte Muni, VOR-A, Amdt. 2.
Winamac, IN—Arens Field, VOR/DME-A, Amdt. 1.
Paducah, KY—Barkley, VOR Rwy 4, Amdt. 12.
Charlotte, MI—Fitch H. Beach, VOR Rwy 20, Amdt. 5.
Ionia, MI—Ionia County, VOR Rwy 27, Amdt. 3.
Niles, MI—Jerry Tyler Memorial, VOR Rwy 3, Amdt. 4.
Pascagoula, MS—Jackson County, VOR Rwy 18, Amdt. 7.
St. Louis, MO—Spirit of St. Louis, VOR Rwy 25, Original.
Greensboro, NC—Greensboro-High Point-Winston Salem Regional, VOR Rwy 5, Amdt. 7.
Greensboro, NC—Greensboro-High Point-Winston Salem Regional, VOR/DME Rwy 23, Amdt. 5.
Plattsburgh, NY—Clinton County, VOR-A, Amdt. 15.
Grove City, PA—Grove City, VOR-A, Amdt. 2.
State College, PA—University Park, VOR-B, Amdt. 6.

** * * Effective December 28, 1978.*

Havre, MT—Havre City-County, VOR Rwy 25, Amdt. 5.
Bismarck, ND—Bismarck Municipal, VOR-A, Amdt. 16.
Redmond, OR—Roberts Field, VOR-A, Amdt. 3.
Redmond, OR—Roberts Field, VOR/DME Rwy 22, Amdt. 1.
Moses Lake, WA—Grant County, VOR Rwy 3, Amdt. 2.
Moses Lake, WA—Grant County, VOR Rwy 21, Amdt. 2.
Moses Lake, WA—Grant County, VOR Rwy 32R, Amdt. 15.

** * * Effective November 30, 1978.*

Wichita, KS—Cessna Aircraft Field, VOR/DME-C, Amdt. 1.

NOTE.—The FAA published an amendment in Docket No. 18462, Amdt. No. 1125 to Part 97 of the Federal Aviation Regulations (Vol. 43 FR No. 231 page 56029; dated November 30, 1978) under section 97.23 effective January 11, 1979, which is hereby amended as follows:

Charlotte, NC—Douglas Muni, Vor Rwy 36R Amdt. 8 change effective date of cancellation to December 28, 1978.
Charlotte, NC—Douglas Muni, Vor Rwy 36R Orig. change effective date to December 28, 1978.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective February 22, 1979.*

Benton Harbor, MI—Ross Field, LOC BC Rwy 9, Amdt. 3.

** * * Effective January 25, 1979.*

Sterling Rockfalls, IL—Whiteside County-Joseph H. Bittorf Field, LOC (BC) Rwy 7, Amdt. 1.
Plattsburgh, NY—Clinton County, LOC Rwy 1, Amdt. 1.

** * * Effective December 28, 1978.*

Baltimore, MD—Baltimore-Washington Int'l, LOC (BC) Rwy 33L, Amdt. 5, cancelled.
Bismarck, ND—Bismarck Municipal, LOC/DME BC Rwy 13, Amdt. 4.

** * * Effective November 27, 1978.*

Petersburg, AK—Petersburg, LDA/DME-D, Amdt. 2.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective February 22, 1979.*

Monterey, CA—Monterey Peninsula, NDB Rwy 10, Amdt. 8.
Benton Harbor, MI—Ross Field, NDB Rwy 27, Amdt. 5.
Boyne Falls, MI—Boyne Mountain, NDB-A, Original.
Boyne Falls, MI—Boyne Mountain, NDB Rwy 35, Amdt. 1, cancelled.
Minocqua-Woodruff, WI—Lakeland, NDB Rwy 10, Amdt. 4.
Minocqua-Woodruff, WI—Lakeland, NDB Rwy 18, Amdt. 7.
Minocqua-Woodruff, WI—Lakeland, NDB Rwy 28, Amdt. 5.
Minocqua-Woodruff, WI—Lakeland, NDB Rwy 36, Amdt. 2.

** * * Effective January 25, 1979.*

Chicago, IL—Chicago O'Hare International, NDB Rwy 32L, Amdt. 16.
Chicago, IL—Chicago O'Hare International, NDB Rwy 32R, Amdt. 16.
Sterling Rockfalls, IL—Whiteside County-Joseph H. Bittorf Field, NDB Rwy 7, Amdt. 1.
Michigan City, IN—Michigan City, NDB Rwy 20, Amdt. 9.
Paducah, KY—Barkley, NDB Rwy 4, Amdt. 8.
Ludington, MI—Mason County, NDB Rwy 25, Amdt. 4.
Pascagoula, MS—Jackson County, NDB Rwy 22, Amdt. 3.

** * * Effective December 28, 1978.*

Winston-Salem, NC—Smith Reynolds, NDB Rwy 33, Amdt. 18.
Bismarck, ND—Bismarck Municipal, NDB Rwy 31, Amdt. 26.
Redmond, OR—Roberts Field, NDB Rwy 10, Amdt. 5.
Moses Lake, WA—Grant County, NDB Rwy 32R, Amdt. 11.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

** * * Effective February 22, 1979.*

Monterey, CA—Monterey Peninsula, ILS Rwy 10, Amdt. 20.
Benton Harbor, MI—Ross Field, ILS Rwy 27, Amdt. 2.
Detroit, MI—Detroit City, ILS Rwy 33, Amdt. 4.
Lansing, MI—Capital City, ILS Rwy 9, Amdt. 2.

** * * Effective January 25, 1979.*

Chicago, IL—Chicago O'Hare International, ILS Rwy 32L, Amdt. 18.
Chicago, IL—Chicago O'Hare International, ILS Rwy 32R, Amdt. 16.
Sterling Rockfalls, IL—Whiteside County-Joseph H. Bittorf Field, ILS Rwy 25, Amdt. 5.
Paducah, KY—Barkley, ILS Rwy 4, Amdt. 4.
San Angelo, TX—Mathis Field, ILS Rwy 3, Amdt. 15.

** * * Effective December 28, 1978.*

Baltimore, MD—Baltimore-Washington Int'l, ILS Rwy 33L, Original.
Winston-Salem, NC—Smith Reynolds, ILS Rwy 33, Amdt. 17.
Bismarck, ND—Bismarck Municipal, ILS Rwy 31, Amdt. 27.
Redmond, OR—Roberts Field, ILS Rwy 22, Original.
Moses Lake, WA—Grant County, ILS Rwy 32R, Amdt. 13.

5. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective January 25, 1979.*

Willows, CA—Willows-Glenn County, RNAV Rwy 16, Original, cancelled.
Ft. Lauderdale, Fl—Ft. Lauderdale-Executive, RNAV Rwy 8, Original.
Pascagoula, MS—Jackson County, RNAV Rwy 13, Amdt. 1.
Pascagoula, MS—Jackson County, RNAV Rwy 22, Amdt. 1.
Newark, NJ—Newark Int'l, RNAV Rwy 11, Amdt. 4.
State College, PA—University Park, RNAV Rwy 6, Amdt. 2.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3).)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on December 8, 1978.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 78-34952 Filed 12-15-78; 8:45 am]

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1207—SAFETY STANDARD FOR SWIMMING POOL SLIDES

Revisions to Safety Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Amendment to final regulation.

SUMMARY: On January 19, 1976, the Commission issued a final safety standard for swimming pool slides. On March 3, 1978, a federal court of appeals set aside portions of that standard. For purposes of clarity, the Commission, in this document, is deleting those provisions of the standard set aside by the court and making editorial changes in the standard to reflect the deletions.

EFFECTIVE DATE: The revised standard became effective on March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

David Thome, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: On January 19, 1976, the Commission issued in final form a consumer product safety standard applicable to swimming pool slides (16 CFR Part 1207; 41 FR 2751). This standard took effect on July 17, 1976.

On March 3, 1978, the U.S. Court of Appeals for the Fifth Circuit decided a petition for review of certain provisions of the Commission's swimming pool slide standard. The court set aside §§ 1207.6 and 1207.7 of the standard, the sections relating to installation instructions and warning signs, respectively. (*Aqua Slide 'N' Dive Corporation* v. *Consumer Product Safety Commission*, 569 F.2d 831 (5th Cir. 1978). The provisions of the standard concerning construction specifications for slides remain in effect (Sections 1207.4 and 1207.5).

In the interest of clarity, the Commission is amending the standard to delete the text of those sections set aside by the court. Section 1207.8, concerning inspection of installed slides, while not specifically set aside by the court, is dependent on § 1207.7. Since § 1207.7 has been set aside by the court, the text of § 1207.8 is being deleted as well. The Commission is also making editorial changes in the standard to reflect the deletions, particularly at § 1207.4. Section 1207.4(d), furthermore, has been amended to reference, instead of the previous Federal Hazardous Substances Act (FHSA) regulations, the Commission's new regulations under the Consumer Product Safety Act (CPSA) concerning lead-containing paint. (16 CFR Part 1303, 42 FR 44192). Therefore, the Commission amends Title 16, Code of Federal Regulations, Chapter II, Part 1207, as follows:

1. The table of contents to Part 1207 is amended by deleting the headings for §§ 1207.6, 1207.7 and 1207.8 and substituting the word "revoked."

2. The following footnote is added at § 1207.1(b) Findings:

(b) *Findings**

*The Commission's findings apply to the swimming pool slide standard that it published on January 19, 1976 (42 FR 2751). On March 3, 1978 the U.S. Court of Appeals for the Fifth Circuit set aside portions of that standard (*Aqua Slide 'N' Drive Corporation* v. *CPSC*, 569 F.2d 831 (5th Cir. 1978)). On December 18, 1978, the Commission published revisions to the standard which reflect the court's decision. However, the findings have not been revised and they are therefore not fully applicable to the revised swimming pool slide requirements. For example, the revised standard does not address the risk of quadriplegia and paraplegia (except insofar as the standard specifies a low angle of attack of the slider into the water) because the court set aside the provisions concerning installation instructions and warning signs.

§ 1207.3 [Amended]

3. Section 1207.3 is amended to delete the text of subsections (11), (14), (20), and (31) and to insert the word "revoked" under subsections (11), (14), (20), and (31).

4. Section 1207.4 is amended to read as shown below:

§ 1207.4 Recommended standards for materials of manufacture.

(a) *General.* The materials used in swimming pool slides should be compatible with man and compatible with the environment in which they are installed. These materials should be capable of fulfilling the design requirements prescribed by § 1207.5.

(b) *Effects of environment.* The choice of materials for swimming pool slides should be such that the operational strength of the entire slide assembly, as defined by the performance tests in § 1207.5, should not be adversely affected by exposure to rain, snow, ice, sunlight, local, normal temperature extremes, local normal wind variations, expected local air pollution products, and the mechanical, electrical, and chemical environment in and around swimming pools. For purposes of this Part 1207, "local normal" temperature extremes and wind variations are defined as the average annual record limits for the past 10 years at any slide installation point in the U.S.A. where such statistical information exists (see reference (a) in § 1207.11)

* * * * *

(d) The selection of materials used in swimming pool slides should be such that the assembled and installed products should not be toxic to man or harmful to the environment under intended use and reasonably foreseeable abuse or disposal. All paints and finishes used on swimming pool slides shall comply with 16 CFR 1303.2(b)(2) and 1303.4(a).

* * * * *

§ 1207.6 [Revoked] Figures N, O, P and Tables 3, 4, and 5 [Deleted]

5. The text of § 1207.6 is deleted, and the word "revoked" substitued. Figures N, O, and P, and tables 3, 4, and 5 are deleted.

§ 1207.7 [Revoked] Figures Q—X [Deleted]

6. The text of § 1207.7 is deleted, and the word "revoked" substituted. Figures Q, R, S, T, U, V, W, and X are deleted.

§ 1207.8 [Revoked]

7. The text of § 1207.8 is deleted, and the word "revoked" substituted.

(Secs. 2, 7, 9, 14, 30. Pub. L. 92-573, 86 Stat. 1207, 1212, 1215, 1220, 1236; (15 U.S.C. 2051, 2056, 2058, 2063, 2079))

Dated: December 12, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-35119 Filed 12-15-78; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF TRANSPORTATION

[T.D. 78-492]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Addition of Sweden to the List of Nations Whose Registered Non-self-propelled Barges May Transport Merchandise Coastwise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Secretary of State has informed the Secretary of the Treasury that the Government of Sweden permits non-self-propelled (LASH-type) barges of United States registry to transport merchandise between points in Sweden in limited circumstances. This document amends the Customs Regulations to extend reciprocal privileges to LASH-type barges of Swedish registry.

EFFECTIVE DATE: June 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Patrick J. Casey, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), provides generally that no merchandise shall be transported by water, or by land and water, between points in the United States, except in vessels built in and documented under the laws of the United States and owned by United States citizens. Accordingly, merchandise transshipped from one foreign vessel to another at a point in the United States embraced within the coastwise laws and thereafter unladen at another coastwise point ordinarily would be transported in violation of the statute.

However, Public Law 92-163 (the seventh proviso to 46 U.S.C. 883) excepts merchandise transferred from a non-self-propelled barge of foreign registry to another such barge from the application of the statute if certain conditions are met. If the Secretary of the Treasury, on the basis of information furnished to him by the Secretary of State, finds that the nation of registry extends reciprocal privileges to United States barges, he may suspend the application of 46 U.S.C. 883 to merchandise transported between points in the United States which, while moving in United States foreign trade, is transferred from a non-self-propelled barge of foreign registry certified by the owner or operator to be specifically designed for carriage aboard a vessel, and regularly carried aboard a vessel in foreign trade, to another such barge owned or leased by the same owner or operator. This exception does not apply to transportation between the continental United States and noncontiguous states, districts, territories, and possessions embraced within the coastwise laws.

The barges referred to ordinarily are described as "LASH-type barges", which are defined in § 4.81(g), Customs Regulations (19 CFR 4.81(g)), as "unmanned non-self-propelled barges specifically designed for carriage aboard a vessel and regularly carried aboard a vessel in the foreign trade".

The provisions of the seventh proviso to 46 U.S.C. 883 are implemented by § 4.81a(a), Customs Regulations (19 CFR 4.81a(a)). The nations which have been found to extend reciprocal privileges to non-self-propelled barges of United States registry are listed in § 4.81a(b), Customs Regulations (19 CFR 4.81a(b)).

The Secretary of State has informed the Secretary of the Treasury that in a diplomatic note dated June 22, 1978, the Government of Sweden informed the Department of State that Swedish legislation places no restrictions on the carriage of merchandise by non-self-propelled barges of the type referred to, and under the conditions described, in Public Law 92-163, and requested reciprocity for similar vessels of Swedish registry.

FINDING

On the basis of the information received from the Secretary of State, as described above, I find that the Government of Sweden extends privileges reciprocal to those outlined in Public Law 92-163 to non-self-propelled barges of United States registry. Accordingly, the application of section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), to non-self-propelled barges of Swedish registry is suspended, effective as of June 22, 1978.

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this amendment merely implements a statutory requirement, notice and public procedure thereon are unnecessary, and good cause exists for dispensing with the delayed effective date provisions of 5 U.S.C. 553.

AMENDMENT TO THE REGULATIONS

§ 4.81a [Amended]

To provide for the reciprocal privileges granted to non-self-propelled barges of Swedish registry, pursuant to the above finding, section 4.81a(b), Customs Regulations (19 CFR 4.81a(b)), is amended by inserting "Sweden" in the appropriate alphabetical order in the list of nations which extend similar privileges to non-self-propelled barges of United States registry.

(Sec. 27, 41 Stat. 999, as amended, sec. 14, 67 Stat. 516, Public Law 92-163 (5 U.S.C. 301, 46 U.S.C. 883)).

DRAFTING INFORMATION

The principal author of this document was Mark G. Jenkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: December 6, 1978.

RICHARD J. DAVIS,
Assistant Secretary
(Enforcement and Operations).

[FR Doc. 78-35075 Filed 12-15-78; 8:45 am]

[1505-01-M]

Title 20—Employee's Benefits

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

[Reg. No. 4]

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950)

The Retirement Test

Correction

In FR Doc. 78-32413 appearing at page 53713 in the issue of Friday, November 17, 1978, make the following corrections:

(1) On page 53713, in the third column, the second full paragraph under the heading "Dates", in the sixth line correct "January 16, 1978" to read January 16, 1979".

(2) On page 53716, in the first column:

(a) In the seventh line down, insert the modifier "a" between the words "as" and "nonservice".

(b) In the first full paragraph, in the fifth line insert a dash between the words "part" and "time".

(c) In the third full paragraph, the fourth line up from the bottom of the page the word "also" should be italicized.

[4710-02-M]

Title 22—Foreign Relations

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

PART 205—PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN NONMILITARY ECONOMIC DEVELOPMENT TRAINING PROGRAMS

Per Diem Payments

AGENCY: Agency for International Development (A.I.D.)

ACTION: Final rule.

SUMMARY: A.I.D.'s regulations governing payments to participants in nonmilitary economic development training programs are revised to provide increased per diem allowances for those foreign participants who come to the United States to obtain training in academic or non-academic programs under the Foreign Assistance Act of 1961. The increases are needed to meet the rising cost of housing, food and other items.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Elizabeth C. Borcik, 202-235-1870.

SUPPLEMENTARY INFORMATION: To meet the rapidly rising costs of housing, food and other items to participants, the current scale of maximum per diem rates is increased from $35 to $40 and from $45 to $65.

This revision brings AID Regulation 5 in conformity with 22 CFR Part 61, Section 61.3, as revised March 31, 1978, concerning "Payments to and on Behalf of Participants in the International Educational and Cultural Exchange Program".

Since this revision relates solely to per diem allowances for foreign participants in A.I.D.'s economic development training program, and participants will receive actual notice of increased allowances, notice of proposed rulemaking and delayed effective date under 5 U.S.C. 553 are not necessary.

Accordingly, 22 CFR Part 205 is amended to read as follows:

Sec.
205.1 Per diem rates.
205.2 Monthly maintenance.
205.3 Other allowances paid to participants.
205.4 Tuition.
205.5 Health insurance.
205.6 Advance payment.
205.7 Additional authorization.

AUTHORITY: Sec. 636(a), Foreign Assistance Act of 1961, as amended (22 U.S.C. 2396)

§ 205.1 Per diem rates.

Participants in any training program under the Foreign Assistance Act of 1961 other than Part II may receive a per diem allowance in accordance with the following rates:

(a) For participants in programs of training in the United States, a per diem rate not to exceed $40 or, in exceptional circumstances such other rates not to exceed $65 as the Administrator of the Agency for International Development or his designee may prescribe and such designee may be authorized to redelegate such authority. Per diem rates apply to participants in travel status. Those in academic or non-academic residence status receive monthly rates. Per diem and monthly maintenance cannot be paid for the same period.

(b) For participants in programs of training in countries other than the United States, a per diem allowance not to exceed those prescribed in the Standard Regulations (Government Civilian, Foreign Areas).

§ 205.2 Monthly maintenance.

Academic participants enrolled in educational institutions for one quarter, semester, trimester, or longer will receive monthly maintenances in per diem at rates not to exceed those in Section 61.5 of this Title. Participants in non-academic programs who remain in one city for more than thirty (30) days will also receive a monthly rate established by AID (DS/IT) in lieu of per diem.

§ 205.3 Other Allowances Paid to Participants.

Allowances for books, training equipment, costs connected with preparation of the Master's thesis and preparation and publication of the Doctoral dissertation and other necessary training expenses may be authorized for participants. These allowances will not exceed the maximums paid by ICA/CU to grantees in similar programs.

§ 205.4 Tuition.

Normal institution-established tuition and related fees for approved courses of study will be paid by AID.

§ 205.5 Health Insurance.

Premiums for health and accident insurance established by the training institution or under AID contracts with insurance carriers will be paid by AID. In exceptional cases, in which the participant cannot meet medical expenses, AID, with appropriate approval, shall pay necessary medical expenses with appropriated funds.

§ 205.6 Advance payment.

Per diem, monthly maintenance, and other allowances to participants may be paid in advance when necessary and appropriate.

§ 205.7 Additional authorization.

Any emergency, unusual or additional payment deemed necessary for the satisfactory completion of program objectives if allowable under existing authority, whether or not specifically provided for by this part, may be authorized by the Assistant Administrator for Development Support.

Dated: November 18, 1978.

DONALD G. MACDONALD,
Assistant Administrator for Program and Management Services.

[FR Doc. 78-35029 Filed 12-15-78; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7575]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PART 301—REGULATIONS ON PROCEDURE AND ADMINISTRATION

Jeopardy and Termination Assessments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to jeopardy and termination assessments. The regulations provide the public with guidance concerning procedures relating to jeopardy and termination assessments.

DATE: The regulations are effective where notice and demand occurs after February 28, 1977.

FOR FURTHER INFORMATION CONTACT:

David Jacobson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3923).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 2, 1978, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the regulations on Procedure and Administration (26

CFR Part 301) under sections 6851, 6861, 6862, 6863, and 7429 of the Internal Revenue Code of 1954 (43 FR 33937). The amendments were proposed to conform the regulations to section 1204 of the Tax Reform Act of 1976 (90 Stat. 1695). No requests for a public hearing were received and accordingly none was held.

EXPLANATION OF REGULATIONS

The Tax Reform Act of 1976 amended section 6851 of the Internal Revenue Code of 1954 to provide that a notice of deficiency be sent to a taxpayer who has been assessed under that section. This notice must be sent to the taxpayer within 60 days after the later of the due date of the taxpayer's return or the date the return is actually filed. The statutory notice of deficiency allows the taxpayer to contest a tax liability in the United States Tax Court.

The legislation also provides for an administrative review by the Internal Revenue Service of all jeopardy and termination assessments upon a timely request by the taxpayer. In addition, the U.S. District Courts have jurisdiction to review the Service's determination.

In addition, section 6863 of the Code has been amended to provide for a stay on the sale of seized property during the period for review of the jeopardy and termination assessments under section 7429.

ADDITIONAL CONSIDERATIONS

These regulations are needed in order to provide guidance to the public as well as government employees responsible for the implementation of sections 6851, 6861, 6862, 6863, and 7429 of the Internal Revenue Code of 1954. Considering both the direct and indirect affects of these regulations, it is believed that they satisfactorily implement section 1204 of the Tax Reform Act of 1976. Alternative approaches were not considered because the statutory language is clear. These regulations do not institute new recordkeeping or recording burdens. Evaluation of the effectiveness of the regulations after issuance will be based upon comments received from offices within the Internal Revenue Service and the Treasury Department, other governmental agencies, State and local governments, and the public. One series of comments was received. These comments did not result in any changes to the proposed regulations because it was felt that the regulations do not require additional clarification, or the suggested changes would make the regulations inconsistent with the statute or the legislative history.

DRAFTING INFORMATION

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

ADOPTION OF AMENDMENTS TO THE REGULATIONS

After careful consideration, the proposed amendments to the regulations are adopted subject to the following clerical changes:

PARAGRAPH 1. Section 1.6851-1(a)(4) as proposed is amended by deleting "Citizens of the United States or its" and inserting in its place "Citizens of the United States or of".

PAR. 2. The second sentence of § 301.6862-1 (a) as proposed is amended by deleting "§ 1.6851-1 (a)(1)" and inserting in its place "§ 1.6851-1 (a)(1)(i)".

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: December 4, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

§ 1.443 [Deleted]

PARAGRAPH 1. Section 1.443 is deleted.

§ 1.443-1 [Amended]

PAR. 2 Paragraph (a)(3) of § 1.443-1 is deleted.

§ 1.6091 [Deleted]

PAR. 3. Section 1.6091 is deleted.

PAR. 4. Section 1.6091-2 is amended by adding a new paragraph (f) to read as follows:

§ 1.6091-2 Place for filing income tax returns.

* * * * *

(f) *Returns of persons subject to a termination assessment.* Notwithstanding paragraph (c) of this section—

(1) *Persons other than corporations.* Returns of persons other than corporations with respect to whom an assessment was made under section 6851(a) with respect to the taxable year shall be filed with the district director as provided in paragraph (a) of this section.

(2) *Corporations.* Returns of corporations with respect to whom an assessment was made under section 6851(a) with respect to the taxable year shall be filed with the district director as provided in paragraph (b) of this section.

§ 1.6851 [Deleted]

PAR. 5. Section 1.6851 is deleted.

PAR. 6. Section 1.6851-1 is amended to read as follows:

§ 1.6851-1 Termination assessments of income tax.

(a) *Authority for making*—(1) *In general.* This section applies to assessments authorized by a district director under section 6851(a) (hereinafter referred to as termination assessments). The district director shall immediately authorize a termination assessment of the income tax for the current or preceding taxable year if the district director finds that a taxpayer designs to do an act which would tend to prejudice proceedings to collect the income tax for such year or years unless such proceedings are brought without delay. In addition, the district director shall immediately authorize such a termination assessment if the district director determines that the taxpayer designs to do any act which would tend to render such proceedings wholly or partially ineffective unless brought without delay. A termination assessment will be made if collection is determined to be in jeopardy because at least one of the following conditions exists.

(i) The taxpayer is or appears to be designing quickly to depart from the United States or to conceal himself or herself.

(ii) The taxpayer is or appears to be designing quickly to place his, her, or its property beyond the reach of the Government either by removing it from the United States, by concealing it, by dissipating it, or by transferring it to other persons.

(iii) The taxpayer's financial solvency is or appears to be imperiled.

Paragraph (a)(1)(iii) of this section does not include cases where the taxpayer becomes insolvent by virtue of the accrual of the proposed assessment of tax, and penalty, if any. A tax assessed under this section shall become immediately due and payable and the district director shall serve upon such taxpayer notice and demand for immediate payment of such tax.

(2) *Computation of tax.* If a termination assessment of the income tax for the current year is made, the income tax for such year shall be computed for the period beginning on the first day of such year and ending on the

day of the assessment. A credit shall be allowed for any tax for the taxable year previously assessed under section 6851. The taxpayer is entitled to a deduction for the personal exemptions (as limited in the case of certain nonresident aliens) without any proration for or because of the short taxable period.

(3) *Taxable year not affected by termination.* Notwithstanding any termination assessment a taxpayer shall file a return in accordance with section 6012 and the regulations thereunder for the taxpayer's full taxable year. The term "full taxable year" means the taxpayer's usual annual accounting period determined without regard to any action under section 6851 and this section. The return shall show all items of gross income, deductions, and credits for such taxable year. Any tax collected as a result of a termination assessment will be applied against the tax due for the taxpayer's full taxable year. Except as provided in § 1.6851-2 (relating to departing aliens), no return is required to be filed for a terminated period other than a full taxable year.

(4) *Evidence of compliance with income tax obligations.* Citizens of the United States or of possessions of the United States departing from the United States or its possessions will not be required to procure certificates of compliance or to present any other evidence of compliance with income tax obligations. However, for the rules relating to the furnishing of evidence of compliance with the income tax obligations by certain departing aliens, see § 1.6851-2.

(5) *Section 6851 inapplicable where section 6861 applies.* No termination assessment for the preceding taxable year shall be made after the due date of the taxpayer's return for such year (determined with regard to extensions of time to file such return).

(b) *Notice of deficiency.* Where notice and demand for payment (following a termination assessment) takes place after February 28, 1977, the district director shall, within 60 days after the later of—

(1) The date the taxpayer files a return for the full taxable year; or

(2) The due date of such return (determined with regard to extensions); send the taxpayer a notice of deficiency under section 6212(a). The amount of the deficiency shall be computed in accordance with section 6211 and the regulations thereunder. In applying section 6211, the tax imposed and the amount shown upon the return shall be determined on the basis of the taxpayer's full taxable year. Thus, for example assume that on November 1, 1979, a termination assessment against A, a calendar year taxpayer, is made in the amount of $18,000. The termination assessment is for the period from January 1, 1979 through November 1, 1979. Further assume that on or before April 15, 1980, A files a form 1040 showing an income tax liability for the full year 1979 of $10,000. If the district director determines A's liability for tax for 1979 is $16,000, a notice of deficiency for $6,000 shall be sent to A on or before June 14, 1980. Assuming that the district director had collected the $18,000 assessed, $2,000 shall be refunded.

(c) *Immediate payment.* The district director shall make demand for immediate payment of the amount of the termination assessment, and the taxpayer shall immediately pay such amount or shall immediately file the bond provided in section 6863.

(d) *Abatement.* The provisions of §§ 301.6861-1(e) and 301.6861-1(f) relating to the abatement of jeopardy assessments, shall apply to assessments made under section 6851.

§ 1.6851-2 [Amended]

PAR. 7. The last sentence of paragraph (b)(3)(iii) of § 1.6851-2 is amended by deleting "§ 1.6851-3" and inserting in its place "§ 301.6863-1 of this chapter (regulations on procedure and administration)."

PAR. 8. Section 1.6851-3 is amended to read as follows:

§ 1.6851-3 Furnishing of bond to insure payment; cross reference.

See section 6863 and § 301.6863-1 of this chapter (regulations on procedure and administration) for rules relating to the furnishing of bond to stay collection.

§ 301.6091 [Deleted]

PAR. 9. Section 301.6091 is deleted.

PAR. 10. Paragraph (b) of § 301.6211-1 is amended by adding the following new sentence at the end thereof:

§ 301.6211-1 Deficiency defined.

* * * * *

(b) * * * Any credit resulting from the collection of amounts assessed under section 6851 as the result of a termination assessment shall not be taken into account in determining a deficiency.

* * * * *

§ 301.6861 [Deleted]

PAR. 11. Section 301.6861 is deleted.

PAR. 12. Section 301.6861-1 is amended by adding a sentence immediately after the first sentence of paragraph (a), and by revising paragraph (f)(3). The added sentence and revised paragraph to read as follows:

§ 301.6861-1 Jeopardy assessments of income, estate and gift taxes.

(a) *Authority for making.* * * *

A district director will make an assessment under this section if collection is determined to be in jeopardy because at least one of the conditions described in § 1.6851-1(a)(1) (i), (ii), or (iii) (relating to termination assessments) exists. * * *

* * * * *

(f) *Abatement if jeopardy does not exist.* * * *

(3) See section 7429 with respect to requesting the district director to review the making of the jeopardy assessment.

§ 301.6862 [Deleted]

PAR. 13. Section 301.6862 is deleted.

PAR. 14. Section 301.6862-1 is amended by adding a sentence immediately after the first sentence of paragraph (a), and by adding a new paragraph (c), the added sentence and new paragraph to read as follows:

§ 301.6862-1 Jeopardy assessment of taxes other than income, estate, and gift taxes.

(a) * * * A district director will make an assessment under this section if collection is determined to be in jeopardy because at least one of the conditions described in § 1.6851-1(a)(1) (i), (ii), or (iii) (relating to termination assessments) exists. * * *

* * * * *

(c) See section 7429 with respect to requesting the district director to review the making of the jeopardy assessment.

§ 301.6863 [Deleted]

PAR. 15. Section 301.6863 is deleted.

PAR. 16. Paragraph (a)(1) of § 301.6863-1 is amended to read as follows:

§ 301.6863-1 Stay of collection of jeopardy assessments; bond to stay collection.

(a) *General rule.* (1) The collection of an assessment under section 6851, 6861, or 6862 (referred to as a "jeopardy assessment" for purposes of this section) of any tax may be stayed by filing with the district director a bond on the form to be furnished by the district director upon request.

* * * * *

PAR. 17. Paragraph (a) of § 301.6863-2 is amended to read as follows:

§ 301.6863-2 Collection of jeopardy assessment; stay of sale of seized property pending Tax Court decision.

(a) *General rule.* In the case of an assessment under section 6851, 6861, or

6862, any property seized for the collection of such assessment shall not (except as provided in paragraph (b) of this section) be sold until the latest of the following occurs:

(1) The period provided in section 7429(a)(2) to request the district director to review the action taken expires.

(2) The period provided in section 7429(b)(1) to file an action in U.S. District Court expires if a request for a redetermination is made to the district director.

(3) The U.S. District Court judgment in such action becomes final, if a civil action is begun in accordance with section 7429(b).

(4) In addition to the occurrences described in paragraphs (a), (1), (2), and (3) of this section, in the case of an assessment of income, estate, gift, chapter 41, 42, 43, or 44 excise taxes, until the latest of the following occurs:

(i) The expiration of the period provided in section 6213(a) within which the taxpayer may file a petition with the Tax Court; or

(ii) The decision of the Tax Court becomes final, if a petition for redetermination is filed with the Tax Court (whether before or after the making of the assessment).

However, notwithstanding paragraph (a)(4)(i) of this section, in the case of a termination assessment under section 6851, property seized may be sold after the due date (determined with extensions) of the taxpayer's return if the taxpayer does not file a return by such date. Furthermore, for the purposes of paragraph (a)(4)(ii) of this section, a petition will not operate as a further stay of the sale of the seized property unless the taxpayer files a bond as provided in section 7485.

* * * * *

PAR. 18. The following sections are inserted in the appropriate place.

§ 301.7429-1 Review of jeopardy and termination assessment procedures; information to taxpayer.

Not later than 5 days after the day on which an assessment is made under section 6851(a), 6861(a) or 6862, the district director shall provide the taxpayer a written statement setting forth the information upon which the district director relies in authorizing such assessment.

§ 301.7429-2 Review of jeopardy and termination assessment procedures; administrative review.

(a) *Request for administrative review.* Any request for the review of a jeopardy or termination assessment provided for by section 7429(a)(2) shall be filed with the district director within 30 days after the statement described in § 301.7429-1 is given to the taxpayer. However, if no statement is given within 5 day period described in § 301.7429-1, any request for review of the jeopardy or termination assessment shall be filed within 35 days after the date the assessment is made. Such request shall be in writing, shall state fully the reasons for the request, and shall be supported by such evidence as will enable the district director to make the redetermination described in section 7429(a)(3).

(b) *Administrative review.* In determining whether the assessment is reasonable and the amount assessed appropriate, the district director shall take into account not only information available at the time the assessment is made but also information which subsequently becomes available.

(c) *Abatement of assessment.* For rules relating to the abatement of assessments made under sections 6851 and 6861 see §§ 301.6861-1(e), 301.6861-1(f), and 1.6851-1(d) of this chapter.

§ 301.7429-3 Review of jeopardy and termination assessment procedures; judicial action.

(a) *Time for bringing judicial action.* An action for judicial review described in section 7429(b) may be instituted by the taxpayer during the period beginning on the earlier of—

(1) The date the district director notifies the taxpayer of the determination described in section 7429(a)(3); or

(2) The 16th day after the request described in section 7429(a)(2) was made by the taxpayer;

and ending on the 30th day thereafter.

(b) *Extension of period for judicial review.* The U.S. Government may not seek an extension of the 20 day period described in section 7429(b)(2), but it may join with the taxpayer in seeking such an extension.

[FR Doc. 78-35037 Filed 12-15-78; 8:45 am]

[6820-22-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

APPENDIX—TEMPORARY REGULATIONS

[FPMR Temp. Reg. A-12, Supp. 1]

CENTRALIZED HOUSEHOLD GOODS TRAFFIC MANAGEMENT

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: By this regulation, GSA is extending the expiration date of FPMR Temporary Regulation A-12, Centralized household goods traffic management, to allow additional time to review the program and develop and issue a permanent regulation.

DATES: Effective date: December 1, 1978. Expiration date: May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait (703-557-1914) Director, Regulations and Management Control Division.

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

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter A to read as follows:

1. *Purpose.* This regulation extends the expiration date of FPMR Temporary Regulation A-12 to allow additional time to review the program and develop and issue a permanent regulation.

2. *Effective date.* This regulation is effective December 1, 1978.

3. *Expiration date.* This regulation expires May 31, 1979.

Dated: December 5, 1978.

PAUL E. GOULDING,
Acting Administrator of General Services.

[FR Doc. 78-35027 Filed 12-15-78; 8:45 am]

[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION MATERIALS TRANSPORTATION BUREAU

[Docket No. HM-136; Amdt. No. 178-52]

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Location of Manhole Assemblies and Certification Plates on Cargo Tanks

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, D.O.T.

ACTION: Final rule.

SUMMARY: This amendment to the DOT Hazardous Materials Regulations prohibits the manhole assembly on a newly constructed MC 331 cargo tank from being located on the front head. This change will limit the location of a manhole assembly on a MC 331 cargo tank to areas which will reduce the potential hazard should an accident occur during transportation. Any MC 331 cargo tank having a manhole assembly on the front head and constructed prior to July 1, 1979, need not be modified to meet this new requirement.

Also, this amendment authorizes the required certification plate for MC 306, MC 307, and MC 312 cargo tanks to be attached to an integral supporting structure and permits riveting as a method for certification plate attachment. This change will provide an alternate location for certification plate attachment and will permit an additional method for permanently affixing the certification plate.

EFFECTIVE DATE: December 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second St. S.W., Washington, D.C. 20590, phone 202/426-2075.

SUPPLEMENTARY INFORMATION: The Materials Transportation Bureau (MTB) published a notice of proposed rulemaking under Docket HM-136 on April 30, 1976 (41 FR 18093, Notice 76-4). This notice proposed that 49 CFR 178.337-6 be amended to require the manhole assembly to be located in the upper quadrant of the rear hemispherical head of MC-331 cargo tanks and that 49 CFR 178.340-10 be amended to authorize the attachment of certification plates to an integral supporting structure of MC-306, MC-307, and MC-312 cargo tanks. Also, the notice proposed that riveting and soldering be prohibited as methods for affixing certification plates to these cargo tanks. Consideration has been given to all comments received as they relate to matters within the scope of the notice.

I. Location of Manhole Assemblies

That portion of the notice which proposed the specific location of the manhole assembly on a MC 331 cargo tank was based on a recommendation of the National Transportation Safety Board (NTSB). This recommendation (NTSB No. H-73-20) was contained in the NTSB's report, identified as NTSB-HAR-73-3, covering an accident on March 9, 1972, which involved a MC 331 cargo tank transporting propane near Lynchburg, Virginia. The NTSB recommendation stated that "* * * the Department of Transportation and the Tank Truck Technical Council consider the desirability of amending 49 CFR 178.337-6 (Closure for manhole) to require that all manhole assemblies in MC 331 pressure vessels manufactured after a specified date be located in the upper quadrant of the rear hemispherical head to minimize the possibility of manhole-assembly collision with other vehicles or objects." The rationale for this recommendation, developed from a detailed study of the accident, was that the location and design of the manhole cover assembly in the front hemispherical tank head allowed the assembly to transmit accident impact loadings which caused failures in the head and shell materials. On the basis of the NTSB report and recommendation, the MTB published Notice 76-4 affecting § 178.337-6.

Enumerated in the notice were a number of reasons why manhole assemblies should not be located in the front head of MC 331 cargo tanks:

1. The upper portion of the front head of a MC 331 cargo tank is more likely to be exposed to high impact loadings in an accident than would the similar location at the rear of the tank.

2. The nature of a manhole assembly is such that frontal impact loadings would dissipate energy over a relatively stiff manhole cover and manhole reinforcing materials.

3. Impact loadings hitting a manhole assembly could allow the assembly to transmit these loadings to the head and shell materials causing failure.

4. If a tank head rather than a manhole assembly receives an initial impact, the shock would be distributed rather than concentrated in a limited area susceptible to failure.

The majority of commenters did not argue with these reasons but they took exception to the proposed regulation which would require the manhole assembly to be located in the upper quadrant of the rear hemispherical head. The following is a summary of the comments which argue against the proposed manhole assembly location:

1. Rear heads on MC 331 cargo tanks are not always hemispherical but quite often eliptical, and installation of manhole assemblies on these type heads is very difficult unless installed at the center line.

2. When the manhole assembly is on the center line of the rear head rather than a rear quadrant, the manhole cover plate can be recessed so gauges and other appurtenances can be used at that location for protection during incidents.

3. Restricting manhole assemblies to the rear head would effectively prohibit construction of compartmentized tanks, would preclude the location of manhole assemblies in the shell, and would conflict with the present requirements for manhole assemblies to be located in the top of the tank when designed and constructed for chlorine service.

4. In case of overturn, a center line location in the rear head would provide a safer location than the upper quadrant.

The MTB has carefully reviewed these comments and basically agrees with the majority of commenters that restricting the location of the manhole assembly to the upper quadrant of the rear hemispherical head of a MC 331 cargo tank is not necessary.

Several commenters expressed different views. One commenter argued that a manhole assembly located at the center of the front head of a tank would add strength to the head in the event of a frontal impact. The MTB does not agree and is of the opinion that since most accidents occur when a cargo tank is moving forward, if an impact is to occur to the tank, it will probably occur to the front head. When this impact occurs, it is better for the impact to be distributed across the head which is convex and is the strongest portion of the tank rather than have the impact against a flat surface such as a manhole cover. Because the manhole cover is flat and relatively stiff, the impact will be transmitted to the head and shell and not absorbed by the manhole cover.

Another commenter stated that a manhole assembly located in the shell would permit an impact force to be distributed over a greater and stronger area than either head and the impacts upon such a manhole assembly would be less intense than one in either head. The MTB agrees that location of a manhole assembly in the tank shell is an acceptable location. Currently, the regulations prescribe the manhole assembly to be located on the top of the tank when used for chlorine service. Since experience has not dictated a necessity to change this manhole assembly location, even in chlorine service, the MTB has not prohibited the manhole assembly from being located in the tank shell.

In summary, the MTB agrees with the NTSB findings and feels the manhole assemblies should not be permitted in the front head of MC 331 cargo tanks because of the reasons enumerated in the notice of proposed rulemaking. However, based upon a review of the comments, the MTB does not agree with the NTSB that it is necessary for manhole assemblies on all MC 331 cargo tanks constructed after a specific date to be located in the upper quadrant of a rear hemispherical head.

II. Location Of Certification Plates

That portion of the notice which proposed the attachment of the certification plate to an integral supporting structure of MC 306, MC 307, and MC 312 cargo tanks as an alternate to attachment of the plate to the cargo tank shell was submitted by the Truck Trailer Manufacturers Association (TTMA). In their petition, TTMA also requested that riveting be permitted as another method of affixing cargo tank certification plates. TTMA's reasons for support of these proposed changes were contained in the pream-

ble of the notice of proposed rulemaking.

There was only one objection raised by a commenter regarding the proposed change involving attachment of the certification plate to an integral supporting structure. This commenter stated that the present wording is adequate and the proposed changed is more restrictive since it eliminates other possible areas (other than the tank shell) of affixing the certification plate. It was suggested by the commenter that the present wording of the regulation remain unchanged and that MTB provide an interpretation to TTMA which permits the certification plate to be attached to a structural member of a cargo tank. The MTB disagrees with this commenter since the definition for a cargo tank in § 171.8 specifically means a tank and does not include supporting structural members. In addition, the second sentence of § 178.340-10(b) in the present regulations specifies that the certification plate "shall be permanently affixed to the tank" and not any other location.

A few commenters also stated that the certification plate requirements for specification cargo tanks differ from the certification plate requirements for tanks built to ASME Code requirements. They state the ASME Code plates are different in configuration and information content; therefore, the reference made in the notice to attachment of the certification plate as required by the ASME Code is not appropriate. It was also pointed out that pressure vessel inspectors may be reluctant to stamp a combined ASME/DOT plate since they would be implying certification of compliance with DOT regulations which is not their area of expertise. Based on knowledge and information available, the MTB disagrees with these commenters. It is true the ASME Code plate requires certain information that differs from the DOT certification plate; however, MTB has determined that there are safety advantages associated with attaching only one plate to a tank. Therefore, one plate may be used to satisfy both DOT and ASME requirements. In addition, MTB has not been informed of pressure vessel inspectors objecting to certifying a combined DOT/ASME plate required to be affixed to a tank shell.

Some of the other differences between this amendment and the notice proposed on April 30, 1976, should be reiterated.

The proposed prohibition against affixing certification plates by means of riveting and soldering has been dropped. Several commenters strongly objected to the prohibition on the basis that it would increase production costs without any commensurate safety increase and there is no justification for the economic impact of removing, relocating, and resecuring plates that are riveted or soldered. After reconsideration, the MTB agrees with these comments and has authorized riveting and soldering as means of attaching certification plates.

The proposal to require the certification plate to be of such construction, or attached in such a way, that removal of the plate would, depending on where it is attached, either destroy the structural integrity of the tank or the plate so as to prevent their future use has been reconsidered. A commenter objected to such a provision on the basis that the proposed safeguards are an unnecessary expense without any commensurate value to the user or purchaser of the tank. The commenter also observed the certification plate would have to be paper thin in order to be destroyed if removal were attempted and this is contrary to the requirement that the plate be of such thickness to withstand corrosion and abrasion from general usage. The MTB has determined that this provision is unnecessary because the regulations currently provide adequate sanctions against improper certification of design and construction of a cargo tank packaging. See §§ 173.24(c) and 178.0-2(a) and (b).

In summary, § 178.340-10(b) has been amended to provide the option of attaching a certification plate to the tank shell or an integral supporting structure. Riveting and soldering are now authorized as acceptable methods for affixing a certification plate. The related provisions addressing the integrity of the plate and its removal have been deleted from the section.

In consideration of the foregoing, Part 178 of Title 49, Code of Federal Regulations is amended as follows:

1. In § 178.337, § 178.337-6 is amended by adding paragraph (b) to read as follows:

§ 178.337 Specification MC 331; cargo tanks constructed of steel, primarily for transportation of compressed gases as defined in the Compressed Gas Section.

* * * * *

§ 178.337-6 Closure for manhole.

* * * * *

(b) The manhole assembly of cargo tanks constructed after June 30, 1979, may not be located on the front head of the tank.

2. In § 178.340, § 178.340-10 the introductory text of paragraph (b) is revised to read as follows:

§ 178.340 General design and construction requirements applicable to specification MC 306 (§ 178.341), MC 307 (§ 178.342), and MC 312 (§ 178.343) cargo tanks.

* * * * *

§ 178.340-10 Certification.

* * * * *

(b) *Metal certification plate.* Each cargo tank, or tank compartment if constructed to a different specification, must have a metal certification plate attached to its shell or to an integral supporting structure. The metal certification plate, not subject to corrosion, must be located on the right side, near the front, in a place readily accessible for inspection. Each plate shall be permanently affixed by means of brazing, welding, soldering, riveting, or other equally suitable means. The plate must be marked in characters at least 3/16-inch high by stamping, embossing, or other means of forming letters into or on the metal of the plate itself at least the information prescribed in paragraphs (b)(1) and (b)(2) of this section. The plate may not be painted as to obscure the marking thereon. A combination ASME/DOT certification plate is authorized.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that this final amendment will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. December 1, 1978.

L. D. SANTMAN,
Director,
Materials Transportation Bureau.

[FR Doc. 78-34950 Filed 12-15-78; 8:45 am]

[4910-59-M]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-16; Notice 25]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This notice amends the air brake standard to further extend

existing exclusions for heavy hauler trailers, auto transporters, and other specialized vehicles from certain requirements and withdraws two recent changes in road test procedures. These actions follow judicial review of the standard, and are intended to provide direction with regard to the future of the air brake standard.

DATES: Effective date of amendments is December 18, 1978.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street., S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Duane Perrin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202) 426-2153.

SUPPLEMENTARY INFORMATION: Standard No. 121, *Air Brake Systems* (49 CFR 571.121); regulates the braking system performance of air-braked trucks, buses, and trailers. The standard has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. Requirements are established for the service, emergency, and parking brake systems of these vehicles.

Test Procedures

Certain aspects of the air brake standard were invalidated by court action in *PACCAR v. National Highway Traffic Safety Administration and Department of Transportation*, 573 F2d. 632 (9th Cir. 1978), *cert.* denied— U.S. — (October 2, 1978) (47 U.S.L. W. 3190 (Sup. Ct.)) as detailed in a recent agency notice (43 FR 48646; October 19, 1978). The agency fulfilled the court's remand with regard to modification of test procedures on August 25, 1978 (43 FR 39390; September 5, 1978), by means of several amendments. Notice and opportunity for comment were not provided, because the NHTSA judged that the modifications would not involve additional requirements for any person and reinstitution of the test procedures was found to be in the public interest. However, six petitions for reconsideration of some of the modifications have been filed by parties that argued that changes may or do in fact cause some changes in the standard's requirements.

In response to the court's order for a specific criterion for the interval between repetitive tests, the standard was amended to specify initial brake temperatures prior to the tests. Brake temperatures are partly a function of the time that brakes have to cool between tests.

Freightliner Corporation objected to the specification of a 150° to 200°F. initial brake temperature for stopping tests as the agency's method of establishing the test intervals. Freightliner explained that some of its brake designs could not provide the required 60-mph stopping distances if initial brake temperatures were above 180°F. The other commenters, in contrast, pointed out that metallic linings and disc brake technology argued for a higher initial brake temperature in some cases. The American Trucking Associations (ATA) suggested specification of a time period between repetitive tests as a means of fulfilling the court remand for test intervals.

In view of these possible substantive changes represented by the specification of an interval between repetitive road tests, the agency concludes that the wisest course of action would be to revoke the initial brake temperature specification and propose a new method, following consideration of the data and suggestions supplied by manufacturers. Withdrawal of the test interval specification is accomplished in this notice.

All petitioners requested that the modification of skid number specification be reconsidered. The agency met the court's objection to specification of a single value for the "skid resistance" characteristics of the test track by substitution of a range of permissible values. Commenters differed significantly with the agency both over the meaning of the court's opinion and the consequence of the modification adopted by NHTSA. Although the NHTSA does not believe that its modification had a substantive effect on the requirements of the standard, it is clear that there is a difference of opinion about the court's holding, and the NHTSA again considers the wisest course of action to be revocation of the skid number range to permit a proposal and opportunity for comment. The substitution of the updated and uncontroversial ASTM test method and tire is not revoked.

No other aspect of the test procedure modifications was cited by commenters as a source of specific concern.

As for the period of time that the skid number range and initial brake temperature requirements were in effect (from August 25th to the date of publication of this notice), the agency hereby states that it will not pursue cases that arose as a consequence of these requirements during the short period that they were effective.

Vehicle Exclusions

Auto transporters and heavy hauler trailers have been excluded from Standard No. 121 until January 1, 1979, due to the distinctive construction or use of these vehicles that make compliance with certain aspects of the standard more difficult. Four years of additional time were granted to manufacturers of these vehicles in order for them to work out solutions to their distinctive equipment problems. The Truck Trailer Manufacturers Association (TTMA) recently petitioned the NHTSA for permanent exclusion of heavy hauler trailers from the standard, based on hardware problems and related reasons.

The NHTSA proposed some continued exclusions for these and related vehicle types (43 FR 41056; September 14, 1978). The nature of the proposed exclusions was based on equipment space considerations, rough terrain use of some of the vehicles, and most importantly, on the uncertainty over future road testing requirements created by pendency of the Ninth Circuit litigation. It was accordingly proposed that heavy hauler trailers and auto transporters be temporarily excluded from stopping distance requirements, including the "no lockup" and related reservoir size requirements. Also, heavy haulers, pulpwood trailers, and straddle trailers would be permitted the same option as agricultural trailers and converter dollies have to meet only the emergency breakaway requirements and no parking brake requirements.

The proposed temporary exclusions from the road test and reservoir volume requirements were supported by Freightliner and General Motors, manufacturers of tractors for auto transporter use, and by Delavan Industries, Inc., an auto transporter manufacturer. The California Highway Patrol (CHP) and Wagner Electric Co., a brake component manufacturer, expressed concern that the exclusions not be made permanent, and that these vehicles eventually be required to exhibit the same performance as other air-braked trucks and trailers. No date for compliance was suggested. TTMA requested a review of the reservoir volume requirements for all vehicles in light of the *PACCAR* decision, and suggested a reduced volume requirement for trailers. No other comments on these subjects were received.

This amendment makes final the temporary exclusions from road test and reservoir volume requirements for heavy hauler trailers and auto transporters. No termination date for the exclusions was proposed or is made in the final rule, but manufacturers of these vehicles must be and are hereby placed on notice that these exclusions are not made as permanent exclusions. The temporary exclusions will therefore remain in effect until a final decision is made regarding the reservoir

volume and stopping distance requirements for all vehicles. Notice and opportunity for comment will precede any amendment of the reservoir volume and stopping distance requirements.

The CHP requested rewording of the exclusion of auto transporter tractors from the road test requirement in § 5.7.1, to avoid confusion over the reference to such requirements in § 5.7.3. The wording is changed to expand the exclusion to both § 5.7.1 and § 5.7.3.

The proposed permanent exclusion from the parking brake requirements for heavy hauler trailers was supported by TTMA and Fontaine Truck Equipment Co., a heavy hauler trailer manufacturer. The CHP expressed the desire that the exclusion be only temporary, and be reviewed in the future when more compact parking brake designs are available. The National Automobile Transporters Association (NATA), and two auto transporter manufacturers, Delavan and Cottrell-Sullivan, requested permanent exclusion from the parking brake requirement for auto transporter trailers as well. Reasons cited were the problems of mounting the parking brake components and the associated air reservoirs without loss of cargo-carrying capacity, lack of availability of more compact hardware, and the short lead time to redesign equipment by January 1, 1979. NATA also noted that auto transporters usually operate as married units, and have a good safety record. Another manufacturer, Traffic Transport Engineering, requested permanent exclusion from the entire standard, based on the same arguments.

The NHTSA is aware that auto transporter manufacturers are presented with difficult hardware packaging problems related to parking brakes on trailers, but is also aware that prototype auto transporters have been built to full compliance with the standard about two years ago. This constitutes strong evidence that such systems can be built on a production basis, and the agency takes note that manufacturers of auto transporters have had four years longer to solve their hardware problems than manufacturers of other types of trailers.

Nevertheless, the agency also recognizes that the availability of new, more compact parking brake systems is dependent on the proposed changes in the parking and emergency brake requirements, which have not yet been implemented. Some additional delay of applicability of the parking brake requirement for auto transporters therefore appears reasonable. An additional delay of one year is provided, with the expectation that any changes in the parking brake requirements will be made final by early 1979, allowing sufficient lead time for manufacturers to incorporate such changes in their trailers. Requests for permanent exclusion from the parking brake requirements or the entire standard for auto transporters are denied, on the grounds that it has been demonstrated that complying vehicles can be designed without significant loss of cargo carrying capacity, and that the additional year's exclusion should compensate for any lead time difficulties. Unlike heavy hauler trailers, auto transporter trailers are not subjected to the same off-road environment that formed the basis for excluding certain vehicle types from the parking brake requirement. The proposed parking brake exclusion of heavy hauler and other trailers is adopted as proposed.

TTMA and three of its members—Birmingham Manufacturing Co., Ferree Trailer Corp., and Fontaine Truck Equipment Co.—repeated their requests for permanent exclusion from the entire standard for heavy hauler trailers, and expressed dismay that all of the points raised in their petition for exclusion had not been addressed in the preamble to the agency's proposal. The NHTSA regrets the brevity of its treatment of the issues in the proposal, but it should not be interpreted as a lack of attention or concern for the problems of the heavy hauler industry. A detailed discussion of the petition and comments to the proposal is being prepared. Copies will be sent to the TTMA and parties who commented on the proposal, and placed in the public docket. Because of its length and technical nature, it is only summarized here.

To place the subject in perspective, it is necessary to first see what portions of the standard apply to heavy hauler trailers. Section S5.1 and S5.7 of the standard apply only to trucks and buses. By this notice, heavy hauler trailers have been permanently excluded from S5.6, and temporarily excluded from S5.3 and parts of S5.2. Section S5.5 applies only if the trailer is antilock-equipped, which is not required according to the Ninth Circuit decision. To the NHTSA's knowledge all heavy hauler trailers already are complying with the applicable portions of S5.2 and S5.8, because of industry standards or BMCS requirements. Thus the only remaining requirements that could necessitate any change in the vehicles are the dynamometer requirements of S5.4.

The assertion that is presented in the TTMA petition, and repeated in the comments to the proposal, is that compliance with Standard No. 121 will necessitate the addition of more axles, resulting in substantially increased cost. This possibility arises because of the current method of rating the capacity of heavy hauler trailers. Axle weight ratings (GAWR's) depend upon the load-carrying capacity of the axle, rims, and tires, and the torque capability of the brakes on the axle. According to industry standards, tires can be rated for higher loads if speed is restricted. Current practice is to rate heavy hauler trailers according to the capacity of the axles and tires, using the tire load capacity ratings at 20 mph. The brakes used are currently not considered in axle rating calculations for the restricted speed rating.

For a trailer subject to Standard No. 121, however, the dynamometer requirements of S5.4.1 require that the brake retardation capability be proportional to the GAWR's. If the retardation capability of the brakes on a trailer is insufficient to meet the minimum performance requirement, a manufacturer must either install more powerful brakes or "derate" the axles to bring the GAWR's in line with the braking capability afforded. In the case of heavy hauler trailers, manufacturers say that they are already using the most powerful brakes available for 15-inch wheels, and those brakes are rated at only 17,000 pounds per axle. The manufacturers assert that since nearly all heavy hauler trailer axles are currently rated for a higher load, the derating to 17,000 pounds per axle necessitated by consideration of brakes in the rating calculations would require them to add more axles to provide the same overall capacities for their trailers.

The data supplied, however, do not support this view. The dynamometer tests are run at 50 mph, and therefore the 17,000-pound axle rating for brakes is a factor in determining the GAWR at that speed. Examination of the load ratings of the tires typically used on heavy hauler trailers (8.25 x 15 and 9.00 x 15) show that their ratings at 50 mph are below 17,000 pounds per axle. Therefore, the tires are the limiting element in determination of GAWR at 50 mph, and the brakes currently being used on these trailers already comply with the dynamometer requirements of the standard with the tires employed.

The misunderstanding apparently arises from the current practice of rating heavy hauler trailers at 20 mph. It is noted that while § 567.4(h)(3) of NHTSA certification regulations (49 CFR Part 567) allows manufacturers to specify GVWR-GAWR ratings for operation of a vehicle at restricted speeds in addition to the unrestricted ratings, the GAWR used for determination of compliance with the dynamometer requirements must be that corresponding to a speed not less than the dynamometer test speed (50 mph). Testing at the restricted speed GAWR would represent an overloaded condition at the dynamometer test speed.

The portion of the dynamometer test conditions dealing with GAWR (S6.2.1) is hereby amended to clarify this fact. The only trailers that would actually have to be derated (at 50 mph) would be those using 10.00 x 15 or 11.00 x 15 tires. Very large heavy hauler trailers (over 50 ton capacity) are not affected because they are already permanently excluded by virtue of having a gross vehicle weight rating over 120,000 pounds.

In view of the longer than anticipated time for response to the TTMA petition and the short time remaining before the existing January 1979 effective date, the NHTSA has decided to and hereby delays the effective date for institution of the dynamometer requirements for heavy hauler trailers to July 1, 1979, as requested by TTMA.

CHP suggested changing the word "agriculture" to "agricultural" in the definition of a commodity trailer, and deletion of the phrase "an arrangement of air control lines and reservoirs that minimizes damage in field operation" because it is vague. Midland-Ross commented that straddle trailers would be included in the agricultural commodity trailer definition, and that a separate definition is unnecessary. CHP suggested that the term "logging trailer" be used instead of "pulpwood trailer", and that the definition be reworded to be similar to the definition of agricultural commodity trailer. CHP also suggested deleting the reference to hydraulic lifting arms in the case of straddle trailers, because it is too design restrictive. The NHTSA agrees with the spirit of these suggestions but, in the interests of preserving continuity in interpretation of existing terminology, the changes are only made where they do not conflict with wording already in the standard or in previous interpretations of it.

It is noted that the comments on the parking and emergency brake aspects of the September 14th notice have convinced the NHTSA that further consideration should precede rulemaking changes in this area.

In accordance with Department of Transportation policy for the analysis of regulatory actions, it is found that these amendments of Standard No. 121 do not have significant impact as defined in the Department's criteria for internal review. The changes all permit greater manufacturing flexibility and do not impose any additional requirements. The implementation of some of the standard's requirements for heavy hauler trailers and auto transporters reflects the termination of an exclusion, not new agency action. It is also found that no significant adverse environmental impact will result from these amendments.

§ 571.121 [Amended]

In consideration of the foregoing, Standard No. 121 (49 CFR 571.121) is amended as follows:

1. Section S4 (*Definitions*) is amended by the addition of a new definition (before the existing definition of "Air brake system,") to read:

"Agricultural commodity trailer" means a trailer that is designed to transport bulk agricultural commodities in off-road harvesting sites and to a processing plant or storage location, as evidenced by skeletal construction that accommodates harvest containers, a maximum length of 28 feet, and an arrangement of air control lines and reservoirs that minimizes damage in field operations.

2. Section S4 (*Definitions*) is further amended by the addition of a new definition, between the definitions of "Load divider dolly" and "Skid number," to read:

"Pulpwood trailer" means a trailer that is designed exclusively for harvesting logs or pulpwood and constructed with a skeletal frame with no means for attachment of a solid bed, body, or container, and with an arrangement of air control lines and reservoirs designed to minimize damage in off-road operations.

3. Section S4 (*Definitions*) is further amended by the addition of a new definition following the definition of "Skid number," to read:

"Straddle trailer" means a trailer that is designed to transport bulk agricultural commodities from the harvesting location as evidenced by a framework that is driven over the cargo and lifting arms that suspend the cargo for transit.

4. Section S5.1.2.1 is amended by the addition of a sentence at the end of the text to read: "However, the reservoirs on the truck portion of an auto transporter need not meet this requirement."

5. Section S5.2.1.2 is amended by the addition of a sentence at the end of the text to read: "However, the reservoirs on a heavy hauler trailer and on the trailer portion of an auto transporter need not meet this requirement."

6. The phrase "of not more than 1 second" is deleted from S5.3.1(a) and S5.3.2(a), and the last sentence in the paragraph designated S5.3 is replaced by a new sentence to read: "However, a heavy hauler trailer and the truck and trailer portions of an auto transporter need not meet the requirements of S5.3."

7. References to "skid number range 20-30" and "Skid No. 20-30" in Tables I and II are amended to read "skid number of 30" and "Skid No. 30", respectively.

8. References to "Skid number range 71-81" and "Skid No. 71-81" in Tables I and II are amended to read "skid number of 81" and "Skid No. 81", respectively.

9. In document FR 78-24903 appearing on page 39392 of the issue of September 5, 1978, the reference in paragraph 7 to S5.3.1 is removed.

10. The phrase "skid number in the range of 20 to 30, inclusive, chosen at the option of the manufacturer" in paragraph S5.3.2.1 is amended to read "skid number of 30."

The phrase "skid number in the range of 71 to 81, inclusive, chosen at the option of the manufacturer" in paragraphs S5.3.1.1, S5.3.2.1, S5.7.1, and S6.1.7 are amended to read "skid number of 81."

12. Section S5.3.2.2 is amended to read:

S5.3.2.2 When stopped in accordance with S5.3.2, a pulpwood trailer need not meet the requirements relating to wheel lockup, but must nevertheless meet the requirements of staying within the 12-foot lane.

13. A new sentence is added to the end of paragraph S5.4, to read: "However, a brake assembly on a heavy hauler trailer manufactured before July 1, 1979, need not meet the requirements of this section."

14. The last sentences of S5.6 and S5.8 are amended to read: "However, the trailer portion of an auto transporter manufactured before January 1, 1980, and any agricultural commodity trailer, heavy hauler trailer, or pulpwood trailer shall meet the requirements of this section or, at the option of the manufacturer, the requirements of § 393.43 of this title."

15. Section S5.7 is amended by replacing the last sentence with a sentence to read: "However, the truck portion of an auto transporter need not meet the road test requirements of S5.7.1 and S5.7.3."

16. Paragraph S6.1.15 is deleted.

17. A new sentence is added to the end of paragraph S6.2.1, to read: "For a vehicle having additional gross axle weight ratings specified for operation at reduced speeds, the GAWR used is that specified for a speed of 50 mph, or, at the option of the manufacturer, any speed greater than 50 mph."

Effective date finding: Due to the short time remaining before vehicles would have to be modified to comply with the established January 1979 requirements, it is found that notice and opportunity for comment on the delay of the dynamometer requirements for heavy hauler trailers to July 1, 1979, and the parking brake requirements for auto transporter trailers to January 1, 1980, is impracticable and contrary to the public interest in establishing the final requirements as early as practicable. For the same reason, it is found to be in the public interest to

make the relieving amendments effective immediately.

The program official and lawyer principally responsible for the development of this document are Duane Perrin and Tad Herlihy, respectively.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on: December 11, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-34865 Filed 12-15-78; 8:45 am]

[1505-01-M]

[Docket 71-18, Notice 11; Docket 25, Notice 27]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

PART 575—CONSUMER INFORMATION REGULATIONS

Uniform Tire Quality Grading and Temperature for Tire Testing

Correction

In FR Doc. 78-30368 in the issue of Monday, October 30, 1978 on page 50438, on page 50439 in the 1st column, the 11th line and in the 3rd paragraph, the 9th line, the "n" should read, "Notice 24".

1. In the middle column, the 3rd paragraph, the 1st line should read, "In commenting on the notice, Good-[year . . .]".

2. In the last column, the 1st full paragraph, the 2nd line should read, "and Mr. Peskoe commented that provi-[sion . . .]".

3. In the 3rd paragraph, the 1st sentence should read, "Notice 24 set March 1, 1979, in the . . .".

4. In the 4th paragraph, the 1st line should read, "The purpose of this delayed phase-in . . .".

5. On page 50440 in the 1st column, in the 2nd column, the 3rd and 4th lines should read, "[reco-]mmending that the test temperatures for Standard No. 119 and the UTQG . . .".

6. In the 3rd column, the 2nd paragraph should read, "To the extent that the RMA and Goodyear petitions for reconsideration are not granted by this amendment, the petitions are denied."

7. In the 3rd paragraph, the 13th line should read, "the tread labeling proposal imposes no . . .".

8. In the 4th paragraph, the 8th line should read, "the amendments to Standard No. 119. . .".

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Codes and Standards for Nuclear Power Plants

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulation, "Codes and Standards," to incorporate by reference new addenda of a national code that provides rules for the construction of nuclear power plant components. This amendment would provide for the use of updated methods on nuclear power plant construction.

DATES: Comment period expires January 17, 1979.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Section.

FOR FURTHER INFORMATION CONTACT:

Mr. A. Taboada, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301-443-5999).

SUPPLEMENTARY INFORMATION: On April 24, 1978 the Nuclear Regulatory Commission published in the FEDERAL REGISTER (43 FR 17337) and amendment to its regulation 10 CFR Part 50, "Licensing of Production and Utilization Facilities," which incorporated by reference a new edition and addenda to a specified national code. The Commission amended § 50.55a to incorporate by reference the 1977 Edition and the Summer 1977 Addenda of Section III of the ASME Boiler and Pressure Vessel Code.

The Winter 1977 Addenda of the referenced Code have since been issued as have the Summer 1978 Addenda. The Commission proposes to amend § 50.55a to incorporate by reference the Winter 1977 Addenda and the Summer 1978 Addenda Section III of the ASME Boiler and Pressure Vessel Code. The 1977 Edition of Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," for the ASME Code and Section XI addenda since the Summer 1975 Addenda have been evaluated by the staff and are expected to be referenced with modifications in a separate amendment to the regulations.

The proposed amendment also would have minor and editorial changes to § 50.55a to make references to Section III in the regulations consistent with changes in Section III in the Winter 1977 Addenda. These changes in Section III of the ASME Code relate to the method for determining the edition and addenda applicable to components of the reactor coolant pressure boundary. The code presently provides that components meet the requirements of editions or addenda in effect on the date of purchase order of the components. Since the issuance of the Winter 1977 addenda, the code rules for selecting the applicable edition and addenda are more flexible. Under these rules, the licensee may establish the date of the code edition and addenda to be applied to a component. These dates may be the same for all components of a nuclear power plant, but in no case may the dates be earlier than three years prior to the docket date for the application for the nuclear power plant construction permit. These rules also permit more current code editions and addenda to be used. The proposed amendment would modify § 50.55a to be consistent with these changes in the code but would retain some restrictions in the regulations on the use of editions and addenda issued prior to the Winter 1972 Addenda.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated. All interested persons who wish to submit written comments or suggestions in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by January 17, 1979. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. In § 50.55a of 10 CFR Part 50, paragraphs (b)(1), (c)(3), (d)(3), (e)(3), and (f)(3) are revised to read as follows:

§ 50.55a Codes and Standards.

Each operating license for a boiling or pressurized water-cooled nuclear power facility shall be subject to the conditions in paragraph (g) and each construction permit for a utilization facility shall be subject to the following conditions in addition to those specified in § 50.55:

* * * * *

(b)(1) As used in this section, references [1] to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1977 Edition and addenda through the Summer 1978 Addenda. The edition and addenda selected for Section III for a given component also establishes a requirement that the identical Edition and Addenda be applicable to all other Sections of the ASME Code used for construction of the component.

* * * * *

(c) Pressure vessels:

* * * * *

(3) For construction permits issued on or after July 1, 1974, pressure vessels which are part of the reactor coolant pressure boundary [2] shall meet the requirements for Class 1 components set forth in Section III [3,4,5,6] of the ASME Boiler and Pressure Vessel Code: *Provided*, That the ASME Code provisions applied to the pressure vessels shall be no earlier than those of the Summer 1972 Addenda of the 1971 edition.

* * * * *

(d) Piping:

* * * * *

(3) For construction permits issued on or after July 1, 1974, piping which is part of the reactor coolant pressure boundary [2] shall meet the require-

[1] These incorporation by reference provisions were approved by the Director of the Federal Register on March 17, 1972, May 4, 1973, and February 7, 1978.

ments for Class 1 components set forth in Section III [3,4,5,6] of the ASME Boiler and Pressure Vessel Code: *Provided*, That the ASME Code provisions applied to the piping shall be no earlier than those of Winter 1972 Addenda of the 1971 edition.

* * * * *

(e) Pumps:

* * * * *

(3) For construction permits issued on or after July 1, 1974, pumps which are part of the reactor coolant pressure boundary [2] shall meet the requirements for Class 1 components set forth in Section III [3,4,5,6] of the ASME Boiler and Pressure Vessel Code: *Provided*, That the ASME Code provisions applied to the pumps shall be no earlier than those of the Winter 1972 Addenda of the 1971 edition.

* * * * *

(f) Valves:

* * * * *

(3) For construction permits issued on or after July 1, 1974, valves which are part of the reactor coolant pressure boundary [2] shall meet the requirements set forth in Section III [3,4,5,6] of the ASME Boiler and Pressure Vessel Code: *Provided*, That the ASME Code provisions applied to the valves shall be no earlier than those of the Winter 1972 Addenda of the 1971 edition.

* * * * *

2. Footnotes 4, 5, and 6 to § 50.55a are revised to read as follows:

[4] USAS and ASME Code addenda issued prior to the Winter 1977 Addenda are considered to be "in effect" or "effective" 6 months after their date of issuance *and* after they are incorporated by reference in paragraph (b) of this section. Addenda to the ASME Code issued after the Summer 1977 Addenda are considered to be "in effect" or "effective" after the date of publication of the addenda *and* after they are incorporated by reference in paragraph (b) of this section.

[5] For ASME Code Addenda issued prior to the Winter 1977 Addenda, the Code issue applicable to the component is governed by the order or contract date for the component, not the contract date for the nuclear energy system. For the Winter 1977 addenda and subsequent addenda the method for determining the applicable Code issue is contained in Paragraph NCA 1140 of Section III of the ASME Code.

[6] ASME Code cases which have been determined suitable for use by the Commission staff are listed in NRC Regulatory Guide 1.84, "Code Case Acceptability—ASME Section III Design and Fabrication" and NRC Regulatory Guide 1.85, "Code Case Acceptability—ASME Section III Materials." The use of other Code cases may be authorized by the Commission upon request pursuant to § 50.55a(a)(2)(ii).

* * * * *

(Secs. 103, 104, 161i, Pub. Law 83-703; 68 Stat. 936, 937, 948; Sec. 201, Pub. Law 93-438, 88 Stat. 1242; (42 U.S.C. 2133, 2134, 2201 (i), 5841)).

Dated at Bethesda, Maryland this 4th day of December, 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-34949 Filed 12-15-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Docket No. 78-SO-72]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Alteration of Transition Area, Donalsonville, Ga.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will alter the Donalsonville, Ga., Transition Area and will lower the base of controlled airspace in the vicinity of the Donalsonville Municipal Airport from 1200 to 700 feet AGL to accommodate Instrument Flight Rule (IFR) operations. A new public use instrument approach procedure has been developed for the Donalsonville Municipal Airport, and the additional controlled airspace is required to protect aircraft executing the approach procedure.

DATES: Comments must be received on or before: January 29, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia. 30320.

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before January 29, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing data for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The proposed alteration is required to provide additional controlled airspace protection for IFR operations at Donalsonville Municipal Airport. The NDB Runway 36 standard instrument approach procedure utilizing the Donalsonville (nonfederal) nondirectional radio beacon is proposed in conjunction with the alteration of this transition area. It is also necessary to change the transition area description to reflect the correct airport name.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (43 FR 440) of Part 71 of the Federal Aviation Administration Regulations (14 CFR 71) as follows:

DONALSONVILLE, GA.

"* * * Donalsonville Airport * * *" is deleted and "* * * Donalsonville Municipal Airport * * *" is substituted therefor.

"* * * within 3 miles each side of the 188° bearing from the Donalsonville RBN (latitude 31°00'37"N., longitude 84°52'32"W.), extending from the 6.5 mile radius area to 8.5 miles south of the RBN * * *" is added.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE.—The Federal Aviation Administration has determined that this document in-

volves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on December 7, 1978.

GEORGE R. LACAILLE,
Acting Director,
Southern Region.

[FR Doc. 78-34974 Filed 12-15-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-107]

TRANSITION AREA, PETERSBURG, W. VA.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This notice proposes to designate a Petersburg, W. Va., Transition Area over Grant County Airport, Petersburg, W. Va. This designation will protect aircraft using the IFR departure and arrival procedures for the airport. This designation results from establishment of a new NDB instrument approach to the airport.

DATES: Comments must be received on or before February 5, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: This proposal will designate a transition area with a 5-mile radius around the airport and with a 20 by 10 mile extension to the north and 8.5 by 6 miles to the southeast.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before February 5, 1979, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regualtions by designating a Petersburg, West Virginia, 700-foot floor transition area as follows:

PETERSBURG, W. VA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 38°59'35"N., 79°08'34"W., of Grant County Airport, Petersburg, W. Va.; within 3 miles each side of the 116° bearing from the Dorcas, W. Va., RBN (38°59'26"N., 79°08'34"W.), extending from the RBN to 8.5 miles southeast of the RBN; within 5 miles each side of the 357° bearing from the Dorcas, W. Va. RBN, extending from the RBN to 20 miles north of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Jamaica, New York, on December 4, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-34957 Filed 12-15-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-GL-17]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to alter the controlled airspace near Black River Falls, Wisconsin to accommodate a new NDB instrument approach procedure into the Black River Falls Area Airport pursuant to a request from the Black River Falls Airport officials. The new instrument approach procedure will be established to Runway 8 and will replace the existing NDB Runway 26 approach procedure. The intended affect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATES: Comments must be received on or before January 22, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-17, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in the new area to be affected will be lowered from 1200′ above ground to 700′ above ground. The development of the proposed instrument approach procedure necessitates the FAA to lower the floor of the controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. The floor of the controlled airspace, that will no longer be needed after cancellation of the NDB Runway 26 approach procedure, will be raised from 700′ above ground to 1200′ above ground. In addition, aeronautical maps and charts will reflect

the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 78-GL-17, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before January 22, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700 foot controlled airspace transition area near Black River Falls, Wisconsin. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (43 FR 440), the following transition area is amended to:

BLACK RIVER FALLS, WIS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Black River Falls Area Airport (latitude 44°15'05" N, longitude 90°51'05" W) and within three statute miles each side of the 253° bearing from the Black River Falls Area Airport, extending from the 7-mile radius to 8½ miles southwest of the airport.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 C.F.R. 11.61).

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Des Plaines, Illinois, on December 5, 1978.

WAYNE J. BARLOW,
Acting Director,
Great Lakes Region.

[FR Doc. 78-34960 Filed 12-15-78;8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-31]

TRANSITION AREA—JEFFERSON CITY, MO.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Jefferson City, Missouri to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Runway 30 at the Jefferson City, Missouri Municipal Airport utilizing the Jefferson City localizer, an approach aid.

DATES: Comments must be received on or before January 21, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before January 21, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR Section 71.181) by altering the 700-foot transition area at Jefferson City, Missouri. To enhance airport usage, a new instrument approach procedure to Runway 30 at the Jefferson City, Missouri Municipal Airport is being established utilizing the Jefferson City localizer, an approach aid. The establishment of an instrument approach procedure based on this approach aid entails alteration of the transition area at Jefferson City, Missouri at and above 700 feet above ground level (AGL) within which aircraft will be provided additional controlled airspace protection. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43

FR 440) by altering the following transition area:

JEFFERSON CITY, MISSOURI

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Jefferson City Memorial Airport (latitude 38°35'33" N, longitude 92°09'39" W) and within 4.5 miles south and 5 miles north of the 123° bearing from the Jefferson City NDB (latitude 38°33'20" N, longitude 92°04'40" W) extending from the 8-mile radius to 15.5 miles southeast of the Jefferson City NDB.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri, on December 5, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-34962 Filed 12-15-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-7]

FEDERAL AIRWAYS

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to exclude from V-72, V-190 and V-175 airways the airspace within the Ozark Military Operations Area (MOA) during the time that the MOA is active to permit sharing of the airspace for civil or military use. This action is necessary to accommodate a type of military training that is not normally conducted in airways, and for which suitable airspace is not readily available elsewhere. Since nonregulatory action to establish the Ozark MOA depends on excluding certain airspace from the airway, the description of the MOA is included in this notice for consideration.

DATES: Comments must be received on or before January 15, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Central Region, Attention: Chief, Air Traffic Division, Docket No. 78-CE-7, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before January 15, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to exclude from VOR Federal Airways V-72, V-190 and V-175 the airspace within the Ozark Military Operations Area (MOA) during the time that the MOA is active. This action would permit sharing of the airspace for civil use and military training in an area proposed to be established as follows:

OZARK MOA

Boundaries. Beginning at Lat. 37°13'46" N., Long. 90°34'02" W., to Lat. 37°43'13" N., Long. 90°35'32" W., to Lat. 37°54'14" N., Long. 91°09'08" W., to Lat. 37°41'28" N., Long. 91°29'36" W., thence via the 60 NM arc of the Farmington, Mo., VORTAC to Lat. 37°20'00" N., Long. 91°24'30" W., to Lat. 37°11'00" N., Long. 91°02'00" W., to point of beginning.

Altitudes. Surface to but not including 8000 feet MSL but excluding airspace in a 3 NM radius from the surface to 1200 feet AGL around the following airports:
Viburnum Airport, Viburnum, Mo.
Bismarck Airport, Bismarck, Mo.
Dove Airport, Middle Brook, Mo.
Ellington Airport, Ellington, Mo.

Time of use. Only when established by NOTAM (normally 0900 to 2000 local time, Tuesday through Sunday).

NOTE.—Due to the Ozark MOA underlying the Meramec MOA, simultaneous use of both MOAs will not be authorized.

Controlling agency. Federal Aviation Administration, Kansas City ARTC Center.

Scheduling agency. 131st Tactical Fighter Wing, Missouri Air National Guard.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) by adding the following to the definition of V-72, V-175 and V-190 airways:

The airspace within the Ozark MOA is excluded during the time that the MOA is activated by NOTAM.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on December 7, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 78-34965 Filed 12-15-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-WE-20]

[14 CFR Part 71]

PROPOSED EXTENSION OF VOR FEDERAL AIRWAY

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to extend Victor Airway V-442 from Hector, California, to Ontario, California. Aircraft are presently radar vectored via the radials following this proposed airway to avoid the high minimum altitude (MEA) of 10,500 feet required on the existing airway. Extension of the proposed airway would reduce controller workload and aid flight planning.

DATES: Comments must be received on or before January 22, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 78-WE-20, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (ATT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received on or before January 22, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would extend Victor Airway V-442, from Hector, California, to Ontario, California, via the Ontario 026°T (012°M) and the Hector 247°T (232°M) radials. The minimum enroute altitude on Victor airways between Ontario and Hector is 10,500 feet. This airway extension would provide lower minimum enroute altitudes thereby aiding flight planning. Also, this action would reduce controller workload by establishment of an airway in an area where radar vectors are usually issued. Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) as follows:

Under V-442

"From Hector, California"; would be deleted, and "From Ontario, California, via INT Ontario 026°T (012°M) and Hector, California, 247°T (232°M) radials, Hector"; would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65).

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C. on December 12, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-35149 Filed 12-15-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3023]

GENERAL MILLS FUN GROUP, INC.

Consent Agreement With Analysis To Aid Public Comments; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects a Commission document previously published in the FEDERAL REGISTER on Thursday, December 7, 1978. The deadline for receiving public comment was incorrectly reported.

DATE: The correction is effective December 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Gregory E. Hales, Editor, FTC/SSR, Washington, D.C. 20580. (202) 724-1184.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-34141, appearing in FEDERAL REGISTER issue for Thursday, December 7, 1978, 43 FR 57267, under "DATE:", the deadline for receiving public comment was incorrectly reported. Therefore, the paragraph should read as follows:

"DATE: Comments must be received on or before February 5, 1979."

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-35083 Filed 12-15-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[CC:LR-157-76]

QUALIFIED STOCK OPTIONS GRANTED AFTER MAY 20, 1976

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains regulations relating to transitional rules for qualified stock options granted after May 20, 1976 and certain op-

tions exercised after May 20, 1981. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that Act and would affect grantors and grantees of stock options.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 16, 1979. The amendments are proposed to be effective for taxable years ending after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Annie R. Alexander of the Legislation and and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, attention: CC:LR:T, 202-566-3671 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 422 and 424 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 603 of the Tax Reform Act of 1976 (90 Stat. 1574) and to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

EXPLANATION OF THE REGULATIONS

Section 603 of the Tax Reform Act of 1976 generally repeals the qualified stock option provisions with respect to stock options granted after May 20, 1976, unless the option comes within one of the special transitional rules. The transitional rules generally permit a stock option to be treated as a qualified stock option if it was granted under a written plan that was adopted before May 21, 1976, or was substituted for an old option after a corporate reorganization where the substituted option is substantially equivalent to the old option. All qualified stock options granted after May 20, 1976, and all restricted stock options, must be exercised before May 21, 1981, in order to receive the advantageous tax treatment of section 421(a) of the Code.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is Annie R. Alexander of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

§ 1.422 [Deleted]

PARAGRAPH 1. Section 1.422 is deleted.,

PAR. 2. Section 1.422-2 is amended by revising the first sentence of paragraph (a)(1)(i) of § 1.422-2 and by inserting three new sentences immediately after that sentence, and by adding a new paragraph (i) to § 1.422-2. The revised and added provisions read as follows:

§ 1.422-2 Qualified stock options defined.

(a) *Qualified stock option defined.* (1)(i) The term "qualified stock option" means an option that meets the requirements of section 422(b) and this section. Generally, section 422(b) requires a qualified stock option to be granted to an individual after December 31, 1963, and before May 21, 1976. However, a qualified stock option may be granted after May 20, 1976, if it meets the requirements of section 422(c)(7). See paragraph (i) of this section for rules relating to options granted after May 20, 1976.* * *

* * * * *

(i) *Certain options granted after May 20, 1976*—(1) *In general.* An option granted to an individual after May 20, 1976 is not a qualified stock option unless the option meets the requirements of section 422(c)(7) and this paragraph. Generally, an option meets the requirements of section 422(c)(7) if it either is granted under a written plan adopted before May 21, 1976, or is substituted for a qualified stock option described in paragraph (i)(3) of this section. An option meeting the requirements of section 422(c)(7) and this paragraph that is exercised after May 20, 1981, will be treated under § 1.83-7(a) as if it were a nonqualified stock option without a readily ascertainable fair market value at the time of its grant.

(2) *Options granted under a written plan adopted before May 21, 1976.* (i) An option granted after May 20, 1976, is a qualified stock option if it otherwise meets the requirements of section 422(b) and this section and if the option is granted under a written plan that was adopted before May 21, 1976. A plan will be treated as having been adopted as of the date all actions needed for adoption have been completed. Ordinarily, a plan is adopted when approved by the board of directors of the granting corporation. However, if the board's action is subject to a condition or the happening of a particular event, the plan is adopted on the date the condition is met or the event occurs unless the board's resolution fixes the date of approval as the date of the board's action. For purposes of determining the date of the adoption of a plan, the date of the approval of the plan by the shareholders of the granting corporation is disregarded. Thus, it is immaterial whether the shareholders approved the plan before, on, or after May 21, 1976, although the plan must satisfy the requirements of paragraph (b) of this section, which requires that the shareholders approve the plan within 12 months before or after its adoption by the board. The authorization of specific grants of options to specific individuals under the plan is not required in order for options granted under the plan to be qualified stock options.

(ii) A corporation that merely changes its identify or place of incorporation may continue to grant qualified stock options under a written plan adopted before May 21, 1976, to the extent permissible had the change not occurred. In all other reorganizations a written option plan will be treated as being adopted after May 20, 1976, unless the corporation that adopted the plan before May 21, 1976, survives the reorganization. Of course, the surviving corporation may continue to grant options under the plan only to the extent it would have been able to do so had the reorganization not occurred.

(3) *Substituted stock options.* An option granted after May 20, 1976, is a qualified stock option if the option is an option that has been substituted, in a transaction to which section 425(a) applies (relating to certain corporate reorganizations, liquidations, etc.), for a qualified stock option granted before May 21, 1976 (or any option that is a qualified stock option under the requirements of section 422 (c)(7)(A) or

(B) and paragraph (i)(2) or (3) of this section).

(4) *Modifications to option plans.* An option plan adopted before May 21, 1976, may be modified after May 20, 1976, and options granted under such a plan, as modified, will be considered options granted under a plan adopted before May 21, 1976, unless the modification is considered the adoption of a new plan. See paragraph (b) of this section for rules relating to modifications that will be considered the adoption of a new plan. If a plan is modified after May 20, 1976, such that the modification is considered under paragraph (b) of this section to be the adoption of a new plan any option granted as a result of such modification will not be a qualified stock option. An option will be considered to have been granted as a result of such modification if it could not have been granted but for such modification of the plan. For example, if the modification changes the terms of the options to be granted in such a way that the modification is considered the adoption of a new plan, then no option granted with such terms is a qualified stock option since it could not have been granted but for the modification. If a plan is modified to increase the number of shares that can be transferred upon exercise of the options granted under the plan, any option granted after the modification will be a qualified stock option only if the option could have been granted without the modification to the plan. For example, if the number of shares authorized under a plan is increased from 4,000 shares to 10,000 shares at a time when options have already been granted under the plan to purchase 3,000 of the previously authorized shares, an option granted after the modification will be a qualified stock option if it is not an option to purchase any of the additional 6,000 shares authorized by the modification. In determining for this purpose which shares are subject to a particular option, the first option granted after the modification will be considered an option to buy originally authorized shares to the extent there are any such shares not subject to a previously granted option. If options to buy originally authorized shares and options to buy additional shares are granted, the granting corporation may designate which options are options to buy originally authorized shares to the extent there are originally authorized shares not subject to a previously granted option. In the previous example, absent such a designation, if ten options were granted on different days after the plan modification, each option for the purchase of 700 shares, the first option would be a qualified stock option since 1,000 originally authorized shares are not subject to any previously granted option. The second option would not be a qualified stock option because it includes an option to buy 400 shares that were not originally authorized and therefore could not have been granted without the modification. If the order in which the ten options were granted could not be determined and no such designation were made under this paragraph, none of the options would be a qualified stock option. If the modification enlarges the class of employees eligible to receive options, any option granted to a newly eligible employee would not be a qualified stock option.

(5) *Exercise of certain options after May 20, 1981.* If a qualified stock option granted after May 20, 1976, is exercised after May 20, 1981, the option will be treated as if it were a nonqualified stock option that did not have a readily ascertainable fair market value at the time it was granted. Thus, if such a qualified stock option is exercised after May 20, 1981, section 421(a) will not apply to the transfer of stock pursuant to the exercise of the option, and such transfer will be taxed under section 83. See § 1.83-7(a) for rules relating to the treatment of nonqualified stock options under section 83.

§ 1.424 [Deleted]

PAR. 3. Section 1.424 is deleted.

PAR. 4. Section 1.424-2 is amended by adding a new paragraph (d)(5) to read as follows:

§ 1.424-2 Restricted stock options.

* * * * *

(d) *Certain options granted after December 31, 1963.* * * *

(5) An option granted after December 31, 1963, that is treated as a restricted stock option under section 424(c)(3) and this paragraph must be exercised before May 21, 1981, in order for section 421(a) to apply to the transfer of stock pursuant to such exercise. If such an option is exercised after May 20, 1981, section 421(a) will not apply to the transfer of stock pursuant to such exercise, and section 83 will apply to such transfer as if the option were a nonqualified stock option without a readily ascertainable fair market value at the time of its grant. See § 1.83-7(a) for rules relating to the treatment of nonqualified stock options under section 83.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-35308 Filed 12-15-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

[32 CFR Part 542]

[AR 145-2]

SCHOOLS AND COLLEGES

ROTC—Junior Program and National Defense Cadet Corps Organization, Administration, Operation, and Support

AGENCY: Department of the Army, DoD.

ACTION: Proposed rule.

SUMMARY: A review of 32 CFR Part 542 revealed a need to update information concerning the Junior ROTC and the National Defense Cadet Corps programs and to rewrite the document to improve its readability. The Army proposes to delete from Part 542 information relating to the organization, administration, operation, and support aspects of the programs because this is internal procedural information. Additionally, the complete AR 145-2 can be obtained from the Army by writing to the activity stated in Section 542.7.

DATE: Comments must be received on or before January 19, 1979.

ADDRESS: Send comments to: Commander, US Army Military Personnel Center, ATTN: DAPC-OPP-P, 200 Stovall Street, Alexandria, Virginia 22332.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Colonel James P. Hunt, Area Code 202-325-0596.

Dated: December 8, 1978.

JAMES P. HUNT,
LTC, US Army, Chief, Procurement and Accessions Branch, MILPERCEN.

In consideration of the foregoing, it is proposed to amend 32 CFR Part 542 as set forth below:

PART 542—SCHOOLS AND COLLEGES

Sec.
542.1 Purpose.
542.2 Applicability.
542.3 Definitions.
542.4 Objectives.
542.5 Policies.
542.6 Responsibilities.
542.7 Program information.

AUTHORITY: Secs. 3012, 4651, 70A Stat. 157, 260, sec. 201, 78 Stat. 1069; 10 U.S.C. 2111, 3012, 4654.

§ 542.1 Purpose.

This regulation prescribes policies for administering the Junior Reserve Officers' Training Corps (JROTC) and the National Defense Cadet Corps (NDCC).

§ 542.2 Applicability.

This regulation applies to the Department of the Army (including the corps and their units), schools, and personnel associated with applying for these programs.

§ 542.3 Definitions.

The following terms apply to the JROTC and NDCC programs:

(a) *Junior Reserve Officers' Training Corps (JROTC).* The organization of units established by the Department of the Army (under 10 USC 2031) at public and private secondary schools to conduct student leadership training. Also, a general term used:

(1) To describe all JROTC training conducted at secondary schools.

(2) To denote the members, instruction, and other related matters.

(b) *National Defense Cadet Corps (NDCC).* Students taking part in leadership studies at any school under 10 USC 4651 and as prescribed by the Secretary of the Army. Used in a broad sense to refer to the program and related matters.

(c) *Leadership Development (LD) Program.* The JROTC curriculum which consists of a 4- or 3-year program of instruction (LD-1, -2, -3, and -4).

(d) *Military Science (MS).* The Senior ROTC curriculum which consists of two courses—the basic course (MS-I and MS-II) and the advanced course (MS-III and MS-IV).

(e) *Region commanders.* Region commanders applies to:

(1) The commanding generals of the following ROTC regions:

(i) US Army ROTC Region, Fort Bragg, NC 28307.

(ii) US Army Second ROTC Region, Fort Knox, KY 40121.

(iii) US Army Third ROTC Region, Fort Riley, KS 66442.

(iv) US Army Fourth ROTC Region, Fort Lewis, WA 98433.

(2) The Commander-in-Chief, US Army Europe, APO New York 09403.

§ 542.4 Objectives.

The Army JROTC/NDCC objectives are to develop in each cadet—

(a) Good citizenship and patriotism.

(b) Self-reliance, leadership, and responsiveness to constituted authority.

(c) The ability to communicate well both orally and in writing.

(d) An appreciation of the importance of physical fitness.

(e) A respect for the role of the US Army in support of national objectives.

(f) A knowledge of basic military skills.

§ 542.5 Policies.

(a) The Junior Reserve Officers' Training Corps and the National Defense Cadet Corps programs are designed for physically fit citizens attending participating schools. They provide meaningful leadership instruction of benefit to the student and of value to the Armed Forces. The programs provide unique educational opportunities for young citizens through their participation in a Federally-sponsored course while pursuing a normal civilian education. Students will acquire:

(1) An understanding of the fundamental concept of leadership, military art and science,

(2) An introduction to related professional knowledge, and

(3) An appreciation of requirements for national security. The dual roles of citizen/soldier and soldier/citizen are studied.

(b) Participants in either of the programs will acquire relevant knowledge and develop personally. Schools conductng these programs will offer their students the challenge of intellectual inquiry under the direction of instructors who are experienced leaders. (JROTC instructors are active duty or retired members of the US Army. NDCC schools may employ retired or Reserve members.) These programs provide an atmosphere designed to develop the qualities of leadership. Through classroom and other activities, the students will acquire the knowledge, self-discipline, patriotism, sense of responsibility, and responsiveness to constituted authority which will better prepare them for the future. These programs will enable cadets to better serve their country as leaders, as citizens, and in military service should they enter it.

(c) The programs were set up as part of the National Defense Act of 1916. The principle of maintaining national programs of training for the young citizens attending school was validated during congressional hearings preceding passage of the ROTC Vitalization Act of 1964. The JROTC and NDCC are not, of themselves, officer-producing programs but should create favorable attitudes and impressions toward the Services and toward careers in the Armed Forces. JROTC/NDCC cadets may qualify for an advantageous position in the Senior ROTC upon enlistment in Service.

(d) Participation in JROTC/NDCC does not obligate the student to perform military or any other Federal service. Although all qualified students of JROTC/NDCC host schools are encouraged to take part in these programs, they are not required by Federal law to do so. State, community, or school authorities decree whether students must be in the programs.

(e) The National Defense Cadet Corps differs from the Junior Reserve Officers' Training Corps in that—

(1) NDCC instructors must be provided by the school. Although these instructors are subject to Army approval, there is no cost-sharing arrangement as exists for JROTC.

(2) Schools or students must provide uniforms, if desired, in the NDCC program.

§ 542.6 Responsibilities.

(a) The Secretary of the Army (as charged by law)—

(1) Formulates and prepares all Army ROTC and NDCC plans, policies, regulations, and instructions to carry out statutory provisions.

(2) Ensures that laws relating to the JROTC/NDCC are complied with.

(b) The Chief of Staff, US Army supervises and controls the JROTC/NDCC.

(c) The Deputy Chief of Staff for Personnel has general staff responsibility for JROTC/NDCC plans, policies, and programs.

(d) The Commanding General, US Army Military Personnel Center is responsible for administering the Army JROTC/NDCC programs and announcing policy changes.

(e) *The Commanding General, US Army Training and Doctrine Command* is responsible for managing the JROTC/NDCC except for those functions and responsibilities retained by Headquarters, Department of the Army.

(f) Region commanders are responsible for operating and administering the JROTC/NDCC training conducted within their areas.

§ 542.7 Program Information.

The JROTC/NDCC programs are prescribed in Army Regulation 145-2. Copies of AR 145-2 can be purchased from the Army. Address your letter to the following address for the cost of the publication:

Commander, US Army AG Publications Center, 2800 Eastern Boulevard, Baltimore, Maryland 21220.

[FR Doc. 78-35035 Filed 12-15-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 130, 131]

[CGD 77-055]

OFFSHORE OIL POLLUTION LIABILITY AND COMPENSATION

Proposed Rules

Correction

In FR Doc. 78-33797 appearing at page 56840 in the issue for Monday, December 4, 1978, make the following corrections:

(1) On page 56841, in the first column, in the second complete paragraph, in the fourth line, "Title II" should read "Title III".

(2) On page 56848, in the middle column, in § 130.103(a), in the third line, "$0.3" should read "$.03".

(3) On page 56855, in the third column, below the signature, "FR Doc. 78-13797" should read "FR Doc. 78-33797".

[4910-60-M]

Materials Transportation Bureau

[49 CFR Parts 172, 173, 178]

[Docket No. HM-139A Notice No. 78-14]

INDIVIDUAL EXEMPTIONS, CONVERSION TO REGULATIONS OF GENERAL APPLICABILITY

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Materials Transportation Bureau is considering amending the regulations governing the transportation of hazardous materials to incorporate therein a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations. Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe.

DATES: Comments must be received on or before January 17, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Office of Hazardous Materials Regulation, 2100 Second Street, S.W., Washington, D.C. 20590 (202-426-2075).

SUPPLEMENTARY INFORMATION: This is the twelfth notice published under Docket HM-139 since the first notice appeared in the FEDERAL REGISTER on September 13, 1976. It is apparent that some method is necessary to distinguish between the many different notices and amendments that will continue to appear under this docket number in the future. Consequently, in order to eliminate confusion and provide for easier reference, all notices and amendments published under HM-139 will be identified with a letter suffix. For example, this notice and any forthcoming amendments based on this notice will be idenitfied as HM-139A. The next notice will be identified as HM-139B, and so on. Primary drafters of these proposals are Darrell L. Raines, and John C. Allen, Office of Hazardous Materials Regulation, and Evan Braude, Office of the Chief Counsel, Research and Special Programs Administration.

Each of the proposed amendments described in the following table is founded upon either: (1) actual shipping experience gained under an exemption, or (2) data and analysis supplied in the application. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations.

These proposals would not significantly affect the costs of regulatory enforcement, nor would additional costs be imposed on the private sector, consumers, or Federal, State or local governments, since these proposals would merely authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record of shipments under the identified exemptions demonstrates that significant environmental impacts would not result from any of the proposals. Adoption of an amendment derived from an existing exemption would obviate the need for that exemption and effectively terminate it. Upon such termination, the holder of the exemption and parties thereto would be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in whch event the exemption request would be denied and the applicant so notified. In the event the Bureau decides not to adopt any of these proposals each pertinent application would be evaluated and acted upon in accordance with the applicable provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on proposed amendments may wish to address both the proposed amendment and the exemption application. Consideration of comments of the merits of including within an amendment modes of transportation other than those for which the exemption application requested is anticipated.

Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption or Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. The status of the exemption action is indicated in the column titled Identification Number where prefix "E" means an exemption has been issued. The suffix "No" means no applications for exemptions are pending, but the Bureau is taking action by this proposal; the suffix "X" means a renewal application is pending; the suffix "P" means one or more party status applications are pending; and the suffix "N" means a new application for exemption is pending.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E- 930-No	Callery Chemical Company	§ 172.101, 173.302(g).	Has authorized the shipment of diborane, a flammable compressed gas, in DOT Specification 3AA1800, 3AA2015 and 3AA2400 cylinders for more than 25-years. Cylinders are overpacked in DOT 15A wooden boxes with certain exceptions and the filling density of the cylinders may not exceed 7-percent diborane. Each cylinder must also bear the Poison Gas label in addition to the Flammable Gas label. (Modes 1, 2, 3).	To add a new entry to the Hazardous Materials Table in § 172.101 to read as follows:

(1) a/ W/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Labels(s) required (if not excepted)	(5) Packaging		(6) Maximum net quanity in one package		(7) Water shipments		
				(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Diborane, ambient	Flammable gas	Flammable gas and Poison Gas	None	173,302	Forbidden	Forbidden	1	5	Separate from chlorine and materials bearing the oxidizer label.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions—Continued

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
				To add paragraph (g) to § 173.302 to read as follows: (g) *Diborane and diborane mixtures.* Diborane and diborane mixtures must be shipped in Specification 3AA1800 (§ 178.37 of this subchapter), cylinders. The maximum filling density of the diborane shall not exceed 7-percent regardless of whether diborane or diborane mixed with a compatible gas is charged into the cylinder. Cylinders must have valves protected by metal caps. In addition, cylinders must be packed in Specification 15A (§ 178.168 of this subchapter), wooden boxes except for 3AA2400 cylinders equipped with only a single valve and protected by a neck ring, rupture disk, and steel protective cap. Consignee must notify shipper by wire upon receipt of the order. (2) Specification MC 311 or MC 312 (§ 178.343 of this subchapter). Tank motor vehicles. Tanks must be insulated and equipped with a safety relief valves. If the valve incorporates a rupture disc it must have a maximum pressure of one and one-half times the design pressure of the tank. Tanks equipped with interior heater coils not permitted. (3) Specification 105A300W (§ 179.100, 179.101 of this subchapter). Tank car. Tank car must be externally coiled and have a safety relief valve set at not more than 225 psig. Cars equipped with interior heater coils not permitted. (i) Each tank car must be marked "Sulfur Trioxide" in accordance with the requirements of § 172.330 of this subchapter.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions—Continued

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E 6931-X	Allied Chemical Corporation.	§ 173.245 (a)(32).	Authorizes shipments of an ammonia solution consisting of 30 percent ammonia and 70 percent water in DOT 105A100W, 105A300W, or AAR-201A80W insulated aluminum tank cars. (Mode 2).	To revise paragraph (a)(32) to read: (32) Specification 103AW, 103A-ALW, 103ANW, 103BW, 103CW, 103EW, 105A100W, 105A200ALW, 105A300W, 111A100F2, 111A60ALW2, 111A60W2, 111A60W5, or AAR-201-A80W (§§ 179.100, 179.101, 179.200, 178.201 of this subchapter). Tank cars. Specification 105A200ALW tank cars authorized only for acetic anhydride. Specification 105A100W, 105A300W, and AAR-201A80W tank cars authorized only for ammonium hydroxide.
E 5867-No E 6070-No E 6083-No E 6281-No	Stauffer Chemical Company. Cities Service Company Stauffer Chemical Company. E. I. DuPont	§ 172.101, 173.273.	Authorizes shipments of sulfur trioxide without an additive (unstabilized) in Specification MC 311 and MC 312 cargo tanks; 105A300W tank car tank, externally coiled, and having safety relief devices set at not more than 225 psig; and any DOT Specification cylinder as prescribed by 49 CFR Parts 100 to 199 for any compressed gas except acetylene under certain conditions. (Modes 1, 2, 4).	To delete the word stabilized after sulfur trioxide in § 172.101 (Hazardous Materials Table) and in the heading of § 173.273. Paragraph (b) of § 173.273 would be added to provide for sulfur trioxide, unstabilized to read: (b) Sulfur trioxide, unstabilized, must be packed in specification containers as follows: (1) Cylinders as prescribed for any compressed gas, except acetylene. Cylinders must be closed by metal plugs or valves. If valves are used, they must be protected by a valve protection cap, and each valve outlet must be capped or plugged. Cylinders must have a minimum service pressure of 400 psig and a maximum capacity of one gallon. Safety relief devices are not permitted. Cylinders must be overpacked in strong outside containers.
E 7597-No	Riverside Chemical Co.; Drexel Chemical Co.; Southern Farmers Assn.; Helena Chemical Co.; Thompson-Hayward Chemical Co.; Valley Co-Op oil Mill; Staple Cotton Services Assn.; Valley Chemical Co.; Mallard Chemical Co.; Triangle Chemical Co.	§ 173.358(a)	Authorizes shipments of methyl parathion, organic phosphate compound and parathion, liquid in DOT Specification 17E steel drums of 55-gallon capacity having body and heads of 18-gauge minimum thickness and by private motor carrier only. (Mode 1).	To add paragraph (a)(15) to read: (15) Specification 17E (§ 178.116 of this subchapter). Steel drum (single-trip), which must be made of not less than 18-gauge body and heads. Authorized for methyl parathion, organic phosphate compound, and parathion only, and by private motor carrier only.
	Seedkem South, Inc.; MFC Services (AAL); Cotton States Chemical Co.; Southland Agricultural Chemicals; Hanshaw Manufacturing Co., Inc.; Woolfolk Chemical Works, Inc.; Apollo Enterprises, Inc.; United Seed Company; Cleveland Chemical Co.; Micro Chemical Co.	§ 173.359(a), 173.359(b).	Authorizes shipments of methyl parathion mixtures, organic phosphate compound mixtures, and parathion mixtures in DOT Specification 17E steel drums of 55-gallon capacity having body and heads of 18-gauge minimum thickness and by private motor carrier only. (Mode 1).	To add paragraph (a)(18) and (b)(13) to read: Specification 17E (§ 178.116) of this subchapter). Steel drum (single-trip), which must be made of not less than 18-gauge body and heads. Authorized for methyl parathion mixtures, organic phosphate compound mixtures, and parathion mixtures only, and by private motor carrier only.
E 7864-X	Mine Safety Appliances Company.	§ 173.202(a)	Authorizes the shipment of potassium, metal liquid alloy and sodium, metal liquid alloy in DOT Specification 4BW240 cylinders equipped with steel valve protection caps or collars, or must be packed in strong wooden boxes and secured therein to protect the valves. (Modes 1, 2, 3).	To add paragraph (3) to read: (3) Specification 4BW240 (§ 178.61 of this subchapter) cylinder. Each cylinder must be equipped with steel valve protection caps or collars, or be packed in strong wooden boxes and secured therein to protect the valves.
E 7870-No	Explogiochi, S.P.A. (U.S. Agent: Elihu H. Modlin).	§ 173.100(p)	Authorizes shipments of toy caps as prescribed in § 173.100(p) except that when the caps are blister packed the minimum thickness of the plastic may be 0.005 inches instead of 0.006 inches. (Modes 1, 2).	To amend paragraph (p) by changing the thickness of the noncombustible plastic blister package from a minimum 0.006 to a minimum 0.005 inch in thickness.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions—Continued

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
E- 7894-No	Weyerhaeuser Co., Erving Paper Mills.	§ 173.186	Authorizes shipments of waste paper, wet in wirebound bales. Paper must be free from oil or other foreign matter liable to cause spontaneous ignition during transportation. (Modes 1, 2).	To revise § 173.186 to read: Paper waste, wet, must be packed in hermetically sealed metal-lined wooden boxes or air-tight metal containers except that paper waste, wet, free from oil or other foreign matter liable to cause spontaneous ignition may be shipped in tight bales.
E- 7926-No	Great Lakes Chemical Corp.	§ 173.357(b)(2)	Authorizes shipments of a mixture containing not more than 45 percent by weight chloropicrin, not less than 54 percent by weight of ethylene dibromide and not more than 500 PPM by weight of water. (Modes 1, 2, 3).	To revise paragraph (2) to read: (2) Specification 5A or 5B (§§ 178.81, 178.82 of this subchapter). Metal drums not exceeding 33-gallon capacity with welded seams. Specification 5B authorized only for chloropicrim mixtures containing not over 45 percent chloropicrin by weight. Removable head containers not authorized.
E- 7935-No	Industrial Cylinder Company.	§ 178.37-5(a)	Authorizes shipments of any hazardous materials for which a DOT Specification 3AA cylinder is prescribed in a non-specification cylinder made to DOT Specification 3AA except that the low silicon content prescribed for 4130X steel designation is 0.15/0.35 instead of 0.20/0.35. (Modes 1, 2, 3, 4, 5).	To amend the silicon content for 4130X steel designation in § 178.37-5(a) to read 0.15/0.35.
E- 8071-N	Ethyl Corp	§ 172.101, § 173.202, § 173.202(a).	Requested an exemption to ship sodium potassium alloy (liquid) in DOT Specification 51 portable tanks. (Modes 1, 2, 3).	To revise the entry in § 172.101 for Sodium potassium alloy by adding (solid) in italics; add a new entry for sodium potassium alloy (liquid) in § 172.101; revise the title of 173.202 and 173.202(a) and add paragraph (4) to read:

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				Packaging		Maximum net quantity in one package		Water shipments		
*/W/A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Sodium potassium alloy (liquid)	Flammable solid	Flammable solid and Dangerous when wet	None	173.202	Forbidden	25 pounds	1,2	5	Under deck stowage must be readily accessible. Segregation same as for flammable solids labeled Dangerous When Wet.
	Sodium potassium alloy (solid)	Flammable solid	Flammable solid and Dangerous when wet	None	173.206	Forbidden	25 pounds	1,2	5	Under deck stowage must be readily accessible. Segregation same as for flammable solids labeled Dangerous When Wet.

Proposed Amendments of Hazardous Materials Regulations to Terminate Exemptions—Continued

Identification No.	Applicant Holder	Regulation Affected	Nature of Exemption or Application	Nature of Proposed Amendment
				§ 173.202 Sodium and potassium or Sodium potassium, metallic liquid alloy. (a) Sodium and potassium or Sodium potassium, metallic liquid alloy must be packed in specification containers as follows: (4) Specification 51 (§ 178.245 of this subchapter). Portable tanks having a minimum design pressure of 175 pounds per square inch. Safety relief devices must communicate with the vapor space when tanks are fully loaded. Tank must be blanketed with dry nitrogen at a pressure not to exceed 15 psig at all times.
E- 8072-N	Mobay Chemical Corp	§ 173.377(b)(6)	Requested an exemption to ship organic phosphate compound mixtures in DOT Specification 2D paper bags not over 5-pound capacity and in 16-ounce polyvinyl alcohol film pouches. (Modes 1, 2, 3).	To revise paragraph (b)(6) to read: (6) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside Specification 2D (§ 178.23 of this subchapter) paper bags not over 5-pound capacity each and having an additional foil liner. The mixtures may be further packed in water soluble 1½ mil polyvinyl alcohol film pouches of not more than 16-ounce capacity each with not more than 5 pouches per specification bag. Completed package may not exceed 65 pounds gross weight and must meet the test requirements of paragraphs (d) and (e) of this section. Authorize only for mixtures in which the liquid is absorbed in concentrations no greater than 67 percent.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a) of App. A to Part 106).

The Materials Transportation Bureau has determined that this notice will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedure (43 FR 9582). A regulatory evaluation is available in the public docket.

Issued in Washington, D.C. December 1, 1978.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-34951 Filed 12-15-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[49 CFR Part 533]

[Docket No. FE-77-05; Notice 6]

LIGHT TRUCK AVERAGE FUEL ECONOMY STANDARDS MODEL YEAR 1981

Proposed Rulemaking—Invitation of Applications for Financial Assistance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking and invitation of applications for financial assistance.

SUMMARY: This notice announces the receipt by NHTSA of a Chrysler Corporation petition, requesting the reduction of the 1981 model year light truck average fuel economy standards, describes the issues and subjects involved, and invites public comment to assist the agency in reaching a final decision on the petition. This notice also invites applications for financial assistance from individuals or organizations which can effectively supplement the record of this proceeding but which are financially unable to participate without assistance.

DATES: Written comments on the petition must be submitted by January 17, 1979. Applications for financial assistance must be submitted by December 28, 1978.

ADDRESSES: Comments on this petition must refer to Docket Number FE-77-05, Notice 6, and be submitted (preferably in ten copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments containing information for which confidential treatment is requested should be submitted (preferably in three copies) to: Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street, S.W., Washington, D.C. 20590, and seven additional copies from which the purportedly confidential information has been deleted should be sent to the Docket Section. Applications for financial assistance should be submitted to Ms. Jeannette Feldman, Special Assistant to the Evaluation Board, National Highway Traffic Safety Administration, Room 5232, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Francis J. Turpin, Office of Automotive Fuel Economy Standards (NRM-21), National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-472-6902).

SUPPLEMENTARY INFORMATION: On March 23, 1978, NHTSA published in 43 FR 11995 average fuel economy standards for light trucks (up to 8500 pounds gross vehicle weight rating (GVWR)) manufactured in model years 1980-81. These standards, established under the authority of section 502(b) of the Motor Vehicle Information and Cost Savings Act ("the Act"), 15 U.S.C. 2002(b), were set at levels of 16.0 and 14.0 miles per gallon for two- and four-wheel drive light trucks, respectively, manufactured in model year 1980; and 18.0 and 15.5 mpg for two- and four-wheel drive light trucks, respectively, manufactured in model year 1981. These levels were determined to be the "maximum feasible average fuel economy levels," consid-

ering technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy, as required by sections 502(b) and (e) of the Act.

The agency originally proposed (see 42 FR 63184, December 15, 1977) that the 1981 light truck standards be established at levels of 20.5 and 17.7 miles per gallon for two- and four-wheel drive light trucks, respectively. Chrysler, the other light truck manufacturers, and others objected to the proposed standards and asserted that the manufacturers were faced with a choice of closing down some plants or violating the law. The standards were ultimately promulgated at the lower levels specified above. Chrysler recommended in its written comments on NHTSA's proposed standards that standards be established for the 1981 model year at levels no higher than approximately 16.6 and 14.6 mpg, for two- and four-wheel drive light trucks, respectively. See Docket Number FE-77-05, Notice 1, Number 120, p. 18.

No petitions for reconsideration or suits for judicial review were filed in connection with the final 1981 fuel economy standards. On September 20, 1978, Chrysler Corporation requested that the 1981 light truck fuel economy standards be reduced to 16.5 and 14.5 mpg for two- and four-wheel drive light trucks, respectively. See NHTSA Docket Number FE-77-05, N06-1, located in the NHTSA Docket Room. In this letter, Chrysler cited EPA's introduction of new coastdown procedures and proposed redefinition of "truck lines" as well as allegedly overly optimistic projections of the fuel economy benefits associated with "slippery lubricants" used by DOT in setting the 1981 standards as the reasons for their claimed inability to comply with the 1981 light truck standards. In the absence of a reduction in the standards, Chrysler claims to be faced with either closing down some of its truck plants and limiting the sale of their less fuel efficient trucks, or violating the law. Chrysler subsequently stated that, in the absence of a reduction in the standards, up to 200,000 trucks might be cut from its 1981 production. Docket FE-77-05, N06, #2. In a letter of October 23, 1978, Chrysler furnished a model year 1979 average fuel economy estimate which is significantly lower than an adjusted 1977 NHTSA baseline used to set the 1981 standards. See NHTSA Docket FE-77-05, N06, #14.

In response to the September 20 letter, and after ascertaining that Chrysler intended the letter to be treated as a petition to amend the standard under the agency's procedural rules (49 CFR Part 552), NHTSA indicated that it would treat Chrysler's letter as a formal petition as soon as detailed factual information supporting the requested changes were submitted, as required by 49 CFR 552.4(c). See Docket No. FE-77-05, N06, #3. By November 24, 1978, Chrysler submitted much (but certainly not all) of the information necessary for the agency to proceed in its evaluation of the request. See Docket No. FE-77-05, N06, #4. Therefore, NHTSA is granting Chrysler's petition to initiate rulemaking and is issuing this notice seeking additional comment regarding the 1981 light truck standards, after which the agency will issue a final decision on the standards.

Although only Chrysler has to date petitioned for a lowering of the 1981 standards, any such lowering would affect the other manufacturers as well. Since the standards are generally applicable to all manufacturers, if the agency determined that the basis for the 1981 standards was partially invalid, any revisions to the standard to correct the invalidity would affect all companies subject to the standard. In fact, revisions to the generally applicable standards might also require revision to the "limited product line" standard established primarily for International Harvester Corporation, if the basis for the revision also applied to the latter standard. The potential industry-wide impact of such a reduction is indicated by recent statements of a General Motors official, as reported in the November 27, 1978, issue of *Automotive News*. In that article, the GM official stated that GM's redesign program might be delayed pending a decision on Chrysler's petition. The agency, in a November 16 letter to Ford, General Motors, and American Motors, requested information on how a reduction in the 1981 standards would affect their plans to improve the fuel economy of their light trucks. See Docket FE-77-05, N06, #5, 6, and 7.

The detailed analysis and projections upon which the 1981 standards are based as set forth in the preamble to the FEDERAL REGISTER notice establishing that standard, cited above, the associated Rulemaking Support Paper and Supplement, and the "Final Impact Assessment" for the 1980 and 1981 standards. For the 1981 model year, NHTSA projected that Chrysler could achieve fuel economy levels of 18.0 and 15.8 mpg for its two- and four-wheel drive light truck fleets, respectively, including the use of improved lubricants. These levels meet (in the case of the two-wheel drive standard) or exceeded (by 0.3 mpg for four-wheel drive trucks) the applicable standards, assuming that the Environmental Protection Agency approves the use of these new, fuel economy-improving lubricants by January 1, 1980. In the absence of such approval, the standards would automatically be reduced by 0.5 mpg to account for the manufacturers' diminished improvement capability.

In addition, the agency made a number of projections as to specific technological changes which could be applied to Chrysler's light truck fleet in model year 1981, as set forth in Tables IV-13 and IV-14 of the May 1978 Rulemaking Support Paper Supplement. Projected capital requirements for Chrysler and per vehicle cost impacts for meeting the standard are set forth in Tables V-5 and V-7 of that document and in Tables III-10F, III-11, and III-18 of the Final Impact Assessment.

In its various submissions on September 20, 1978, and thereafter, Chrysler raised arguments regarding several of the agency's specific projections. Perhaps the largest claimed discrepancy, between the agency's projections of Chrysler's capability to improve the fuel economy of its light trucks and Chrysler's own projections, involves the baseline fuel economy levels. Since light trucks in the 6001-8500 pound GVWR range had not been tested by the Environmental Protection Agency (EPA) for emissions in a manner which yields fuel economy data prior to the 1979 model year, NHTSA estimated fuel economy data for those vehicles in the 1980-81 fuel economy standards rulemaking. A regression equation and limited prototype test data for vehicles in the 6001-8500 pound GVWR range were used to extrapolate from test data for vehicles with GVWR's under 6001 pounds, adjusting for differences in curb weight, engine displacement, and total drivetrain ratio (N/V ratio) between the previously tested trucks and the heavier GVWR trucks which had not yet been tested. All information available to the agency during the 1980-81 rulemaking indicated that, for small changes between vehicles, the regression equation provided a reasonably

accurate method for projecting fuel economy data, although not being so accurate at predicting the fuel economy of individual vehicles where large changes in configuration occur.

In support of its petition, Chrysler has submitted test data and estimates for 1979 which indicate that its 1979 average fuel economy levels are 14.2 and 12.4 miles per gallon, for two- and four-wheel drive light trucks, respectively. Chrysler then compares those levels to the baseline fuel economy levels projected by NHTSA of 14.9 and 12.5 mpg on page III-19 of the May 1978 Rulemaking Support Paper Supplement. However, a direct comparison of these sets of numbers is inappropriate. The NHTSA baseline was a theoretical construction, based on 1977 technology levels and does not take into account the transient effect of changes in emission standards and certain portions of the emissions test procedure which occurred in 1979. For example, achieving NHTSA's 1977 baseline fuel economy levels in 1979 (under 1979 emission standards and test procedures) might involve making changes to certain engine calibrations and the use of optional "coast-down" test procedures on some vehicles, to take advantage of beneficial aerodynamic or rolling resistance characteristics of the test vehicles. The 1981 standards, however, are based on NHTSA's conclusion that these improvements could be made *not* by 1979, but by 1981. Therefore, NHTSA is attempting to sort out these various factors to determine whether Chrysler's 1979 test data indicates an error in NHTSA's 1977 baseline estimate, or whether that data reflect the transient effects discussed above and Chrysler has not yet made all necessary optional testing which it could do by 1981. Chrysler has incorporated some fuel economy improvements between 1977 and 1979 which do not appear in the 1977 NHTSA baseline, further complicating a direct comparison of the numbers. Comment is requested on this admittedly complicated issue.

A second argument raised by Chrysler in its petition relates to the fuel economy improvement potential of improved (lower friction) lubricants. The 1981 standards were based on the assumption that these lubricants would be available for use in the 1981 model year and would produce a 3 percent fuel economy benefit, i.e., 2 percent for crankcase lubricants and 1 percent for rear axle lubricants. However, since the use of these lubricants had not yet been approved by EPA for use in fuel economy testing, the 1981 standards of 18.0 and 15.5 mpg were conditioned on the ultimate approval of their use by January 1, 1980. The criteria which EPA has established for approval of the use of these lubricants are set forth in a February 13, 1978, letter from the EPA Assistant Administrator to NHTSA (Docket Number FE-77-05, N01-195) and are designed to assure that the lubricants will be used in the field, not just in fuel economy testing. Chrysler, argues that the EPA will not approve the use of these lubricants by the specified date, because the manufacturers cannot assure the EPA that vehicle owners will use the lubricants in actual service. Docket FE-77-05, N06, #10. Chrysler further argues that even if the lubricants were approved, the benefit achievable with the lubricants is zero, thereby requiring some reduction in the standards. Chrysler supports the zero improvement figure with four tests (beyond the data previously submitted and considered by the agency in setting the 1981 standard) of new passenger cars, at mileages up to 6,000 miles, using the friction modified Exxon Uniflo crankcase oil. No new data reflecting higher vehicle mileage, improved axle lubricants, or lubricants of other suppliers were submitted by Chrysler. Earlier Chrysler submissions referred to in the September 20 letter contained some data which tended to support a two percent fuel economy improvement for improved engine crankcase lubricants. The agency's two percent projection was based in part on a series of tests conducted by Exxon on six passenger cars at between 2,000 and 18,000 miles and using the new Uniflo, which showed an average fuel economy improvement of 5.5 percent compared to standard 10W 40 oil, as well as test data provided by other lubricant manufacturers.

A third objection raised by Chrysler with respect to the agency's 1981 standard-setting analysis is in the area of weight reduction. The agency projected that between the 1977 and 1981 model years Chrysler could reduce the fleet average test weight of its two-wheel drive light trucks by 293 pounds and its four-wheel drive trucks by 343 pounds. These reductions were projected to improve Chrysler's fuel economy by .43 mpg and .37 mpg for two- and four-wheel drive light trucks, respectively.The agency has as yet been unable to understand the basis for Chrysler's objection on this point. However, it appears that Chrysler currently plans to reduce the weight of its 1981 light trucks by a significantly smaller amount than the agency previously projected and less than Chrysler itself indicated to the agency in February in its comments on the proposed standards. Chrysler has not yet adequately explained these differences. Chrysler has also not yet provided any information on the effect of its weight reduction program on the test weights of its truck fleet, and therefore on estimated fuel economy.

Another argument raised by Chrysler relates to the fuel economy benefit achievable through reductions in engine displacement or axle ratio (CID x N/V). While there appears to be no major difference between the *extent* of the reductions in these areas planned by Chrysler and those projected as feasible by the agency, there does appear to be a significant difference with respect to the *magnitude* of the fuel economy improvement expected to be gained from the reductions. The agency has projected that a 10 percent reduction in CID x N/V would obtain a fuel economy improvement of approximately 4 percent, on average. This projection was based on analyses of the fuel economy of previous model years' passenger cars and light trucks. Chrysler, on the other hand, argues that only a 2.5 percent fuel economy benefit would be obtained for a 10 percent reduction in CID x N/V. Chrysler provided information only with respect to its smallest displacement engine at four different axle ratios to support the lower figure.

The final major argument raised by Chrysler involves the allegedly unaccounted for impact of a proposed fuel economy test procedure change. EPA has proposed to redefine the term "car line" as it applies to light trucks, to greatly increase the number of truck line subdivisions within a manufacturer's product line. The significance of this change relates to the fact that an item of optional equipment must be installed on a fuel economy test vehicle if more than 33 percent of the vehicles projected to be sold within the truck line which includes the test vehicle will have that item installed. Thus, the number of test vehicles with optional equipment installed (and therefore with the fuel economy impact of the item accounted for) will depend on the pattern of optional equipment installation within a company's product line. Chrysler anticipates that if the EPA proposal (see NHTSA Docket Number FE-77-05, N06, #1, App. X) is adopted, the proportion of its fuel economy test vehicles with optional equipment installed would increase (due to its current pattern of option installation), thereby reducing the measured fuel economy of its fleet by approximately 0.2 mpg. Chrysler has not yet provided the basis for this projection.

Public Participation

A period for submission of written comments on the petition is being provided before the agency issues a final decision, either revising the 1981 standards or denying the petition. The deadline for these submissions is

(thirty days after publication). All timely written submissions will be fully considered in arriving at the final decision on this petition. The agency will attempt to consider late comments to the extent feasible, but timely submissions are strongly encouraged. This briefer than normal comment period and brief period for submission of financial assistance applications are established reluctantly, but in recognition of Chrysler's expressed need for a decision on the petition by January 1, 1979. Expeditious resolution of the issues raised in Chrysler's petition is also needed to permit the agency to proceed with its standard-setting analysis for 1982 model year light trucks. That rulemaking must be *completed* by approximately March 15, 1980, but the agency deems it important to complete that rulemaking, along with rulemaking to establish standards up through the 1984 model year, prior to that date. The manufacturers' product planning cycles now extend well beyond the 18 month minimum leadtime for standard-setting established in the Act, and greater fuel economy improvements can be achieved by the manufacturers if the agency provides adequate leadtime.

Interested persons are invited to submit written comments on all aspects of Chrysler's petition. Comments must be limited to a total of 15 pages, although additional supporting material may be submitted as appendices or attachments. It is requested but not required that ten copies of each comment be submitted.

Although comment is invited on all issues implicit in this petition, the attention of all commenters is particularly directed toward the following issues:

1. Assuming that Chrysler cannot meet the 1981 standards without making significant product offering restrictions, how should the agency weigh that fact against the energy savings that would be lost if the standards were lowered? The discussion of this issue should reflect the language on page 154-5 of the Conference Report on the Energy Policy and Conservation Act:

> Such determination (of the maximum feasible average fuel economy level) should therefore take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual automobile manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic automobile manufacturers that currently exist, and the possible implications for the national economy and for reduced competition association (sic) with a severe strain on any manufacturer. However, it should also be noted that provision has been made for granting relief from penalties under section 508(b) in situations where competition will suffer significantly if penalties are imposed.

In this regard, the importance of motor vehicles to our mobility and to the national economy is clear. However, the supply and price of fuel for those vehicles are subject to substantial uncertainties, as recent events confirm. The current high and growing level of petroleum imports weakens our currency through its impact on our balance of trade and inflation and poses a danger for our national defense and the efficacy of our foreign policy.

2. Is it premature to judge whether NHTSA's 1977 baseline fuel economy estimate for Chrysler is unduly high? In the 1979 model year, all trucks in the 0-8500 pound range are required to comply with more stringent emission requirements than those applicable in 1978, with complete vehicle compliance of 600-8500 pound GVWR light trucks being required for the first time. In the past, it has taken one or more model years for manufacturers to optimize engine calibrations (timing, air-to-fuel ratio, exhaust gas recirculation rate) for maximum fuel economy at new emission levels. NHTSA projected that between 1977 and 1981 no fuel economy loss would ultimately occur as a result of the new emission standards, once the manufacturers optimized calibrations and incorporated certain engine efficiency improvements. Has Chrysler already taken all these actions, and if not, what fuel economy improvement would result from their implementation by model year 1981? Does EPA's recent decision to delay any emission standards changes for light trucks until 1983 facilitate this optimization? Although the agency, in its letter requesting additional information from Chrysler, requested information on these actions and improvements, Chrysler has not addressed the issue to date. Also, what additional measured fuel economy gain could be obtained through maximum use of EPA's optional "coast-down" test procedure?

3. Can the criteria for approval of the use of improved lubricants in fuel economy testing specified by EPA in terms of generic definition, selling price, market availability, and specification of owner use in warranty maintenance requirements be satisfied by January 1, 1980, the date specified in the 1981 fuel economy standard? What fuel economy benefit is achievable with these lubricants? What basis exists for rejecting fuel economy improvement data submitted by the producers of these lubricants? That data supports the agency's projection of a 3 percent fuel economy benefit. The agency is strongly inclined to defer deciding this issue until after January 1, 1980. By that time, the approval issue will have been decided and additional data on the magnitude of the fuel economy improvement associated with the lubricants will be available.

4. If Chrysler had initiated an aggressive weight reduction program at the time the 1981 standard was established, could it have achieved the levels of weight reduction projected by NHTSA, considering both technological feasibility and capital requirements?

5. Chrysler's projection of an approximately 0.2 mpg fuel economy penalty associated with the change in EPA's "car line" definition was based on an EPA proposal which may be modified prior to adoption. Regardless of what form the final EPA requirement takes, could Chrysler reduce or eliminate any adverse measured fuel economy impact associated with the requirement? For example, one method for achieving this would be to employ marketing techniques to limit the number of "car lines" which exceed the 33 percent optional equipment installation criterion, and sell additional options in car lines which already exceed the 33 percent criterion. Can this issue be resolved before EPA issues a final decision on the definition?

6. What fuel economy benefit is associated with reductions in engine displacement and axle ratio (CID×N/V)? The agency's preliminary analysis of 1979 light truck fuel economy data indicates that, on average, a 10 percent reduction in CID×N/V yields at least the 4 percent fuel economy benefit used in the past standard-setting analysis.

7. Can Chrysler make any other fuel economy improvements (or take any initiatives to increase measured fuel economy) in addition to those projected by NHTSA in connection with the final 1981 standards? Chrysler in its petition has indicated several areas, including shifting their sales mix toward more fuel efficient trucks, engine efficiency improvements, accessory improvements, improved aerodynamic designs and shifting some trucks over the 8500 pound GVWR regulatory limit, where increases beyond those projected by NHTSA are planned. Can additional increases be made in those areas? Are there additional areas where such increases are possible?

At the close of the period for written comment, the agency will consider all information submitted by Chrysler and by other participants and will proceed to make a final decision on the petition to amend the 1981 standard.

The agency will use the methodology outlined in the Rulemaking Support Paper and Supplement for the 1980-81 light truck fuel economy standards (copies of which are available from the individual listed as the "information contact" at the beginning of this notice) to arrive at the final decision, except where comments on this notice convince the agency that changes are appropriate. Therefore, participants in the proceeding should familiarize themselves with the methodology used and comment on it.

FINANCIAL ASSISTANCE APPLICATIONS

NHTSA invites all qualified individuals and organizations financially unable to participate in this proceeding to apply for financial assistance. On January 13, 1977, the Office of the Secretary of Transportation (OST) published a notice (42 FR 2863) establishing a demonstration program of one year duration for funding of individuals or organizations which desire to participate in designated proceedings under various statutes which NHTSA administers, including the Motor Vehicle Information and Cost Savings Act. The program was extended indefinitely in 43 FR 10918, March 16, 1978.

All applications submitted before the deadline specified in this notice for applications will be examined by an Evaluation Board, composed of NHTSA and OST officials, to determine whether each applicant is eligible to receive funding under the regulations.

In general, an applicant is eligible if (1) it represents an interest whose representation can reasonably be expected to contribute to a full and fair determination of the issues in the proceeding, (2) its participation is reasonably necessary to represent that interest, (3) it can competently represent that interest, and (4) it lacks sufficient resources to participate in the absence of such assistance. If more than one applicant representing the same or similar interest is deemed eligible, the Board will either select the applicant which can make the strongest presentation or select more than one applicant if the eligible applicants seek to present significantly different points of view or proposals. Compensation is available only for reasonable out-of-pocket expenses necessary to the applicant's participation, to the extent the program's budget will permit. Payment is made as soon as possible after the selected applicant has completed its work and submitted a claim.

Each applicant should specify in its application which issues it proposes to address if its application for funding is approved, and the nature of its proposed work product. Applicants must submit as part of their application all information required by section 5 of the financal assistance regulations (see Appendix to this notice). Failure to submit the required information may result in delays in evaluation and possible disqualification of the application. It is also very important that applicants meet the deadline set forth at the beginning of this notice for submission of applications. Because of the stringent time constraints for this rulemaking proceeding, NHSTA will be unable to accommodate late applicants.

AVAILABILITY OF INFORMATION

Copies of Chrysler's petition, written comments from the public, and other written materials will be placed on file for public inspection in the Docket Room, Room 5108 of the Department's headquarters on Seventh and D Streets, S.W., Washington, D.C. The agency has stated that, because of the important public policy issues involved in this proceeding and the manufacturer-specific nature of those issues, the agency will liberally use its authority under section 505(d)(1) of the Act to make public certain information contained in Chrysler's petition notwithstanding its trade secret status under the Freedom of Information Act. This action is taken to permit informed public comment on the petition, to assist the agency in making a balanced judgment as to the appropriate level of the 1981 light truck fuel economy standards. Not all of this material has yet been placed in the public docket, so participants in this proceeding should regularly check the docket for new information.

Environmental and Economic Impact Assessments for the model year 1981 light truck standards have been prepared as part of the 1980-81 rulemaking, and copies of those documents are available from the Office of Automotive Fuel Economy Standards. Those documents are also applicable to this proceeding since the same economic and environmental issues are involved. If, as a result of the agency's reconsideration of those standards, adjustments to the levels of the standards are made, supplements to the two documents will be prepared which will assess the environmental and economic effects of the adjustments.

This notice is considered by the agency to be a "significant regulation" within the meaning of the Department's procedural regulations, 43 FR 23925, *et seq.* A draft regulatory evaluation has been prepared, and copies of that document are available from NHTSA's Office of Plans and Programs, Room 5212 of the Nassif Building in Washington, D.C. That document refers to and incorporates the economic impact assessment prepared for the 1980-81 rulemaking. A reduction in the standards to the levels requested by Chrysler would result in the consumption of approximately 2.5 billion extra gallons of gasoline over the life of the 1981 light truck fleet.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976, and 43 FR 8525, March 2, 1978.)

Issued on December 13, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

APPENDIX

SECTION 5—FINANCIAL ASSISTANCE REGULATIONS

SEC. 5. *Application procedure.* Applications for financial assistance for participation in proceedings shall be marked for the attention of the appropriate Administration official and addressed to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Each application shall contain, in a sworn statement, the following information in the order specified:

(a) The applicant's name and address, and in the case of an organization, the names, addresses, and titles of the members of its governing body and a description of the organization's general purposes, structure, and tax status.

(b) An identification of the proceeding for which funds are requested.

(c) A description of the applicant's economic, social and other interests in the outcome of the proceeding for which funds are requested.

(d) A discussion of the reasons why the applicant is an appropriate representative of those interests, including the expertise and experience of the applicant in the matters involved in the proceeding for which funds are requested and in related matters.

(e) An explanation of how the applicant's participation would enhance the quality of the decision making process and serve the public interest by contributing views and data which would not be presented by another participant.

(f) A statement of the total amount of funds requested.

(g) With respect to the proceeding for which funds are requested, an itemized statement of the expenses to be covered by the requested funds and of the expenses to be covered by the applicant's funds.

(h) A description of the evidence, activities, studies or other submissions that will be generated by each of those expenditures.

(i) An explanation of how the applicant's obtaining the requested funds would result in enhancing the quality

of the applicant's participation in the proceeding for which funds are requested.

(j) An explanation of why the applicant cannot use funds that it already possesses or expects to receive for the purpose for which funds are requested, including:

(1) A listing of the applicant's anticipated income and expenditures (rounded to the nearest $100) during the current fiscal year.

(2) A listing of the total assets and liabilities of the applicant as of the date of the application.

(k) An explanation of why the applicant cannot in other ways obtain the funds that are requested, including a description of the applicant's past efforts to obtain those funds in other ways and the feasibility of future attempts to raise funds in other ways.

(l) A list of all proceedings of the Federal government in which the applicant has participated during the past year (including the interest represented and the contribution made) and any amount of financial assistance received from the Federal government in connection with these proceedings.

[FR Doc. 78-35052 Filed 12-15-78; 8:45 am]

[4910-59-M]

[49 CFR Part 572]

[Docket No. 78-9; Notice 03; Docket No. 73-8; Notice 08]

ANTHROPOMORPHIC TEST DUMMIES

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the amendment of 49 CFR Part 572, *Anthropomorphic Test Dummies,* to modify the design specifications for molding the dummy's flesh parts to allow an alternative chemical foaming agent to the currently specified "Nitrosan." This action is necessary because the sole manufacturer of "Nitrosan" has discontinued its production due to the hazardous propensities of the compound during its manufacturing process. The notice proposes the optional use of a substitute compound, "OBSH/TBPP," that was developed by Uniroyal Inc.—Oxford Management and Research Center, and that produces dummy flesh parts equivalent to those produced by "Nitrosan."

In an unrelated matter, this notice also proposes to amend Part 572 to modify one specification in the pendulum neck test of the dummy calibration procedures. This would be a minor technical amendment in response to a request from Ford Motor Company.

DATES: Comment closing date: June 1, 1979. Proposed effective date: date of publication of a final rule.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Vladislav Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2264.

SUPPLEMENTARY INFORMATION: Specifications for the dummy test devices used to simulate adult and child occupants of motor vehicles are set forth in terms of detailed technical drawings and calibration tests in 49 CFR Part 572, *Anthropomorphic Test Dummies.* (The specifications for test dummies representing 6-month-old and 3-year-old children were recently proposed in 43 FR 21490, May 18, 1978.) These dummy test devices are used to evaluate the performance of occupant crash protection systems in conjunction with the requirements specified in Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), and proposed Safety Standard No. 213, *Child Restraint Systems* (43 FR 21470, May 18, 1978).

The technical drawings in Part 572 specify the materials, processes and designs for all components of the test dummies. The calibration tests specified in the standard assure that all technical specifications in the production of the dummy have been met and that it will respond as designed during the dynamic tests of the crash protection standards. Technical drawing #ATD-751 for the 50th percentile dummy and #ATD-6070 for the proposed 3-year-old dummy specify the formulations of the materials used for molding the dummy's flesh parts. Currently, the drawings specify flesh parts consisting primarily of polyvinyl chloride foams that are formed by a chemical foaming agent known commercially as "Nitrosan" (N,N'-dimethyl-N-N'—dinitroso terephthalamide).

"Nitrosan" has excellent properties as a foaming agent and has been widely used in the commercial production of various foamed materials. Although the compound has been satisfactory in the production of test dummy flesh components, the manufacturing of "Nitrosan" involves chemical processes that have been difficult to control because of hazardous propensities. Therefore, the sole manufacturer of this material, the DuPont Company, discontinued its production in 1975.

Recognizing that the remaining limited supplies of "Nitrosan" would become exhausted in time, in February 1976 the NHTSA began two research programs to find a substitute foaming material for the production of dummy flesh parts. the studies sought a suitable foaming material that would produce flesh parts with the same structural and physical properties as those produced with "Nitrosan." One of these programs was conducted by Uniroyal Inc.—Oxford Management and Research Center and its subcontractor, Sierra Engineering Company, and the other by Humanoid Systems, Inc.

The Uniroyal research program involved a survey of available foaming agents, selection of the most promising compound for this purpose, development of appropriate formulations and molding processes, comparative evaluations of molded parts produced with the new compounds with those produced with "Nitrosan" and production of test dummies with the newly developed formulations. Through this program Uniroyal developed a substitute foaming agent called the "OBSH/TBPP" compound that combined p,p'-oxybis-(benzene sulfonyl hydrazide) with t-butyl peroxpivalate.

The program conducted by Humanoid Systems involved similar work with a compound known commercially as "Azobis", which had already shown some promise as a foaming agent in earlier tests conducted by this company (2,2'-azobis-2,4-dimethyl valeronitrile).

In March 1977 these two programs were completed and two 50th percentile test dummies were produced with the "OBSH/TBPP" compound by Uniroyal and Sierra Engineering Company and two with "Azobis" by Humanoid Systems (See NHTSA Technical Reports DOT-HS-803-387 and DOT-HS-803-030, respectively). Additionally, each manufacturer made a complete set of flesh parts that were compared with "Nitrosan" foamed parts in terms of quality, density and impact performance. The four test dummies were evaluated by the Calspan Corporation in comparative dynamic testing. The dummies were tested using flesh parts produced with the new foaming compounds and then retested with the flesh parts replaced with the corresponding parts foamed with "Nitrosan" material. The evaluation included a comparison of the responses obtained in the calibration tests specified in Part 572 and in simulated barrier crashes using 3-point seat belts, air

bags and column restraint configurations.

In June 1977 the Calspan evaluation program was completed. The evaluation of materials and the dynamic evaluation demonstrated that the flesh parts produced by both contractors performed satisfactorily and that "OBSH/TBPP" and "Azobis" could both be used as substitutes for "Nitrosan". The overall assessment by NHTSA indicated a decided preference for the "OBSH/TBPP" compound, however, since it is a domestic product that is more readily available than "Azobis" and since it does not require special handling during the manufacturing process. "Azobis", on the other hand, is an imported compound that must be kept at temperatures below 59°F and that under certain conditions can be explosive. (See Report, "Performance Evaluation of Test Dummies with Flesh Parts Produced with Substitute Foaming Compounds", July 1978, on file in Docket 73-8, General Reference of the NHTSA Docket Section.)

In late June of 1977, contracts were awarded to two other manufacturers of test dummies, Alderson Research Laboratories (Stanford, Connecticut) and Humanoid Systems (Carson, California) to produce flesh parts with the "OBSH/TBPP" foaming compound. The purpose of these contracts was to assure that all manufacturers of test dummies could produce an acceptable product with the new foaming material. After some initial difficulty in obtaining the proper density and fill of the flesh molds, two test dummies were produced by each manufacturer, plus an additional set of the flesh parts for materials evaluation testing. Acceptable results were obtained with both sets of test dummies as evaluated by the Calspan Corporation in comparative dynamic tests that were identical to the tests used in the earlier program. The additional flesh parts were evaluated by Uniroyal Inc. and found to be comparable to those manufactured by the Sierra Engineering Company.

Although favorable results had been obtained, because of the initial difficulties by Alderson and Humanoid a new contract was awarded to Sierra Engineering Company for the production of "OBSH/TBPP" flesh parts for two more test dummies. This last program was undertaken to confirm that flesh parts could be manufactured with the new compound as easily and efficiently as with "Nitrosan" once the proper procedures and cycles for molding the various parts had been established. Sierra Engineering did not encounter any difficulties in the repeated manufacturing of the dummy flesh parts and the overall quality of the parts was evaluated by Uniroyal and found to be equal to Sierra's earlier product (See, Uniroyal, Inc. letter report October 5, 1978, on file in Docket 73-8, General Reference).

These projects have demonstrated that the flesh parts of test dummies produced with the "OBSH/TBPP" foaming compound have comparable material properties to those produced with "Nitrosan" and are superior in some respects. For example, resistance to static compression-set and to aging effects is higher in the "OBSH/TBPP" flesh parts than in "Nitrosan" flesh parts. Further, all static and dynamic systems testing showed that there were no perceivable differences in the measured responses between dummies produced with "OBSH/TBPP" and those produced with "Nitrosan". (See, Final Report-Contract No. DOT-HS-6-01514 in the NHTSA Docket Section). Likewise, no difference in dummy responses is expected in the three-year-old child dummy, since only the arms and legs of this dummy contain foamed material flesh parts and the overall effect on dummy performance should be very minimal.

Based upon the research described above, the NHTSA has concluded that test dummies whose flesh parts are produced with "OBSH/TBPP" materials can be used for all purposes for which test dummies are required by the applicable safety standards and that the dummy performance will be equivalent to the performance of dummies produced with "Nitrosan".

The proposed amendment would have no adverse environmental or economic consequences. It is estimated that there would be no increase in the cost of the test dummies due to the change in foaming material.

This notice also proposes to amend Part 572 in an area unrelated to the dummy's flesh parts. Ford Motor Company has requested that a certain specification for pendulum impact testing of the dummy's neck found in section 572.7(b) of Subpart B, pertaining to calibration of the 50th percentile male dummy, be replaced with the corresponding specification for pendulum testing of the neck of the recently proposed three-year-old child dummy (43 FR 21490).

The pendulum neck test found in Subpart B of the standard for the 50th percentile male dummy is intended to measure the bending properties of the dummy's neck. The current test specifies that, during the neck bending procedure, the pendulum shall not reverse direction until "T=123ms". This means that from the time the pendulum contacts the arresting material which it must strike, the pendulum cannot reverse direction for 123 milliseconds. The original intent of this requirement was to negate the effects of arresting materials having rebound characteristics that could force the pendulum to reverse its motion before the bending properties of the neck could be measured. Ford requested a change in this specification because in certain instances the use of a special apparatus may be required to hold the pendulum arm for at least 123 milliseconds after the pendulum has impacted the arresting material.

Recent researchd by NHTSA and the industry has shown that when appropriate crushable materials are used in pendulum impact tests, the pendulum does not reverse its motion until the neck has straightened out and the head's center of gravity has returned to its original zero-time position relative to the pendulum. At that time, all measurements of the neck bending characteristics are completed and the pendulum's motion thereafter is inconsequential. In light of this research, the recently proposed addition of Subpart C to Part 572, specifying requirements for the three-year-old child dummy, modified the language concerning reversal of the pendulum arm during the neck impact test. Section 572.17 of that proposal specifies that "the pendulum shall not reverse direction until the head's center of gravity returns to the original zero time position relative to the pendulum arm". Under this proposed requirement, a dummy user could only use an arresting material for the impact test whose rebound characteristics would not overcome the pendulum's inertia before the head and neck returned to the zero time position.

The specification in proposed Subpart C of Part 572 represents a simplification of the pendulum impact test specified in the current Subpart B, without any degradation of performance characteristics. Therefore, this notice proposes to amend section 572.7(b) of Subpart B to read as proposed section 572.17(b) of Subpart C.

The engineer and lawyer primarily responsible for this notice are Vladislav Radovich and Hugh Oates, respectively.

In consideration of the foregoing, Technical drawing ATD-6070 that was incorporated by reference in section 572.15 of the recently issued proposed standard for a three-year-old dummy (43 FR 21490, May 18, 1978) is hereby modified to add the formulation for "OBSH/TBPP" foaming compound.

In consideration of the foregoing, it is proposed that Subpart B of 49 CFR 572, *Anthropomorphic Test Dummies*, be amended as follows:

1. To modify Technical drawing ATD-7151, incorporated by reference in section 572.5 of the standard, to include the "OBSH/TBPP" foaming material formulation in addition to the existing formulation for "Nitrosan".

2. To change the last sentence of section 572.7(b) to read:

The pendulum shall not reverse direction until the head's center of gravity returns to the original zero time position relative to the pendulum arm.

Drawings and specifications outlining the formulations for molding dummy flesh parts with the "OBSH/TBPP" compound are available for examination in NHTSA Docket 73-8 and Docket 78-09, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. Copies of these drawings may also be obtained from the Keuffel and Esser Company, 1513 North Danville Street, Arlington, Virginia 22201.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on December 12, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-34864 Filed 12-14-78; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

Annual Migratory Bird Hunting Schedules

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to change its procedure of having annual season, limit, and shooting hour schedules codified in Title 50, Code of Federal Regulations. These schedules are developed and published annually—effective from September through February—in the FEDERAL REGISTER, and are used primarily by States to issue migratory bird hunting regulations. As a result of the timing for development, use, and publication of these schedules, interested parties could possibly be misinformed or confused when reading the current 50 CFR, as it would contain the already expired schedules for the prior hunting seasons. By eliminating the publication of these temporary schedules in 50 CFR, any confusion resulting from such publication would be eliminated.

DATES: Comments must be received on or before January 17, 1979.

ADDRESSES: Submit comments to: Director (MBMO), U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (202) 254-3207.

SUPPLEMENTARY INFORMATION: The development of annual migratory bird hunting schedules, which are effective from September to February for the current hunting seasons of each year, involves data gathering programs to determine migratory bird population status and trends, evaluations of habitat conditions, harvest information, and other factors having a bearing on the anticipated size of the fall flights of these birds. During the course of development, the schedules are subject to public review and comment through several proposed rulemakings, published in the FEDERAL REGISTER beginning in early spring, as well as public hearings. Final rulemakings concerning the schedules are also published in the FEDERAL REGISTER.

The annual revision of 50 CFR, which includes rules and amendments prior to October 1 of each year, is not generally available to guide interested parties during the affected hunting seasons. The primary users of these schedules, State agencies, complete their work with the schedules generally in August to allow them to publish their respective hunting regulations. Additionally, the Service usually issues several in-season amendments after the October 1 revision date, as new data become available. The amendments are effective through the end of the hunting seasons and are never codifed, thereby requiring reference to the List of CFR Sections Affected (LSA). As a result of the publication date of 50 CFR and the in-season amendments, the schedules in 50 CFR have no contemporary value and are incomplete historically. This proposal would eliminate unnecessary duplicate publication as well as any confusion that may exist under the present system.

This proposal would affect only the annual seasons, limits, and shooting hours schedules appearing at 50 CFR § 20.101 through § 20.107, and § 20.109. Section 20.108, which prescribes zones where non-toxic shotshells are required, will continue to be codified since the zones are of a continuing, permanent nature. This proposal would not change the section titles, and the text of 50 CFR will refer the reader to the LSA. Interested parties should submit their comments to the Director at the above address.

NOTE.—The Department has determined that this document is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044.

The primary authors of this proposal are Henry M. Reeves, Office of Migratory Bird Management, and James E. Pinkerton, Division of Financial and Management Systems.

Accordingly, it is proposed to amend 50 CFR Part 20, subpart K, by adding a new § 20.100, and amending §§ 20.101 through 20.107, and § 20.109, as follows:

Subpart K—Annual Seasons, Limits, and Shooting Hours Schedules

§ 20.100 General provisions.

The taking, possession, transportation, and other uses of migratory game birds by hunters is generally prohibited unless it is specifically provided for under regulations developed in accordance with the Migratory Bird Treaty Act. Consequently, hunting is prohibited unless regulatory schedules are established for seasons, daily bag and possession limits, and shooting (or hawking) hours. Migratory game bird population levels, including production and habitat conditions, vary annually. These conditions differ over North America, and within the United States, by flyways, States, and frequently areas within States. Thus, it is necessary to make annual adjustments in the schedules to limit the harvests of migratory game birds to permissible levels. The development of these schedules involves annual data gathering programs to determine migratory game bird population status and trends, evaluations of habitat conditions, harvest information, and other factors having a bearing on the anticipated size of the fall flights of these birds. The proposed hunting schedules are announced early in the spring, and following consideration of additional information as it becomes available, as well as public comment, they are modified and published as supplemental proposals. These are also open to public comment. Public hearings are held for the purpose of providing additional opportunity for public participation in the rulemaking process.

§ 20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.

This section provides for the annual hunting of certain doves, pigeons, ducks, coots, gallinules, and snipe in Puerto Rico; and for certain doves and pigeons in the Virgin Islands.

NOTE.—For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see *List of CFR Sections Affected.*

§ 20.102 Seasons, limits, and shooting hours for Alaska.

This section provides for the annual hunting of certain waterfowl (ducks, geese, and brant), snipe, and sandhill cranes in Alaska.

NOTE.—For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see *List of CFR Sections Affected.*

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

This section provides for the annual hunting of certain doves and pigeons in the 48 contiguous United States. The mourning dove hunting regulations are arranged by the Eastern, Central, and Western Management Units.

NOTE.—For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see *List of CFR Sections Affected.*

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common (Wilson's) snipe.

This section provides for the annual hunting of certain rails, woodcock, and snipe in the 48 contiguous United States.

NOTE.—For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see *List of CFR Sections Affected.*

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

This section provides for the annual hunting of certain waterfowl (ducks, geese, brant), coots and gallinules in the 48 contiguous United States. The regulations are arranged by the Atlantic, Mississippi, Central, and Pacific Flyways. These regulations often vary within flyways or States, and by time periods.

NOTE.—For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see *List of CFR Sections Affected.*

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

This section provides for the annual hunting of sandhill cranes in designated portions of the Central Flyway.

NOTE.—For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see *List of CFR Sections Affected.*

§ 20.107 Seasons, limits, and shooting hours for whistling swans.

This section provides for the annual hunting of whistling swans in Utah and designated areas in Montana and Nevada.

NOTE.—For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see *List of CFR Sections Affected.*

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§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

This section provides annual regulations by which falconers may take permitted migratory game birds.

NOTE.—For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see *List of CFR Sections Affected.*

(16 U.S.C. 701-718h.)

Dated: December 5, 1978.

LYNN A. GREENWALT,
Director, U.S. Fish and Wildlife Service.

[FR Doc. 78-35048 Filed 12-15-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

CINCINNATI BOARD OF TRADE, INC., AND TRI-STATE GRAIN INSPECTION SERVICE, INC.

Cancellation of Designation; Interim Designation

AGENCY: Federal Grain Inspection Service

ACTION: Notice and Request for Comments and Applications

SUMMARY: This notice announces that the Cincinnati Board of Trade, Inc. (Board of Trade), Cincinnati, Ohio, has requested that its designation be cancelled and transferred to the Tri-State Grain Inspection Service, Inc., owned and operated by Mr. Patrick G. Corrigan, Jr. The cancellation of the designation of the Board of Trade became effective midnight, November 19, 1978, and the Tri-State Grain Inspection Service, Inc., was granted an interim designation as an official grain inspection agency at Cincinnati, Ohio, effective November 20, 1978, and terminating midnight, January 31, 1979. This notice also requests comments on the requested transfer and invites other interested persons to apply for designation to operate as an official agency in the area previously serviced by the Board of Trade.

DATES: Termination of the Board of Trade effective midnight, November 19, 1978. Interim designation of Tri-State Grain Inspection Service, Inc., effective November 20, 1978, terminates January 31, 1979.

Comments and/or applications by January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 477-8525.

SUPPLEMENTARY INFORMATION:

The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Sections 7 and 7A of the Act, (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or person as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such a designation shall terminate triennially (7 U.S.C. 79(g)(1)).

The Cincinnati Board of Trade, Inc., (Board of Trade), Cincinnati, Ohio, has requested that its designation as an official inspection agency be cancelled and that the designation be transferred effective November 20, 1978, to the Tri-State Grain Inspection Service, Inc., owned and operated by Mr. Patrick G. Corrigan, Jr., a former licensee of the Board of Trade. This announces the termination of the designation of the Board of Trade, effective midnight, November 19, 1978. In order to provide an orderly continuation of official inspection services, the Administrator has granted a designation to the Tri-State Grain Inspection Service, Inc., on an interim basis, effective November 20, 1978, and terminating midnight, January 31, 1979.

Interested persons are given opportunity to apply for designation to operate as an official agency at Cincinnati, Ohio, pursuant to the requirements in section 7(f)(1)(A) of the Act (7 U.S.C. 79(f)(1)(A)). Persons wishing to apply for designation to operate as an official agency at Cincinnati, Ohio, should contact the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, for the appropriate forms and mail their application to the Director's Office not later than January 17, 1979.

This interim designation will also allow the FGIS sufficient time to evaluate all applicants who may apply for official designation at Cincinnati, Ohio, and select the applicant the Administrator determines is better able to provide official inspection services.

On or before the expiration date, the FGIS will effect a standard three-year designation with the applicant selected, as provided by Section 7(g)(1) of the Act (7 U.S.C. 79(g)(1)).

NOTE. Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administator.

Interested persons are also given opportunity to submit written views or comments with respect to the requested transfer of official agency designation. All views or comments should be submitted in writing, in duplicate and mailed to the Director's Office, Compliance Division, at the above-mentioned address, not later than January 17, 1978.

Consideration will be given to the views and comments filed and to any applications submitted and to all other information available to the U.S. Department of Agriculture before a final determination is made with respect to the offical agency designation. All views, comments, and applications submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)).

(Sec. 4 Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27 Pub L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C. on: December 12, 1978.

D. R. GALLIART,
Acting Administrator.

[FR Doc. 78-35036 Filed 12-15-78; 8:45 am]

[1505-01-M]

CIVIL AERONAUTICS BOARD

APPLICATION FOR AN ALL-CARGO

Air Service Certificate

Correction

In FR Doc. 78-33896 appearing on page 56929 in the issue of Tuesday, December 5, 1978, in the second column, in the first paragraph, the eighth line, correct the zip code "98304" to read "98204".

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

IMPORTERS' TEXTILE ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Importers' Textile Advisory Committee will be held on February 15, 1979 at 10:30 a.m. in Room 3817, Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report of conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Telephone requests for the minutes of the meetings and requests for further information concerning the Committee may be directed to Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: December 13, 1978.

ARTHUR GAREL,
Director,
Office of Textiles.

[FR Doc. 78-35082 Filed 12-15-78; 8:45 am]

[3510-15-M]

Maritime Administration

[Docket No. S-631]

LYKES BROS. STEAMSHIP CO., INC.

Notice of Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has applied for written permission pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended, for the GENEVIEVE LYKES, or substitute, operating outbound on its Line D (Trade Route No. 22) service, between U.S. Gulf ports and ports in Indonesia, Malaysia and the Far East, to carry in the domestic intercoastal or coastwise trade eight pieces of nuclear reactor components weighing 848 long tons from New Orleans, Louisiana, to Longview, Washington. This cargo is scheduled for loading at New Orleans on or about December 28, 1978, with estimated arrival in Longview, on or about January 12, 1979. Lykes Bros. Steamship Co., Inc. has also applied for written permission to carry one passenger on the voyage from New Orleans to Longview.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3098, Department of Commerce Building, Fourteenth and E Streets, NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on Dec. 21, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrent a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: December 13, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-35102 Filed 12-15-78; 8:45 am]

[3510-15-M]

U.S. MERCHANT MARINE ACADEMY ADVISORY BOARD

Public Meeting

Notice is hereby given of a meeting of the Advisory Board to the U.S. Merchant Marine Academy (the Board) on January 19, 1979 at 10 a.m. in the Board Room of Wiley Hall at the U.S. Merchant Marine Academy (the Academy), Kings Point, New York.

The Advisory Board to the United States Merchant Marine Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and the overall management of the Academy and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce selected from segments of the maritime industry, labor, educational institutions, and other fields relating to the objectives of the Academy.

The agenda for the meeting is:

1. Approval of the minutes of the September 26, 1978 Board meeting;
2. Status report of Board members' assignments;
3. Status of Diesel Program and Facilities;
4. Status report of minority and female recruitment programs;
5. Status of FY '79 and '80 budget;
6. Discussion of the Draft Report of the Ad Hoc Select Subcommittee on Maritime Education and Training;
7. Discussion of after-hours recreational facilities; and
8. Setting of date for next Board meeting.

This meeting is open to public observation and comment. Approximately 20 seats will be available for the public on a first come, first-served basis.

Copies of the minutes are available upon request.

Inquiries may be addressed to the Committee Control Officer, Arthur W. Friedberg, Office of Maritime Manpower, Room 3069A, Main Commerce Building, telephone A/C 202-377-3018.

Dated: December 12, 1978.

So ordered by Assistant Secretary of Commerce for Maritime Affairs, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-35021 Filed 12-15-78; 8:45 am]

[3510-22-M]

NATIONAL WILDLIFE REFUGE COMPLEX

Receipt of Application for Permit

Notice is hereby given the an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name Mr. Robert Personius, Manager, San Francisco Bay, National Wildlife Refuge Complex
   b. Address US. Fish and Wildlife Service, 3849 Peralta Blvd., Fremont, California 94536
2. Type of Permit
   Scientific Research
3. Name and Number of Animals:
   Harbor seals (Phoca vitulina) 40
4. Type of Take
   To mark forty individuals with dye, for purposes of monitoring the population, and to pick up dead specimens.
5. Location of Activity: San Francisco Bay, National Wildlife Refuge
6. Period of Activity: 2 years

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 8, 1978.

DR. WILLIAM ARON,
Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-35066 Filed 12-15-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

DAVID MATTILA

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), and the regulations governing endangered species permits (50 CFR Parts 220-222).

1. Applicant:
   a. Name David Mattila
   b. Address 3558 S. River Terrace Edgewater, Maryland 21037
2. Type of Permit:
   Scientific Research
3. Name and Number of Animals:
   Humpback whales (Megaptera novaeangliae) unspecified
4. Type of Activity:
   To photograph and acoustically record as many humpback whales as possible.
5. Location of Activity: In the waters off Western Puerto Rico
6. Period of Activity: 5 years

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Bldg., 9450 Koger Boulevard, St. Petersburg, Florida 33702; and Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: December 12, 1978.

DR. WILLIAM ARON,
Director, Office of Marine Mammal and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-35067 Filed 12-15-78; 8:45 am]

[3510-04-M]

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 & Trademarks, Washington, DC 20231, for $.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, Virginia 22161 for $4.00 ($8.00 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.

INTELLECTUAL PROPERTY DIV., OTJAG
DEPARTMENT OF THE ARMY
PENTAGON RM 444
WASHINGTON, DC 20314

PATENT 4 050 019 Range Switching Circuit for solid State Electrometer. Filed 26 Jul 76, patented 20 Sep 77, Not available NTIS

PATENT 4 050 040 Fast-Tuned Multiplexer-Power Combiner. Filed 12 Oct. 76, patented 20 Sep 77, Not available NTIS

PATENT 4 050 069 Transponder Based Landing System. Filed 2 Sep 76, patented 20 Sep 77, Not available NTIS

PATENT 4 056 290 Method of Changing the Frequency of a Laser Beam. Filed 18 Mar 76, patented 1 Nov 1977, Not available NTIS

PATENT 4 056 649 Abrasion Resistant Optical Materials and Process for Making Same. Filed 24 Sep 76, patented 1 Nov 77, Not available NTIS

PATENT 4 060 170 Tire Mount-Dismount Mechanism. Filed 8 Oct 76, patented 29 Nov 77, Not available NTIS.

PATENT 4 060 767 Self Test Circuit for Multichannel Radio Receivers. Filed 10 Nov 76, patented 29 Nov 77, Not available NTIS

PATENT 4 060 810 Loaded Microstriip Antenna. Filed 4 Oct 76, patented 29 Nov 77, Not available NTIS.

PATENT 4 061 426 Optical Alignment Device and Method of Use, Filed 5 Mar 76, patented 6 Dec 77, Not available NTIS

PATENT 4 061 842 Fail Safe Battery. Filed 26 Nov 76, patented 6 Dec 77, Not available NTIS

PATENT 4 062 329 Fan Drive System. Filed 29 Jul 76, patented 13 Dec 77, Not available NTIS

PATENT 4 062 508 Integrated Helicopter Flight Control. Filed 10 Aug 76, patented 13 Dec 77, Not available NTIS

PATENT 4 063 096 Self-Protecting Infrared Detector with a Continuously Variable Attenuator. Filed 3 Jan 77, patented 13 Dec 77, Not available NTIS.

PATENT 4 063 297 Electric Arc Interrupter and Circuit Breaker. Filed 9 Nov 76, patented 13 Dec 77, Not available NTIS

PATENT 4 063 467 Speed Change and Reverser Device. Filed 9 Jun 76, patented 20 Dec 77, Not available NTIS

PATENT 4 064 407 Pulse Voltage Regulator. Filed 20 Dec 76, patented 20 Dec 77, Not available NTIS.

PATENT 4 065 207 Programmable Power Attenuator for Continuous CO2 Lasers. Filed 17 Sep 76, patented 27 Dec 77, Not available NTIS

PATENT 4 065 211 Precision X-Ray Diffraction System Incorporating a Laser Aligner, Filed 1 Mar 76, patented 27 Dec 77, Not available NTIS

PATENT 4 065 370 Method of Ion Plating a Thin Metallic Strip for Flashlamp Starting. Filed 28 Jan 77, patented 27 Dec 77, Not available NTIS

PATENT 4 065 550 Process for Preparing Lithium Hexafluoroarsenate of High Purity. Filed 31 Jan 77, patented 27 Dec 77, Not available NTIS

PATENT 4 071 678 Random Copolymers of Methyl Methacrylate and N-Octadecyl Methacrylate. Filed 29 Apr 76, patented 31 Jan 78, Not available NTIS

PATENT 4 072 702 Tri-Functional Isocyanate Crosslinking Agents for Hydroxy-Terminated Polybutadiene Binders. Filed 6 Dec 76, patented 7 Feb 78, Not available NTIS

PATENT 4 072 774 Sealing Method for Porous Material. Filed 18 Jun 75, patented 7 Feb 78, Not available NTIS

PATENT 4 075 983 Electronic Circuitry for Maintaining Constant Engine Speed Fuel Injection. Filed 25 Aug 76, patented 28 Feb 78, Not available NTIS

PATENT 4 079 923 Vehicle Suspension Employing a Liquid Spring. Filed 16 Sep 76, patented 21 Mar 78, Not available NTIS

PATENT 4 079 963 Vehicle Suspension Height Control. Filed 7 Sep 76, patented 21 Mar 78, Not available NTIS

PATENT 4 081 373 Mechanism for Exhausting Impurities from Engine Fuel. Filed 26 May 77, patented 28 Mar 78, Not available NTIS

U.S. DEPARTMENT OF THE AIR FORCE AF/JACP 1900 HALF STREET S.W. WASHINGTON, DC 20324

PAT APPL 902 134 Impact Sound Stressing Holding Assembly. Filed 2 May 78

PAT APPL 902 193 Metal Bleed Flow-Heat Exchanger. Filed 2 May 78

PAT APPL 902 523 Remotely Controlled Electromagnetic Optical Focusing Assembly. Filed 3 May 78

PAT APPL 902 525 Aromatic Heterocyclic Polymer Alloys and Products Produced Therefrom. Filed 3 May 78

PAT APPL 904 847 Fretting Fatigue Inhibiting Method for Titanium. Filed 11 May 78

PAT APPL 909 151 Composite Structures and Method of Detecting Mechanical Damage Thereto. Filed 24 May 78

PAT APPL 910 995 A Method of Obtaining Spectral Transmission Signatures. Filed 30 May 78

PAT APPL 911 746 Organosilicon Infiltrated Reaction Sintered Silicon Nitride. Filed 2 Jun 78

PAT APPL 913 160 Floated. Internally Gimballed Platform Assembly. Filed 6 Jun 78

PAT APPL 913 186 Surface Barrier Tailoring of Semiconductor Devices. Filed 6 Jun 78

PAT APPL 913 990 Test Probe Tool for Printed Circuit Boards. Filed 9 Jun 78

PAT APPL 915 709 Backlash Filter Apparatus. Filed 15 Jun 78

U.S. DEPARTMENT OF THE NAVY ASSISTANT CHIEF FOR PATENTS OFFICE OF NAVAL RESEARCH CODE 302 ARLINGTON, VA 22217

PAT APPL 835 766 Submersible Battery Apparatus. Filed 22 Sep 77

PAT APPL 875 062 Immersed Reticle. Filed 6 Feb 78

PAT APPL 882 699 Immitance Measurement with High Frequency Injection and Electromagnetic Coupling. Filed 2 Mar 78

PAT APPL 894 059 Acousto-Optic Modulator. Filed 6 Apr 78

PAT APPL 900 470 Fluid Cutout Valve. Filed 27 Apr 78

PAT APPL 903 339 Phase Controlled Shuttering System. Filed 5 May 78

PAT APPL 907 067 Polymeric Binders which Reversibly Dissociate at Elevated Temperatures. Filed 18 May 78

PATENT 4 079 372 Serial to Parallel Converter. Filed 3 May 76, patented 14 Mar 78, Not available NTIS

PATENT 4 081 672 Low-Loss Signal Coupler for Optical Communications and Integrated Optics. Filed 4 Oct 76, patented 28 Mar 78, Not available NTIS

PATENT 4 083 046 Electric Monomicrostrip Dipole Antennas. Filed 10 Nov 76, patented 4 Apr 78, Not available NTIS

PATENT 4 084 065 Antistrumming Cable. Filed 2 Dec 76, patented 11 Apr 78, Not available NTIS

PATENT 4 086 540 Translating Filter. Filed 9 Feb 77, patented 25 Apr 78, Not available NTIS

PATENT 4 086 560 Secret Depth Sounder. Filed 3 Apr 59, patented 25 Apr 78, Not available NTIS

PATENT 4 086 592 Digital Sidelobe Canceller. Filed 22 Jul 77, patented 25 Apr 78, Not available NTIS

PATENT 4 087 257 High Density-High Volumetric Heating Value Liquid Ramjet. Filed 21 Mar 77, patented 2 May 78, Not available NTIS

PATENT 4 087 373 Noel Method for the Production of Hydrogen and Hydrogen-Carbon Monoxide Mixtures. Filed 23 Jul 76, patented 2 May 78, Not available NTIS

PATENT 4 087 590 Pressure-Equalized Electrochemical Battery System. Filed 4 May 77, patented 2 May 78, Not available NTIS

PATENT 4 087 591 Pyrotechnically Activated Lithium-Chlorine Cell having a Lithium Vapor Barrier. Filed 30 Dec 76, patented 2 May 78, Not available NTIS

PATENT 4 087 745 Technique for Contactless Characterization of Semiconducting Material and Device Structures. Filed 28 Jul 77, patented 2 May 78, Not available NTIS

NATIONAL AERONAUTICS & SPACE ADMINISTRATION ASSISTANT GENERAL COUNSEL FOR PATENT MATTERS NASA CODE GP-2 WASHINGTON, DC 20546

PAT APPL 929 083 Laser Doppler Velocity Simulator. Filed 28 Jul 78

PAT APPL 929 088 Method of Forming a Sharp Edge on an Optical Device. Filed 28 Jul 78

[FR Doc. 78-35022 Filed 12-15-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

EXEMPT TEXTILE PRODUCTS FROM THE PHILIPPINES

Changes in Officials of the Government of the Republic of the Philippines Authorized To Issue Export Visas and Certifications

DECEMBER 13, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Three officials of the Government of the Republic of the Philippines have been authorized to issue export visas and certifications for exempt cotton, wool and man-made fiber textile products from the Philippines.

SUMMARY: The Government of the Republic of the Philippines has notified the United States Government that, effective on December 4, 1978, the following officials are authorized to issue export visas and certifications for exempt textile products exported to the United States:

Vicente B. Valdepenas, Jr.
Troadio T. Quiazon, Jr.
Jose J. Niverba

EFFECTIVE DATE: December 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Judith L. McConahy, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423)

SUPPLEMENTARY INFORMATION:

On September 9, 1976, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the FEDERAL REGISTER (41 FR 38205), which established an export visa requirement and certification for exemption of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of the Republic of the Philippines. The Government of the Republic of the Philippines has requested that three officials be recognized as authorized to issue export visas and certifications for exemption.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-35072 Filed 12-15-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

Partially Closed Meeting

In accordance with Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

NAME OF COMMITTEE: EXECUTIVE COMMITTEE OF THE NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

DATE OF MEETING: 11 January 1979.

PLACE: Secretary of the Army Conference Room, Room 2E 687, The Pentagon.

TIME: 0900 hours.

PROPOSED AGENDA:

1. Distinguished international shooter badge.
2. M-14 Rifle (national match-defined).
3. Development of program objectives.
4. NBPRP budget program.
5. Public relations program for the DCM civilian marksmanship program.
6. Modification/expansion of NBPRP-approved DCM ammunition sales program.
7. NBPRP support for a civilian pistol marksmanship program.
8. Possible expansion of board-sponsored national match events.
9. Implementation of additional A. D. Little report recommendations.
10. NBPRP inter service marksmanship responsibility.
11. Concept of a national shooting facility.
12. Suit against the Secretary of the Army and the Director of Civilian Marksmanship.

This meeting is partially closed to the public since the NBPRP is currently the subject of a civil suit. The Office of the Army General Counsel has advised that public disclosure of the case particulars may interfere with the ability of the Army to participate effectively in the defense of the interests of the United States; (5 U.S.C. Sec. 552b(c)(10)).

For the Director:

GARY CHITTESTER,
Executive Officer.

[FR Doc. 78-35023 Filed 12-15-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

DR. RONALD C. DAVIDSON

Certification

Pursuant to section 605(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7215(a)(3)) and section 207(b) of title 18, United States Code, and having found that Dr. Ronald C. Davidson, formerly Assistant Director for Applied Plasma Physics, Office of Fusion Energy, Department of Energy, and presently Director of the Plasma Fusion Center, Massachusetts Institute of Technology, Cambridge, Massachusetts, possesses outstanding scientific qualifications, I certify that the national interest would be served by permitting Dr. Davidson, notwithstanding the restriction, of 18 U.S.C 207 (a) and (b) and 42 U.S.C. 7215(a), to make appearances or attendances before, or make written or oral communications to, the Department of Energy on behalf of the Massachusetts Institute of Technology in connection with activities of the Massachusetts Institute of Technology or its Plasma Fusion Center. Such activities may include but are not limited to those under contract nos. ET 78-C-01-3019, ET 78-S-02-4681 and ET 78-S-02-4682 with the Department of Energy, or other activities of the Massachusetts Institute of Technology or its Plasma Fusion Center in which Dr. Davidson participated personally and substantially as an employee of the Department of Energy or its predecessor agency, the Energy Research and Development Administration, or which were under his official responsibility as such employee.

Dated: December 6, 1978.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 78-35033 Filed 12-15-78; 8:45 am]

[6450-01-M]

Energy Information Administration

DATA COLLECTION REPORTS

Discontinuance

AGENCY: Energy Information Administration.

ACTION: Notice of discontinuance of data collection forms.

SUMMARY: On July 24, 1978, the Energy Information Administration (EIA) published a proposal in the FEDERAL REGISTER (43 FR 31962) to discontinue data collection of five petroleum related forms. At that time, EIA solicited comments with respect to the discontinuance of the forms. Following an analysis of the comments received, EIA has determined to discontinue four of the five forms.

EFFECTIVE: Immediately.

FOR FURTHER INFORMATION CONTACT:

William G. Park, (Oil and Gas Statistics), Energy Information Administration, 2401 E Street, N.W., Room 628, Washington, D.C. 20241, 202-634-1044.

SUPPLEMENTARY INFORMATION: Comments from the following trade associations, respondent companies and States were taken into consideration in making the decision to discontinue the four reporting forms. No comments received after the deadline for receiving comments were considered by DOE.

States

South Dakota Office of Energy Policy
Arkansas, Attorney General

Trade Associations

The Asphalt Institute
The Asphalt Emulsion Manufacturers Association

Respondent Companies

APCO Division of Total Petroleum, Inc.
Ashland Petroleum Company
Chevron U.S.A., Inc.
Cities Service Company
Continental Oil Company
Douglas Oil Company of California
Edington Oil Company
Koch Fuels, Inc.

Lion Oil Company
Mobil Oil Corporation
Shell Oil Company
The Standard Oil Company of Ohio (SOHIO)

All of the comments received supported the retention of the Form 6-1629-A, Sales of Asphalt and Road Oil. One general comment commending DOE's effort to reduce respondent burden was receivef from Standard Oil Company of Indiana (AMOCO).

EIA is evaluating the comments relative to retention of the 6-1629-A. Having received no comment to the contrary, EIA has determined that the following four forms are no longer necessary and should no longer be submitted.

Form 6-1301-A, Sales of Aviation Fuel
Form 6-1309-M, Crude Petroleum Gathered from Leases in Selected States
Form 6-1336-A, Production of Other Finished Products at Petroleum Refineries
Form 6-1342-A, Carbon Black

Issued in Washington, D.C. on December 6, 1978.

LINCOLN E. MOSES,
Administrator, Energy Information Administration.

[FR Doc. 78-35101 Filed 12-15-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. CP79-47]

ARKANSAS LOUISIANA GAS CO.

Application

DECEMBER 12, 1978.

Take notice that on October 31, 1978, Arkansas Louisiana Gas Company (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP79-47 an application, pursuant to Section 7(c) of the Natural Gas Act, for authorization to construct and operate, and utilize facilities to render service, incident to the development and use of a storage reservoir in the Chiles Dome Field in East Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that when the extent of the national gas shortage became apparent several years ago, Arkla began an examination of its ability to continue serving its human needs customers and other critical application customers in the context of the worsening gas supply situation in general, and in the face of decreasing annual gas supplies on the Arkla system in particular.

It is stated that the criteria for the study was the ability to serve 100 percent of customer requirements classified under Arkla's curtailment plan as Priorities 1 and 2, on both an annual and normal peak day basis.

It is stated that Arkla's studies showed that additional underground gas storage would be required in the future if Arkla were to be able to maintain the daily deliverability needed to serve the high priority requirements on its system in the winter. It is said that the system had historically obtained the needed deliverability on peaks for high priority uses by curtailing its substantial large industrial loads; but forecasts for the future showed that most of the large industrial loads would have to be drastically reduced in order to maintain service to the higher priorities. In the seven years that the Arkla curtailment plan has been in effect, curtailments of the low priority industrial loads have increased, it is said. By November 1976 the level of curtailment for Priorities 5 and 6 had reached 100 percent on an annual basis, and Priorities 5 and 6 loads on the Arkla system have not received any gas since November 1976, it is said. The curtailable cushion that at one time had been afforded by large industrial loads had to be replaced by storage reservoirs that can be filled in the off-peak season and drawn on in the winter, it is said.

It is stated that based on the studies, a program was begun to acquire the additional storage reservoirs it already had on its system to determine whether their utilization could be expanded and improved, and the Ada Storage Field in East Oklahoma appeared to be a promising prospect for expansion. It had been used successfully as a storage reservoir for almost 50 years with a daily deliverability of around 12 million cubic feet per day, it is said. It appeared that the addition of more wells and compressor horsepower would permit the Ada Storage Field reservoir to be utilized more fully and effectively, it is said. It is said that the Ada Storage Field was expanded pursuant to Commission certificates.

It is stated that the Chiles Dome storage facility would provide base load deliverability over relatively longer periods than Ada and would have a rated deliverability of at least 133,000 Mcf per day with a working gas capacity of 12,000,000 Mcf. It is intended that these two storage developments, along with Arkla's other storage fields, would complement each other, and as projected it is anticipated that they would take care of Arkla's storage needs for a number of years, it is said.

Arkla's work with the Chiles Dome reservoir to date has demonstrated that it would provide the base load storage that the Arkla system needs, and it would do so more economically than any other available alternative, it is said.

A summary of Arkla's long-term storage needs as developed by the comprehensive studies mentioned above is stated as follows:

ADDITIONAL STORAGE NEEDS

	Normal Winter		12% Colder Winter	
	Deliverability 1000 Mcf per day	Working Gas-Million Mcf	Deliverability 1000 Mcf per day	Working Gas-Million Mcf
1978-79	0	0	84	4.0
1979-80	23	2.6	105	7.4
1980-81	58	4.6	141	9.5
1981-82	55	5.8	139	10.8
1982-83	87	6.3	171	11.4

A summary of the storage capacities before and after the Chiles Dome development is stated as follows:

	Rated Deliverability 1000 Mcf per day	Working Gas-Million Mcf
Total Storage Available—Summer 1978	375	16.3
1978 Ada Storage Expansion	100	2.0
Sub-Total	475	18.3
Chiles Dome Storage	133	12.0
Total Required	608	30.3

It is stated that without additional storage in the magnitude that would be afforded by the Chiles Dome Project, curtailments into Arkla's curtailment Priority 2 during normally cold winters would begin as early as the winter of 1979/1980.

It is stated that the scope of the project and the construction is such that the only realistic target is to have the facilities operational and the reservoir full by November 1, 1981 for utilization during the winter of 1981/1982.

It is stated that the Chiles Dome Project includes the following:

(a) Approximately 15 new injection-withdrawal wells. Five existing oil field wells in the area would be reworked and continued in service, making a total of approximately 20 wells to be utilized in connection with the injection and withdrawal of gas from the Chiles Dome reservoir. Also, one observation well is projected.

(b) A 6,750 horsepower compressor station to be constructed at a central point.

(c) Related central point facilities to be installed to perform such functions as measurement, pressure regulation, dehydration, liquid separation, etc.

(d) Approximately 6.38 miles of 6-inch to 12-inch gathering lines to connect the injection-withdrawal wells to the central compressor station facilities.

(e) Approximately 11.14 miles of 16-inch pipeline to be installed to connect the central station at Chiles Dome with Arkla's existing Line "AD."

(f) 14,000,000 Mcf of cushion gas.

It is stated that in addition to the storage facilities incident to the Chiles Dome storage field itself, it would also be necessary to expand the capacity of certain other Arkla facilities in 1981 to accommodate the additional deliverability volumes that would be made available by the Chiles Dome storage field when it becomes operational. Certification for such facilities is also requested by this application, it is said. These facilities are generally identified as:

(g) 16.7 miles of 30-inch O.D. loop line paralleling an existing Arkla 24-inch line (Line "O") to be constructed in 1981.

(h) A 4,250 horsepower centrifugal compressor station and related facilities to be installed in 1981 at an existing 11-acre compressor site in northwest Arkansas (Arkla's Chambers Station).

It is stated that during the injection cycle gas would be delivered to Chiles Dome from Arkla's Line AD and injected into storage by means of the storage compression facilities for which authorization is sought.

During the withdrawal cycle the gas would be withdrawn from storage by means of the same compression facilities and delivered back into Arkla's Line AD as needed, it is said.

The loop line on Arkla's Line "O" and the additional transmission compression horsepower to be installed at the Chambers Station site, are necessary to increase the capacity of Arkla's system east of Chiles Dome in order to move the volumes normally flowing through the system, together with the increased volumes being delivered into the system from Chiles Dome, to Arkla's markets beyond Chambers Station, it is said.

The application indicates the total estimated cost of the proposed project to be $39,113,900 which cost Applicant proposes to finance from cash on hand and/or short-term loans until converted to long-term debt in due course.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate acton to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hering therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Arkla to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-35055 Filed 12-15-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-272]

BROOKLYN UNION GAS CO.

Petition To Amend

DECEMBER 11, 1978.

Take notice that on December 8, 1978, The Brooklyn Union Gas Company (Applicant), 195 Montague Street, Brooklyn, New York 11201, filed in Docket No. CP78-272 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to Section 7(c) of the National Gas Act authorizing the sales of gas to Delmarva Power and Light Company (Delmarva), Philadelphia Electric Company (PECO), and South Jersey Gas Company (South Jersey) (Purchasers), all as more fully set forth in the application, as supplemented, on file with the Commission and open to public inspection.

Applicant states that between June 8, 1977, when the sales agreements were made, and October 23, 1978, when the Commission issued its order authorizing the sales, changes in conditions of the Purchasers have occurred. As a result, Applicant states, each sales agreement was modified, by letter agreement to be effective November 1, 1978, to reflect more accurately current conditions of the Purchasers. Applicant states that these modifications may be summarized as follows:

(1) the annual contract quantity to be purchased by each customer has been reduced, with additional (call) quantities of gas in excess of the annual contract quantity to be made available at the option of the Purchasers. The quantities authorized in the Commission's October 23, 1978, order and the quantities to be purchased pursuant to the amended agreements are as follows:

Company	Authorized—Annual Contract Quantity (Million Btu)	Amended Agreement	
		Annual Contract Quantity (Million Btu)	Optional Call Quantity (Million Btu)
Delmarva	500,000	6,000	150,000
PECO	2,000,000	12,000	300,000
South Jersey	2,000,000	12,000	300,000

(2) the primary term of each agreement has been reduced to one year;

(3) all of the gas purchased will be made available during the winter period, with deliveries to commence upon 24 hours notice; and

(4) the demand charges have been reduced and the winter delivery charges have been eliminated.

In light of these modifications to the three underlying sales agreements, Applicant requests that the Commission modify the certificate order of October 23, 1978.

Applicant requests,

(a) that the Commission modify the limited-term certificate issued to Applicant to authorize it to sell gas to the Purchasers in accordance with the modified sales agreements; and

(b) that the Commission permit Applicant to file the sales agreements, as modified, as special rate schedules pursuant to Section 154.52 of the Regulations under the Natural Gas Act (18 CFR 154.52).

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 21, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed in this docket need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-35056 Filed 12-15-78; 8:45 am]

[6740-02-M]

[Docket No. CP76-439]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend

DECEMBER 11, 1978.

Take notice that on October 12, 1978, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP76-439 a petition to amend the order issued November 1, 1976 [1] in said docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), so as to extend for two years the authorization to transport natural gas for Anchor Hocking Corporation (Anchor) to be delivered to Anchor's Carr-Lowrey Glass Company Division (Carr-Lowrey) plant in Baltimore, Maryland, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that Carr-Lowrey is a customer of Baltimore Gas & Electric Company (BG&E), and that BG&E's forecast of curtailments for the winter season of 1978-79 has not been received by Carr-Lowrey. It is further stated that since service commenced under the authorization granted in Docket No. CP76-439, deliveries have been made on 201 days during the winter period of 1976-77 and 1977-78. Effective October 9, 1978 Carr-Lowrey was curtailed 100 per cent by BG&E and gas deliveries are currently being made under the authorization herein, it is said. It is said that, based on past experience, Carr-Lowrey is of the opinion that additional curtailments will be imposed.

In an affidavit attached to the application, Anchor states that all of the natural gas to be transported would be consumed in the priority-of-service Priority 3 of 18 CFR 2.78(a). These uses are Priority 3 uses that would otherwise have been in Priority 2 had the gas been purchased on a firm basis, it is said.

It is stated that the source of natural gas to be transported to Carr-Lowrey remains the same, Gas Transport, Inc. Gas Transport is a wholly-owned subsidiary of Anchor which was founded in 1941 for the sole purpose of purchasing natural gas for Anchor, its only customer, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB
Secretary.

[FR Doc. 78-35057 Filed 12-15-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1978 (10 CFR 1000.1), it was transferred to the FERC.

[6740-02-M]

[Docket No. CP79-92]

COLUMBIA GAS TRANSMISSION CORP. AND CONSOLIDATED GAS SUPPLY CORP.

Application

DECEMBER 12, 1978.

Take notice that on November 30, 1978, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Consolidated Gas Supply Corporation (Consolidated), 445 W. Main Street, Clarksburg, West Virginia 26301, (Applicants) filed in Docket No. CP79-92 an application pursuant to Sections 7 (c) and (b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the exchange of natural gas and the construction and operation of certain natural gas facilities related thereto, and (2) permission and approval to abandon approximately 2.6 miles of pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that Columbia operates a pipeline from the vicinity of Buckhannon, Upshur County, West Virginia, to a point north of Weston, Lewis County, West Virginia, for the sole purpose of providing natural gas for resale to Columbia Gas of West Virginia (Columbia Gas) for its retail customers in the area north of Weston, West Virginia, and that Consolidated has pipeline facilities in the vicinity which can be interconnected to Columbia's facilities.

Applicants state that Columbia has two gas wells in Lewis County, West Virginia, from which the production can be delivered into Consolidated's existing facilities, and that Consolidated operates pipeline facilities in the Twilight and Bandytown areas in

Boone County, West Virginia which are utilized for distribution service.

Applicants request authorization for:

(1) Consolidated to deliver to Columbia, through a new delivery point to be constructed by Columbia at an intersection of Applicants' lines in Lewis County, West Virginia, those volumes of gas as are required by Columbia to supply Columbia Gas;

(2) Columbia to deliver to Consolidated, through a new delivery point to be constructed by Consolidated at an intersection of Applicants' facilities in Boone County, Virginia, such gas quantities as Consolidated may require from time to time on an emergency basis in order to ensure continuity of service to Consolidated's customers in the Twilight and Bandytown area;

(3) Columbia to balance any excess gas it receives by delivering to Consolidated such excess at an existing interconnection between Applicants in Wood County, West Virginia;

(4) Consolidated to likewise balance excess gas by delivery to Columbia at an existing interconnection between Applicants in Lincoln County, West Virginia;

(5) Columbia's construction of one measuring facility and two interconnecting measuring and regulating facilities in Lewis County, West Virginia, and one interconnecting mainline tap facility in Boone County, West Virginia, at a cost of $31,400, which would be financed from funds generated internally;

(6) Consolidated's construction of interconnecting mainline tap facilities in Lewis County, West Virginia and an interconnecting measuring and regulating facility in Boone County, West Virginia, at a cost of $3,715, which would be financed from funds generated internally; and

(7) Columbia's abandonment of several sections of 8, 10, and 12-inch pipeline totaling approximately 2.6 miles in Lewis County, West Virginia.

Applicants state that the requested exchange authorization would be gas for gas, with balancing to be on a monthly basis. Applicants further state that the proposed abandonment would not result in termination of service to any of Columbia's customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission in its own review of the matter finds that a grant of the certificate or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-35058 Filed 12-15-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-89]

EL PASO NATURAL GAS CO.

Application

DECEMBER 11, 1978.

Take notice that on November 29, 1978, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed an application in Docket No. CP79-89, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (i) the transportation of up to 60,000 Mcf per day of natural gas for the account of Bixco, Inc. (Bixco), on a best efforts basis, and the delivery of such natural gas to Arizona Public Service Company (APS) at existing delivery points located on El Paso's interstate pipeline transmission system situated within the State of Arizona, and (ii) blanket authorization under Section 7(c) of the Act, to permit, from time to time, the attachment of new receipt and/or delivery points and other facilities to El Paso's pipeline system, all as more fully set forth in the application on file with the Commission and open to public inspection.

El Paso states that Bixco has advised it that Bixco has acquired natural gas supplies produced from the C & K Federal No. 1 well located in Eddy County, New Mexico (No. 1 well); that the No. 1 well is connected to El Paso's existing gathering system and is remote from the system of APS, who has contracted with Bixco to purchase the gas; and that to enable APS to have access to the No. 1 well gas purchased from Bixco, El Paso and Bixco have entered into a gas transportation agreement on September 1, 1978.

It is proposed, pursuant to the transportation agreement, that El Paso would gather, process and dehydrate when necessary, up to 60,000 Mcf of natural gas per day for Bixco's account, and then deliver equivalent volumes, less gas lost and used as fule, to APS for Bixco's account at existing points of interconnection between APS and El Paso in Arizona for end use by APS's Priority 1, 2 and 3 natural gas customers, all on a best efforts basis. It is stated the transportation agreement is predicated on expected excess capacity within El Paso's existing mainline, and that Bixco woud receive equal treatment with other of El Paso's best efforts customers whose end-uses have the same priority, as those priorities are defined in El Paso's curtailment plan as is now or may hereinafter be in effect on El Paso's system. The transportation agreement is stated to have a five-year term from the date of first performance.

El Paso states that the rates under the transportation agreement would be taken from its Sheet No. 1 D.2, FERC Gas Tariff, Third Revised Volume No. 2, or superseding tariff: (1) a transportation charge, denominated "Mainline Transmission Charge-Arizona"; and (2) as compensation for the required gathering processing and dehydration, 3 charges denominated as "Production Area Charge-Field Gathering", "Production Area Charge-Processing", and "Production Area Charge-Dehydration only."

El Paso states that it and Bixco have also entered into an "excess gas" purchase agreement dated September 1, 1978, under which El Paso could purchase, at its option, that gas which on any day exceeds APS' need for additional gas supplies to serve its customers' Priority 1, 2 and 3 end-use requirements, (including storage injection for later use by these high priority customers).

El Paso also proposes that it be granted blanket authority to add and delete receipt and delivery points and add other required facilities; Bixco would pay for additional facilities pursuant to the transportation agreement, but they would be owned and

operated by El Paso. Under this proposal, El Paso woud amend the transportation agreement before January 31 of each year to reflect the additions of the preceding year, and give proper notice to the Commission, it is stated.

It is stated that the authorization requested in the instant docket is required to make the No. 1 well gas available to APS, and that this gas woud aid APS in the maintenance of service to its high priority end use requirement customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-35059 Filed 12-15-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-97 (PGA79-*1*)]

MONTANA-DAKOTA UTILITIES CO.

Purchased Gas Cost Adjustment Filing

DECEMBER 7, 1978.

Montana-Dakota Utilities Co. ("MDU"), on December 1, 1978, submitted for filing as part of its FERC Gas Tariff the following tariff sheet:

Original Volume No. 4

Tenth Revised Sheet No. 3A

MDU states that this filing is being made pursuant to its Purchased Gas Cost Adjustment Provision. The proposed change consists of a Surcharge Adjustment of 10.516¢ per Mcf. The proposed effective date is January 1, 1979. The changes are supported by exhibits attached to the filing.

As part of its filing, MDU has included a correction of a mistake which it asserts was made in the computation of the surcharge amounts in July, August, and September, 1975; MDU states that the error was discovered in the course of a recent FERC audit. Accordingly, MDU requests permission to refund an amount of $18,987.50 to one of its customers, Northern Gas Company, and to charge an identical amount to the balance in the Deferred Account for recovery by means of the instant filing.

MDU also requests waiver of the provisions of its currently effective PGA clause so that it may recover the amounts in its Deferred Account in the four-month period January through April, 1979, rather than the six-month period January through June, 1979, which would normally be used. MDU asserts that this proposal is consistent with the change required in its PGA clause by Order Nos. 13 and 13-A which will shorten the effective time period of the proposed rates from six months under the currently effective tariff sheets to four months under those which will be filed by MDU pursuant to Order Nos. 13 and 13-A.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with the sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before *December 15, 1978.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-35060 Filed 12-15-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-97; PGA79-2]

MONTANA-DAKOTA UTILITIES CO.

Tariff Sheet Filing Pursuant to Order Nos. 13 and 13-A

DECEMBER 7, 1978.

Montana-Dakota Utilities Co. ("MDU"), on December 1, 1978, submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

Original Volume No. 4

Third Revised Sheet No. 16A.
Second Revised Sheet No. 16B.
Second Revised Sheet No. 16C.
Third Revised Sheet No. 16D.
Third Revised Sheet No. 16E.
First Revised Sheet No. 16F.
Original Sheet No. 16G

MDU states that these tariff sheets, *inter alia,* comply with the requirements of the Commission's Order Nos. 13 and 13-A by changing the dates on which MDU will file its future PGA adjustments and by providing for carrying charges on the balances in the deferred account.

In addition, MDU states that it has made certain other changes to its PGA clause to reflect, *inter alia,* recent developments in its gas supply patterns, to change references to the former Federal Power Commission to the Federal Energy Regulatory Commission, and to provide for cost of purchased gas changes twice per year rather than according to its former schedule of once per year.

The proposed effective date is January 1, 1979.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with the Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 15, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene. Copies of the filing are on file

with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-35061 Filed 12-15-78; 8:45 am]

[6740-02-M]

[Docket No. ER76-875]

NEVADA POWER CO.

Compliance Filing

DECEMBER 11, 1978.

Take notice that Nevada Power Co. on October 4, 1978, tendered for filing pursuant to Paragraph C of the Commission's Order issued June 27, 1978, in the above docket, a revised cost of service study with amended rate schedule for CP National.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-35062 Filed 12-15-78; 8:45 am]

[6740-02-M]

[Docket No. CP76-461]

TEXAS GAS TRANSMISSION CORP.

Petition To Amend

DECEMBER 12, 1978.

Take notice that on November 7, 1978, Texas Gas Transmission Corp. (Petitioner), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP76-461, a petition to amend the orders issued November 24, 1976 and February 2, 1977,[1] in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), so as to authorize an extension of the existing authorization for an additional two-year period to permit Petitioner to transport and deliver volumes of natural gas up to 1,365 Mcf per day to National Steel Corporation and Southwire Company (National-Southwire), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that by orders issued November 24, 1976, and February 2, 1977, it was authorized to transport, on an interruptible basis, and deliver a volume of natural gas up to 3,317 Mcf per day to National-Southwire for a two-year period from the date of initial deliveries, and that National-Southwire is purchasing the volumes of natural gas which petitioner is presently transporting pursuant to the above-described authorizations from McGoldrick Joint Venture No. 1-73 in Leatherman Creek Field, Claiborne Parish, Louisiana.

Petitioner further states that it is seeking an additional two-year period so as to permit it to transport and deliver volumes of natural gas up to 1,365 Mcf per day to National-Southwire pursuant to a transportation service agreement, dated October 18, 1978, between Petitioner and National-Southwire.

Petitioner states that the volumes of natural gas to be transported would be purchased by National-Southwire from Harvey Broyles, *et al.*, (Broyles) for production located in the Tremont Field, Lincoln Parish, Louisiana, at a price of $1.85 per Mcf of natural gas from the date of first delivery through the first contract year and effective on the first day of the second contract year or any subsequent contract year, the price shall increase 10.0 cents per Mcf of gas. Such volumes would be delivered to Petitoner by means of a dispatching arrangement to the tailgate of the Kerr-McGee Gasoline Plant located near Dubach in Lincoln Parish, Louisiana, it is said. Petitioner asserts that it would simultaneously redeliver volumes of natural gas up to 1,365 Mcf per day at 14.73 psia to National-Southwire at an existing meter station located at or near Mile Post 13.4624 in Hancock County, Kentucky.

No new facilities are necessary in order to effectuate the proposed transportation service, it is said.

Petitioner states it would not retain any volumes for its own system supply, but would retain a volume equal to 6.23 percent above the delivered volume as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughout to and within the rate zone in which the deliver by Petitioner would be made, that is, Zone 3. Petitioner would collect an initial charge of 24.81 cents per Mcf for all quantities of natural gas transported and delivered to National-Southwire, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-35063 Filed 12-15-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1027-4]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to Section 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: the 45 day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from December 4, 1978 through December 8, 1978; the date of submission of comments on draft EIS's as computed from December 15, 1978 is January 29, 1979.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Envi-

ronmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: December 13, 1978.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Acting Director, Division of NEPA Affairs, Department of Energy, Federal Building, Room 7119, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

Draft

Charge for spent fuel storage, national, December 6: Proposed is the analyzation of the fee and various alternatives considered to determine the interaction between the fee and degree of participation by domestic utilities and foreign countries in the proposed spent fuel program for implementing the spent fuel policy. Specifically, the EIS addressed itself to whether the fee charged for these services, by its level or its structure would have any effect on the environmental impacts of implementing the spent fuel policy itself. This statement draws on and is a companion to two other EIS's concerning the storage of foreign and domestic fuels. (DOE/EIS-0041-D) (EIS order No. 81309).

Storage of foreign spent power reactor fuel, national, December 6: Proposed for consideration are provisions under the spent fuel policy concerning the acceptance by the Federal Government of a limited amount of spent fuel from foreign sources when such action would contribute to meeting nonproliferation goals. This statement is intended to provide environmental input into decisions regarding the implementation of this portion of the policy. Approaches that could be adopted include: (1) Acceptance of foreign spent fuel at either domestic centralized or decentralized storage basin(s), (2) encouragement of continued storage at foreign multinational or national basins, or (3) no new policy. (EIS order No. 81310).

Final

Texoma group salt domes—SPR, Texas, Louisiana, several counties, December 4: Proposed are four candidate sites for use as part of the strategic petroleum reserve program. These sites are from the Texoma group of salt domes located in the gulf coast region of southwestern Louisiana and southeastern Texas. The primary site for development in this group is an expansion of the West Hackberry early storage reserve facility located in Cameron Parish, La. The three other sites are new: The Black Bayou salt dome in Cameron Parish, La.; the Vinton salt dome in Calcasieu Parish, La.; and the Big Hill salt dome in Jefferson County, Tex. One or a combination of these three sites may be developed. (DOE/EIS-0029.) Comments made by: COE, DOC, EPA (EIS Order No. 81296).

Draft supplement

Storage of U.S. spent power reactor fuel, national, December 6: This statement supplements a draft EIS filed in August 1978, concerning the storage of U.S. spent power reactor fuel. The statement focuses on a particular policy approach which encourages the expanded storage of spent fuel in basins at reactor sites (interium storage). This alternative would result in the construction of additional spent fuel storage basins that are constructed and operated at power reactor sites by private industry. Four alternatives are considered which may be combined in various ways should the interium storage proposal be implemented. (DOE/EIS-0015-DS) (EIS Order No. 81311).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D C. 20240 (202) 343-3891

BUREAU OF LAND MANAGEMENT

Draft

Federal Coal Management Program (revised), Programmatic, December 8: The purpose of this statement is to address various alternatives for federal coal management program, including a preferred program alternative, and to assess the possible impacts from the various alternatives. The statement is programmatic in scope and discusses the national and interregional impacts associated with the Federal coal management. Included is the assessment of 12 coal supply regions, 3 production levels, 7 alternative management strategies, 2 projection periods, coal production and use cycle, and 27 impact categories. (INT-DES-78-50) (EIS Order No. 81320).

NATIONAL PARK SERVICE

Final

Buffalo National River, Newton and Marion Counties, Ark. December 4: Proposed is Congressional designation of 10,529 acres of federal land within the authorized boundary of the buffalo national river as wilderness. Plans also call for the designation of 25,471 acres of nonfederal lands as potential wilderness additions. The proposal involves 3 separate units and aggregation of 36,000 acres. (FES-78-36) Comments made by: USDA, DOC, HUD, DOI, FPC, DOT EPA, AHP, COE, State agencies, groups and businesses (EIS Order No. 81294).

Biscayne National Monument Management Plan, Dade County, Fla, December 4: Proposed is a general management plan to guide the future management and development of Biscayne National Monument, Florida. The proposed plan places emphasis on five points: (1) no acquisition of land on North Key Largo, (2) a public transporatation system, (3) additional visitor facilities on Elliott and Adams Keys, (4) increased diversity of recreational and interpretive opportunities, and (5) enhanced protection of natural and cultural resources. (FES-78-35) Comments made by: DOC, COE, HUD, DOI, EPA, State and local agencies groups (EIS Order No. 81293).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357

FEDERAL AVIATION ADMINISTRATION

Draft

Dulles Access Highway extension, I-66 Interchange, Fairfax County, Va. December 8: The proposed Dulles Access Highway Extension (DAHE) located in Fairfax County, Virginia, will be a four-lane divided highway, estending the existing access highway from the vicinity of Spring Hill Road near Tysons Corner, 3½ miles southeasterly to an interchange with I-66 in the vicinity of Haycock Road near the city of Falls Church. In addition, outer parallel roadways from VA-7 to I-495 are included in this proposal as a toll facility. The proposed roadways will have interchanges with six crossroads: VA-7, Spring Hill Road, I-495, VA-123, Magarity Road, and I-66. (EIS Order No. 81321).

FEDERAL HIGHWAY ADMINISTRATION

Draft

Fletcher Avenue, FL-597 to FL-685, Hillsborough County, Fla., December 4: Proposed is the construction of 2.8 miles of four-lane divided municipal roadway to be known as Fletcher Avenue, between FL-597, Dale Mabrey Highway, and FL-685, Florida Avenue, in Hillsborough County, Florida. The project length includes about 1.5 miles of existing alignment where the two-lane rural roadway will be reconstructed. Approximately 1.3 miles will be constructed on new alignment. (FHWA-FLA-EIS-78-4-D) (EIS Order No. 81295).

Augusta Railroad Demonstration Project, Richmond and Columbia Counties, Ga., and Aiken County, S.C. December 7: Proposed is a railroad demonstration project in Augusta, Richmond and Columbia Counties, Georgia, and the area of Aiken County, South Carolina. This project seeks to improve the existing railroad/community relationship and the overall transportation network of the area through rail system improvements. Several alternatives are presented which consider: (1) Feasible means of providing fuel or partial relocation on rail facilities outside of the urbanized area, (2) no action, (3) limited build, and (4) postponement of project. (FHWA-GA-EIS-78-02-D) (IES Order No. 81312).

Railroad Highway Demonstration Project, Metarie, Jefferson County, La. December 6: Proposed is a railroad highway demonstration project located in Metarie, Jefferson Parish, Louisiana. The plan involves the removal of the Louisiana and Arkansas (L&A) Railway track along US 61, Airline Highway, from Williams Boulevard to Turnball Drive. The L&A traffic will be switched to other tracks. Other features included are: (1) some work done on the New Orleans Terminal (NOT) railroad facilities, (2) removel of the interchange track known as Longside between Labarre Road and Magnolia Drive, and (3) a replacement interchange track located between Central Avenue and Shesburg Road. (FHWA-LA-EIS-78-01-D) (EIS Order No. 81308).

Final

University Boulevard, US 90 to Persons Drive, Mobile County, Ala. December 5: Proposed is the construction of sections of University (Highpoint) Boulevard, a north-south arterial route through the western area of the city of Mobile, Alabama. The project begins at U.S. Highway 90 and ends at Persons Drive north of U.S. Highway 98. The total length of the project, including sections already open to traffic, is 7.8 miles: The length of sections remaining to be constructed is approximately 4.7 miles. The new facility will be a 5-lane urban highway with curb. (FHWA-AL-EIS-77-02F) Comments made by: USCG, DOT, HUD, USDA,

COE, EPA, State and local agencies, groups and businesses (EIS Order No. 81301)

U.S. 2, Devils Lake to ND-18, Ramsey, Nelson and Grand Forks Counties, N.D. December 5: The proposed project consists of acquiring right-of-way and constructing a roadway parallel to the existing roadway to provide a four lane divided highway from Devils Lake, North Dakota, easterly to the junction of U.S. 2 and ND-18. This project is approximately 60 miles long. Also proposed is the improvement of ND-1 from its intersection with U.S. 2 southerly approximately one mile. Adverse impacts include the relocation of several families: The filling in of approximately 120 to 130 acres of wetlands for roadway embankment; and construction-related pollution.(FHWA-ND-EIS-77-01F) Comments made by: DOI, EPA, HUD, COE, USDA, State and local agencies (EIS Order No. 81305).

US 2, Danville and St. Johnsbury, Caledonia County, Vt., December 8: This proposed action consists of constructing a four and a half mile segment of a nine mile section of US Route 2 in the towns of Davnille an St, Johnsbury, Vermont. Beginning approximately 4.7 miles east of the intersection of US Route 2 and Vermont Route 15 in the town of Danville, the project will extend easterly terminating in the village area of St. Johnsbury. The highway will be two-lane with partially controlled access if built on relocation, and two or four-lane uncontrolled access if constructed on the existing location. (FHWA-VT-EIS-78-01-F) Comments made by: DOI, EPA, USDA, USCG, HUD, HEW, DOT, State and local agencies (EIS Order No. 81316).

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Peter Cook, Acting Director, Environmental Protection Agency, Office Federal Activities, Washington, D.C. 20460, 202-755-0780.

Final

National ambient air quality standard for lead, national, December 5: Under section 109 of the Clean Air Act, the U.S. Environmental Protection Agency intends to propose a national ambient air quality standard for lead. The sources and 1975 ambient air concentrations of lead, trends in growth, and the existance and potential for lead emissions control have been summarized. Emission control strategies have been developed and, under one strategy developed, the nationwide environmental impacts of establishing the standard have been assessed. Comments made by: (EIS Order No. 81306).

EPA, REGION 6

Contact: Mr. Clinton Spotts, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Tex. 75270. FTS 729-2716.

Draft

WWT Facilities, Little Rock (Maumelle), Pulaski County, Ark., December 5: Proposed is the construction of WWT facilities in Pulaski County, Ark. The treatment plant would be constructed on Beck Road in the Little Maumelle River Valley to treat sewage collected by two interceptor sewer mains in the northern part of the drainage basin. It is also proposed that an outfall line be constructed from the Beck Road plant to the Arkansas River. The preferred alternative is no action. (EIS Order No. 81297).

GENERAL SERVICE ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, 202-566-0405.

Final

Union Station renovation, Nashville, Davidson County, Tenn., December 8: The proposed action involves the renovation of Union Station, a railroad terminal, for use as Federal offices plus community and commerical space in Nashville, Davidson County, Tenn. The new facility would provide space for eight Government agencies presently housed in outlying leased locations. The proposed building would provide approximately 72,700 occupiable square feet of space, of which 47,700 square feet would house 163 Federal employees and 25,000 square feet would be leased. (ETN-78002) Comments made by: SBA, AHP, HEW, EPA, DOI, USDA, DOT, HUD, DOC, State and local agencies, groups and businesses (EIS Order No. 81314).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Lexington South development, Eagan, Dakota County, Minn., December 5: Proposed is the issuance of HUD home mortgage insurance for a portion of the Lexington South development located in Eagan, Dakota County, Minn. The area to be developed encompasses approximately 448 of the total 1,108-acre Lexington site. This EIS discusses the cumulative impacts of Lexington South and a related, nearby development known as Blackhawk Park for which a sep erate EIS will be prepared. (HUD-RO5-EIS-78-12-(D)) (EIS Order No. 81302).

Sundown subdivision, Harris County, Tex., December 4: Proposed is the issuance of HUD home mortgage insurance for the Sundown subdivision in Harris County, Tex. When completed, the subdivision, which encompasses approximately 349 acres is expected to consist of approximately 837 single family and 590 multifamily dwelling units. Due to the relationship of the project to a floodplain HUD has also incorporated the "notice" required by executive order 11988, as an addendum to this EIS. (HUD-RO6-EIS-78-51D) (EIS Order No. 81292).

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

SECTION 104(H)

Final

Pico-Union redevelopment, Los Angeles, Los Angeles County, Calif., December 8: This proposal is primarily a rehabilitation/conservation type project. The primary objective of which is to rehabilitate and/or replace existing deteriorated housing for the 227-acre Pico-Union area, Los Angeles City, Los Angeles County, Calif. Related project objectives include the improvement of the local street system, expansion of park and recreational facilities, and development of new commercial and industrial facilities. Alternatives include: (1) no project, (2) total commercial use, (3) total industrial use, and (4) total public open space use. Comments made by: DOT, EPA, DOI, and State agencies (EIS Order No. 81317).

Lafayette place redevelopment, Boston, Suffolk County, Mass., December 5: The proposed Lafayette place development project represents a public and private investment program in the center of downtown Boston and encompasses a major retail/hotel complex, a new city garage, and ancillary public improvements. The project area, extending generally from Washington Street to Chauncy and Essex Streets and from Avon Street to Hayward Place and Exeter Place, encompasses approximately six acres of predominantly vacant land, in the city of Boston, Suffolk County, Mass. The program's goals are to rejuvenate the retail area along Washington Street and foster round-the-clock activity in the core of downtown Boston. (HUD (CDBG)-RO1-EIS-78-1F) Comments made by: EPA, DOT, AHP, and State agencies (EIS Order NO. 81298).

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Richard E. Cunningham, Acting Director, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Mail Stop 396-SS, 301-427-4152.

Final

Highland uranium solution mining project, Converse County, Wyo., December 8: The proposed action concerns the issuance of amendments to source material license SUA-1139 to Exxon Minerals Co., U.S.A., which was issued in October of 1972, authorizing operation of the Highland uranium mill located in Converse County, Wyo. Exxon proposes to expand the Highland operation by including solution mining. The action will involve the construction and operation of a uranium recovery plant and use 70 acres of well fields. (NUREG-0489) Comments made by: AHP, USDA, COE, DOE, HEW, HUD, DOT, EPA, and State agencies, groups, and businesses. (EIS Order No. 81315).

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250 (202) 447-3965.

FOREST SERVICE

Draft

Timber Sale Plan, Tongass NF, Alaska, December 8: Proposed is a timber sale plan concerning the Tongass National Forest between the US and the Louisiana-Pacific Corporation (LPC), Ketchikan division. The plan involves the harvesting of 960 million (feet) board measure of timber on the north end of Prince of Wales Island and on Revilla Island, which are part of the Tongass National Forest in Alaska. The harvesting of timber and associated activities are part of the existing 50-year timber sale agreement between the US and LPC. Five alternatives are considered. (USDA-FS-R10-DES-ADM-01 (79)) (EIS order No. 81313).

Heppner Planning Unit, Umatilla NF, several Oregon Counties, December 8: Pro-

posed is a land management plan for the Heppner planning unit in the Umatilla National Forest in the counties of Morrow, Wheeler, Grant and Umatilla, Oregon. The area involved encompasses 271,555 acres of land. Five alternatives consider: 1) recreation, 2) wood fiber yield, 3) water yield, 4) forage for domestic livestock grazing, and 5) habitat diversity for wildlife. (USDA-FS-R6-DES-(ADM)-76-06) (EIS order No. 81318).

Rouge-Illinois Planning Unit, Siskiyou NF, Josephine and Curry counties, Oreg., December 5: Proposed is a land plan for the management of the 444,511 acre Rogue-Illinois planning unit on the Siskiyou National Forest. The preferred alternative recommends a balanced mix of land allocations designed to sustain a high level of timber harvest; to protect the qualities of the Rogue and Illinois Rivers; to provide recreational opportunities; and to protect and manage the soil, water, fish, wildlife, timber, visual, and other resources. This revised statement replaces a draft EIS filed by the USDA on 12/01/76, No. 61737. (USDA-FS-R6-RDES-(ADM.)-77-2) (EIS order No. 81307.

1979 Gypsy Noth Suppression and Regulatory Program, programmatic, several counties, December 5: Proposed is a cooperative USFS Gypsy Moth suppression program on 205,000 acres in New Jersey, New York, Pennsylvania, and Vermont, and the Aphis cooperative regulatory programs on 30,340 acres in New Jersey, New York, Michigan, New England States, Pennsylvania, North and South Carolina, Ohio, Wisconsin, Washington, Virginia, and West Virginia. USFS projects involve aerial application of chemical and biological insecticides. The Aphis regulatory program involves the use of chemical insecticides through aerial application. (EIS Order No. 81299.

Final

Angelina National Forest, Timber Management Plan, several Texas counties, December 5: The proposed action is implementation of an eight year timber management plan for the Angelina National Forest. The Angelina National Forest is located in Angelina, San Augustine, Jasper and Nacogdoches counties in East Texas and lies on both sides of the 144,500 acre Sam Rayburn Reservoir, approximately 391,000 acres of land lie inside the forest boundary, of which thirty-nine percent or 154,991 acres is national forest land. Private land ownership within the forest boundary is mixed and includes home sites, farm and pasture land, and woodlands. This plan proposes even-ages forest management on the commercial forest for production of timber products. (USDA-FS-R8-(DES) (ADM)-78-07) comments made by: EPA, AHP, USDA, DOT, DOI, State agencies, groups and individuals (EIS order No. 81303).

Shelton Cooperative Sustained Yield Unit, Olympia, Mason, Thurston and Grays Harbor counties, Wash., December 5: The proposed action is the development of the updated ten-year timber resource management plan for the Shelton cooperative sustained yield unit (CSYU) located in the Olympic National Forest. The Shelton CSYU is the result of an agreement, executed by the forest service and by Simpson timber company in 1946, committing designated national forest and Simpson timber company land in Grays Harbor, Mason, and Thurston counties, State of Washington, to cooperative management for sustained production of timber. The proposal affects 350,176 acres of which 112,874 acres are national forest land and 237,302 acres are Simpson timber company land. (USDA-FS-R-6-DES (ADM)-78-10) comments made by: COE, HUD, USDA, DOI, EPA, DOE, State and local agencies, groups, individuals and businesses (EIS order No. 81300).

Information Report

The EPA has received the following report which provides supplemental information on proposals which have fulfilled the NEPA process. Copies of the report are available from the originating agency upon request.

U.S. Army, Corps of Engineers

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DARB-CWR-P, Office of the Chief of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20310, 202-693-6795.

EPA No. 81304, received December 5, 1978, Coordination and Comment and Responses on Revised Draft EIS, Gulfport Harbor Channel Deepening, Navigation, Harrison County, Miss. (Mobile District).

Notice of Official Corrections

The following final EIS was published incorrectly in Novermber 14, 1978 Federal Register as being a draft.

Department of Agriculture

Contact: Mr. Barry Flamm, Coordinator, Enviromental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

Forest Service

Final

Vegetation management with herbicides, several counties, October 31: Proposed is the use of herbicides on National Forest System lands in the eastern region of the Forest Service which includes the States of Illinois, Indiana, Maine, Michigan, Minnesota, Missouri, New Hampshire, New York, Ohio, Vermont, Pennsylvania, West Virginia, and Wisconsin. It is estimated that approximately 45,000 acres of land will be involved annually in chemical vegetation control activities. Vegetation management will aid in the management of roads and trails, grazing areas, recreation development, special use areas, timber management, and wildlife activities. (EPAR Order No. 81182).

The following draft EIS, published in December 4, 1978 Federal Register, was incorrectly stated as being located in Madison County, Tenn. It is located in Madison County, N.C.

Department of Transportation

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

Federal Highway Administration

Draft

U.S. 23, Tennessee State line to U.S. 19, Madison County, N.C., November 24: Proposed is the improvement of U.S. 23 from the Tennessee State line to the intersection of U.S. 19 in Madison County, N.C. Alternative corridors along the existing alignment and on new locations are being considered. Depending upon the alternative selected, the project length will be between 9.2 and 10.4 miles long. The proposed project is a portion of corridor B of the Appalachian Development Highway System and is classified as a principal arterial in the regional thoroughfare plan. (FHWA-NC-EIS-78-05-D) (EPA Order No. 81253).

Official Retractions

It has come to EPA's attention that the following EIS was not distributed to the public at the same time the official filing was made by the originating agency. Therefore notice of availability is hereby withdrawn. Upon which time the agency completes the distribution and filing procedures, EPA will republish the availability in the Federal Register.

U.S. Army Corps of Engineers

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Final

Harbors and rivers in the Territory of Guam, Guam, November 24: The proposed improvement is a combination of levee and channel improvements with pumping facilities for localized drainage near the Saylor Street-Agana River crossing in Guam. The plan consists of 1,750 feet of channelization between Saylor Street and Agana Bay, 4,900 feet of levees upstream of Saylor Street, a 360-acre flowage easement within the Agana Swamp, and a pumping plant near the left bank levee at Saylor Street. (Honolulu District). Comments made by: USCG, DOI, DOC, HEW, USN, AHP, EPA, local agencies, and groups. (EPA Order No. 81255).

It has come to EPA's attention that the following EIS was not distributed to the public at the same time the official filing was made by the originating agency. Therefore notice of availability is hereby republished. The official 30-day review period allocated to the final EIS will hereby begin on the date stated below.

Department of Transportation

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

Federal Highway Administration

Final

I-10, 91st Avenue to the junction I-10, Phoenix, Maricopa County, Ariz., November 20: Proposed is the construction of a multilane, directionally divided, controlled access highway facility for the purpose of connecting I-10 in the Phoenix metropolitan area of Maricopa County, Ariz. The proposed section would be a 15-mile, six or eight-lane freeway extending east from 91st Avenue to the Maricopa freeway near 20th Street. The I-10 route would follow a corridor approximately one-quarter mile south of McDowell Road from 91st Avenue east to the vicinity of 20th Street and then south to connect with Maricopa freeway. (FHWA-AZ-EIS-76-1-F) (EPA Order No. 81212).

Originally filed with EPA on October 13, 1978 and published in the Federal Register dated October 25, 1978.

[FR Doc. 78-35100 Filed 12-15-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21402; FCC 78-812]

AMERICAN TELEPHONE AND TELEGRAPH CO. (LONG LINES DEPARTMENT) WIDE AREA TELECOMMUNICATIONS SERVICE (WATS)

Final Decision and Order [1]

Adopted: November 21, 1978.

Released: December 13, 1978.

By the Commission:

I. BACKGROUND

1. In our *Notice of Inquiry*, 66 FCC 2d 224 (1977) (*Notice*), we designated this proceeding to consider the following two issues:

(a) Whether Outward and Inward WATS services, respectively, constitute "like services" to Message Telecommunications Services (MTS) within the meaning of Section 202(a) of the Act, 47 USC 202(a) [1a]; and

(b) Upon what specific standards, criteria or showing by the advocating carrier should the Commission rely in future cases in determining whether or not two or more communications services are "like" or "unlike" within the meaning of Section 202(a) of the Act.

The deadline for Comments was set for November 4, 1977, and for Reply Comments, November 25, 1977. These were later extended until January 17, 1978 and February 13, 1978, respectively, by *Memorandum Opinion and Order*, FCC 77-842, released December 30, 1977 (*Modification Order*).

2. We have before us for consideration nineteen formal comments filed: by the American Telephone and Telegraph Company (AT&T or Bell); three other carriers: MCI Telecommunications Corporation (MCI), Western Union Telegraph Company (WU), and Southern Pacific Communications Company (SP) (hereinafter "the other carriers"), and fifteen users of telecommunications services provided by the carrier (users). [2] In addition, 67 informal letters from various consumers of telecommunications services provided by AT&T have been received. Reply Comments were filed by AT&T, MCI, WU, GTE Service Corporation (GTE) and eight of the users.

3. In 1961, interstate Outward Wide Area Telecommunications Service (WATS) was introduced by Bell to provide those subscribers whose projected communications requirements were voluminous and geographically diverse with interstate telephone service at a fixed monthly rate.[3] In 1967, on a monthly fixed charge basis, AT&T initiated interstate Inward WATS for subscribers who require service allowing callers to dial the same number from a multiplicity of interstate locations at no cost to the calling party. Both WATS services are direct dialed, *i.e.*, they entail no operator assistance for such features as person-to-person, collect, conference, credit card or third-party billing calls. Screening and blocking, the process which accepts for onward handling any WATS call conforming to the subscriber's service area limitation but denies access for completion to all other calls, are accomplished at different points along the network for Outward and Inward WATS. While Outward WATS calls are screened and blocked in the originating toll office, Inward WATS calls generally first traverse the network and then are screened and blocked in the terminating toll office serving the subscriber. WATS is a unidirectional service, *i.e.*, requires separate access lines for originating Outward WATS and receiving Inward WATS calls. Additionally, WATS access lines cannot be used for placing or accepting any other type of call.

4. In determining the charge for WATS service, two limitations apply under the tariff. First, WATS subscribers must choose between two usage options: Full Business Day (FBD), allowing 240 hours a month at a flat rate, or Measured Time (MT), with the flat rate covering an initial 10 hours of use per month. No itemized billing is provided as part of the service, however, additional charges are billed if usage exceeds the periods covered by the monthly, fixed fee paid in advance of receiving service. Also, WATS subscribers are offered choices among five geographic areas (none of which include the subscriber's home state).[4] The contiguous United States are subdivided under the WATS tariff into five WATS Service Areas: Service Area 1 is the smallest zone, comprised of states adjacent to and surrounding the subscriber's state, and Service Area 5 encompasses all 48 of these states. Subscription to Service Areas 2 through 5 includes service within all lower-numbered zones. In addition, Alaska and Hawaii are assigned Service Area 6, while Puerto Rico and the Virgin Islands fall within Service Area 7, with specific provisions applicable to these two zones.

5. In comparison, Message Telecommunications Service (MTS) is known to subscribers—who use it typically for residential and small business purposes—as ordinary long distance service. A detailed bill is furnished subscribers with each MTS call itemized and charged separately on a per message, toll basis. This service is furnished through standard telephone equipment which also allows the subscriber to call non-toll points.

6. In our earliest decision regarding the institution of Outward WATS service, we expressed concern that the Outward WATS service users may be receiving an undue preference *vis-a-vis* MTS users. *American Telephone and Telegraph Co.*, Docket No. 13914 (*Re WATS*), 37 FCC 688 (1964), *recon. denied*, 38 FCC 475 (1965). We stated there that "the justifications advanced by AT&T in support of WATS rates on the basis of the economies made possible by direct distance dialing [DDD] present a compelling reason to question whether the users of the station-to-station classification [of MTS service] are sharing fairly and adequately in the economies and cost savings which have been generated by direct distance dialing." *Supra* at 701. We further indicated that Bell was to conduct studies of its offering so that we could explore this question at a later date. In response to Bell's filing of substantial and significant changes in the WATS rate structure on January 15, 1974, we found that the carrier had failed to show that the rate structure and levels were just, reasonable,

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[1] See 42 FR 57987, November 7, 1977.

[1a] Section 202(a) provides: "It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons or locality, or to subject any particular person, class of persons or locality to any undue or unreasonable prejudice or disadvantage."

[2] These Commenters include: (1) National Data Corporation (NDC); (2) Computerized Automobile Reporting Service, Inc., Realtron Corporation, and Roberts Advertising, Inc. (CARS); (3) Ad Hoc Telecommunications Users Committee (Ad Hoc); (4) Committee of Corporate Telephone Users (CCTU); (5) National Retail Merchants Association (NRMA); (6) Central Committee on Telecommunications of The American Petrolem Institute (API); (7) Aeronautical Radio, Inc. and Air Transport Association of American (ARINC/ATAA); (8) American Trucking Association, Inc. (ATA); (9) American Bankers Association (ABA); (10) Telenet Communications Corporation (Telenet); (11) Tele-Communications Association (TCA); (12) Republic Distributors, Inc. (Republic); (13) The Administrator of General Services on behalf of the Executive Agencies of the United States (GSA or Administrator); (14) Aerospace Industries Association of America, Inc. (AIA); and (15) American Broadcasting Companies, Inc., CBS Inc., and National Broadcasting Company, Inc. (the Networks).

[3] WATS is defined as "a public service for dial type telecommunications between a station associated with a WATS access line and stations in specified service areas" in AT&T's Tariff F.C.C. No. 259.

[4] It should be noted that intrastate WATS service is generally available for subscribers whose intrastate toll calling volumes warrant such subscription.

and free of unlawful discrimination within the meaning of Sections 201(b) and 202(a) of the Act. In that decision, *Final Decision and Order*, Docket No. 19989, 59 FCC 2d 671 (1976), *recon.* 64 FCC 2d 538 (1977) (*Docket No. 19989 Order*), we also directed AT&T to either demonstrate that Outward WATS is not a mere form of MTS or provide cost and other justification for it as a bulk-rate offering of MTS.

7. Transmittal No. 12745 was filed April 29, 1977, by AT&T in purported compliance with the findings and tariff justification requirements in the *Docket No. 19989 Order*. Our examination of this filing concluded that it violated, among other things, that *Order* by failing to justify WATS rates either separately or as bulk offerings of MTS service. Instead, the carrier relied upon a variant of the alignment theory formerly held unlawful and unjustified in the *Docket No. 19989 Order*. In *Memorandum Opinion and Order*, 66 FCC 2d 9 (1977) (*WATS Rejection Order*), we also held that AT&T's tariff revision violated the *Docket No. 18128 Decision*, 61 FCC 2d 587 (1976), *recon. denied*, 64 FCC 2d 971 (1977), *further recon.*, FCC 78-104, released February 24, 1978, in several respects. In the *WATS Rejection Order, supra* at 29-32, we enumerated the reasons underlying our decision to institute this Inquiry into the legal issue of whether WATS and MTS are "like communications service" within the meaning of Section 202(a) of the Act.

8. In our *Notice* soliciting comments from all parties with an interest in this determination, we pointed out that significant similarities existed between Outward WATS and MTS services. As examples, we noted that: (1) the same technology is used to provide both services, (2) WATS and MTS calls are indistinguishable once they enter the network, (3) no difference exists, except rates, when a "WATS box" [5] is used to complete calls, and (4) the primary basis for customer preference for WATS appears to be the substantial savings over MTS in the subscribers' total communications bills, as demonstrated by the "pronounced" cross-elasticity between the two services. Regarding Inward WATS, we said that the cost savings led to a customer preference over MTS calling which was greater than that noted when comparing customer preferences for Outward WATS and MTS services. At para. 4 of our *Notice*, we also stated that it should be shown:

> That customers perceive the services primarily as different from other services in terms of capability of being used for different communications needs and not as replacment services. A mere segmentation of the market * * * through lower charges to the customer for one service or another would appear to be insufficient. Also, consideration must be given to whether the two services, in fact, satisfy different communications requirements, regardless of any rate differentials which may exist. This showing must be made separately for Inward and Outward WATS vis-a-vis other services.

9. On October 12, 1977, AT&T petitioned for modification of the *Notice* claiming that an evidentiary hearing with a full opportunity for presenting oral testimony was needed to resolve specific substantial and material ajudicative facts. It claimed this is required by Section 205(a) of the Act because this proceeding involves a "prescription" of a service classification. In our *Modification Order*, Bell's Petition was denied following our finding that a trial-type evidentiary hearing was not mandated in this proceeding since we did not intend to adopt a tariff prescription herein. Further, we stated that no trial-type evidentiary hearing with oral testimony was necessary to resolve the factual issues because none were alleged to be improper subjects for written explication.

10. Subsequent to the adoption of our *Notice*, a proceeding was instituted to consider, *inter alia*, whether the public interest requires that either MTS, WATS or both, should be provided on a sole source basis, *i.e.*, free from direct competition. *Notice of Inquiry and Proposed Rulemaking*, in CC Docket No. 78-72, FCC 78-144, released March 3, 1978 (*MTS/WATS Market Structure Inquiry*). We differentiated that inquiry from the instant proceeding by explaining therein that the former entails broad industry structure questions while here we are considering ratemaking principles. Thus, we find no conflict in our separate examination of these issues. Accordingly, we chose "to consider this Section 202(a) 'like service' determination issue apart from other pending WATS matters in order to insure that the issues in this proceeding are clearly confronted by all the parties and do not become obscured by other concerns or developments." *Modification Order, supra* at n. 4.

II. Summary of Comments

A. AT&T

11. AT&T maintains that MTS and WATS services are not "like communications service" within the meaning of Section 202(a) of the Act. Addressing first this inquiry's issue regarding the Commission's adoption of generally applicable standards for determining Section 202(a) "likeness" issues, Bell lists several elements it believes should be considered in making a like service determination, *e.g.*, technological underpinning, performance and traffic characteristics, and external market and public interest factors. AT&T Petition at 17 and 18. With respect to these elements, it asserts that the material filed with the rejected Tariff Transmittal No. 12745 set out "extensive physical, functional, operational, market and economic characteristics" which distinguish MTS and WATS services and make them "unlike" under Section 202(a).[6] The other parties have similarly urged our establishment of essentially the same set of factors outlined by AT&T. In summarizing their Comments we will note only those parts that differed from AT&T's Comments.

12. With respect to the particular MTS/WATS like services issue of this Inquiry, AT&T complains that the Commission, in establishing this inquiry (*see Notice, supra*), focused unduly on cost savings to users of WATS while disregarding other pertinent factors distinguishing it from MTS. Of far greater importance, in the carrier's view, is the fact that certain central office equipment and a one-way-only access line, which are unique to WATS service, connect each WATS subscriber to the interstate telecommunications network while MTS customers' service flows into and out of the network through common central office equipment and two-direction access lines. Additionally, Bell points out that, in contrast to MTS subscribers, WATS customers may limit their service as to usage and geographical coverage and are required to prepay a fixed rate while receiving neither detailed billing nor intrastate calling capability. Moreover, Bell charges the Commission ignored empirical market data filed with the rejected Tariff Transmittal No. 12745 which shows WATS to be unlike MTS-DDD because of differing traffic characteristics, *e.g.*, substantial communications traffic to diverse locations within selected states, and because WATS customers view the service as integral to their operations in terms of convience, efficiency, control and capacity for exanding business contacts. MTS collect calling is claimed by AT&T as not a feasible substitute for Inward WATS, since it involves considerable operator intervention with concomitant higher expense and delay in use. Bell believes that users find this service a convenient encouragement for their customers to call, thus increasing operational productivity, reducing paperwork, expanding sales coverage, and eliminating expensive and time-consuming travel. Finally, Bell requests a delay in this inquiry

[5] "WATS box" is used herein to refer to auxiliary, subscriber supplied communications equipment which is programmed to select between WATS and MTS lines for call completion based on availability of alternate lines and relative costs.

[6] In the alternative, Bell asks the Commission to find WATS is a "separate and unlike" subclassification of MTS.

until the results of two studies currently being conducted may be submitted.[7]

13. AT&T believes that the user's Comments and informal letters demonstrate that WATS differs from MTS both in customer perception—because they are compelled to order both services (apparently to satisfy differing communications needs)—and in actual usage, which has fostered the emergence of new and expanded uses of the public switched network. Instead of employing an identical technical process as charged by the other carriers, the local loop and special switching configurations "dedicated" to WATS service, in AT&T's judgment, create technical dissimilarities between MTS and WATS. Concerning the switching hierarchy, AT&T maintains that while MTS calls must enter the network through a local exchange office, WATS calls may access at a higher level, with only a small proportion of the offices capable of performing the blocking and screening functions of WATS service. Outward WATS access lines, according to the carrier, may be "four-wire, repeated" and "contain signalling equipment" not commonly used for MTS subscriber lines. Even under "Simulated WATS", *i.e.*, a technique which does not utilize "dedicated" WATS access lines but rather relies on computer software to restrict access through Centrex equipment,[8] Bell claims that access lines remain restricted to outgoing WATS calls only. Therefore, according to Bell, the queuing effect is preserved since the number of calls that may be placed on WATS service simultaneously is limited, *i.e.*, corresponding to the quantity of WATS access lines of the subscriber. Customers can, AT&T admits, acquire route selection equipment which will overflow calls onto MTS when all WATS lines are in use, but it believes this does not distinguish the functional aspects of WATS and MTS services and is rather an optional feature developed for supplemental use.

B. OTHER CARRIERS

14. MCI charges that WATS is "nothing more than a bulk discounted form of MTS service which discriminates against telephone users who must rely on MTS to meet their telecommunications needs." All four other carriers believe WATS and MTS are "like communications service" within the meaning of Section 202(a). They assert that the principal distinction of WATS is that AT&T intended its use by customers who make a substantial number of ordinary long distance calls; therefore, this offering gives preferential treatment to large volume communications users. In connection with Bell's argument that unique equipment, *i.e.*, certain central office switching equipment and the unidirectional access line, is employed to supply WATS service, the other carriers argue that this technical difference between MTS and WATS services is an insignificant proportion of total cost of the network since both share far more plant and facilities than each utilizes distinctively.[9] While admitting that separate equipment is employed at central offices to provide WATS service, the other carriers allege that these offices are the same type of toll centers which handle MTS traffic, and that the special handling of WATS calls was made necessary by Bell's decision to price WATS at a different rate than MTS. No relevant functional or conceptual change in interstate telecommunications service is created by this equipment, in the other carriers' opinion. Therefore, they contend MTS is a replacement service to each communications function of WATS service.

15. The other carriers claim that the most discriminatory aspect of WATS service is "Simulated WATS." [10] Countering AT&T's allegation that WATS blocking, screening and access facilities make this service unique, the other carriers assert that the installation by customers of least-cost route selection PBX equipment can erase any alleged difference thus created by this WATS equipment. Since this type of PBX equipment can be programmed to place a call as MTS when WATS lines are busy—without making the user aware of the service used—the rate charged (which is not a communications function) becomes the only distinction between the services. MCI maintains that "Simulated WATS" is a "mere billing fiction" reducing any distinction between the services to an accounting procedure and disregarding other alleged differences to provide MTS service at WATS rates without tariff sanction. This is said to be accomplished by a computer program which bills at MTS rates any interstate call which causes the total number of such calls placed simultaneously to exceed the specific number of WATS lines the subscriber has ordered. Under "Simulated WATS," a further discrimination operates against the customer with non-Centrex WATS service by avoiding busy calls and manual queuing prevalent with that equipment, according to the other carriers. If functional differences designed to meet billing concerns, *i.e.*, Bell's alteration of its DDD equipment to provide WATS Measured Time and Full Business Day billing information, are allowed to distinguish one service from another, the other carriers conclude that Section 202(a) will have no effect because AT&T could easily avoid its application through such manipulations designed to circumvent having communications services declared "like".

16. It is also charged by the other carriers that the substantial cross-elasticities existing between MTS and WATS support the conclusion that lower charges for WATS (as compared to those of MTS) are largely responsible for customer demand for WATS service. They further allege that the level of "queuing" observed in WATS service is a function of the number of lines and the type of equipment customers are willing to acquire. Concerning Inward WATS, it is alleged that this offering is only a means of placing a collect MTS call without operator assistance, now possible through the

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[7] Bell indicated such studies would be filed in August 1978; but to date, they have not been filed. Bell's request for delay will be denied. Based upon our analysis of the record established here and our regulatory expertise, we have a sufficient basis to resolve the like service issue. Also, the studies are described as examining customer peceptions and demand, which, insofar as relevant to the like service determination, we find comprehensively represented herein by the numerous and exhaustive comments and letters by subscribers. These studies are likely to be of relevance, however, in the context of our examination of Bell's next tariff filing where market studies will be necessary for us to determine the lawfulness of any revised rates and rate structures for public switched network service. Such studies may also be relevant to our *MTS/WATS Market Structure Inquiry, supra.*

[8] Centrex, an automatic dial private branch exchange (PBX) arrangement generally using common central switching equipment is capable of providing customers with a number of specialized billing, routing, addressing and control features, including "Simulated WATS." Other switching services, besides Centrex, are capable of performing similar functions. All automatic-dial Centrex-type PBX, by the same token, are not necessarily suited to provision of "Simulated WATS" without extensive modification. For our purposes herein, however, the terms "Centrex" and "non-Centrex" are used to denote telephone equipment which can and cannot obtain "Simulated WATS", respectively.

[9] MCI estimates that only 2% of AT&T's total cost of providing monthly FBD WATS service is attributable to the "dedicated" access line.

[10] "Simulation" of Inward WATS, in conjunction with the use of automatic, route selection PBX equipment, would present certain operational and tariff problems not common to Outward WATS. For one, all Inward WATS callers would have to continue to use the "800" prefix code, as since they directly dial the regular long distance telephone number, call charges will automatically be billed to the calling rather than called party. To the extent that inbound "800" calls which exceed the alloted number of Inward WATS lines would be billed as regular MTS calls (assuming this were practicable), this could not be on station-to-station MTS basis. Rather, each would have to be billed at operator-assisted, collect calling MTS rates, a fiction which might be viewed at a tariff violation.

"Remote Call Forwarding" feature of MTS service. *See* Tariff F.C.C. No. 263, 10th Revised p. 15 (MTS tariff). However, the requisite intervention of an operator in placing MTS collect calls is not a difference in communications function, according to the other carriers, and AT&T has not shown the impracticality of providing an automatic MTS collect call feature. Finally, they point out that detailed billing information for WATS calls is available, though not routinely provided, from Bell.

C. USERS

17. The bulk of the users' comments and letters deal with the WATS pricing procedures. Most view this element as a budget tool which facilitates their planning by reducing wide fluctuations in monthly charges to a fixed expense and providing a ceiling on communications expense. By requiring all interstate calls to be placed on WATS lines, some subscribers claim they avoid instituting less acceptable management procedures, *e.g.*, requiring prior approval or prohibiting altogether certain employees from making such calls. The alternative, according to subscribers, is controlling communications cost by trunk starvation, *i.e.*, forcing "queuing" on local loop lines, which allegedly impairs local telephone service. Another budgeting problem is averted by Inward WATS, they say, since the number and location of specific telephone exchanges must be selected—and at a higher expense for operator involvement—under either Foreign Exchange (FX) or Inter-Exchange Receiving Service (IEX).[11] They claim a distinction created by the absence of operator involvement is the lack of alternative billing arrangements, *i.e.*, person-to-person, conference, collect, third party and credit card calls, for users of WATS services. Several of the subscribers say they use WATS service for communications of data for processing on an on-line remote access basis, and they maintain that collect MTS calling is a virtual impossibility for direct computer-to-computer communication because it entails involvement of operators, yet many terminals are incapable of voice mode operation. Further, they allege that the assignment of personnel at both computer locations for such brief periods, often at late hours, would be wasteful. This type of network use is stated by subscribers as beneficial in spreading congestion out of peak hours and should be encouraged.

18. Many subscribers emphasize the presumed costs savings to Bell generated through more efficient use of the network engendered by WATS usage, such as routing WATS traffic away from congested local exchanges. "Queuing" is alleged by subscribers to create efficient network utilization by evenly distributing traffic throughout the business day, resulting in a more productive use of carrier facilities. The GSA Comments provide a comprehensive analysis of "queuing". Users of vast levels of telecommunications service claim they have found economically beneficial the interconnection of several separate service components into facilities known as a "customer dedicated communications network (CDCN)" controlled by customer-provided computers. Two subscribers employing CDCMs estimated their MTS channel requirements would increase by one and a third to one and a half times without these systems. They say vendors typically pass along to purchasers cost savings generated by bulk purchases through bulk rates or quantity discounts since such purchasers are expected to manage purchases, delay demand, and pay in advance. Customers, it is argued, are antipathetic toward the use of collect MTS calling and accordingly refuse to use the service with the same frequency as Inward WATS. The WATS caller is in full control of the call and gets it completed more promptly than an MTS collect call handled by an operator, claim the subscribers. Advertisements inviting Inward WATS calls from the general public were cited by the subscribers as having allowed them to create programs so dependent on that service that they would have to be abandoned if the service were eliminated. One private study challenges the alleged cross-elasticity which exists between Outward WATS and MTS services, claiming it more likely that most WATS users would substitute private line (PL) service if their WATS services were eliminated rather than transferring it to MTS. The mails, telegrams and mailgrams are all cited as preferable options available to WATS users if MTS were the only voice communication service available. With regard to Inward WATS, the subscribers aver that the caller is not furnished an alternative MTS number if a WATS call cannot be completed and cannot request directory assistance where the destination city is unknown; thus, there is little, if any, crossover from Inward WATS to MTS.

III. DISCUSSION

A. INTRODUCTION

19. Before reaching our decision, it is necessary to address an argument which seems to directly underlie AT&T's and the WATS subscribers' Comments. This argument is that somehow our decision in this Docket will *automatically* lead to the elimination of Outward and Inward WATS services.[12] In order to avoid any confusion at this point and to lessen the possibility of misinterpretations of our actions by AT&T and other carriers, we will briefly explain the scope and effect of a decision on whether MTS and WATS services are "like" communications services within the meaning of Section 202(a) of the Act, the sole issue we shall address is this proceeding.

20. If MTS and WATS services are found to be "like communications service" herein, then justification for any rate discrimination or preference between them must be clearly shown to be justified in accordance with applicable Commission rules and orders, and if not, the discrimination or preference must be eliminated. For AT&T to seek a withdrawal of the WATS tariff offerings is only one means of eliminating any unjustified discrimination. Bell could seek to justify any discriminations or establish a consistent rate structure for both MTS and WATS services.[13] The crux of the matter is that the course chosen at that point would be wholly within the discretion of AT&T. In any event the carrier must still demonstrate, subject to the applicable directions given in our companion *WATS Rejection Reconsideration Order, supra*, and other applicable orders, the justness and reasonableness of the rate levels and rate structures for WATS services under Section 201(b) of the Act.

21. These prefatory remarks are intended to delineate clearly between

[11] While Inward WATS service assigns a subscriber the same "800" number for use by callers in placing calls to the subscriber without operator assistance from every location ordered, the users allege that the subscriber to FX and IEX services receives a different number in each exchange and sometimes must be assisted by an operator who transfers the call to the subscriber's exchange. AT&T Tariff F.C.C. No. 260, Type 2006, para. 3.2.2(B). *See, e.g., AT&T (FX Service and CCSA)*, 56 FCC 2d 14 (1975).

[12] This same view is indirectly urged by the non-Bell carriers through their plea for an order in this Docket mandating resale and sharing of WATS services. Apparently, they believe AT&T will discontinue WATS service under such circumstances, just as it terminated TELPAK service when we ordered resale and sharing of private line services. *Resale and Sharing Report and Order*, Docket No. 20097, 60 FCC 2d 261, 302 (1976), *review pending, sub. nom. AT&T v. FCC*, Case No. 77-4057 (2nd Cir.). We note that the *MTS/WATS Market Structure Inquiry, supra*, is considering whether and to what extent there may be competition in the offering of public switched network message services such as MTS and WATS. No doubt the question of resale and sharing of such services will be the subjects of extensive comment there. Accordingly, we make no ruling on this issue in this Docket.

[13] *See* paras. 30-33, *WATS Rejection Reconsideration Order*, FCC 78-806, adopted November 21, 1978.

the possible requirements on the carrier flowing from the action taken herein and the potential responses by AT&T to these requirements. In summary, this Order must be understood as neither forcing nor encouraging AT&T to either eliminate, continue or alter its WATS offering. Irrespective of the outcome of our determination here, the carrier will have to comply with the Act by establishing the lawfulness of the MTS and WATS rates.

B. DECISION

22. Based on a careful study of the relevant allegations and arguments raised in this proceeding and upon a close examination of the services' capabilities, utilizing our own expertise, it is our conclusion that MTS and the WATS services are "like" services within the meaning of Section 202(a) of the Act. [14] This decision is based primarily on our determination that the services in question are "functionally equivalent." In this regard, the central finding in resolving a "likeness" question as several Courts have interpreted the Communications Act is whether the services under examination differ in "any material functional respect." *See, e.g., American Trucking Association, Inc.* v. *FCC*, 377 F.2d 121, 127 (D.C. Cir. 1966), *cert. denied*, 386 U.S. 943 (1967). *See* also *AT&T* (*Hi-Lo*), 55 FCC 2d 224 (1975), *recon.*, 58 FCC 2d 362 (1976) (*Hi-Lo Orders*), *aff'd sub nom. Commodity News Service, Inc.* v. *FCC*, 561 F.2d 1021 (D.C. Cir. 1977). Some cases have presented closer questions which triggered extensive analyses by the Commission where two services have been historically separated into service categories or where they utilize different types of transmission technology in order to determine if they are "functionally equivalent." *AT&T, DDS*, 62 FCC 2d 774 (1977), *recon. denied*, 64 FCC 2d 994 (1977) (*DDS Orders*); *review pending, sub. nom. AT&T* v. *FCC*, Case No. 77-1742 (D.C. Cir.); and *AT&T, DDS*, 67 FCC 2d 1195 (1978) (*DDS Rejection Order*). In other cases, as with the services considered in this Inquiry, the allegedy different services under examination for "likeness" under Section 202(a) are obviously subclassifications of the same general service, though they too have traditionally been offered by the carrier as "unlike" services despite their similar functional characteristics. The finding of "likeness" under Section 202(a) in the latter instances, and in the instant proceeding, may be readily justified. *Cf. Interconnection Facilities Provided for International Record Carriers*, 63 FCC 2d 761 (1977), *recon. denied*, 66 FCC 2d 517 (1977) (*Docket No. 20452 Orders*), *aff'd sub nom. Western Union International, Inc.* v. *FCC*, 568 F.2d 1012 (2nd Cir. 1977), *cert. denied*, 46 U.S.L.W. 3751 (June 5, 1978); and *AT&T, Series 7000*, 67 FCC 2d 1134 (1978) (*Series 7000 Rejection Order*). [15]

23. When this record is stripped of the irrelevant factors and comments with which the functional equivalency test has been confused by the parties to this proceeding, *see* note 14, *supra*, it becomes clear that no difference exists between the services in terms of communications functions performed for the subscriber. Since the parties do not dispute that essentially identical treatment is accorded calls of these service; from end-to-end within the switched network, our consideration logically shifts to the network entry and exit techniques accomplished under AT&T's tariffs through the utilization of certain communications equipment. Here we find certain irrelevancies which tend to overshadow in the pleadings the proper test for functional equivalency.

24. Initially, it is important to understand a fundamental concept of the telecommunications industry concerning how carriers, particularly AT&T, may behave in pricing their communication services. Market segmentation is the procedure for distinguishing between certain customers or classes of customers for pricing purposes. It can occur when one or more parties to market transactions are capable of exercising market power or control over those transactions. The simplest case where such power or control is exercised is that of either a monopolist (a single supplier, such as AT&T) or a monopsonist (a single buyer). Market segmentation usually takes the form of price discriminations. [16] In order for price discriminations to be effective, there must be some basis developed for classifying and hence separating customers or products. In telecommunications, customer classification is usually based on usage or volume. The resulting bulk discounts may reflect differing price elasticities of demand between large users who may have alternative sources of supply (and hence more elastic demand) and small users who may have relatively fewer sources of supply (and presumably lower elasticities demand). These discounts may also reflect differing amounts of market power between customers. Thus, a large customer may be able to command a lower price than a small one. Any discount may also reflect a carrier's response to new or potential entry into a particular market.

25. Market segmentation in telecommunications can also manifest itself through product differentiation, whereby a supplier creates the existence of a difference, real or imagined, in the mind of a customer for a particular product of a particular seller. This form of market segmentation is also quite prevalent in the telecommunications industry. It frequently takes the form of added (or deleted) service features in the tariff itself, variations in tariff rate design, or physical control of a particular customer's access to a service or to an aspect of the communications network. The most important thing to remember about this form of market segmentation is that while the underlying communications function provided to the various segmented customers is the same, certain tariff and physical control techniques may generate either cost savings or extra costs which relate only to the provision of a particular service. The discussion that follows will address these basic telecommunications carrier practices in more detail.

26. Thus, we shall examine how AT&T has apparently employed its public switched network tariffs and certain telecommunications equipment to cause the market segmentation described above. This has been accomplished through three methods: (1) establishment of apparently different service features for WATS and MTS

[14] We must stress that our decision here is based upon only the *relevant* allegations of the Commenters. Unfortunately, most of the Commenters, particularly AT&T, are confused as to the scope of the evidence necessary to resolve a like services question. Most of the comments described *infra* are of relevance primarily to an examination of the lawfulness of particular rate levels and structures in the context of a tariff filing, and its subsequent investingation, but not to a consideration of the like service issue. As set forth below, we intend to study these presentations fully, but in the proper ratemaking context.

[15] In *AT&T, TELPAK*, Docket No. 14251, 38 FCC 370 (1964) (*TELPAK*), we held various private line services and the TELPAK channels to be "like" communication services. In the subject Inquiry, we find a significant similarity in the likeness determination made in *TELPAK*—between TELPAK (a bulk-discounted voice grade, private line service) and Series 2000/3000 services (ordinary voice grade, private line services offered on a circuit-by-circuit basis—) and the likeness issue here in the context of the WATS and MTS offerings. In both, underlying communications services were functionally identical but different rates were charged. Further, our conclusion herein that MTS and WATS are "like communications service" is consistent with prior like service analyses in the *DDS Orders*, the *Hi-Lo Orders, the Docket No. 20452 Orders*, the *Series 7000 Rejection Order*, as well as *The Western Union Telegraph Company, Telex/TWX*, FCC 78-313, released May 25, 1978.

[16] *See, e.g.*, Robinson, Joan. *The Economics of Imperfect Competition*, Book V. London: MacMillan & Co., Ltd., 1934. The term "price discriminations" is used here in the general economic sense of selling identical products or services having similar costs to different customers at different prices, rather than the legal term used in connection with Section 202(a) of the Act.

services in its tariffs. (2) adoption of separate rate levels and structures for the two services in its tariffs, and (3) employment of certain equipment and facilities to perform a gatekeeping function (control of entry and exit to the switched network) for MTS and WATS services. In order to resolve the functional equivalency issue, we have carefully examined operational characteristics of both services, as set out in this Inquiry's record, paras. 3-5 and 11-18, *supra*, relating the factual allegations of the parties. We have also utilized our familiarity with, and knowledge of, the technical makeup and operational characteristics of the public switched network in general and the services in question, as reflected in AT&T's Tariff F.C.C. No. 263, Long Distance Message Telecommunications Service (MTS Tariff) and AT&T's Tariff F.C.C. No. 259, Wide Area Telecommunications Service (WATS Tariff).[17]

C. ANALYSIS OF THE ARGUMENTS

27. At the outset, it is evident that the communications capability of both services is the same once the call has been established, whether it is transmitted via MTS or WATS. While it is true that set-up methods, internal control techniques, and pricing structures may differ, none of these factors militate against the fact that one service is essentially identical to the other in terms of communications function performed for the subscriber. Consider first the general topic of traffic characteristics as alleged evidence of dissimilarity between WATS and MTS services. We observe initially from subscriber comments that how customers use WATS service is directly related to how the tariff rates are stratified according to geographic zones and time periods and scaled in price structure. While evidence of traffic patterns and usage levels may be relevant to the carrier's rate setting responsibility,[18] they are irrelevant in the instant proceeding since these effects can be created or altered by the design of the rate structure and levels, rather than representing some allegedly unique functional element of the service.

28. A specific irrelevancy, already noted, is the issue of whether the carrier's employment of certain switching equipment in providing WATS service differentiates MTS from WATS by creating particular traffic characteristics through controlling entry to and exit from the public switched network for WATS users. Rather, we find that such traffic patterns are the outgrowth of two tariff factors: AT&T's pricing practices and the subscriber's selection of a certain quantity of service based on the carrier's pricing technique. First, the carrier determines which geographic areas and periods of usage should be covered by gradations in price—presumably based on costs incurred in providing the services which, although alleged by Bell to exist, remain as yet unidentified and unquantified—and then the customer chooses the desired number and mix of lines based on projected communications needs to minimize overall communications expense. The result of these decisions in "queuing," a self-imposed rationing of the customer's use of WATS service that could be either relieved by the carrier's choosing to alter geographic and time restrictions or eliminated through the subscriber's ordering more (or different types of) WATS lines in addition to the fallback use of MTS or other services. Put in its proper light, the argument that specialized blocking and screening equipment makes WATS service unique is seen as irrelevant to the question of likeness since "queuing" is not caused by the equipment but rather by the customer's decision to ration usage of the service. A similar discipline can be imposed, for example, for MTS by limiting the number of such trunks for connection with a customer's PBX.[19] Further, this equipment has absolutely no effect on the communications function being performed for the subscriber, except in the sense that the carrier and the customer plan and implement this effect in order to control the rate charged for usage.

29. No party alleges that any change occurs in an interstate telephone call by virtue of its entry or exit through the standard switching machine providing MTS service or a screening and blocking switching machine performing its unique function for WATS services. While the rates charged for the two calls are different, nothing affecting the function performed in placing and receiving the call is changed. Thus, although cost savings generated by using unique equipment and spreading usage over time would be relevant in setting rates, if they could be demonstrated, such arguments lack relevancy to the "likeness" question. *See A. Lindberg & Sons, Inc.* v. *U.S.*, 408 F. Supp. 1032 (W.D. Mich. 1976). Therefore, the proper forum for examining alleged cost differences is a tariff rate proceeding.

30. Turning to another irrelevancy clouding the Comments relating to the "likeness" issue, the unidirectional aspect of the WATS access line must be seen as an extension of the screening and blocking operaton discussed above. Applying with equal force in the case of this access line is our rationale for finding no dissimilarity in communicatins function based on the use of "unique" WATS switching equipment. In holding DDS and Tariff 260 private line analog data services to be "like" services within the meaning of Section 202(a) of the Act, *DDS Orders*, *supra* at 796, we took note that "DDS requires the use of different access equipment from analog systems." To be functionally equivalent, two services need not be identical in both offering each and every feature, or as stated in the analogy of Southern Pacific's Comments, a one-way airline flight provides the same transportation from one point to another as round trip service even though a passenger using the one-way ticket must arrange return transportation separately.

31. Notwithstanding the differences in the parties' definitions of "Simulated WATS", paras. 13 and 15, *supra*, even the apparent, alleged dissimilarities between access lines and switching equipment providing MTS and WATS services are obviously being blurred through developing technology. AT&T does not deny the other carriers' charge that in applying these technical innovations, the subscriber is totally unaware of which service is providing the communications function for any given call. AT&T replies that this programming feature is within the subscriber's control and is thus not an inherent WATS functional element. Operationally, certain of the technical functions associated with screening and blocking are per-

[17] Our examination of these public switched network tariffs was not undertaken without some difficulty. We have even more sympathy for the subscriber, with no background in the intricacies of tariff design, who must face the formidable task of interpreting exactly who gets what under AT&T's MTS and WATS tariffs. We generally believe AT&T's public switched network tariffs, as well as tariffs of other carriers, tend to be overly complex and not entirely clear. In our opinion the public interest would be served by a thorough review of such tariffs to make them more readable and understandable to the average subscriber, and to make evident any preferences in rates or service features given to any subscriber or class of subscribers. Accordingly, we direct our Common Carrier Bureau staff to initiate appropriate contacts with the various carriers, including AT&T, to simplify and improve the clarity of tariffs presently on file with the Commission. We also expect any new tariff filing to be designed with this in mind. To insure that they are, we direct the staff to strictly enforce Sections 61.55(f)-(h) of our Rules, 47 CFR §§ 61.55(f)-(h), which requires basically that language in tariffs be explicit and understandable.

[18] AT&T will have an opportunity to present such evidence in its next tariff filing required by the *WATS Rejection Reconsideration Order*, *supra*.

[19] The issue of "queuing" and its use as a possible justification for a specific public switched network rate structure and level will be the subjects of extensive analysis in connection with AT&T's next tariff filing. *See WATS Rejection Reconsideration Order*, *supra* at paras. 24-26.

formed by a computer program which distributed calls, for billing purposes, in a manner consistent with subscribed service areas and the traffic handling capabilities of the equipment employed by the customer.[20]

We believe this underscores our conclusion that WATS service is MTS offered at a substantial discount to high volume subscribers under certain restrictions, and under significant control of the subscriber. Whether Bell's reliance upon such allegedly unique equipment to provide WATS service results in a reduction in its total cost due to any economies realized from such usage patterns—or an increase in costs because of its resultant congestion and waste, as some parties allege—is a matter for a ratemaking proceeding. We do not view this equipments' utilization as evidence that they are "unlike" under the Section 202(a) meaning.

32. Much stress has been given by the subscribers to the savings thought to be realized by Bell in administering WATS service, *e.g.*, no detailed bills to prepare, advance payments from subscribers, and more accurate predictability of usage. Here again, while perhaps relevant in setting a lawful rate for the service, these characteristics do not show WATS to differ from MTS in a functional manner, since billing procedures and demand forecasting can play no possible part in distinguishing one phone call from another. AT&T will be provided an opportunity in its next tariff revision to itemize and quantify all such cost savings in justification of the rate structure and level sought. *WATS Rejection Reconsideration Order, supra.* Cost differences are relevant only in justifying rate differentials between services already found to be "like." *TELPAK,* 38 FCC 370 (1964); and *Private Line Cases,* 34 FCC 217 (1963).

33. Having provided our own analysis of service capabilities and having dealt with the irrelevant arguments, we now examine those concerning customer perception, which we believe to be a major test of functional equivalency.[21] In our *WATS Rejection Order,* 66 FCC 2d 9, 31, (1977), we stated:

[I]f Bell should choose to justify Inward WATS and Outward WATS, respectively, as 'unlike' services from MTS, we expect a showing to be made, among other things, *that customers perceive the services primarily as different from other services in terms of capability of being used for different communications needs and not as replacement services. A mere segmentation of the market, * * *, through lower charges to the customer for one service or another would appear to be insufficient.* Also consideration must be given to whether the two services, in fact, satisfy different communications requirements, regardless of any rate differentials which may exist. (Emphasis supplied).

We find from the record before us that no showing has been made to establish that customers perceive the two offerings as providing separate services capable of fulfilling differing communications requirements, rather than as merely replacements of each other. The record indicates that the users' view of Inward WATS service chiefly concerns creating new business opportunities inexpensively by encouraging consumers to use its convenience and prepaid features to place orders that otherwise would not be obtained. With respect to Outward WATS, the record shows that the service saves the subscriber money by lowering overall communications, administrative and sales expenses. There is no denying the pervasive perception held by customers, as evidenced by the filings herein [22] that WATS services are much less expensive than MTS service and lead to substantial cost savings in total communications expense to the subscriber. But these perceptions fall far short of demonstrating that different communications requirements are satisfied by the two services. Indeed, it tends to prove that WATS may readily replace MTS when sufficient volume of usage is anticipated to make the former less expensive than the latter.

34. To illustrate why there would be no perceptible difference between MTS and Outward WATS services, other than the lower cost to the subscriber of WATS service, let us take the case of a single-line MTS telephone subscriber in New York City placing interstate calls throughout the country. In placing a call to Los Angeles, the user would normally dial an area code plus seven digits. At some point in time, assume that long distance MTS usage reaches such an expense level which justifies subscription to nationwide Outward WATS and that the subscriber orders this service. To place the same call under WATS, the subscriber would normally dial a one digit prefix (to reach the WATS access line), [23] plus the same area code and seven digits. Since a user of WATS would undoubtedly wish to continue receiving inbound MTS calls as well, local business telephone service would be retained for this purpose as well as for local and intrastate toll calling. However, there would be no additional charges listed for interstate toll calls made through the WATS Line on the bill received from the local serving telephone company.

35. The unrefuted assertion of some parties that detailed billing information about Outward WATS calls may be obtained from Bell convince us that Outward WATS switching equipment performs accounting functions, which further erases any apparent dissimilarity between MTS and Outward WATS switching equipment.[24] Thus, we conclude that any differences which exist between Outward WATS and MTS insofar as interstate station-to-station switched network calling is concerned are those operational distinctions necessitated directly or indirectly by the different rate structures. With regard to MTS capabilities, *e.g.*, person-to-person calling, which are not available on Outward WATS, the subscriber, as already noted, will continue to have such service capability provided through regular business (or residential) line service at MTS rates.

36. Inward WATS service permits a subscriber to select one of the serving areas from which calls may be received without charge to the callers. A three digit prefix code, "800", universally identifies all Inward WATS calls for processing through the screening and blocking facilities, which are programmed to deny access from nonsubscribed to areas. An Inward WATS meter at the destination telephone central office registers total time and number of calls per Inward WATS subscriber.[25] Metering of Inward

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[20] In *RCA Alaska Communications, Inc.,* FCC 78-634, para. 15, released September 25, 1978, we authorized the carrier to provide for a twelve-month period a WATS service to subscribers using the public switched network with only special WATS metering and billing arrangements distinguising MTS from WATS services.

[21] We shall also consider, where appropriate, these kinds of arguments in connection with AT&T's next tariff filing. *See WATS Rejection Reconsideration Order, supra* at para. 33.

[22] Also on public file with the Commission are some 200 subscriber letters concerning Bell's rejected WATS Transmittal No. 12745. Almost universally, these subscriber letters support WATS services because they lower the subscriber's overall communications bill for public switched network use, and not because such services are actually "functionally" different than MTS service.

[23] The one digit prefix may not even be necessary if the servicing PBX is equipped to automatically select the most efficient means of routing the call, *e.g.,* WATS, MTS, FX or private line service.

[24] Undercutting Bell's position that the lack of WATS message billing detail distinguishes the service from MTS, we are aware that AT&T routinely captures billing data and that many Outward WATS subscribers regularly request it at additional expense; therefore, we conclude that this feature may be disappearing as an alleged distinction between the services, and, more importantly, that customers perceive Outward WATS as merely MTS with discounted rates that economically justify the added cost of purchasing detailed message data.

[25] As in the case of Outward WATS, Inward WATS calls must average at least one minute's duration, thus necessitating a metering of the number of calls as well as total time. Should the number of calls recorded through this process exceed the number of minutes used during a certain period, additional time is added to the subscriber's usage, since the one-minute average duration of call requirement has not been met.

WATS calls at the receiving office accomplishes a function performed by automatic mesage accounting (AMA) facilities at the originating office for Outward WATS and MTS calls, *i.e.*, registering data needed to render a final bill to subscribers. Since it would be impractical to gather Inward WATS call information through originating office AMA equipment due to their number and geographical dispersion, additional metering equipment is necessary at the receiving office to capture such data for Inward WATS service. This metering function undermines AT&T's claim that Inward WATS service utilizes different facilities than MTS service. But more importantly, Inward WATS in the ultimate sense appears only to be MTS with a feature that permits calls from selected areas to be automatically charges to the called number. This primarily differs from MTS only in that operator intervention is not required to reverse charges.

37. Also, within MTS service, Bell offers "remote call forwarding", which in many respects appears to be the functional equivalent of Inward WATS. By using this feature, a subscriber wishing to accept all interstate toll calls on an automatic, *i.e.*, non-operator assisted, collect MTS basis, will be assigned a local exchange number in city A through which such calls are actually routed to the subscriber's local number in city B. To use the "remote forwarding" feature, the subscriber pays the regular MTS toll charge between city A and City B on a call-by-call basis. In this manner, parties located in City A who call the subscriber do not have to pay the City A to City B toll charge, and thus the call would appear simply as a local call to the calling party. This service, it should be noted, is limited to those areas where central offices and associated switching machinery are equipped to make the service offering practicable.

38. Thus, similar to Outward WATS, Inward WATS service is economically preferable to those users whose MTS rate charges exceed the Inward WATS rate threshold, *i.e.*, subscribers paying more than approximately $250 per month for MTS collect calls. AT&T's Tariff F.C.C. No. 259, 2nd Revised pp. 14.1 & 14.2. Insofar as practical limitations on Inward WATS service availability is concerned, we are cognizant of the fact that special numbering and/or routing arrangements must be made for WATS within the nationwide dial switched network, in order that (1) the originating telephone office recognizes that a given call is not to be paid for by the caller, and (2) the terminating telephone office recognizes that the incoming call is to be paid for by the called party. In addition, based on the current MTS rate structure, the time and distance of a given call must be measured, as compared to the metering, screening and blocking functions provided in connection with WATS. However, we view these differences essentially as a function of Bell's pricing scheme rather than as functional communications differences which would tend to define different services.

IV. Conclusion

39. For the reasons stated above, we conclude, from a full consideration of the record developed here and our independent exercise of agency expertise through examination of the public switched network in general and the relevant tariffs, that Long Distance Message Telecommunications Service, offered under AT&T's Tariff FCC No. 263, and Inward and Outward Wide Area Telecommunications Services, offered under AT&T's Tariff FCC No. 259, are "like communications service" within the meaning of Section 202(a) of the Communications Act of 1934, 47 U.S.C. § 202(a). In light of the discrimination in charges currently applicable under these two tariffs, AT&T will be ordered to revise the tariffs in a manner which will result in either eliminating the discrimination or justifying the lawfulness of the discrimination by demonstrating through the procedure outlined below the justness and reasonableness of the discrimination.

40. In paras. 32 & 33 of our companion item on *WATS Rejection Reconsideration Order, supra*, we detail the justification AT&T must provide if it chooses to continue charging different rates for the like MTS and WATS services, and we state some of our major regulatory objectives regarding public switched network rate structures and levels. Basically, in AT&T's next tariff filing, we shall require a documented showing of cost differences (itemized and quantified, as well as logically related to any rate differentials filed) to justify any differences in rates or service features between, and among, various user classes of the public switched network. We will also entertain any additional justifications AT&T may assert for departures in rates beyond those based upon such documented cost differences, *e.g.*, national economic or social policy, or competitive considerations. *See the Docket No. 18128 Decision supra* at 659. One of our primary regulatory goals, however, is to insure fair and equitable rate treatment of *all* users of the public switched network such that one user class is not unduly discriminated against vis-a-vis another. Another key requirement in our *WATS Rejection Reconsideration Order* is that AT&T undertake peak/off-peak analyses of the public switched network to further our regulatory goals to reduce network underutilization and over-building found to exist in *Docket No. 19129*, see 64 FCC 2d 1, 50–53 (1977). For the detailed tariff justification requirements and the instructions concerning when Bell's next tariff filing will be due, see the *WATS Rejection Reconsideration Order, supra.*

41. Also set for investigation herein was the more general issue looking towards the development of common standards and guidelines for making like service determinations, see para. 1, *supra.* As indicated in the cases cited in para. 22, *supra*, we have heretofore relied upon the "functional equivalency" test in addressing like service questions. This test has been applied primarily on a case-by-case basis. In designating this general issue, we believed it might be possible, through the adoption of particular standards and guidelines, to dispense with the present *ad hoc* standards approach and to provide assistance to carriers and their subscribers in addressing the relevant subjects where like service questions exist. For the most part, the comments recommend that we continue the present practice of making case-by-case functional equivalency determinations. While the current status of the telecommunications industry is too dynamic, we may find as we gain experience that it may become possible to promulgate definitive standards without needlessly reducing Commission flexibility in dealing with future problems, many of which are unforeseen now. *See Western Union Telegraph Company, Telex/TWX, supra* at para. 47. Thus, upon further consideration of this matter, we believe it unwise at this time to depart from a case-by-case approach and cast in concrete certain standards and guidelines applicable to like service determinations. However, to give additional aid to parties in understanding our policy governing the "functional equivalency" test, we will briefly summarize the primary factors considered in that portion of our analysis herein.

42. The obvious starting point for our analysis was to examine the technological configuration of the overall public switched network. Once the technical underpinning of the network was considered, it was necessary to look at the operational characteristics of the particular services in question to determine exactly how AT&T offers MTS and WATS services over the network. An examination of these operational characteristics helped shed light on the kinds of subscribers AT&T is attempting to attract to a particular tariffed service, and thus the communication requirement a subscriber seeks to have satisfied. We

then examined the capabilities of the network, independent of how AT&T has chosen to permit its use, in order to determine whether and to what extent public switched network subscribers could have their communications requirements met under the MTS tariff or the WATS tariff, exclusively, or under either tariff, irrespectively. Finally, we considered whether they could be satisfied through a use of the network not now permitted by AT&T. Our rationale was that if subscribers could have their needs satisfied equally well under either tariff, or through network uses not allowed by AT&T, then any alleged service distinctions between MTS and WTS were likely to be illusory. Bearing on this final analysis was our consideration of the perceptions of subscribers, *e.g.*, whether they view MTS and WATS services as replacements for each other or as inherently different communications services. Employing a balancing process, our study of the above factors led us to conclude that MTS and WATS are "like communications service." [26]

V. ORDERING CLAUSES

43. Accordingly, *it is ordered*, That Long Distance Message Telecommunications Service, offered under AT&T's Tariff F.C.C. No. 263, and Inward to Outward Wide Area Telecommunications Services, provided pursuant to Tariff F.C.C. No. 259, are determined to be "like communications service" under the meaning of Section 202(a) of the Commnications Act of 1934, 47 U.S.C. § 202(a), as amended.

44. *It is further ordered*, That the American Telephone and Telegraph Company must file revisions either demonstrating the lawfulness of the discriminatory charges applicable under these tariffs pursuant to the instructions set out in para. 40, *supra*, or eliminating these discriminatory charges.

45. *It is further ordered*, That the Secretary shall cause a copy of this *Final Decision and Order* to be published in the FEDERAL REGISTER.

46. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-35079 Filed 12-15-78; 8:45 am]

[26] We found that such factors as tariff rate design, tariff and technical restrictions on access to and exit from the network, and overall cost savings to subscribers in their communications bills, were irrelevant to making the like service determination. As noted in the body of our discussion, these elements relate to whether there is any justification for a rate differential between like services.

[6712-01-M]

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: December 11, 1978.

Released: December 12, 1978.

By the Chief, Broadcast Facilities Division.

Cut-Off Date: January 30, 1979.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on January 31, 1979. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of Perceptive Communitcations, Inc., (File No. BPH-10664), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPH-10872—NEW, Fort Scott, Kansas, Fort Scott Broadcasting Co., Inc., REQ: 103.9 MHz, 280; 3.0 kW (H&V); 285 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-35080 Filed 12-15-78; 8:45 am]

[6712-01-M]

TELEVISION TRANSLATOR APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: December 11, 1978.

Released: December 14, 1978.

By the Acting Chief, Broadcast Facilities Division:

Notice is hereby given pursuant to § 1.572(c) of the Commission's Rules, that on February 2, 1979, the television translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on February 1, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on February 1, 1979.

Any party in interest desiring to file pleadings concerning any pending television translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

UHF TV TRANSLATOR APPLICATIONS

BPTT-780929IC—NEW—Julesburg, Colorado, Region 1 Translator Association, Req: Channel 31, 572-578 MHz, 100 watts, Primary: KWGN-TV, Denver, Colorado.

BPTT-780929ID—NEW—Yuma, Colorado, Region 1 Translator Association, Req: Channel 32, 578-584 MHz, 100 watts, Primary: KWGN-TV, Denver, Colorado.

BPTT-780929IE—NEW—Yuma, Colorado, Region 1 Translator Association, Req: Channel 34, 590-596 MHz, 100 watts, Primary: KOA-TV, Denver, Colorado.

BPTT-780929IF—NEW—Julesburg, Colorado, Region 1 Translator Association, Req: Channel 35, 596-602 MHz, 100 watts, Primary: KOA-TV, Denver, Colorado.

BPTT-780929IG—NEW—Yuma, Colorado, Region 1 Translator Association, Req: channel 38, 602-608 MHz, 100 watts, Primary: KRMA-TV, Denver, Colorado.

BPTT-780929IH—NEW—Yuma, Colorado, Region 1 Translator Association, Req: Chennel 38, 614-620 MHz, 100 watts, Primary: KBTV, Denver, Colorado.

BPTT-780929II—NEW—Julesburg, Colorado, Region 1 Translator Association, Req: Channel 39, 620-626 MHz, 100 watts, Primary: KRMA-TV, Denver, Colorado.

BPTT-780929IJ—NEW—Julesburg, Colorado, Region 1 Translator Association, Req: Channel 41, 632-638 MHz, 100 watts, Primary: KBTV-TV, Denver, Colorado.

BPTT-780929IK—NEW—Idalia & Rural South Yuma County, Colorado, Region 1 Translator Association, Req: Channel 46, 662-668 MHz, 100 watts, Primary: KWGN-TV, Denver, Colorado.

BPTT-780929IL—NEW—Idalia & Rural South Yuma, Colorado Region 1 Translator Association Req: Channel 48, 674-680 MHz, 100 watts Primary: KOA-TV, Denver, Colorado

BPTT-780929IM—NEW—Haxtun, Colorado Region 1 Translator Association Req: Channel 49, 680-686 MHz, 100 watts Primary: KWGN-TV, Denver, Colorado

BPTT-780929IN—NEW—Idalia & Rural South Yuma, Colorado Region 1 Translator Association Req: Channel 50, 686-692 MHz, 100 watts Primary: KRMA-TV, Denver, Colorado

BPTT-780929IO—NEW—Haxtun, Colorado Region 1 Translator Association Req: Channel 51, 692-698 MHz, 100 watts Primary: KOA-TV, Denver, Colorado

BPTT-780929IP—NEW—Idalia & Rural South Yuma, Colorado Region 1 Translator Association Req: Channel 52, 698-704 MHz, 100 watts Primary: KBTV-TV, Denver, Colorado

BPTT-780929IQ—NEW—Haxtun, Colorado Region 1 Translator Association Req: Channel 53, 704-710 MHz, 100 watts Primary: KRMA-TV, Denver, Colorado

BPTT-780929IR—NEW—Idalia & Rural South Yuma, Colorado Region 1 Translator Association Req: Channel 54, 710-716 MHz, 100 watts Primary: KTVS-TV, Sterling, Colorado
BPTT-780929IS—NEW—Haxtun, Colorado Region 1 Translator Association Req: Channel 55, 716-722 MHz, 100 watts Primary: KBTV-TV, Denver, Colorado
BPTT-780929IT—NEW—Wray, Colorado Region 1 Translator Association Req: Channel 56, 722-728 MHz, 100 watts Primary: KTVS-TV, Sterling, Colorado
BPTT-780929IU—NEW—Wray, Colorado Region 1 Translator Association Req: Channel 58, 734-740 MHz, 100 watts Primary: KWGN-TV, Denver, Colorado
BPTT-780929IV—NEW—Wray, Colorado Region 1 Translator Association Req: Channel 60, 746-752 MHz, 100 watts Primary: KOA-TV, Denver, Colorado
BPTT-780929IW—NEW—Wray, Colorado Region 1 Translator Association Req: Channel 62, 758-764 MHz, 100 watts Primary: KRMA-TV, Denver, Colorado
BPTT-780929IX—NEW—Holyoke, Colorado Region 1 Translator Association Req: Channel 63, 764-770 MHz, 100 watts Primary: KWGN-TV, Denver, Colorado
BPTT-780929IY—NEW—Wray, Colorado Region 1 Translator Association Req: Channel 64, 770-776 MHz, 100 watts Primary: KBTV-TV, Denver, Colorado
BPTT-780929IZ—NEW—Holyoke, Colorado Region 1 Translator Association Req: Channel 65, 776-782 MHz, 100 watts Primary: KOA-TV, Denver, Colorado
BPTT-780929JA—NEW—Holyoke, Colorado Region 1 Translator Association Req: Channel 67, 788-794 MHz, 100 watts Pfimary: KRMA-TV, Denver, Colorado
BPTT-780929JB—NEW—Holyoke, Colorado Region 1 Translator Association Req: Channel 69, 800-806 MHz, 100 watts Primary: KBTV-TV, Denver, Colorado
BPTT-781003IA—NEW—Honaker, Virginia Russell County Board of Supervisors Req: Channel 55, 716-722 MHz, 100 watts Primary: WKPT-TV, Kingsport, Tennessee
BPTT-781003IB—NEW—Castlewood, Virginia Russell County Board of Supervisors Req: Channel 57, 728-734 MHz, 100 watts Primary: WKPT-TV, Kingsport, Tennessee
BPTT-781003IC — NEW — Dickensonville, Virginia Russell County Board of Supervisors Req: Channel 63, 764-770 MHz, 100 watts Primary: WKPT-TV, Kingsport, Tennessee
BPTT-781003ID—K67AV—Lihue, Hawaii, Hawaii Public Broadcasting Authority Req: Increase output power to 1,000 watts
BPTT-781023IA—K71BD—Lakeport & Clear Lake Basin, California The Lake County Television Club Req: Change frequency to Channel 52, 698-704 MHz

VHF TV Translator Applications

BPTTV-780831IC—NEW—Deming, Washington TV District No. 1 Req: Channel 3, 60-66 MHz, 1 Watt Primary: KIRO-TV, Seattle, Washington
BPTTV-780831ID—NEW—Deming, Washington TV District No. 1 Req: Channel 10, 192-198 MHz, 1 watt Primary: KOMO-TV, Seattle, Washington
BPTTV-780831IE—NEW—Deming, Washington TV District No. 1 Req: Channel 13, 210-216 MHz, 1 watt Primary: KING-TV, Seattle, Washington
BPTTV-781114IA — K04D L— Gastineau Channel, Airport Area, Auke Bay & Mendenhall Glacier, Alaska Midnight Sun Broadcasters, Inc. Req: Change frequency to Channel 11, 198-204 MHz

[FR Doc. 78-35081 Filed 12-15-78; 8:45 am]

[6732-01-M]

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARBITRATION SERVICES ADVISORY COMMITTEE

Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with Section 10 of the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), will meet on Thursday, January 18 and Friday, January 19, 1979 at 9:00 a.m. at the Sheraton-Palace Hotel in San Francisco, California.

The agenda is as follows:

1. Review and discussion of revised 29 *Code of Federal Regulations* 1404.
2. Discussion on *Code of Professional Responsibility.*
3. Update on labor arbitrator development programs.
4. Revised procedures in Office of Arbitration Services.
5. Impact on OAS of Civil Serivce Reform Act of 1978.
6. Review of FY 1979 first quarter statistics.
7. Arbitrator symposia, seminars, and workshops.

This meeting shall be open to the public.

Communications regarding this meeting should be addressed to: Mr. John Canestraight, Associate Director, Office of Arbitration Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C. this thirteenth day of December 1978.

Wayne L. Horvitz,
Director.

[FR Doc. 78-35034 Filed 12-15-78; 8:45 am]

[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of January 1979:

Name: GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

Date and Time: January 11-12, 1979, 8:30 a.m.

Place: Room 5051, HEW North Building, 330 Independence Avenue, Washington, D.C. 20201.

Open for entire meeting.

Purpose: The Graduate Medical Education National Advisory Committee is responsible for advising and making recommendations with respect to: (1) present and future supply and requirments of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; and (3) the impact of various activities which influence specialty distribution and the availability of training opportunities including systems of reimbursement and the financing of graduate medical education.

Agenda: Discuss revised text of December Interim Report to the Secretary and review status of GMENAC work to date.

A portion of the meeting will be available for comments and participation by the public. Due to limited seating, attendance by the public will be provided on a first-come, first-serve basis.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Robert Graham, M.D., Office of the Administrator, Room 10-37, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-6430.

Agenda items are subject to change as priorities dictate.

Date: December 11, 1978.

James A. Walsh,
Associate Administrator for Operations and Management.

[FR Doc. 78-35070 Filed 12-15-78; 8:45 am]

[4110-12-M]

Office of the Secretary

ASSISTANT SECRETARY FOR MANAGEMENT AND BUDGET

Delegation of Authority To Certify True Copies and Affix the Department Seal

By the authority vested in me as Secretary, I hereby delegate to the Assistant Secretary for Management and Budget the authority to: Certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such; certify that copies are true copies of the entire file of the Department; certify the complete, original record; certify the nonexistence of records on file within the Department; and cause the seal of the Department to be affixed to such certifications.

I also delegate to the Assistant Secretary for Management and Budget authority to cause the seal of the Department to be affixed to agreements, awards, citations, diplomas and similar documents.

This delegation supersedes the previous delegation of this authority approved by the Secretary on October 22, 1969 and published at 34 FR 17346, October 25, 1969. Redelegations under the previous authority shall remain in effect until superseded by new delegations.

This delegation is effective immediately and may be redelegated.

Dated: November 2, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-35076 Filed 12-15-78; 8:45 am]

[4110-12-M]

GENERAL COUNSEL ET AL.

Redelegation of Authority To Certify True Copies

Under the authority vested in me by the Secretary: 1. I hereby redelegate to the following the authority to certify true copies of any books, records, papers, or other documents on file within the Department, or extracts from such, to certify that true copies are true copies of the entire file of the Department, to certify the complete original record, or to certify the nonexistence of records on file within the Department, and to cause the Seal of the Department to be affixed to such certifications.

These same officials are authorized to cause the Seal to be Affixed to agreements, awards, citations, diplomas, and similar documents.

TO WHOM DELEGATED AND AREA OF AUTHORITY

GENERAL COUNSEL AND DEPARTMENT

Director, Office of Management Services, Office of the Secretary—Office of the Secretary
Administrator, Health Care Financing Administration—Health Care Financing Administration
Assistant Secretary for Education—Education Division
Commissioner of Social Security—Social Security Administration
Asssistant Secretary for Human Development Services—Office of Human Development Services
Assistant Secretary for Health—Public Health Service
Director, Office of Child Support Enforcement—Office of Child Support Enforcement

This authority may be redelegated. 2. I also redelegate to the Civil Rights Hearing Clerk, Office of the Assistant Scretary for Personnel Administration, the authority as official custodian of the files in all matters pertaining to compliance proceedings under Title VI of the Civil Rights Act and as such custodian the authority to certify true copies of any books, records, papers, or other documents of the Department pertaining to such matters and to certify extracts from any such books, records, papers, or other documents on file within the Department as true extracts and to certify that true copies are true copies of the entire file of the Department in any such matters, and to cause the Seal of the Department to be affixed to such certifications. This authority may not be redelegated.

3. The above redelegations supersede the redelegations made under previous authority (34 FR 18049-50 dated November 7, 1969 and 35 FR 16384, dated October 20, 1970). Further redelegations made under the aforementioned redelegation of authority shall remain in effect until appropriate new redelegations are made.

Dated: December 9, 1978.

FREDERICK M. BOHEN,
Assistant Secretary for Management and Budget.

[FR Doc. 78-35077 Filed 12-15-78; 8:45 am]

[4110-12-M]

Office of the Secretary

OFFICE OF THE INSPECTOR GENERAL

Statement of Organization, Functions, and Delegation of Authority

This notice amends Part A of statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of the Secretary, by establishing a new Office of the Assistant Inspector General for Administration in the Office of the Inspector General (42 FR-17531 dated 4/1/77). The revised statement reads as follows:

AF.10 Organization

Add after the last item:

Office of the Assistant Inspector General for Administration.

AF.20 Functions

Add a new Section F:

F. The Office of the Assistant Inspector General for Administration serves as the principal advisor to the Inspector General on management and administrative activities. Manages and coordinates functions in the areas of program planning, budgeting, management and administrative services, legislation and intergovernmental affairs, personnel, training, internal communications, and public affairs. Monitors adherence to program, financial, and administrative goals and objectives, advises Inspector General on alternatives and shifts in goals and objectives and recommends corrective action for shortfalls in meeting goals and objectives. Appraises efficiency and effectiveness in meeting program and management objectives and recommends methods for improvement. Formulates management policies and procedures for development and implementation of crosscutting management, budget, and personnel information systems. Maintains liaison with Congress, Federal departments and agencies, and State and local government (including organizations representing such units of government). Reviews all documents forwarded to the Inspector General for approval to assure completeness and responsiveness. Responsible for computer systems security function OIG-wide.

(1) *Executive Secretariat.* Reviews completeness and responsiveness of all documents forwarded to Inspector General for approval. Establishes and monitors procedures for insuring that the Office furnishes complete and timely responses to informational requests from the Secretary, Under Secretary, Department components, Congress, governmental agencies, and the public. In conjunction with the Assistant Inspector General for Administration, assigns responsibility for the preparation of documents and completion dates; determines internal clearance procedures for documents and correspondence, insuring legal clearances and necessary coordination with other Departmental components. Tracks IG and Secretary level initiatives, and insures that Office priorities are met with respect to matters referred to OIG for action. Follows up on the work assignments made by the IG, insures the communication in headquarters of the IG's decisions; serves as point of contact with the Secretary's executive secretariat; and maintains official Office correspondence files records. Manages records retention, transfer, retirement, and disposal systems of the Office and establishes and monitors files and records maintenance systems used throughout the Office. Maintains directives system. Assesses effectiveness of paperwork management processes, and recommends changes to increase efficiency. Insures adherence to Federal and departmental policies and standards regarding security of records and files.

(2) *Congressional and Intergovernmental Relations Staff.* Maintains liaison with Congress, Federal departments and agencies, and State and local governments (including organizations representing such units of government). In coordination with the Assistant Secretary for Legislation, establishes processes to facilitate exchange of information between the Office and the Congress; reviews pending legislation of concern to the OIG; develops position statements, and coordinates policy and legal or statutory

interpretation issues for the OIG in the development of legislative proposals.

Coordinates with appropriate departmental offices on the preparation of testimony and briefing materials for congressional hearings pertaining to the OIG; monitors the status of pending OIG legislation and congressional hearings (including appropriations) related to OIG matters and arranges for Office input as necessary. Arranges and participates in briefings of congressional members and staffs; notifies appropriate congressional committees of significant OIG developments; and informs members of developments affecting their congressional districts. Attends and provides summaries of legislative hearings; coordinates preparation of responses to congressional inquiries; develops tracking system for legislative purposes; and reviews *Congressional Record* and FEDERAL REGISTER, preparing summaries for Office use. Facilitates communication on OIG related matters with Federal departments and non-HEW agencies, and State and local governments (including organizations representing such units of government); arranges and participates in briefings of State and local governments on OIG matters and coordinates participation of office program officials in regional or national conferences which relate to OIG. Coordinates activities related to interagency delegations of authority; insures that major office communications with groups representing government organizations are coordinated within the Office before release; facilitates participation of organizations on Office planning, policy, and operational activities; and coordinates Office review of documents submitted by such organizations.

(3) *Planning, Budget, and Resource Management Staff.* Develops Office-wide long-range goals and national priorities and translates them into long-range plans and budgets. Develops long-range planning and budget guidelines within the framework established by OMB and the Department. Advises on out-year effects of shifting goals and priorities and recommends courses of action which will insure an effective program and an efficient use of resources. Serves as principal advisor on planning and budget matters emanating from the Office of the Secretary and serves as principal staff coordinator on such matters with the staffs of the Offices of the Assistant Secretaries for Planning and Evaluation, and Management and Budget. Serves as liaison with departmental fiscal management units. Develops and implements Office budget control system to insure conformance with allotments and timely reporting on commitments and expenditures. Assists offices and operating divisions in the development of financial resource requirments and justifications; and provides actual cost data and estimates of future obligations for current and long-range budgets. Manages national budget execution system and insures Office control and reprogramming of allocated funds. Advises on fiscal effect of reallocations of funds. Submits regular financial status reports. Implements Office contracts program; establishes policies, procedures, and standards for award of contracts, including contract development and reviews; coordinates contract processes with planning and resource management processes. Reviews all awarded contract proposals to assure compliance with programmatic requirements. Implements responsibilities within guidelines and authority set by the Office of the Secretary, Division of Contracts and Grants Operations; and maintains liaison with GSA, GPO, SBA, and other executive agencies, contractors, and vendors of administrative services as they relate to contracts. Establishes policies, procedures, and reports on fiscal matters including pay, travel, contract services, supplies, and space.

(4) *Human Resources Management Staff.* Functions as liaison with the Office of the Assistant Secretary for Personnel Administration, the Office of the Secretary Personnel Office, and the regional personnel office regarding OIG matters. Directs and supervises all personnel planning, and recruiting efforts. Develops and maintains internal personnel data system for the Office of the Inspector General. Assures appropriateness of staffing in given offices relative to workload deficiencies. Develops and coordinates employee awards program, equal employment opportunity program, upward mobility program and other related human resource functions. Develops and coordinates delegations of authority. Develops and coordinates administrative sanctions with the Assistant Secretary for Personnel Administration and the Program Integrity units in the department that result from OIG initiatives. Serves as OIG contact and program coordinator to receive information from employees or applicants who have (or reasonably believe they have) evidence of violations of any law (other than criminal violations), rule, or regulation, or evidence of mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety. Investigates (or causes to be investigated) allegations of reprisal without revealing identity of complainant. Directs and develops overall OIG staff development and training programs for headquarters, and regional offices; coordinates these activities with appropriate departmental components. Identifies specific training needs of OIG employees not being met by specific audit and investigation units; directs program for locating appropriate sources for outside training and participates with other Office components in planning, scheduling, and preparing materials for training professional personnel in headquarters and regional offices on new initiatives. Directs and develops counseling activities concerning employees' career development opportunities, staff development, executive development, and other developmental programs. Directs all Office training activities to insure their educational validity.

Dated: December 12, 1978.

FREDERICK M. BOHEN,
Assistant Secretary for Management and Budget.

[FR Doc. 78-35078 Filed 12-15-78; 8:45 am]

[4110-83-M]

Health Resources Administration

KENTUCKY HEALTH SERVICE AREA II AND OHIO HEALTH SERVICE AREA I

Designation of Health Service Areas

In accordance with section 1511(b)(4) of the Public Health Service Act, the Secretary of Health, Education, and Welfare has determined that the boundaries of Kentucky Health Service Area II and Ohio Health Service Area I as designated in the September 2, 1975, FEDERAL REGISTER (40 FR 40306)[1] do not meet the requirements of section 1511(a) of the Public Health Service Act, and that they should be revised by deleting the Kentucky counties of Boone, Campbell and Kenton from Ohio Health Service Area I and adding those counties to Kentucky Health Service Area II.

With respect to designation and redesignation of Health Service Areas, section 1511(a) of the Public Health Service Act requires that a health service area must, among other things, be a geographic region appropriate for the effective planning and development of health services, and that to the maximum extent feasible the boundaries of the health service area be coordinated with existing regional planning areas, Professional Standards Review Organization areas, and State planning administrative areas. That section also provides that each

[1]That Notice also erroneously listed the Kentucky counties of Boone, Campbell and Kenton as part of Kentucky Health Service Area III.

Standard Metropolitan Statistical Area (SMSA) should be entirely within the boundaries of one health service area, unless the Governor of each State in which the SMSA is located determines, with the Secretary's approval, that the SMSA should be split. The Kentucky counties of Boone, Campbell and Kenton are part of an SMSA which includes certain counties in Ohio and one county (Dearbon) in Indiana.

Based upon the statutory requirements of section 1511(a) of the Public Health Service Act, the Secretary has concluded that the interstate health service area designated as Ohio Health Service Area I and Kentucky Health Service Area II should be redesignated.

First, in the Secretary's view, Ohio Health Service Area I is not an appropriate area for the effective planning and development of health services because the inclusion in the Ohio Health Service Area of the three Kentucky counties (Boone, Campbell and Kenton) which form a part of the eight-county Northern Kentucky Area Development District makes integrated multi-purpose planning in Kentucky difficult since the interstate designation is inconsistent with the requirement that a Health Service Area be congruent insofar as possible with one or several State planning and development districts as defined for purposes of OMB Circular A-95. In light of this inconsistency, the Northern Kentucky Area Development District is thereby forced to deal with two Subarea Health Advisory Councils, two Health Systems Agencies, two State Health Planning and Development Councils, and two State Health Coordinating Councils. Moreover, the inclusion of these three Kentucky counties in the Ohio Health Service Area I severely impedes the effective cooperation of local elected officials, whose cooperation is essential to the efficient functioning of the Health Systems Agencies. Finally, the boundaries of the Kentucky Professional Standards Review Organization also support the inclusion of the three counties in Kentucky Health Service Area II rather than in Ohio Health Service Area I.

In light of these findings, the Secretary has concluded that Kentucky Health Service Area II should be revised to include the Kentucky counties of Boone, Campbell and Kenton, and that these three counties should be removed from Ohio Health Service Area I. This revision constitutes approval of a redesignation request initiated by the Governor of Kentucky on June 28, 1977. The request complied with the requirements of the Health Service Area Redesignation Guidelines published in the FEDERAL REGISTER on September 15, 1976 (41 FR 39432).

It is the Secretary's view, with which the Department's Office of the General Counsel agrees, that the concurrence of the Governor of Ohio is not required for this redesignation because the SMSA of which these three counties are a part was previously split by the exclusion of Dearborn County, Indiana, from Ohio Health Service Area I, with the concurrence of all the appropriate Governors and with the approval of the Secretary.

Accordingly, Ohio Health Service Area I now constitutes a geographic area comprised of the following Ohio counties: Butler, Hamilton, Highland, Warren, Clermont, Adams, Clinton and Brown. Kentucky Health Service Area II constitutes a geographic area comprised of the following Kentucky counties: Darke, Shelby, Miami, Champaign, Preble, Montgomery, Clark, Greene, Boone, Kenton, and Campbell. This redesignation will increase the population of Kentucky Health Service Area II by 252,600 (1975 est.) people, and will provide the Area with a population base of 1,657,300 (1975 est.). The population base of Ohio Health Service Area I will decrease to 1,461,300.

Dated: December 14, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-35138 Filed 12-15-78; 11:00 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Oil and Gal Lease Sale No. 51]

OUTER CONTINENTAL SHELF, CENTRAL AND WESTERN GULF OF MEXICO

Withdrawal of Tracts

DECEMBER 19, 1978.

On November 13, 1978, at 43 FR 52531, announcement was published for Oil and Gas Lease Sale No. 51 on Outer Continental Shelf lands in the Central and Western Gulf of Mexico. The lease sale is to take place December 19, 1978, in New Orleans. A correction notice was published November 15, 1978, concerning certain printing errors in the November 13 publication.

Both those notices are hereby amended to delete the following nineteen tracts:

1. Tract 51-13	8. Tract 51-33	14. Tract 51-64
2. Tract 51-15	9. Tract 51-42	15. Tract 51-65
3. Tract 51-16	10. Tract 51-56	16. Tract 51-81
4. Tract 51-18	11. Tract 51-57	17. Tract 51-82
5. Tract 51-20	12. Tract 51-58	18. Tract 51-138
6. Tract 51-21	13. Tract 51-61	19. Tract 51-140
7. Tract 51-32		

Bids on these tracts will not be considered.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved: December 14, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-35143 Filed 12-15-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[303-TA-8]

CERTAIN GLOVES AND GLOVE LININGS FROM BRAZIL

Supplementary Information for Scheduled Public Hearing

On December 13, 1978, notice of institution of the Commission's investigation, Certain Gloves and Glove Linings from Brazil, 303-TA-8, and the time and place of the public hearing was published in the FEDERAL REGISTER (43 FR 58233). That notice announced that a public hearing in connection with this investigation will be held beginning at 10:00 a.m., e.s.t., on Tuesday, January 9, 1979, in the Commission's Hearing Room, United States International Trade Commission, 701 E Street, NW., Washington, D.C.

An examination of import statistics published by the U.S. Department of Commerce has revealed that these gloves and glove linings, imported under Tariff Schedule of the United States (TSUS) item No. 705.30, have not been imported from Brazil for at least the past four years. The Commission has no other information that these items have been imported from Brazil. For this reason, the Commission's investigation will focus on the issue of the likelihood of injury to the domestic industry. If any person has information that may be of interest to the Commission on this matter, please address it to the Secretary of the Commission, at his office in Washington, D.C.

By order of the Commission.

Issued: December 13, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc.78-35098 Filed 12-15-78; 8:45 am]

[4410-18-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

OFFICE OF CRIMINAL JUSTICE EDUCATION AND TRAINING

Institutional applications for participation in the Law Enforcement Education Program (LEEP) for academic year 1979-80 are now available from the Office of Criminal Justice Education and Training (OCJET). LEEP is a program of grants and loans to criminal justice students administered under provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3701 *et sequitur*).

LEEP is a manpower development program. Accordingly, institutional applications will be evaluated in relation to their potential to help meet the manpower needs identified by LEAA.

Institutions of higher education must meet the following criteria to be considered for awards: (excerpts from LEEP Guideline Manual M 5200.1C)

1. (Chapter 2, paragraph 10) *Accreditation Requirement:*

To participate in LEEP an institution of higher education must be fully accredited by one of the regional institutional accrediting commissions that are recognized by the U.S. Commissioner of Education and the Council on Postsecondary Accreditation.

Institutions that are Candidates for Accreditation are not eligible for LEEP funds. There is one exception to the rule. An institution awarded funds as a Candidate for Accreditation (under earlier regulations) will be eligible for LEEP until its six-year period of candidacy has expired or until the regional accrediting commission removes it from the list of candidates, whichever is earlier, provided there is not interruption in program participation.

2. (Chapter 2, paragraph 11) *General Requirements:*

(a) It admits as regular students only persons having a certificate of graduation from a secondary school or the recognized equivalent, or persons who are beyond the age of compulsory school attendance in the state in which the institution is located.

(b) It is legally authorized within the state to provide a program of education beyond secondary education.

(c) It provides an educational program for which it awards a bachelor's of higher degree; or it provides an associate degree, the course work for which is creditable toward a bachelor's degree at regionally accredited institutions of higher education.

(d) It is a public institution of higher education operated by an agency of state government or a political subdivision thereof, but is not an institution of an agency of the United States Government; or it is a nonprofit institution, no part of the net earnings of which inures or may lawfully inure to the benefit of any private stockholder or individual.

(e) It is a degree-granting institution with authority to contract and to manage Federal funds.

To be eligible for preservice funds, institutions must provide a full-time coordinator or director to administer the crime related degree program for which the preservice funds are made available. Past experience has shown that efficiency and effectiveness are enhanced at all institutions by the appointment of a full-time coordinator or director.

In addition to general institutional eligibility requirements, institutions must meet the following criteria concerning curriculum to be considered for awards:

1. (Chapter 3, paragraph 31) *General Curricula Criteria:*

(a) Each course shall be approved by the regular curriculum approving body of the institution, e.g. by the student-faculty senate, the curriculum committee, etc., and shall be creditable toward a catalog-listed academic degree or certificate which has been approved by the responsible state higher education authority.

(b) Each class shall be open to all students. The scheduling of two identical classes for the same course does not satisfy the requirement if one class serves pre-service students and the other serves in-service students. Courses shall be convened in academic or neutral environments with ready access to adequate library facilities. A police department squad room, for example, would not be considered a neutral setting.

(c) The instructor shall have full-time or part-time faculty status at the institution, be paid by the institution, and possess required credentials comparable to those of instructors in other academic fields offered at the institution. The use of qualified guest lecturers is not precluded, provided the major responsibility for the course rests with the qualified faculty member of record.

(d) Transferability of credits is required. At least ninety percent of all credits shall be applicable towards bachelor's degrees offered by regionally accredited institutions.

The following restrictions apply to course work offered by institutions which seek participation in LEEP: (chapter 3, paragraphs 32-35; chapter 4, paragraph 49)

32. *Training Programs and Courses Prohibited:*

Basic recruit and in-service training programs shall not be supported by LEEP funds even though the institution may offer credit or give credit equivalency for them. If credit or credit equivalency is given, it shall not be considered as part of the student's academic load in determining full-time status for loan eligibility.

33. *Institutes and Short Courses:*

Study done in short seminars, short-term institutes, or workshops normally is not eligible for LEEP funds. These short courses are unusually training oriented, and training cannot be supported by LEEP monies. The institution will be required to restore any grant or loan funds awarded to students for attendance at any short seminar, short-term institute or other short course that is not approved in writing by OCJET. Approval of a LEEP grant for the institution does not indicate automatic approval of short courses that may be identified in the annual institutional application for funds.

34. *Remedial Courses:*

Remedial courses required as a prerequisite for enrollment in an academic program cannot be supported with LEEP funds. A remedial course which is part of an approved academic program in which the student already is enrolled may be paid from LEEP funds.

35. *Off-campus or Extension Courses:*

Extension courses, external degree programs, and courses taught at sites off the main campus are ineligible for LEEP funds unless specifically approved by LEAA in a Special Condition to the Grant Award document. If the institution requests funds for off-campus locations, it must demonstrate to OCJET that the courses meet all the criteria in paragraph 31 and all other LEAA requirements for academic offerings. To be approved for LEEP funds an off-campus must:

(a) *Fill an educational need* for criminal justice personnel as identified through systematic planning, and

(b) *Provide an academic offering* not otherwise available in the designated geographic area.

(c) *Operate within the state* where the main campus is located.

49. *Academy Courses:*

Sometimes state and local criminal justice training academies contract with institutions of higher education for college-level courses that satisfy agency certification requirements. These courses are eligible for LEEP support if the following stipulations are met and prior written approval is obtained from OCJET:

(a) The courses must comply with the criteria set forth in paragraph 31;

(b) The student must be offered the option of using funding sources other than LEEP and shall be counseled regarding financial or employment obligations incurred by the use of LEEP funds;

(c) The student shall not be required to repeat a course which he/she already has completed successfully;

(d) The course shall not be basic recruit training or the equivalent.

(e) If the student resigns or is dismissed by the criminal justice agency, the educational institution shall permit the student to complete the course(s) in which he/she is enrolled.

Institutional applications and official guidelines governing all aspects of LEEP can be obtained by contacting: Office of Criminal Justice Education and Training, Law Enforcement Education Program, Law Enforcement Assistance Administration, Washington, D.C. 20531.

The deadline for institutional application for academic year 1979-80 is February 26, 1979. For further information, please call 301-492-9040 and ask for the LEEP Coordinator responsible for your state.

Dated December 5, 1978.

J. PRICE FOSTER,
Director, Office of Criminal Justice Education and Training.

[FR Doc. 78-35024 Filed 12-15-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

MEDIA ARTS PANEL (PRODUCTION AID/ RADIO)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Production Aid/Radio) to the National Council on the Arts will be held on January 8, 1979, from 9:00 a.m.-5:30 p.m.; January 9, 1979, from 9:00 a.m.-5:30 p.m. in Room 1426, Columbia Plaza, 2401 E Street, N.W., Washington, D.C. 20506

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-35025 Filed 12-15-78; 8:45 am]

[7537-01-M]

OPERA/MUSICAL THEATRE PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Opera/Musical Theatre Panel will occur on January 8, 1979, from 9:00 a.m.-6:00 p.m.; January 9, 1979, from 9:00 a.m.-6:00 p.m.; and January 10, 1979, from 9:00 a.m.-4:00 p.m. in Room 1422 of the Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

A portion of this meeting will be open to the public on January 8, 1979, from 9:00 a.m.-6:00 p.m.; January 9, 1979, from 9:00 a.m.-6:00 p.m.; January 10, 1979 from 9:00 a.m.-11:00 a.m.

The remaining sessions of this meeting on January 10, 1979, from 11:00 a.m.-4:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-35026 Filed 12-15-78; 8:45 am]

[6720-01-M]

NATIONAL NEIGHBORHOOD REINVESTMENT CORPORATION

MEETING

TIME AND DATE: 2:30 p.m.; December 21, 1978.

PLACE: Board Room, Sixth Floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open Meeting, Board of Directors.

CONTACT PERSON FOR MORE INFORMATION:

Myra Peabody, Telephone: (202) 377-6394.

MATTERS TO BE CONSIDERED:

Acknowledgement of Document of Incorporation.
Adoption of Seal; Adoption of Bylaws.
Date of First Annual Meeting of the Board of Directors 1979.
Calendar of Regular Meetings of the Board of Directors 1979.
Relationships of the Corporation.
Election of Officers.
Special Authority of the Executive Director.
General Authority of the Executive Director.
Banking and Accounts of the Corporation.
Budget and Supplemental Appropriation Request, Fiscal year 1979.
Budget and Appropriation Request, Fiscal Year 1980.
Other Organizational Business.
No. 1, December 13, 1978.

ROBERT H. MCKINNEY,
Chairman, The Board of Directors.

[FR Doc. 78-35054 Filed 12-15-78; 8:45 am]

[3110-01-M]

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 December 11, 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 name of the agency sponsoring the proposed collection of information;

The title of each request received;

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 thru 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 LABOR

Labor Management and Service Administration
Interview Guides, Public Sector Impasses Project
LMSA 56T
Single-time
State Labor Relations Agencies, Local Government Employee Labor Union, 200 responses; 300 hours
Strasser, A. 395-6132

Labor Management and Service Administration
Airline Collective Bargaining and Regulation
LMSA 53T
Single-time
Firms and unions in U.S. civilian airline industry, 150 responses; 150 hours
Strasser, A., 395-6132

Labor Management and Service Administration
Expedited and Mini-Arbitration
LMSA 54T
Single-time
Selected users of expedited and mini-arbitration, 175 responses; 88 hours
Strasser, A., 395-6132

Labor Management and Service Administration
Structure and Administration of Large Local Unions
LMSA 51T
Single-time
Union member and officers, 2,040 responses; 646 hours
Strasser, A., 395-6132

Labor Management and Service Administration
Impact of Regulation on Collective Bargaining in Ohio electric and gas utilities
LMSA 55T
Single-time
Selected business and labor officials, 46 responses; 69 hours
Strasser, A., 395-6132

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration
Inventories: (A) System of Penalties for Violations of Vehicle Weight Laws; (B) System for the Issuance of Special Permits
Single-time
State highway agencies, 52 responses; 104 hours
Geiger, Susan B., 395-5867

REVISIONS

DEPARTMENT OF LABOR

Employment and Training Administration
Longitudinal Manpower Survey Youth Attitudinal Questionnaire
LMS-50
Quarterly
Participants in ETA, CETA youth program, 2,750 responses, 438 hours
Strasser, A., 395-6132

Employment and Training Administration
National Longitudinal Surveys, Survey of Work Experience of Mature Women Questionnaire and Letter
MT-293B(ETA) LGT-391 and LGT-393
(Census)
Annually
Men aged 45-59 in 1966, 14-24 in 1966, and Women 30-44 in 1967, 11,700 responses; 4,550 hours
Strasser, A., 395-6132

EXTENSIONS

DEPARTMENT OF DEFENSE

Departmental and Other
Contract Data Status Report
Monthly
Aerospace & electronics industry, 461 responses; 3,688 hours
Caywood, D.P., 395-3443

DEPARTMENT OF LABOR

Employment and Training Administration
Application for Alien Employment Certification
MA 7-50, A, B, C
On occasion
Aliens seeking admission to the United States as immigrants, 150,000 responses; 115,000 hours
Strasser, A., 395-6132

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-35053 Filed 12-15-78; 8:45 am]

[4710-02-M]

DEPARMENT OF STATE

Agency for International Development

A.I.D. RESEARCH ADVISORY COMMITTEE

Renewal

DETERMINATION

The A.I.D. Research Advisory Committee performs necessary and important advisory functions in connection with the formulation of A.I.D. research policy, the appraisal of research projects and in evaluating and providing necessary advice concerning the progress and future potential of Agency funded research activities. There continues to be a need for such advisory functions.

Accordingly, I hereby determine, pursuant to the provisions of Section 14(a)(1)(a) of the Federal Advisory Committee Act (Pub. L. 92-463) and paragraph 7 of OMB Circular A-63 (Revised) that renewal of the Research Advisory Committee for a two year period beginning December 24, 1978, is in the public interest.

Dated: November 20, 1978.

JOHN J. GILLIGAN,
Administrator.

[FR Doc. 78-35068 Filed 12-15-78; 8:45 am]

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP77-15; Notice 2]

GENERAL MOTORS CORP.

Denial of Petition for Inconsequential Noncompliance

This notice denies the petition by General Motors Corp. of Warren, Michigan ("GM" herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.110, Motor Vehicle Safety Standard No. 110, *Tire Selection and Rims for Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on March 27, 1978, (43 FR 12778) and an opportunity afforded for comment.

Approximately 164 1977 model Pontiac Firebirds equipped with bucket seats may carry tire inflation placards (required by Standard No. 110) with an incorrect seating capacity and vehicle capacity weight. The placards indicate that the rear seating capacity is three persons when the correct capacity is two, that the occupant capacity is five when actually it is four, and that the total passenger capacity is 950 pounds when it is 800 pounds. Recommended tire sizes are given as "GR 78x15, GR 70x15"while the corrected placard reads: "F78x14, F70x14, FR 78x15, GR 70x15." Finally, the incorrect placard also carries ratings for "bench seat vehicles" a configuration in which the Firebird is unavailable.

GM argued that the incorrect seating capacity noncompliance was inconsequential because the physical limitations of the vehicle preclude the addition of a third passenger in the rear compartment. Further, even if the vehicle were loaded with an additional 150 pounds, its tire load limits would not be exceeded. Even if the GR 78x15 tire is used, and a third passenger is carried in the rear, "the maximum load on each rear tire would be 1238 pounds which is 142 pounds less than the maximum specified load rating" [1380 pounds at 24 psi].

No comments were received on the petition.

The noncompliance at issue is in reality three noncompliances, albeit with the same portion of the same Federal Motor vehicle safety standard. There is the failure to provide a correct vehicle capacity weight (S4.3(a)), to correctly designate seating capacity (S4.3(b)), and to provide correct recommended tire size designations (S4.3(d)). Indeed, the only portion of the required information on the placard that appears correct is the manufacturer's recommended cold tire inflation pressure. NHTSA is especially concerned about the omission of tire size designations, believing that the vehicle owner should be fully informed of all recommended sizes available in order to choose a tire that most closely meets the owner's motoring and safety needs. NHTSA also notes that one of the two sizes listed on the incorrect placard, GR 78x15, is

not included on the corrected placard. The cumulative effect of the three noncompliances is that the placard is incorrect in much of the information that it provides, and, in essence, fails to fulfill the informational function for which it was intended. Such a failure cannot be deemed "inconsequential." Although not necessary to a decision on the merits, NHTSA notes that the noncompliance can be easily remedied by mailing corrected labels to owners of the 164 vehicles involved.

Accordingly, General Motors Corp. has not met its burden of persuasion that the noncompliance with Standard No. 110 herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on December 12, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-34862 Filed 12-15-78; 8:45 am]

[4910-59-M]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee to be held on January 9, 10 and 11, 1979.

On January 9 starting at 8:30 a.m. in room 4234 of the DOT Headquarters Building the Highway Safety Data Task Force will meet. The members will hear from a representive of the National Association of Governors' Highway Safety Representatives on the States' activities in the area of highway safety data collection, needs and use. Also staff from FHWA will be present to respond to questions on highway safety data submitted by the Task Force prior to the meeting.

On January 9 at 8:30 a.m. in room 2232 of the DOT Headquarters Building the Highway Environment Task Force will meet. The members will hear a review by FHWA staff on the final report of the on-site review of safety practices on new construction projects; discuss a draft position on 3-R program (Rehabilitation, Resurfacing and Restoration); receive a status report from FHWA staff on safety in construction zones; discuss methods for reducing speed through use of traffic marking designs; and see an FHWA film on vehicle crashes involving guard rails, signs, etc.

The State-Federal Relations Task Force will meet on January 9 at 2 p.m. in room 4234 of the DOT Headquarters Building. The Task Force will review a draft of the final report on site visits and discuss with NHTSA officials State financial reporting procedures and problems.

At 8:30 a.m. on Janauary 10 in room 2232 of the DOT headquarters Building, the Safe Utilization of Commercial Vehicles Task Force will meet. The agenda will include status reports from NHTSA staff on multi-piece wheels, underride and speed limiting devices for commercial vehicles. In addition, various organizations involved in commerical vehicle safety will speak on vehicle maintenance programs and safety inspection programs.

At 1 p.m. on January 10 in room 4234 of the DOT Headquarters Building, the Emergency Medical Services Task Force will meet. The agenda will include a status report on the DOT-HEW Interagency memorandum of understanding concerning emergency medical services; a status report on emergency medical services education, information, and training; a discussion of EMS communications; a presentation on the activities of the Mid-Atlantic Emergency Medical Services Council; and a presentation on the National Association of Emergency Medical Services Administrators.

On January 11 at 8:30 a.m. in room 6200 of the DOT Headquarters Building, a meeting of the full Advisory Committee will be held. Members will hear reports from the five Task Forces which met during the previous two days and a report on Vehicle Diagnostic Inspection. Also any old or new business will be discussed.

At 2 p.m. on January 11 in room 4234 of the DOT Headquarters Building, the Motorcycle-Moped Task Force will meet. There will be a briefing by Dr. Harry Hurt, University of Southern California, on the Motorcyle Accident Factors Study, and a status report from NHTSA staff on mopeds. (This Task Force meeting was announced previously as being in another room. Please note the correct room is 4234.)

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street, S.W., (DOT Headquarters), Washington, D.C. 20590, telephone 202-426-2872. Issued in Washington, D.C. on December 13, 1978.

WILLIAM H. MARSH,
Executive Secretary.

[FR Doc. 78-35028 Filed 12-15-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF TREASURY

Customs Service

ANTIDUMPING—GOLF CARS FROM POLAND

Notice of Petition Filed by American Manufacturer, Producer or Wholesaler

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of petition filed by an American manufacturer, producer or wholesaler, pursuant to section 516(a) of the Tariff Act of 1930.

SUMMARY: This notice is to advise the public that an American manufacturer has filed a petition alleging that dumping duties with respect to golf cars from Poland are being assessed "at an improperly inadequate rate of duty". Interested persons are invited to submit written comments or views.

DATE: Comments must be received no later than January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

Steven P. Kersner, Officed of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Pursuant to section 516(a) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), and section 175.21(a), Customs Regulations (19 CFR 175.21(a)), notice is hereby given that the Commissioner of Customs received on August 8, 1978, a petition filed by AMF, Incorporated ("AMF") and its wholly owned subsidiary, Harley Davidson, Inc. ("Harley Davidson"), alleging that the amount of dumping duties assessed on imports of electric golf cars from Poland was too low. AMF and Harley Davidson are American manufacturers of electric and gasoline golf cars which are of the same class or kind of merchandise as the golf cars which are the subject of the dumping finding.

On May 9, 1978, the Customs Service issued a master list which provided the basis for assessing dumping duties on electric golf cars exported from Poland from June 30 through December 31, 1975, in connection with the finding of dumping on such merchan-

dise (T.D. 75-288). Some dumping duties have, as a result, been assessed.

It is asserted by AMF and Harley Davidson that no adjustments should have been made to the sales price by Marathon, the Canadian producer and seller of golf cars, which price was used to establish the foreign market value of Polish golf cars, in accordance with section 205(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 164(c)). The adjustments made were for economies of scale attributed to the Polish producer, and for an inflation factor. It is also asserted that prices of U.S. produced golf cars should have been utilized as the basis for computing foreign market value.

Before a decision is made with regard to this petition, consideration will be given to any relevant data, views or arguments submitted in writing. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office not later than January 17, 1979.

Written submissions will be available for public inspection, in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), at the Classification and Value Division, Headquarters, U.S. Customs Service, Washington, D.C., during regular business hours.

This notice is being published pursuant to section 516(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)) and section 175.21(a), Customs Regulations (19 CFR 175.21(a)).

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: December 5, 1978.

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

[FR Doc. 78-35073 Filed 12-15-78; 8:45 am]

[4810-35-M]

Fiscal Service

[Dept. Circ. 570, 1978 Rev., Supp. No. 7]

SAFECO NATIONAL INSURANCE CO.

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety of Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $1,157,000 has been established for the company.

Name of Company, Business Address, and State in Which Incorporated

SAFECO National Insurance Company, Safeco Plaza, Seattle, Washington 98185, Missouri.

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: December 11, 1978.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-35084 Filed 12-15-78; 8:45 am]

[4810-40-M]

[Department Circular Public Debt Series—No. 29-78]

SERIES W-1980

Treasury Notes of December 31, 1980

DECEMBER 14, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated Treasury Notes of December 31, 1980, Series W-1980 (CUSIP No. 912827 JG 8). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated January 2, 1979, and will bear interest from that date, payable on a semiannual basis on June 30, 1979, and each subsequent 6 months on December 31 and June 30, until the principal becomes payable. They will mature December 31, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupons, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, December 19, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, December 18, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders

for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own accounts.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds memberships; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. The rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to the three decimal places on the basis per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, January 2, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Wednesday, December 27, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, December 26, 1978, if the check is drawn on a bank in another Federal Reserve district.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupons form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, puchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are au-

thorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

SUPPLEMENTARY STATEMENT

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 78-35150 Filed 12-15-78; 8:45 am]

[4810-40-M]

Office of the Secretary

[Department Circular Public Debt Series—No. 30-78]

SERIES L-1982

Treasury Notes of December 31, 1982

DECEMBER 14, 1978.

1. INVITATION FOR TENDERS

1. 1. The Secretary of the Treasury, under the authority of the Second Liberty bond Act, as amended, invites tenders for approximately $2,500,000,000 of the United States securities, designated Treasury Notes of December 31, 1982, Series L-1982 (CUSIP No. 912827 JH 6). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2. 1. The securities will be dated January 2, 1979, and will bear interest from that date, payable on a semiannual basis on June 30, 1979, and each subsequent 6 months on December 31 and June 30, until the principal becomes payable. They will mature December 31, 1982, and will not be subject to call for redemption prior to maturity.

2. 2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2. 3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2. 5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, December 20, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, December 19, 1978.

3. 2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3. 3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3. 4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3. 5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3. 6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher hields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful

competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3. 7. competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATIONS

4. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5. 1. Settlement for allotted securities must be made or completed on or before Tuesday, January 2, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Wednesday, December 27, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, December 26, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5. 2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5. 3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5. 4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5. 5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6. 2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

SUPPLEMENTARY STATEMENT

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 78-35151 Filed 12-15-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda of Regulations

AGENCY: Veterans Administration.

ACTION: Semiannual notice of agenda of regulations, significant and nonsignificant, under development or review.

SUMMARY: This agenda announces the regulations, both significant and nonsignificant, that the Veterans Administration will have under development and review during the 6-month period from December 18, 1978 through June 17, 1979. The Veterans Administration's purpose in publishing this agenda is to give the public notice for comment on those regulations under development or review during this 6-month period.

DATE: Comments must be received on or before February 16, 1979.

ADDRESS FOR COMMENTS: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT:

Mr. W. E. Stewart, Management Services (61), 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-3770.

ADDITIONAL COMMENT INFORMATION

Comments should be addressed to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments will be available for public inspection until February 26, 1979, at the above address, room 132, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Persons visiting the VA Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit (271A) in room 132. Persons visiting or calling VA field stations will be informed that the records are available for inspection only in Central Office.

SUPPLEMENTAL INFORMATION: Executive Order 12044, "Improving Government Regulations" requires that executive agencies publish in the FEDERAL REGISTER a semiannual agenda of regulations under development and review. In the FEDERAL REGISTER of Monday, October 2, 1978, the VA announced that its semiannual agenda would be published on December 18, 1978, and June 18, 1979. The Veterans Administration's next semiannual agenda of regulations will be published in the June 18, 1979, issue of the FEDERAL REGISTER.

Approved: December 13, 1978.

MAX CLELAND,
Administrator
of Veterans' Affairs.

SIGNIFICANT REGULATIONS PROPOSED OR UNDER DEVELOPMENT

Legal Authority	Title	Brief Description	Knowledgeable Official
Pub. L. 95-476, Veterans' Housing Benefits Act of 1978, 10-18-78.	Payment of Plot Allowance and Reimbursement for Cost of a Non-Government Headstone.	Pays $150 plot allowance to state government or political subdivision if veteran is buried without charge in cemetery of state or political subdivision.	T. H. Spindle, (202) 389-3005
Pub. L. 95-479, Veterans' Disability Compensation and Survivors' Benefits Act of 1978, 10-18-78.	Disability, DIC, funeral, and burial expense increases. Provision of DIC benefits to surviving spouses and children of certain totally disabled veterans.	Increases compensation and DIC rates and various allowances.	T. H. Spindle, (202) 389-3005
Pub. L. 95-588, Veterans' and Survivors' Pension Improvement Act of 1978, 11-4-78.	Improved Pension Program	Establishes new pension program that guarantees pensioner an income level above poverty. Assures that VA pension benefits will not be reduced solely as a result of a COL increase in social security benefits.	T. H. Spindle, (202) 389-3005
Pub. L. 95-202, G.I. Bill Improvement Act of 1977, 11-23-77.	G.I. Bill Improvement Act and Post-Vietnam Era Veterans Educational Assistance Act.	To amend and augment appropriate VAR's to implement provisions of G.I. Bill Improvement Act of 1977 and Adjustment of Education Loan Program.	June C. Schaeffer, (202) 389-2092
Pub. L. 94-502, Veterans' Education and Employment Assistance Act of 1976, 10-15-76.	Post-Vietnam Era Veterans' Educational Assistance.	To provide joint capital DoD/VA regulations to implement those provisions of Pub. L. 94-502 which concern a new voluntary education program for service members and veterans.	June C. Schaeffer, (202) 389-2092
Pub. L. 94-581 Veterans' Omnibus Health Care Act of 1976, 10-21-76. Pub. L. 95-62 State Veterans' Home Assistance Improvement Act of 1977, 7-5-77.	Grants to States for Construction of State Home Facilities.	Revision of 6100 series of regulations to implement Pub. L. 94-581 and Pub. L. 95-62.	Harold Graber, (202) 389-3854
Pub. L. 95-521 Ethics in Government Act of 1978, 10-26-78.	Financial Disclosure for Executive Personnel.	Will require Federal employees in grades GS-16 and above to disclose in great detail each year their income, assets, debts, any gifts worth more than $250 not from their relatives and considerable other financial information.	Laverne L. Bunn, (202) 389-3793
Pub. L. 95-563 Contract Disputes Act of 1978, 11-1-78.	Appeals from Decisions of Contracting Officers.	Will expand the jurisdiction of the agency Board of Contract Appeals and establish new procedural requirements for the processing of appeals.	Patricia Malloy, (202) 275-1750
Pub. L. 93-112 Rehabilitation Act of 1973, 9-26-73.	Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.	Implements Sec. 504 of Pub. L. 93-112 in assuring that federally assisted programs and activities are operated without discrimination on the basis of handicap.	Charles B. VanStone, (202) 389-3372

SIGNIFICANT REGULATIONS SCHEDULED FOR REVIEW

CFR Section	Title	Brief Description	Knowledgable Official
38 CFR 21.4201	Education—Restrictions on Enrollment-Percentage of Students Receiving Financial Support.	Reduces the number of reports required from schools to show that their courses comply with the 85-15% ratio requirement.	June C. Schaeffer, (202) 389-2092
38 CFR 21.4277	Education—Discontinuance—Unsatisfactory Progress and Conduct.	To eliminate necessity for some educational institutions to maintain separate standards of progress for veterans-students.	June C. Schaeffer, (202) 389-2092
38 CFR 21.4252(g)	Education—Courses Precluded—Vocational Courses.	To reduce the number of reports required from schools in connection with 50% employment survey.	June C. Schaeffer, (202) 389-2092

SIGNIFICANT REGULATIONS SCHEDULED FOR REVIEW—Continued

CFR Section	Title	Brief Description	Knowledgable Official
38 CFR 21.4280	Education—Independent Study	To amend and augment the regulation in order to provide definition of independent study courses and subjects as well as combination courses involving independent study; and to provide instructions for measuring such courses.	June C. Schaeffer, (202) 389-2092
38 CFR 36.4300-36.4393	Loan Guaranty—Guaranty or Insurance of Home Loans to Veterans.	Sets forth basic requirements for loan origination, loan service, and loan termination of VA guaranteed and insured home and condominium loans, and specifies the rights, duties and obligations of veterans, lenders, holders, builders and other entities engaged in activities relating to the VA guaranteed and insured loan programs.	George D. Moerman, (202) 389-3042

NON-SIGNIFICANT REGULATIONS SCHEDULED FOR REVIEW

38 CFR 2.4	Delegation of Authority to order Paid Advertising for Use in Recruitment.	To coordinate agencywide paid recruitment efforts.	Sam Dowdy, (202) 389-2539
38 CFR 0.735-1 through 0.735-85	Standards of Ethical Conduct and Related Responsibilities.	To provide uniform guidelines which ensure that government business is performed properly, that citizens maintain confidence in their government, and that employees and special government employees in the VA maintain the highest possible standards of honesty, integrity, impartiality and conduct.	Laverne Bunn, (202) 389-3793
38 CFR 1.450-1.455	Investigation	Covers investigation policies, jurisdiction, and regulations pertaining to Central Office Investigations.	William L. Rettew, (202) 389-3093
38 CFR 1.10	Veterans Assistance-U.S. Flag for Burial Purposes.	Governs disposition of U.S. flags available for veterans burials.	William Hardwick, (202) 389-2813
38 CFR 13.1-13.111	Veterans Assistance-DVB Fiduciary Activities.	Administration of benefits due to incompetent adult beneficiaries or minors.	Charles F. Lee, (202) 389-3643
38 CFR 18.1-18.13, 18a.1-18a.5, 18b.1-18b.95.	Veterans Assistance-Civil Rights	Outlines VA's responsibility in enforcing nondiscrimination in federally assisted programs/effectuation of Title VI, Civil Rights Act of 1964.	Melvin T. Jackson, (202) 389-2095

[FR Doc. 78-35071 Filed 12-15-78; 8:45 am]

[8320-01-M]

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 12, 1979, at 1:00 p.m., the Winston-Salem Veterans Administration Regional Office Station Committee on Educational Allowances shall at Room 609, Federal Building, 251 North Main Street, Winston-Salem, North Carolina, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in K & W Aviation, Inc., Goldsboro, North Carolina, should be discontinued, as provided in 38 CFR 21.4207, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

KENNETH E. MCDONALD,
Director.

DECEMBER 11, 1978.

[FR Doc. 78-35069 Filed 12-15-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 758]

ASSIGNMENT OF HEARING

DECEMBER 13, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assigments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-144640 (Sub-No. 2F), Agricultural Services Association, Inc., now assigned for hearing on January 18, 1979, (2 days), in room no. 635, Post Office Building, 6th & Broadway, Louisville, KY.

MC 102616 (Sub-No. 948F), Coastal Tank Lines, Inc., now being assigned for continued hearing on February 6, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 78228 (Sub-No. 79F), J. Miller Express, Inc., now assigned January 25, 1979, at Chicago IL, is cancelled and transfered to modified procedure.

MC 134068 (Sub-No. 39F), Kodiak Refrigerated Lines, Inc., now assigned for hearing on January 29, 1979, at San Francisco, CA is postponed indefinitely.

No. MC 144170, Nationwide Truck Lines, Inc., now being assigned for continued hearing on January 3, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 135874 (Sub-No. 114F), LTL Perishables, Inc., now assigned for hearing on January 15, 1979, at St. Paul, Minn., is postponed indefinitely.

No. MC-C-10038, A & H Truck Line, Inc., Et Al. v. Overnite Transportation Company, now assigned for hearing on January 18, 1979, at Louisville, Kentucky is postponed indefinitely.

No. MC 98291 (Sub-No. 3F), Kunkle Transfer & Storage Co., now assigned for hearing on January 30, 1979, at Phoenix, Arizona is postponed indefinitely.

No. MC 138144 (Sub-No. 27F), Fred Olson Co., Inc., now being assigned for continued hearing on February 27, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. I&S M-27312 Restructured Rates and Charges, Central States Territory, now assigned for hearing on December 19, 1978, at Washington, D.C. is postponded to January 19, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 200 (Sub-No. 300F), Riss International Corporation (a Deleware Corporation), now assigned for hearing on January 18, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Building.

MC 103066 (Sub-No. 68F), Stone Trucking Company, a Corporation now assigned for hearing on January 9, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Office Building.

MC 118535 (Sub-No. 117F), Tiona Truck Lines, Inc., now assigned for hearing on January 15, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Office Building.

MC 119777 (Sub-No. 347F), Ligon Specialized Hauler, Inc., now assigned for hearing on January 11, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Office Building.

MC 4405 (Sub-No. 577F), Dealers Transit, Inc., now assigned for hearing on January 12, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Office Building.

MC119493 (Sub-No. 201F), Monkem Company, Inc., now assigned for hearing on January 10, 1979, at Kansas City, Missouri and will be held in Room 609, Federal Office Building.

MC 118535 (Sub-No.122F), Tiona Truck Lines, Inc., now assigned for hearing on January 16, 1979, at Kansas City, Missouri and will held in Room 609, Federal Office Building.

MC 133119 (Sub-No. 134F), Heyl Truck Lines, Inc. now assigned for hearing on January 24, 1979, at Omaha, Nebraska and will be held in Room 616, Union Plaza.

No. 36989, Adams Packing Association, Inc., Et Al. v. Consolidated Rail Corporation, Et Al., now assigned for hearing on January 9, 1979, at Orlando, Florida, is postponed to February 6, 1979 (9 days), at Orlando, Florida, in a hearing room to be later designated.

No. MC 136109 (Sub-No. 1F), Hetem Bros., Inc., now being assigned for continued hearing on January 4, 1979 (2 days), at New York, N.Y., in Room E-2222, Federal Building, 26 Federal Plaza.

No. MC 19553 (Sub-No. 39F), Knox Motor Service, Inc., now being assigned for hearing on January 15, 1979 (1 week), at Chicago, Illinois, in Room No. 350, 230 South Dearborn Street.

No. MC 134286 (Sub-No. 63F), Illini Express, Inc., now assigned for hearing on January 25, 1979, at Omaha, Nebraska and will be held in Room 616, Union Plaza.

No. MC 143651 (Sub-No. 4F), Blackhawk Express, Inc., now assigned for hearing on January 26, 1979, at Omaha, Nebraska and will be held in Room 616, Union Plaza.

No. MC 111320 (Sub-No. 69F), Keen Transport, Inc., now assigned for hearing on January 31, 1979, at Omaha, Nebraska and will be held in Room 616, Union Plaza.

No. MCF 13562, Nolte Bros. Truck Line, Inc.—Control and Merger—Nebraska Overland Express, Inc., now assigned for hearing on January 29, 1979, at Omaha, Nebraska and will be held in Room 616, Union Plaza.

No. MC 119789 (Sub-No. 437F), Caravan Refrigerated Cargo, Inc., now assigned for hearing on January 23, 1979, at Omaha, Nebraska and will be held in Room 616, Union Plaza.

MC 138882 (Sub-No. 32F), Wiley Sanders, Inc., now assigned for hearing on January 24, 1979, at Birmingham, Alabama and will be held in Room 430, U.S. Court & Federal Building.

MC 136828 (Sub-No. 26F), Cook Transports, Inc., now assigned for hearing on January 29, 1979, at Birmingham, Alabama and will be held in Room 430, U.S. Court & Federal Building.

MC 120257 (Sub-No. 41F), K. L. Breeden & Sons, Inc., now assigned for hearing on January 25, 1979, at Birmingham, Alabama and will be held in Room 430, U.S. Court & Federal Building.

MC 120651 (Sub-No. 3F), Hires Trucking Co., Inc., now assigned for hearing on January 31, 1979, at Indianapolis, Indiana and will be held in Room 402, Old Federal Building.

No. MC-139577 (Sub-No. 23F), Adams Transit, Inc., now assigned for hearing on February 21, 1979 (1 day), at Chicago, Illinois in a hearing room to be later designated.

No. MC-25869 (Sub-No. 142F), Nolte Bros, Truck Lines, Inc., now being assigned for hearing on February 22, 1979, (2 days), at Chicago, Illinois in a hearing room to be later designated.

NO. MC-133689 (Sub-No. 187F), Overland Express, Inc., now being assigned for hearing on February 26, 1979, (5 days), at St. Paul, Minnesota in a hearing room to be later designated.

No. MC-107107 (Sub-No. 467F), Alterman Transport Lines, Inc., now being assigned for hearing on January 22, 1979, (1 week), at Tallahassee, Florida in a hearing room to be later designated.

H. G. HOMME, Jr.
Secretary.

[FR. Doc. 78-35087 Filed 12-15-78; 8:45 am]

[7035-01-M]

[Notice 759]

ASSIGNMENT OF HEARINGS

DECEMBER 13, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

Correction *

No. MC 123681 (Sub No. 34F), Widing Transportation, Inc., now assigned for hearing on January 22, 1979, at Seattle, Washington and will be held in Room 3086, Federal Building.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-35088 Filed 12-15-78; 8:45 am]

[7035-01-M]

[Notice No. 143]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and

*This corrects the preview publication of the hearing room location, which did not give the correct city & state.

participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77864, filed October 1, 1978. Transferee: AUBURNDALE TRANSPORTATION CO., INC., 105 Rumford Street, Auburndale, MA 02166. Transferor: HEGARTY BROS., TRANS, INC., 59 Sherman Road, Chestnut Hill, MA 02167. Transferee's representative: George C. O'Brien, 12 Vernon Street, Nowrood, MA 02062. Transferor's representative: Arthur M. Gallagher, 79 W. Park Drive, Wakefield, MA 01860. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of registration No. MC-96945 (Sub-No. 1), issued January 3, 1964, as follows: General commodities, between points in MA. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77913, filed October 26, 1978. Transferee: L & E FREIGHT LINE, INC., d.b.a. LIGHTNING EXPRESS FREIGHT LINES, INC., 2950 Blake Street, Denver, CO 80205. Transferor: DONALD R. WILLS, d.b.a. TWEEDY TRANSFER, P.O. Box 7, Elbert, CO 80106. Applicants' representative: Robert D. Gower, Attorney, 50 Steele Street, Suite 500, Denver, CO 80209. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates of Registration Nos. MC-98946 (Sub-No. 1) and MC-98946 (Sub-No. 2) issued October 25, 1965, and August 15, 1974, respectively, as follows: Transportation of all freight, except livestock and farm produce from the Town of Elbert, CO and within a radius of 10 miles thereof to Denver, CO, and from Denver, CO to said territory, with a distinct understanding, however, that applicant will not be permitted to transport freight between Kiowa and Elizabeth, or intermediate points in competition with any present certificate holder authorized to serve said points. Transportation, on schedule, of General commodities, except livestock, commodities in bulk, in tank vehicles, and used unpacked and uncrated household goods: Between Denver, Kiowa and Elbert, CO, over the following routes: (1) From Denver over Interstate Highway 79 thence over Interstate Highway 225 to Colorado Highway 83 (Parker Road) to Franktown, CO, thence over Colorado Highway 86 to Kiowa, CO thence over Elbert County Highway 157 to Elbert, CO, and return over the same route; and (2) over Interstate Highway 25 to Colorado Highway 88 (Arapahoe Road), thence over Colorado Highway 88 to Colorado Highway 83 (Parker Road), thence over Colorado Highway 83 to Franktown, CO thence over Colorado Highway 86 to Kiowa, CO thence over Elbert County Highway 157 to Elbert, CO, and return over the same route. Serving under the second commodities description as intermediate points all points located on said highways commencing at the north county line of Douglas County and ending at Elbert, CO and serving as off-route points those points lying in the area within two miles west of Colorado Highway 83 and ten miles east thereof; and all points within ten miles north and ten miles south of Colorado Highway 86 from Franktown to Kiowa, CO; and all points lying within ten miles east and ten miles west of Elbert County Highway 157 from Kiowa to Elbert, CO, and within ten miles east and ten miles west of Elbert County Highway 217 from Elbert, CO to a point on Elbert County Highway 218 located ten miles south of Elbert, CO. Transferee holds ICC authority in Nos. MC-120686 Subs 1, 3, 4 and 5. Application has been filed for temporary authority under Section 210a(b).

MC-FC-77935, filed November 13, 1978. Transferee: STOLTENBERG TRUCKING CO., INC., 1918 4th Avenue North, Lewiston, ID 83501. Transferor: CARL W. STOLTENBERG, (Lillian V. Stoltenberg—heir-at-law), d.b.a. STOLTENBERG TRUCKING, Box 365, Kimberly, ID 83341. Applicants' representative: Raymond D. Givens, Box 964, Boise, ID 83701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC-116730 (Sub-No. 2), and MC-116730 (Sub-No. 5), issued October 4, 1965, and November 27, 1968, respectively, as follows: Lumber, from Cottonwood and Elk City, ID, to points in CO, IA, NE, WI, and WY, and lumber, and timbers, and beams, from Lewiston and Jaype, ID, to points in CO, IA, NE, WI, and WY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-35089 Filed 12-15-78; 8:45 am]

[7035-01-M]

[Notice No. 232]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

December 12, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 531 (Sub-363TA), filed November 2, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Road, Houston, TX 77021. *Vegetable oils* (in bulk, in tank vehicles), from Weehaw-

ken, NJ, to Garland, TX, for 180 days. SUPPORTING SHIPPER(S): Agricom Oilseeds, Inc., P.O. Box 2823, San Francisco, CA 94126. SEND PROTESTS TO: John F. Mensing, DS, 8610 Federal Bldg., 515 Rusk Avenue, Houston, TX 77002.

MC 200 (Sub-316TA), filed November 2, 1978. Applicant: RISS INTERNATIONAL CORP., 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody, 903 Grand Avenue, Kansas City, MO 64106. *Plastic containers,* from the facilities of Monsanto Company at Sharonville, OH, to the off-route points of Iowa City, IA, and Fort Madison, IA, for 180 days. SUPPORTING SHIPPER(S): Monsanto Company, 800 N. Lindbergh Blvd., St. Louis, MO 63166. SEND PROTESTS TO: Vernon V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 5227 (Sub-44TA), filed November 9, 1978. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: Gailyn L. Larsen, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Agricultural machinery, and materials, and parts and supplies* used in the distribution and sale thereof (except in bulk), from the facilities of DewEze Manufacturing, Inc., at or near Harper, KS, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: DewEze Manuacturing, Inc., Bob W. Hixson, General Manager, Route 2, Box 4A, Harper, KS. Send protests to: Max Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building and U.S. Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 26396 (Sub-209TA), filed October 30, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Iron and steel articles,* (1) from Burns Harbor and Gary, IN., to the facilities of Global Coatings, Inc., located at or near Pleasant Grove, UT; and (2) from the facilities of Global Coatings, Inc., located at or near Pleasant Grove, UT, to Mills, WY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Robert W. Eckhart, Material Control Manager, Western Oil Tool & Mfg., Co., P. O. Box 260, Casper, WY 82602. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602 First Ave., North, Billings, MT 59101.

MC 29647 (Sub-44TA), filed October 30, 1978. Applicant: CHARLTON BROS. TRANSPORTATION CO., INC., 552 Jefferson Street, Hagerstown, MD 21740. Representative: Edward J. Donohue, 552, Jefferson Street, P.O. Box 2097, Hagerstown MD 21740. *General commodities,* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), Serving the plant site of Cello Chemical Co., at Havre de Grace, Md., as an off-route point in connection with carrier's existing regular routes, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Cello Chemical Co., Executive Plaza No., One, Room 305, 200 Shawan Road, Hunt Valley, MD 21031. SEND PROTESTS TO: T. M. Esposito Trans. Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 59655 (Sub-17TA), filed October 17, 1978. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Containers and materials and supplies,* used in the manufacture, distribution or sale of containers, (except commodities in bulk), between Danbury, CT, on the one hand, and, on the other, Eden and Clemmons, NC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): National Can Corporation, Route 287 and So. Randolphville Road, Piscataway, NJ 08854. SEND PROTESTS TO: Maria B. Kejss Trans., Asst., ICC, 26 Federal Plaza, New York, NY 10007.

MC 64068 (Sub-7TA), filed November 9, 1978. Applicant: CAPITAL CITY TRANSFER CO., P.O. Box 7168, Salem, OR 97303. Representative: Earle V. White, 2400 S.W., Fourth Avenue, Portland, OR 97201. *Liquid sweeteners, (sugar, corn syrup, and combinations thereof),* in bulk, from Salem, OR, to Bellevue, Longview, Seattle, Spokane, Sunnyside, Vancouver, Wapato and Yakima, WA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Liquid Sugars Northwest, P.O. Box 2932, Portland, OR 97208. SEND PROTESTS TO: A.E. Odoms DS, ICC, 555 S.W., Yamhill Street, Portland, OR 97204.

MC 86247 (Sub-14TA), filed October 30, 1978. Applicant: I. C. L. INTERNATIONAL CARRIERS LTD., 1333 College Avenue, Windsor, ON, Canada. Representative: Joseph P. Allen, 7701 W. Jefferson, Detroit, MI 48209. *Magnesite and high temperature bonding mortar,* (in bulk, in dump vehicles), from the facilities of the Harbison Walker Co., Ludington, MI., to the international boundary between the United States and Canada, at Port Huron, MI., and Detroit, MI., on foreign traffic, destined to points in Canada, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Canadian Carborundum Co., Ltd., 7772 Stanley Avenue, Niagara Falls, Ontario, Canada. (Frank Richards, Director Purchasing & Traffic) SEND PROTESTS TO: Tim Quinn DS, ICC, 604 Federal Bldg., & U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI. 48226.

MC 88818 (Sub-3TA), filed November 2, 1978. Applicant: MAYNARD T. WEDUL, d.b.a. WEDUL TRUCK LINE, P.O. Box 293, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Petroleum products,* from Minot, ND, to points within 20 miles of Viking, MN, including Viking, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Farmers Union Central Exchange, Inc., Box G, St. Paul, MN 55165. SEND PROTESTS TO: Ronald R. Mau DS, ICC, Room 268 Federal Bldg., & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 107403 (Sub-1134TA), filed November 2, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same address as applicant). *Dry sugar,* (in bulk, in tank vehicles), from Arabi, LA, to Denison, TX; Humboldt, TN, and Birmingham, AL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Amstar Corp., 7417 N. Peters Street, Arabi, LA 70032. SEND PROTESTS TO: T. M. Esposito Trans. Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107403 (Sub-1135TA), filed November 2, 1978. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). *Wax,* (in bulk, in tank vehicles), from Lima, OH, to Vincennes, IN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): The Standard Oil Co., 313 Midland Bldg., Cleveland, OH 44115. SEND PROTESTS TO: T. M. Esposito Trans., Asst., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107912 (Sub-21TA), filed October 27, 1978. Applicant: REBEL MOTOR FREIGHT, INC., P.O. Box 9384, 3060 Gill Road, Memphis, TN 38109. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. *General commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Jackson, MS and Baton Rouge, LA, serving no intermediate point, from Jackson over Interstate Hwy 55 to junction with Interstate Hwy 12, then over Interstate

Hwy 12 to Baton Rouge, and return over the same route, for 180 days. Applicant intends to tack the authority here applied for to authority held by it in MC-107912 and further intends to interline with other carriers at Memphis, TN and Jackson, MS. SUPPORTING SHIPPERS(S): There are approximately (72) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Floyd A. Johnson DS, ICC, 100 North Main Bldg., Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 109638 (Sub-35TA), filed November 2, 1978. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 145, Cherry Road, Washington, NC 27889. Representative: Cecil W. Bradley, P.O. Box 145, Cherry Road, Washington, NC 27889. *Wood pulp, paper, waste paper, and lumber,* from Riegelwood and Cape Fear, N.C., to points in Virginia, District of Columbia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, and VT., for 180 days. SUPPORTING SHIPPER(S): Federal Paper Board Company, Inc., Riegelwood, NC 28456. SEND PROTESTS TO: Archie W. Andrews DS, ICC, 624 Federal Bldg., 310 New Bern Ave., P.O. Box 26896, Raleigh, NC 27611.

MC 114045 (Sub-516TA), filed November 2, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). *Bakery goods,* in vehicles equipped with mechnical refrigeration, from Downers Grove, IL., to points in Texas, for 180 days. SUPPORTING SHIPPER(S): Pepperidge Farm, Inc., 595 Westport Avenue, Norwalk, CT. SEND PROTESTS TO: Opal M. Jones Trans., Asst., ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 115322 (Sub-153 TA), filed November 2, 1978. Applicant: REDWING REFRIGERATED, INC., 9831 S. Orange Avenue, P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. *Foodstuffs,* from Williamson and Hamlin, NY., to points in North Carolina, South Carolina, Georgia and FL, for 180 days. SUPPORTING SHIPPER(S): Duffy Mott, 370 Lexington Ave., New York, NY 10017. SEND PROTESTS TO: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 115322 (Sub-154 TA), filed November 2, 1978. Applicant: REDWING REFRIGERATED, INC., 9831 S. Orange Avenue, P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. *Wrapping paper, woodpulp board, woodpulp, and scrap paper,* from West Point, VA, to Connecticut, Deleware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania and West Virginia, for 180 days. SUPPORTING SHIPPER(S): The Chesapeake Corporation, West Point, VA 23181. SEND PROTESTS TO: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 115826 (Sub-364 TA), filed October 31, 1978. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue Denver, CO 80022. Representative: Howard Gore, 6015 East 58th Avenue, Denver, CO 80022. *Meats, meat products and meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from Denver, CO., to points in Pennsylvania, New York, Massachusetts, New Jersey, Connecticut, and MD., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): United Packing Co., 5000 Clarkson, Denver, CO. 80216. SEND PROTESTS TO: H. C. Ruoff DS, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO. 80202.

MC 115841 (Sub-642 TA), filed August 24, 1978 and published in the FEDERAL REGISTER issue of October 23, 1978, and published and corrected this issue. Applicant COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Metal roofing and siding,* from Jackson, GA., to points in Alabama, Tennessee, Florida, North Carolina and GA., for 180 days. SUPPORTING SHIPPER(S): Fabral-Division of Alcan Aluminum, 3449 Hempland Road, Lancaster, PA. 17601. SEND PROTESTS TO: Glen Kuss Trans., Asst., ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN. 37203. The purpose of this republication is to correct the sub-number MC-115841 (Sub-No. 642TA) instead of NO. MC 115841 (Sub-No. 111TA).

MC 118535 (Sub-128TA), filed November 2, 1978. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, MO 64730. Representative: Tom Ventura (same address as applicant). *Dry urea, dry ammonium nitrate, dry fertilizers and dry fertilizer ingredients,* from the facilities of Brunswick River Terminal, Inc., at or near Brunswick, MO, to points in Arkansas, Iowa, Illinois, Kansas, Nebraska and OK, and from Kansas City, MO-Kansas Commercial Zone to points in Iowa, Kansas, Missouri, Nebraska, and OK, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Midwest Terminal Co., Kansas City, MO 64141. (2) Brunswick River Terminal, Inc., Brunswick, MO 65236. SEND PROTESTS TO: John V. Barry DS, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 119441 (Sub-45TA), filed November 2, 1978. Applicant: BAKER HIWAY EXPRESS, INC. 555 Commercial Parkway, P.O. Box 506, Dover, OH 44622. Representative: Richard H. Brandon, 220 W. Bridge Street, P.O. Box 97, Dublin, OH 43017. *Brick,* from Sugarcreek, OH, to points in Arkansas, Kansas, Maine, Vermont, New Hampshire, Oklahoma, South Carolina, Texas, and LA, for 180 days. SUPPORTING SHIPPER(S): The Belden Brick Company, P.O. Box 910, Canton, OH 44701. SEND PROTESTS TO: Frank L. Calvary DS, ICC, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

MC 119493 (Sub-241TA), filed November 2, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, P.O. Box 1196, Joplin, MO 64801. *Fertilizer, tree and weed killing compounds and insecticides, and fungicides in bags and containers,* from facilities of Swift Agricultural Chemical Co., at or near East St. Louis, IL, to points in Arkansas and OK, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Swift Agricultural Chemicals, East St. Louis, IL 62202. SENT PROTESTS TO: John V. Barry DS, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 123255 (Sub-181TA), filed October 30, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Road, Newark, OH 43055. *Glass containers and closures therefor,* from the facilities of Ball Corporation located at or near Mundelien, IL, to points in New Jersey and NY, for 180 days. SUPPORTING SHIPPER(S): Ball Corporation, 345 South High Street, Muncie, IN 47305. SEND PROTEST TO: Frank L. Calvary DS, ICC, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Blvd., Columbus, OH 43215.

MC 124174 (Sub-122TA), filed October 31, 1978. Applicant: MOMSEN TRUCKING CO., 13811 L Street, Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). *Paint and paint products,* (except in bulk, in tank vehicles), from the plantsite and storage facilities of P.P.G. Industries, Inc., at or near Oak Creek, WI., to East Moline, IL.; points

in NE., and the warehouse and distribution facilities of P.P.G., Industries, Inc., at Jefferson City, MO., for 180 days. Applicant intends to tack to existing authority. SUPPORTING SHIPPER(S): James E. Yaman Manager of Traffic-C&R, PPG Industries, One Gateway Center, Pittsburgh, PA. 15222. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE. 68102.

MC 124472 (Sub-4TA), filed October 30, 1978. Applicant: HARDING TRANSPORTATION, INC., 6875 East Evans Street, Denver, CO 80222. Representative: Charles J. Kimball, 350 Capital Life Center, 1600 Sherman Street, Denver, CO. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the facilities of Libby-Owens-Ford Co., at or near Laurinburg, NC., to points in the States Arkansas, (Fort Smith & Fayetteville) MO; (Joplin, Kansas City, St. Louis, & Springfield) CO; (Colorado Springs, Denver, Pueblo, Longmont, Boulder, Greeley, & Grand Junction), NE; (Kearney, Lincoln, Norfolk, Omaha, & Gering) IA; (Sioux City); New Mexico (Farmington) KS (Garden City, Manhattan, Topeka, Salina, & Hays); and Oklahoma (Tulsa), under a continuing contract, or contracts, with Harding Glass Industries, for 180 days. SUPPORTING SHIPPER(S): Harding Glass Industries, 2340 E. 40th Street, Denver, CO. SEND PROTESTS TO: H. C. Ruoff DS, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO. 80202.

MC 124821 (Sub-39TA), filed October 31, 1978. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Avenue, Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. *Salt*, in packages, from the facilities of Morton Salt Company at Silver Springs, NY., and Perth Amboy, NJ., to points in New York, New Jersey, Pennsylvania, Massachusetts, Connecticut, and R.I., restricted to traffic originating at the above-named origin points and destined to the named destination states, for 180 days. SUPPORTING SHIPPER(S): Morton Salt, A Division of Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago, IL. 60606. SEND PROTESTS TO: Paul J. Kenworthy DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA. 18503.

MC 124835 (Sub-11TA), filed November 2, 1978. Applicant: PRODUCERS TRANSPORT CO., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams (same address as applicant). *Cement*, (in bulk, in hopper type vehicles), from the facilities of Missouri Portland Cement Company and Dundee Cement Company at or near Nashville, TN., to points in KY., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Missouri Portland Cement Co., 7711 Carondelet Avenue, St. Louis, MO. 63105. (2) Dundee Cement Company, Clarksville, MO. 63336. SEND PROTESTS TO: Glenda Kuss Trans. Asst., ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN. 37203.

MC 124839 (Sub-38TA), filed November 2, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Honeycomb paper products*, from the plantsite and facilities of Union Camp Corp., a/n Laurel, VA, to points in TN, under a continuing contract or contracts, with Union Camp Corporation, for 180 days. Supporting shipper: Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125708 (Sub-152TA), filed August 24, 1978, and published in the FEDERAL REGISTER *issue of October 23, 1978 and republished and corrected this issue. Applicant: THUNDERBIRD MOTOR FREIGHTLINES, INC., 425 West 152d Street, East Chicago, IN 46312. Representative: Mr. Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. Iron and steel articles*, from Kansas City, MO, to VA, WV, DE, MD, NC, SC, GA, FL, NY, MA, CT, VT, ME, NH, NJ, RI, and DC, restricted to traffic originating at the facilities of Armco, Inc., at Kansas City, MO., for 180 days. Supporting shipper: Armco, Inc., 7000 Roberts Street, Kansas City, MO 64125. Send protests to: Lois Stahl Trans., Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604. The purpose of this republication is to include WV, in the territorial description which was previously omitted.

MC 126243 (Sub-27TA), filed October 30, 1978. Applicant: ROBERTS TRUCKING CO., INC., U.S. Highway 271 South, P.O. Drawer G, Poteau, OK 74953. Representative: Prentiss Shelley, P.O. Drawer G, Poteau, OK 74953. *Liquid Latex*, in shipper owned trailers, from the Uniroyal Scotts Bluff Plant at or near Baton Rouge, LA, to Lewisville, Monticello and Hope, AR, and Marlin TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Textile Rubber & Chemical Co., P.O. Box 850, Poteau, OK 74953. Send protests to: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 127187 (Sub-44TA), filed November 2, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, MN 56537. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Dry fertilizer*, (in bulk), from the facilities of Agrico Chemical Co., Inc., located at or near Minneapolis, MN, to ports of entry on the United States-Canada boundary line located at or near Pembina, ND, and Noyes, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Agrico Chemical Co., Inc., P.O. Box 3166, Tulsa, OK 74101. Send protests to: Ronald R. Mau, DS, ICC, Room 268 Federal Building and U.S. Post Office, 657 2d Avenue North, Fargo, ND 58102.

MC 127204 (Sub-11TA), filed November 13, 1978. Applicant: KINDSVATER, INC., P.O. Box 1027, Dodge City, KS 67801. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Kansas Credit Union Building, Topeka, KS 66612. *Anhydrous ammonia*, (in bulk), from facilities of Chevron Chemical Co., near Friend, KS., to Colorado, Nebraska, Oklahoma, Texas, and Wyoming, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Chevron Chemical Co., 3001 LBJ Freeway, Suite 139, Dallas, TX 75234. Send Protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 128372 (Sub-3TA), filed October 30, 1978. Applicant: PHILPOT CONTRACTING CO., INC., 880 Warner Street, S.W., Atlanta, GA 30336. Representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, GA 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal telephone parts and equipment*, between the facilities of Southern Bell Telephone & Telegraph Company located at points in GA, on the one hand, and the facilities of Nassau Smelting Plant at Gaston, SC, on the other hand, under a continuing contract, or contracts, with Southern Bell Telephone & Telegraph Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Southern Bell Telephone & Telegraph Co., 125 Perimeter Center West, Atlanta, GA 30346. Send protests to: Sara K. Davis Trans. Asst., ICC, 1252 West Peachtree St., N.W., Room 300, Atlanta, GA. 30309.

MC 129032 (Sub-64TA), filed October 31, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, P.O. Box 9667, Tulsa, OK 74107. Representative: David R. Worthington, 6015 South 49th West Avenue, Tulsa OK 74107. *Merchandise*

dealt in by grocery and food business warehouses in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the facilities of Kraft, Inc., at Champaign, IL.; New Ulm, MN; and Wausau, WI, to points in CA, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send Protests to: Connie Stanley, Room 240 Old Post Office Bldg., 215 N.W., Third Street, Oklahoma City, OK 73102.

MC 129394 (Sub-8TA), filed November 2, 1978. Applicant: RONALD HACKENBERGER, d.b.a. RON'S TRUCKING SERVICE, Route 3, Norwalk, OH 44857. Representative: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products*, (in bulk), from Huron, OH, to Detroit, MI, under a continuing contract, or contracts, with Federal Lime & Stone Co., for 180 days. Supporting shipper: Federal Lime & Stone Co., 20600 Chagrin Boulevard, Cleveland, OH. 44122. Send protests to: ICC, 313 Federal Office Building, 234 Summit Street, Toledo, OH. 43604.

MC 129809 (Sub-14TA), filed November 13, 1978. Applicant: A & H, INC., 324 Old Highway 11, P.O. Box 346, Footville, WI 52537. Representative: Thomas J. Beener, One World Trade Center, Suite 4959, New York, NY 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), transported in vehicles equipped with mechanical refrigeration, (1) from the facilities of Universal Food at Franklin Park, IL, and Peru, IN, to points in Massachusetts, New York, Pennsylvania, Connecticut, New Jersey, Rhode Island, Maryland and the District of Columbia; and (2) from facilities of Universal Foods at WI, to points in Maryland and the District of Columbia, under a continuing contract, or contracts, with Universal Foods Corporation, for 180 days. Supporting shipper: Universal Foods Corporation, 433 East Michigan Street, Milwaukee, WI 53201. Send protests to: Gail Daugherty Trans., Asst., ICC, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 133194 (Sub-6TA), filed November 2, 1978. Applicant: WOODLINE MOTOR FREIGHT, INC., P.O. Box 1047, Russellville, AR 72801. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), from U.S. Highway 71, Alma, AR, to Bentonville, AR, and return, serving all intermediate points, tacking said authority to the carrier's existing authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately (20) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William H. Land, Jr., DS, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 132755 (Sub-162TA), filed November 2, 1978. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 68504. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Foodstuffs*, (except commodities in bulk), from Owensboro and Henderson, KY, to points in Alabama, Arkansas, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma and TX, for 180 days. Supporting shipper: Ragu Foods, Inc., 33 Benedict Place, Greenwich, CT 06830. Send protests to: John V. Barry DS, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 136818 (Sub-46TA), filed October 30, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood Road, Phoenix, AZ 85030. Representative: Donald Fernaays, 40404 East McDowell Road, Phoenix, AZ 85008. *Canned goods*, (except frozen and except in bulk), from Joan of Arc facilities at or near Belledeau and St. Francisville, LA, and Princeville and Hoopeston, IL, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and WY, for 180 days. Supporting shipper: Joan of Arc Company, 2231 W. Altorfer Drive, Peoria, IL 61614. Send protests to: Andrew V. Baylor DS, ICC, Room 2020 Federal Bldg., 230 N. First Avenue, Phoenix, AZ 85025.

MC 138575 (Sub-8TA), filed November 2, 1978. Applicant: GWINNER OIL CO., INC., Box 38, Gwinner, ND 58040. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, parts and supplies* used in the manufacture of agricultural, industrial and construction machinery and equipment, from the respective commercial zones of Minneapolis, MN; Chicago, IL.; and Detroit, MI., to the facilities of Clark Equipment Company, Melroe Division, at or near Gwinner, ND, under a continuing contract or contracts, with Clark Equipment Co., Melroe Division, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Clark Equipment Co., Melroe Division, Gwinner, ND 58040. Send protests to: Ronald R. Mau DS, ICC, Room 268 Federal Bldg., & U.S. Post Office, 657 2nd Avenue North, Fargo, ND. 58102.

MC 138741 (Sub-61TA), filed October 31, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, Mo 64068. *Gypsum wallboard and articles* used in the installation thereof, from the facilities of Grand Rapids Gypsum Co., Inc., at or near Grand Rapids, MI, to points in Illinois, Indiana, Ohio and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Don Draugelis Traffic Manager, Grand Rapids Gypsum Co., Inc., 201 Monroe Avenue, Grand Rapids, MI 49502. Send protests to: Lois M. Stahl Trans., Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 138741 (Sub-62TA), filed October 31, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, Mo 64068. *Steel tubing*, from the facilities of Maverick Tube Corp., at or near Union, MO, to points and places in Arkansas, Illinois, Indiana, Kansas, Kentucky, Michigan, Tennessee, Ohio and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Donald D. Symonds Shipping Foreman, Maverick Tube Corp., P.O. Box 696, Union, MO 63084. Send protests to: Lois M. Stahl Trans., Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 138991 (Sub-25TA), filed November 14, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *(1) Printed advertising matter, catalogs, magazines, and parts thereof, envelopes and calendars*, from Rochester, NY to points in CT, DC, GA, IL, IN, KY, MD, MA, MI, NC, NJ, OH, PA, TN, WI, and Nassau, Suffolk, and Westchester Counities, NY, and

New York, NY, and (2) *materials, supplies, and equipment used in the manufacture, sale or distribution of commodities in (1) above,* from the destination points named in (1) above to Rochester, NY, under a continuing contract or contracts with Case-Hoyt Rochester, Box 259, Rochester, NY 14601, for 180 days. An underlying ETA seeking up to 90 days of operating authority. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260. Supporting shipper: Case-Hoyt Rochester, Box 259, Rochester, NY 14601.

MC 139299 (Sub-2TA), filed November 13, 1978. Applicant: UNRUB GRAIN, INC., P.O. Box 94, Copeland, KS 67837. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. (1) *Alfalfa pellets,* from Great Bend and Sublette, KS, to Oklahoma and TX; and (2) *alfalfa pellets,* from Mullinville, KS, to Oklahoma, Texas and AR, for 180 days. Supporting shippers: Wy-Tex Livestock, Inc., 720 S. Roland, Spearman, TX 79081. (2) Warren H. Brensing, P.O. Box 27, Mullinville, KS 67109. Send protests to: M. E. Taylor DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139973 (Sub-53TA), filed October 30, 1978. Applicant: J.H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Iron and Steel articles,* (except commodities the transportation of which because of their size or weight require the use of special equipment), from the facilities of Keystone Consolidated Industries, Inc., at or near Peoria, IL, to points in California, Oregon, Washington and Ariz., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Keystone Steel & Wire, Keystone Consolidated Industries, Inc., Peoria, IL 61607. Send protests to: Vernon V. Coble DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City MO 64106.

MC 140118 (Sub-11TA), filed November 13, 1978. Applicant: S.T.L. TRANSPORT, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Paper, paperboard or pulpboard boxes, pails and trays, and cellulose or plastic film and foil when moving therewith,* (except commodities in bulk), and (2) *Materials, supplies, and equipment* used in the manufacture of the commodities in (1) above, (except commodities in bulk), (1) from Newark, NY, to points in Alabama, Georgia, Illinois, Indiana, Louisiana, Maine, Michigan, New Hampshire, North Carolina, Rhode Island, South Carolina, Virginia and WV, and (2) from the destination points named in (1) above, to Newark, NY, under a continuing contract, or contracts, with Fold-Pak Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Fold-Pak Corp., Mr. Robert Hiles, Mfg., Services Director, P.O. Box 269, Newark, NY 14513. Send protests to: ICC, U.S. Courthouse & Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

MC 143346 (Sub-2TA), filed November 9, 1978. Applicant: BILLY JACK HOLLINGSWORTH, d.b.a. HOLLINGSWORTH GRAIN & TRUCKING, P.O. Box 384, Sanger, TX 76266. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. *Animal and poultry feeds and ingredients,* from points in TX, to points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma and TN., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (8) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Martha A. Powell Trans., Asst., ICC, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 143607 (Sub-2TA), filed October 30, 1978. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 8155, Waco, TX 76710. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Washington, DC 20001. Authority sought to operate as a *Contract carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals,* (except in bulk), from Chicago, IL; Rothchild, WI; Niagara Falls, NY; Syracuse, NY; Worcester, MA; Sewaran, NJ; Cleveland, OH; Richmond, VA; Norfolk, VA; Castle Haynes, NC; Memphis, TN; Mobile, AL; Lawrence, KS; Carlsbad, NM; Corona, CA; Birmingham, AL; St. Louis, Mo; and Everett, MA, to Arlington, Houston, and San Antonio, TX, under a continuing contract or contracts, with Accron Chemical Distribution, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Accron Chemical Distri., 620 107th Street, Arlington, TX. 76011 Dallas, Fort Worth, Inc., (2) Accron Chemical Distr., Houston, San Antonio, Inc., P.O. Box 10660, Houston, TX 77018. SEND PROTESTS TO: Martha A. Powell Trans. Asst., ICC, Room 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, TX 76102.

MC 143829 (Sub-4TA), filed October 30, 1978. Applicant: FEDERATED TRANSPORT SYSTEMS, 800 South McCarry Street, Los Angeles, CA 90021. Representative: Lucy Kennard Bell, Daniel M. Shapiro Law Offices, 9701 Wilshire Boulevard, Suite 829, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Paper cups and paper food containers, nested solid,* from Chelsea, Mass., to points and places in California, Clackamas and Portland, OR; Salt Lake City, UT, and Sparks, Nev., under a continuing contract or contracts, with Sweetheart Paper Products Company located in Chelsea, Mass., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Sweetheart Paper Products Company, 191 Williams Street, Chelsea, MA 02150. SEND PROTESTS TO: Irene Carlos Trans. Asst., ICC, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 14330 (Sub-48TA), filed November 2, 1978. Applicant: UTAH CARRIERS, INC., P.O. Box 1218 Freeport Center, Clearfield, UT 84016. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Lumber,* from Fredonia, AZ, to Caldwell, ID, and Bend, OR, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kaibab Industries, P.O. Box 20506, Phoenix, AZ 85036. (John Kalisiak Traffic Coordinator) SEND PROTESTS TO: L. D. Helfer DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 144622 (Sub-25TA), filed October 31, 1978. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phil Glenn, P.O. Box 9343, Little Rock, AR 72219, and Theodore Polydoroff, 1307 Dolley Madison Boulevard., Suite 301, McLean, VA 22101. *Canned goods,* (except frozen and in bulk), from the facilities of Joan of Arc Company at or near Hoopeston and Princeville, IL, to points in Alabama, Arkansas, Connecticut, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia and WV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Joan of Arc Company, 2231 West Altorfer Drive, Peoria, IL. 61614 SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR. 72201.

MC 145152 (Sub-17TA), filed October 30, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764.Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. *Agricultural fungicides, herbicides, disinfectants and cleaning compounds,* (except in bulk), from the facilities of New South Manufacturing Company, Inc., at or near Atlanta, GA, to points in Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee and TX, for 180 days. SUPPORTING SHIPPER(S): New South Manufacturing Co., 4181 Peachtree Road, Atlanta, GA. 30319 SEND PROTESTS TO: William H. Land, Jr., DS, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, AR 72201.

MC 145174 (Sub-1TA), filed October 30, 1978. Applicant: NORTH FORTY LINES, INC., 6700 Driftwood Lane, Missoula, MT 59801. Representative: Bruce K. Meier (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *All wood and wood products, and building materials and supplies,* from all points in Washington, Oregon, Idaho, Montana and CA, to all points in Utah, Arizona, Colorado, New Mexico and NV, under a continuing contract, or contracts, with Hampton Affiliates, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): David R. Benson Traffic Manager, Hampton Affiliates, 901 Terminal Sales Bldg., Portland, OR 97205. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 145305 (Sub-1TA), filed November 9, 1978. Applicant: BEVTRANS, INC., P.O. Box 778, Hartford, CT 06101. Representative: William J. Boyd, William J. Boyd, P.C., 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by producers and distributors of alcoholic beverages, liquors and wines, between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the Continental United States, (except Alaska and Hawaii), under a continuing contract, or contracts, with Heublein, Inc. for 180 days. SUPPORTING SHIPPER(S): Heublein, Inc., 330 New Park Avenue, Hartford, CT. 06101. SEND PROTESTS TO: J. D. Perry, Jr., DS, ICC, 135 High St., Room 324, Hartford, CT. 06103.

MC 145500 (Sub-2TA), filed October 30, 1978. Applicant: EAST TEXAS CARTAGE CO., 3300 West Front Street, P.O. Box 7225, Tyler, TX 75711. Representative: Harry F. Horak, 5001 Brentwood Stair Road, Suite 115, Fort Worth, TX 76112. *Trailers, (loaded or empty),* having a prior or subsequent movement by rail on trailer-on-flatcar service (TOFC) between railroad ramping facilities located in Tyler, Longview, and Dallas, TX, on the one hand, and, on the other, points in Smith, Rusk, Cherokee, Anderson, Henderson, Van Zandt, Wood, Upsher, Morris, Camp, Titus, Harrison, and Gregg Counties, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are approximately (7) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Opal M. Jones Trans. Asst., ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 145542 TA, filed October 4, 1978. Applicant: GEORGE C. BLAKE TRUCKING, INC., 36331 85th Street, East Littlerock, CA 93543. Representative: James S. Payne, 4262 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Bulk salt,* in dump trucks, (1) from Trona, CA, to Las Vegas, NV, State route 178 to Trona Road, to 395, to 58, to U.S. 15, to Las Vegas, NV; (2) from Trona, CA, to Davis Dam, NV, State route 178 to Trona Road, to 395, to 58, to 40, to 95, to Nevada 77, to Davis Dam, NV; (3) from Trona, CA, to Mercury NV, State route 178 to Trona Road, to 395, to 58, to U.S. 15, to Las Vegas, then Nevada 95 to Mercury, NV; and (4) from Trona, CA, to Henderson, NV, State route 178 to Trona Road, to 395, to 58, to U.S. 15, then 41 off U.S. 15 to Henderson, NV, under a continuing contract or contracts, with Pacific Salt and Chemical Company, for 180 days. Supporting shipper(s): Pacific Salt & Chemical Company, 4262 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Send protests to: Irene Carlos Trans., Asst. ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145577 TA, filed October 17, 1978. Applicant: GULLETT-GOULD, LTD., Drawer 32, Union City, OH 47380. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. *Compressors, liquid or gas, and evaporator coils,* from Syracuse and De Witt, NY; Tecumseh, MI, and Marion, Sidney and West Union, OH, to the facilities of BDP Company, a division of Carrier Corp., located at or near City of Industry, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): BDP Company, Division of Carrier Corp., Bernhard Ionescu, Traffic Manager, 855 Anaheim-Puente Road, La Puente, CA 91749. Send protests to: Paul J. Lowry DS, ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145595 (Sub-1TA), filed October 31, 1978. Applicant: GORMLEY TRUCKING, 1607 W. Swan, Springfield, MO 65807. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Sand, gravel and rock,* From (a) Coweta, OK., to Branson and Ozark, MO., and (b) Bonner Springs, Overland Park, and Edwardsville, KS., to Springfield and Clinton, MO., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Stewart Nattinger, Inc., Springfield, MO., and (2) Ozark Concrete Co., Springfield, MO. SEND PROTESTS TO: John V. Barry DS, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO. 64106.

MC 145674 (Sub-1TA), filed November 2, 1978. Applicant: HEPP TRUCK SERVICE, Route 2, New Athens, IL 62264. Representative: Betty Hepp (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Finished steel grain storage tanks, and accessories, and accessories, consisting of fans, augers, drying floors, and sheet steel, and prefabricated metal and plastic components, used in manufacturing thereof,* between all points in Illinois, Indiana, Iowa, Arkansas, Missouri, Oklahoma, Nebraska and KS., under a continuing contract, or contracts, with Golden Grain Corp., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Allen Lief President, Golden Grain Corp., Clarence, MO. 63437. SEND PROTESTS TO: Charles D. Little DS, ICC, 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL. 62701.

MC 145682 (Sub-1TA), filed November 2, 1978. Applicant: AAA COURIER SERVICE, INC., 611 Chestnut Street, Chattanooga, TN 37402. Represnetative: John R. Meldorf, Two Northgate Park, Chattanooga, TN 37415. *Cancelled checks,* from Chattanooga, TN., to Atlanta, GA., Nashville, TN., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): First Tennessee Bank N.A., 701 Market Street, Chattanooga, TN. 37401. (2) American National Bank & Trust Co., 736 Market Street, Chattanooga, TN. 37402. SEND PROTESTS TO: Glenda Kuss Trans., Ass., ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN. 37203.

MC 145706 TA, filed October 30, 1978. Applicant: MICHAEL E. LAWRENCE, Crescent Village, Apartment

201, Clifton Park, NY 12065. Representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, NY 13202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers; (2) *empty used malt beverage containers*, (1) from facilities of Miller Brewery Company in Town of Volney, (Oswego County), NY., to Danvers, MA; and (2) from Danvers, MA., to Town of Volney, NY., under a continuing contract, or contracts, with Merrimack Valley Distributing Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Merrimack Valley Distributing Co., 50 Prince Street, Danvers, MA. 01923. SEND PROTESTS TO: Robert A. Radler DS, Post Office Box 1167, Albany, NY. 12201.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-35090 Filed 12-15-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6335-01-M]

1

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, December 18, 1978, 4 p.m. to 5 p.m.

PLACE: 1121 Vermont Avenue NW., Room 800.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Proposed Report: The State of Civil Rights—1978.

FOR FURTHER INFORMATION PLEASE CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-2539-78 Filed 12-14-78; 11:25 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m. December 19, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matter/Commission consideration of revocating the registration of a floor broker.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2541-78 Filed 12-14-78; 3:18 pm]

[6712-01-M]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, December 20, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Improvements to UHF Television Reception.
General—2—UHF Channel Readout on Television Receivers (Docket No. 21179).
General—3—Technical Improvements to Television Receivers and certain Transmission Standards.
General—4—UHF Television Receiver Noise figures (Docket No. 21010).
General—5—Television Receiver Performance standards.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: December 13, 1978.

[S-2542-78 Filed 12-14-78; 3:18 pm]

[6714-01-M]

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Friday, December 8, 1978, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider a recommendation regarding the settlement of a judgment rendered in connection with the receivership of the United States National Bank, San Diego, Calif.

In calling the meeting, the Board of Directors determined, on motion of Director William M. Isaac (Appointive), seconded by Mr. Paul M. Homan, acting in the place and stead of Acting Chairman John G. Heimann, that Corporation business required its consideration of the recommendation 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 recommendation in a meeting open to public observation; and that the meeting was exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(9)(B) and (c)(10) thereof (5 U.S.C. 552b(c)(9)(B) and (c)(10)).

Dated: December 8, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-2535-78 Filed 12-14-78; 11:25 am]

5

[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., Wednesday, December 20, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550-17th Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.
Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of First National City Bank of Allliance, Alliance, Ohio, and First National Bank of Sebring, Sebring, Ohio.
Recommendation regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator or liquidating agent of those assets:
Memorandum re: American Bank & Trust Co., New York, N.Y.
Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:
Bronson, Bronson & McKinnon, San Francisco, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.
Morgan, Lewis & Bockius, Philadelphia, Pa., in connection with the liquidation of assets acquired by the Corporation from Farmers Bank of the State of Delaware, Dover, Del.

Pitney, Hardin & Kipp, Morristown, N.J., in connection with the liquidation of assets acquired by the Corporation from Farmers Bank of the State of Delaware, Dover, Del.

Venable, Baetjer & Howard, Baltimore, Md., in connection with the liquidation of assets acquired by the Corporation from Farmers Bank of the State of Delaware, Dover, Del.

Powell, Goldstein, Frazer & Murphy, Atlanta, Ga., in connection with the liquidation of The Hamilton Bank & Trust Co., Atlanta, Ga.

Chapman & Cutler, Chicago, Ill., in connection with the liquidation of The Drovers' National Bank of Chicago, Chicago, Ill.

Chapman & Cutler, Chicago, Ill., in connection with the liquidation of State Bank of Clearing, Chicago, Ill.

Blackwell, Walker, Grey, Powers, Flick & Hoehl, Miami, Fla., in connection with the liquidation of International City Bank & Trust Co., New Orleans, La.

Lemle, Kelleher, Kohlmeyer & Matthews, New Orleans, La., in connection with the liquidation of International City Bank & Trust Co., New Orleans, La.

Reynolds, Ridings & Hargis, Oklahoma City, Okla., in connection with the liquidation of International City Bank & Trust Co., New Orleans, La.

Strasburger & Price, Dallas, Tex., in connection with the liquidation of International City Bank & Trust Co., New Orleans, La.

Parsons, Canzona, Blair & Warren, Red Bank, N.J., in connection with the liquidation of The Bank of Bloomfield, Bloomfield, N.J.

Schumann, Hession, Kennelly and Dorment, Jersey City, N.J. in connection with the liquidation of First State Bank of Hudson County, Jersey City, N.J. (2 memorandums).

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the receivership of American Bank & Trust Co., New York, N.Y.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Taback & Hyams, Jericho, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Squire, Sanders & Dempsey, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

Morgan, Lewis & Bockius, Philadelphia, Pa., in connection with the liquidation of Centennial Bank, Philadelphia, Pa.

Miller & Martin, Chattanooga, Tenn., in connection with the liquidation of The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Fulbright & Jaworski, Houston, Tex., in connection with the receivership of Franklin Bank, Houston, Tex.

Gibbs, Roper, Loots & Williams, Milwaukee, Wis., in connection with the liquidation of American City Bank & Trust Co., National Association, Milwaukee, Wis.

Recommendations with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of amendments to Part 335 of the Corporation's rules and regulations, entitled "Securities of Insured State Nonmember Banks," in order to bring that part into substantial similarity with comparable regulations of the Securities and Exchange Commission.

Memorandum and resolution proposing the final adoption of amendments to Part 336 of the Corporation's rules and regulations, entitled "Employee Responsibilities and Conduct."

Memorandum and resolution proposing the withdrawal of proposed amendments to Part 337 of the Corporation's rules and regulations, relating to insider transactions.

Memorandum and resolution proposing the final adoption of "Truth in Lending Enforcement Guidelines."

Memorandum and resolution proposing the adoption of an FDIC Investment Program.

Memorandum and resolution proposing the adoption of a Joint Statement, revised, regarding the Classification of Assets, the Appraisal of Bonds and the Treatment of Securities in Bank Examinations.

Memorandum and resolution proposing the adoption and implementation of revisions in the reporting requirements for Reports of Condition and Reports of Income for mutual savings banks.

Appeal, pursuant to the Freedom of Information Act, from the Corporation's earlier denial of a request for records.

Memorandum proposing the approval of a contract for an Opinion and Attitude Survey in connection with the Corporation's study of State and Federal regulation of commercial banks.

Memorandum proposing the approval of an amendment to the lease agreement for space occupied by the Corporation's Kansas City, Missouri, Regional Office.

Budget of Administrative Expenses for budget year 1979.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loan and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority deletated by the Board of Directors.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2537-78 Filed 12-14-78; 11:25 am]

[6714-01-M]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., Wednesday, December 20, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550-17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Modesto Banking Co., a proposed new bank to be located at 1120 11th Street, Modesto, Calif., for Federal deposit insurance.

Prairie State Bank of Eden Prairie, Minn., a proposed new bank to be located at Minnesota Protective Life Building, 7901 Flying Cloud Drive, Eden Prairie, Minn., for Federal deposit insurance.

Metropolitan Bank, a proposed new bank to be located at 15806 S.E. McLoughlin Boulevard, Oak Grove, Oreg., for Federal deposit insurance.

Liberty State Bank, a proposed new bank to be located at 6500 Indiana Avenue, Lubbock, Tex., for Federal deposit insurance.

Edgewood Bank of Greenfield, a proposed new bank to be located at 4859 South 76th Street, Greenfield, Wis., for Federal deposit insurance.

Applications for consent to establish branches:

First Enterprise Bank, Oakland, Calif., for consent to establish a branch at 1369 Henry Street, Berkeley, Calif.

The Bowery Savings Bank, New York (Manhattan), N.Y., for consent to establish a branch at the northeast corner of Green Acres Road and Sidney Place, Valley Stream, N.Y.

Memorandum and resolution proposing a waiver of certain provisions of the assistance agreement entered into between the Corporation and Farmers Bank of the State of Delaware, Dover, Del.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Application for consent to merge and establish branches:

Depositors Trust Co. of Bangor, Bangor, Maine, an insured State nonmember bank, for consent to merge under its charter, and with the title of "Depositors Trust Co. of Eastern Maine," with The Liberty National Bank in Ellsworth, Ellsworth, Maine, and for consent to establish the four existing offices of The Liberty National Bank in Ellsworth as branches of the resultant bank.

Application for consent to merge, establish branches, and exercise trust powers:

Depositors Trust Co. of Portland, Portland, Maine, an insured State nonmember bank, for consent to merge with Springvale National Bank, Springvale, Maine under the charter of Depositors Trust Co. of Portland and with the title of "Depositors Trust Co. of Southern Maine;" for consent to establish the two offices of Springvale National Bank as branches of the resultant bank; and for consent for the resultant bank to exercise trust powers.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,720-L—Franklin National Bank, New York, N.Y.

Case No. 43,727-SR—Sharpstown State Bank, Houston, Tex.

Case No. 43,728-L—Franklin National Bank, New York, N.Y.

Case No. 43,729-L—Algoma Bank, Algoma, Wis.

Case No. 43,734-L—American Bank & Trust, Orangeburg, S.C.

Case No. 43,736-L—Franklin National Bank, New York, N.Y.

Case No. 43,740-L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 43,742-L—Northeast Bank of Houston, Houston, Tex.

Case No. 43,743-SR—Frontier Bank, Covelo, Calif.

Case No. 43,754-NR—United States National Bank, San Diego, Calif.

Memorandum re: Franklin National Bank, New York, N.Y.

Memorandum re: The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.

Memorandum re: Citizens State Bank, Carrizo Springs, Tex.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Reports of committees and officers:

Audit Report of Public Voucher Process dated September 11, 1978.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc,:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Study report of a Grievance Officer's recommendations submitted in connection with the formal grievance of a Corporation employee.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-2538-78 Filed 12-14-78; 11:25 am]

[6714-01-M]

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on December 7, 1978, the Board of Directors determined, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), that Corporation business required the addition of the following matters to the agenda for the meeting, on less than 7 days' notice to the public:

Recommendations regarding the liquidation of assets acquired by the Corporation in its capacity as receiver of United States National Bank, San Diego, Calif., such recommendation being contained in Case No. 43,730-NR, Case No. 43,738-NR, and a Legal Divison memorandum dated November 24, 1978.

Recommendation regarding payment for legal services rendered and expenses incurred by the firm of Schall, Boudreau, & Gore, San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Resolution proposing the settlement of litigation arising in connection with the receivership of United States National Bank, San Diego, Calif.

The Board further determined by the same majority vote, that the public interest did not require consideration of the recommendations and resolutions in a meeting open to public observation and that such recommendations and resolutions could be considered in a meeting closed to public observation by authority of subsections (c)(4), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(9)(B) and (c)(10)).

The Board also determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: December 7, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-2534-78 Filed 12-14-78; 11:25 am]

[6714-01-M]

8

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting.

Pusuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10 a.m. on December 7, 1978, the Corporation's Board of Directors voted on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following items from consideration:

Recommendation with respect to payment for legal services rendered and expenses incurred by the firm of Schall, Boudreau & Gore, San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Memorandum and resolution proposing the adoption of a Liquidation Graded Salary Plan.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: Dec. 7, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-2533-78 Filed 12-14-78; 11:25 am]

[6740-02-M]

9

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published December 15, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., December 13, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CI-5. CP75-209, El Paso Natural Gas Co., CI75-549, Texaco Inc.

M-5. Revenue Act of 1978.

M-6. RM79- , Treatment of Certain Production Related Costs for Gas to be Transported through the Alaska Natural Gas Transportation System.

M-7. Notice of Public Hearing on Interim Regulations Implementing Natural Gas Policy Act of 1978.

KENNETH F. PLUMB,
Secretary.

[S-2545-78 Filed 12-14-78; 3:41 pm]

[6740-02-M]

10

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., December 20, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, tele-

phone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—212TH MEETING, DECEMBER 20, 1978, REGULAR MEETING

CAG-1. Docket No. RP73-43 (PGA78-4), Mid Louisiana Gas Co.
CAG-2. Docket Nos. RP71-16 (PGA No. 79-1a) and RP74-29 (DCA No. 79-1a), Midwestern Gas Transmission Co.
CAG-3. Docket Nos. RP78-76 and RP73-114 (PGA Nos. 79-1 and 79-1a), RP74-24 (DCA No. 79-1) and RP74-73 (R. & D. No. 79-1), Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-4. Docket No. RP74-97 (PGA No. 79-1), Montana Dakota Utilities Co.
CAG-5. Docket No. RP72-133 (PGA No. 79-2), Mississippi River Transmission Corp.
CAG-6. Docket No. R-406, Amendments to the purchased gas cost adjustment provisions in natural gas pipeline companies FERC gas tariffs.
CAG-7. Docket No. RP78-76, Gas Research Institute.
CAG-8. Docket Nos. RP78-76 and R-406, Consolidated Gas Supply Corp.
CAG-9. Docket Nos. CP77-289 and CP73-334, El Paso Natural Gas Co.
CAG-10. Docket No. CI78-773, Transco Exploration Co. Docket No. CI78-586, Transco Exploration Co. Docket No. CI-78-561, Transco Exploration Co. Docket No. CI77-801, Montsanto Co. Docket No. CI79-4, Chevron U.S.A., Inc. Docket No. CI78-1250, Chevron U.S.A., Inc. Docket No. CI79-12, Dorchester Exploration, Inc. Docket No. CI78-894, Getty Oil Co. Docket No. CI77-425, Ladd Petroleum Co. Docket No. CI78-781, American Petrofina Co. of Texas. Docket No. CI78-289, Kerr-McGee Corp. Docket No. CI77-412, Phillips Petroleum Co. Docket No. CP77-558, United Gas Pipe Line Co. Docket No. CP77-577, Michigan Wisconsin Pipe Line Co.
CAG-11. Docket Nos. CP78-272, Et Al., The Brooklyn Union Gas Co., Et Al.
CAG-12. Docket No. CP78-312, Transcontinental Gas Pipe Line Corp.
CAG-13. Docket No. CP77-407, El Paso Natural Gas Co. Docket No. CP77-381, Pacific Interestate Transmission Co. Docket No. CP77-378, Northwest Pipe Line Corp.
CAG-14. Docket No. CP75-33, Mountain Fuel Supply Co.
CAG-15. Docket No. CP75-215, Mountain Fuel Supply Co.
CAG-16. Docket No. CP78-478, Michigan Wisconsin Pipe Line Co.
CAG-17. Docket No. CP78-413, Columbia Gas Transmission Corp.
CAG-18. Docket No. CP78-368, Panhandle Eastern Pipe Line Co.
CAG-19. Docket No. CP78-518, Trunkline Gas Co., Transcontinental Gas Pipe Line Corp.
CAG-20. Docket No. CP77-320, Natural Gas Pipeline Co. of America, Michigan Wisconsin Pipe Line Co., Transcontinental Gas Pipe Line Corp., United Gas Pipe Line Co., Tennessee Gas Pipeline co., a Division of Tenneco Inc., and National Fuel Gas Suply Corp.
CAG-21. Docket No. CP71-304, The Union Light, Heat & Power Co. & Columbia Gas Transmission Corp.
CAG-22. Docket No. CP78-449, Northwest Pipeline Corp. Docket No. CP78-492, Mountain Fuel supply Co.
CAG-23. Docket No. CP78-410, Florida Gas Transmission Co.
CAG-24. Docket No. CP78-543, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.
CAG-25. Docket No. CP78-181, Natural Gas Pipeline Co. of America.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP79-10 and RP79-13, Great Lakes Gas Transmission Co.
RP-2. Docket No. RP79-11, Texas Gas Pipe Line Corp.
RP-3. Docket No. RP79-12, El Paso Natural Gas Co.
RP-4. Docket No. RP-79-15, Grand Bay Gas Transmission Co.
RP-5. Docket No. RM77-14 and R-406, Colorado Interstate Gas Co.
RP-6. Docket No. RP-72-133, United Gas Pipe Line Co.
RP-7. Docket No. RP79-14, Northwest Pipeline Corp.
RP-8. Docket No. RP77-98, Natural Gas Pipeline Co. of America.

II. PRODUCER CERTIFICATE MATTERS

CI-1. Docket No. RI77-129, Coastal States Gas Producing Co.
CI-2. Docket No. CS78-509, J. Walter Duncan, Jr., Et Al.

III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP77-523, Delhi Gas Pipeline Corp. Docket No. CP77-649, Northern Natural Gas Co. Docket No. CP77-652, Panhandle Eastern Pipeline Co. Docket No. CP77-657, Columbia Gas Transmission Corp. & Columbia Gulf Transmission Co. Docket No. CP78-480, Northern Natural Gas Co. Docket No. CP78-511, Panhandle Eastern Pipe Line Co. & Trunkline Gas Co.
CP-2. Docket No. CP76-241 and CP76-242, Transcontinental Gas Pipe Line Co. Docket No. CP76-249, Southern Natural Gas Co. Docket No. CP76-270, Gas Gathering Corp. Docket No. CP77-156, Natural Gas Pipeline Co. of America. Docket No. CP77-185, Texas Eastern Transmission Corp. & National Fuel Gas Supply Corp.
CP-3. Docket Nos. CP74-289, CP73-334 and CP75-360, El Paso Natural Gas Co. Docket No. CP78-500, El Paso Natural Gas Co. Docket No. CP77-289, El Paso Natural Gas Co. Docket No. CP77-512, Clay Basin Storage Co.
CP-4. Docket No. CP76-448, National Fuel Gas Distribution Corp.
CP-5. Docket No. CP78-325, Texas Gas Transmission Corp.
CP-6. Docket No. CP75-104, High Island Offshore system.
CP-7. Docket Nos. RP-71-29, Et Al. (Phase II). United Gas Pipe Line Co.

MISCELLANEOUS AGENDA—212TH MEETING, DECEMBER 20, 1978, REGULAR MEETING

CAM-1. Docket No. RA79-1, Union Oil Co. of California.
CAM-2. Docket No. RA79-7, McCulloch Gas Processing Corp.
CAM-3. Docket No. RA79-3, Texaco, Inc.
CAM-4. Docket No. RA79-6, Anadarko Production Co.
CAM-5. Docket No. RA79-4, Arizona Fuels Corp.
CAM-6. Secretary of Energy's proposed rule to amend 10 CFR 212.126, Mandatory Petroleum Price Regulations for Refiners—Resubmission and Refiling of FEO-96, P110, and EIA-14 Forms.
M-1. Inclusion of Adjustment Regulations.
M-2. Interim Rule on 8315 of NGPA, Offers and Right of First Refusal.

POWER AGENDA—212TH MEETING, DECEMBER 20, 1978, REGULAR MEETING

CAP-1. Docket No. ES79-7, Idaho Power Co.
CAP-2. Docket No. ES79-12, Gulf States Utilities Co.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER78-512, Wisconsin Electric Power Co.
ER-2. Docket No. ER76-539, Missouri Power & Light Co.
ER-3. Docket No. ER78-513, Public Service Co. of Indiana, Inc.
ER-4. Docket Nos. ER76-399 and ER76-303, Wisconsin Electric Power Co. & Wisconsin Michigan Power Co.
ER-5. Docket Nos. EL-78-15 and ER78-339, Public Service Co of New Hampshire.
ER-6. Docket No. EL-78-27, *Alabama Electric Cooperative, Inc., Et Al.* (Petitioners) v. *Alabama Power Company.*
ER-7. Docket No. ER76-588, Central Kansas Power Co., Inc.
ER-8. Docket No. E-8570, Southern California Edison Co.
ER-9. Docket Nos. ER-76-304, ER76-317 and ER 76-498, New England Power Co.
ER-10. Docket No. E-9520, Illinois Power Co.
ER-11. Docket No. ID-1823, Robert P. Reuss.
ER-12. Docket No. ID-1709, Willis C. Fitkin. Docket No. ID-1710. William Cyrus Macinnes.
ER-13. Docket No. ID-1758, Charles T. Fisher, III. Docket No. ID-1759, Richard C. Gerstemberg.

II. LICENSED PROJECT MATTERS

P-1. Project No. 2749, Southside Electric Cooperative.
P-2. Project No. 2645, Niagara Mohawk Power Corp.
P-3. Project No. 1107, City of Ashland, Oreg.

KENNETH F. PLUMB,
Secretary.

[S-2536-78 Filed 12-14-78; 11:25 am]

[6720-01-M]

11

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 237, page 57718, Friday, December 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., December 14, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING:

THE FOLLOWING ITEM HAS BEEN ADDED TO THE AGENDA FOR THE OPEN MEETING: Consideration of 1978 Election Results—Federal Home Loan Bank Directors.

No. 202, December 11, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2543-78 Filed 12-14-78; 3:41 pm]

[6720-01-M]

12

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., December 21, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of Receipt of Funds by the Office of Neighborhood Reinvestment.
Consideration of Termination of Insurance and Refund of Secondary Reserve—First Federal Savings & Loan Association of Salem, Oreg.
Application for Service Corporation Acitivity—Franklin Progress Corp. (Franklin Federal Savings & Loan Association, Columbus, Ohio.)
Branch Office Application—Geneva Federal Savings & Loan Association, Geneva, Ohio.
Consideration of Designation of Principal Supervisor Agent for the Federal Home Bank of Indianapolis—Gordon J. Husk.
Consideration of Withdrawal from Bank Membership—The Monumental Building, Loan & Savings Association, Philadelphia, Pa.
Consideration of Withdrawal from Bank Membership—The Cedar Building Association, Philadelphia, Pa.
Branch Office Application—Florida Federal Savings & Loan Association, St. Petersburg, Fla.
Consideration of Designation of Principal Supervisory Agent for the Federal Home Loan Bank of Little Rock—Joseph W. Keen, Jr.
Application for Pedestrian Facility-First Federal Savings & Loan Association of Cocoa, Cocoa, Fla.
Branch Office Application—Metropolitan Federal Savings & Loan Association of Fargo, Fargo, N. Dak.
Branch Office Application—Alpine Federal Savings & Loan Association, Oak Creek, Colo.
Branch Office Application—Valley Federal Savings & Loan Association, McAllen, Tex.
Consideration of Proposed Merger—Rowland Savings & Loan Association, Rowland, N.C. into Robeson Savings & Loan Association, Lumberton, N.C.
Branch Office Application—Jefferson Federal Savings & Loan Association, Birmingham, Ala.
Concurrent Consideration of Branch Office Applications: (1) Home Federal Savings & Loan Association of San Diego, San Diego, Calif.; and, (2) Glendale Federal Savings & Loan Association, Glendale, Calif.
Service Corporation Activity Application—First Federal Savings & Loan Association of San Antonio, San Antonio, Tex.
Concurrent Consideration of Branch Office Applications: (1) Pacific Federal Savings & Loan Association, Hollywood, Calif.; and, (2) Western Federal Savings & Loan Association, Los Angeles, Calif.
Application for Merger: 1st Savings & Loan Association of Wilmington, Wilmington, Ill., into Home Savings & Loan Association of Joliet, Joliet, Ill.
Application for Increase in Accounts of an Insurable Type by Purchase of Branch Offices—Santa Barbara Savings & Loan Association, Santa Barbara, Calif., to Purchase Three Branch Offices From Brentwood Savings & Loan Association, Los Angeles, Calif.
Service Corporation Activity Application and RSU Project Modification—Point of Sale Services, Inc. (Twin City Federal Savings & Loan Association, Minneapolis, Minn.)
Application for Bank Membership—Deep River Savings Bank, Deep River, Conn.
Modification of Insurance of Accounts—Peninsula Savings & Loan Associaiton, Soldotna, Alaska.
Merger Application—First Federal Savings & Loan Association of Mount Vernon, Mount Vernon, Wash., into Washington Federal Savings & Loan Association of Seattle, Seattle, Wash.
Consideration of PAMICO Amendment.
Consideration of Two Items Regarding Federal Home Loan Bank Dividend Policy.
Consideration of Proposed 1979 Budget of the Office of Neighborhood Reinvestment.

No. 204, December 14, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2544-78 Filed 12-14-78; 3:41 p.m.]

[6730-01-M]

13

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., December 21, 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. Agreements Nos. 10293 and 10925: Space Chartering Agreements between Flota Mercante Grancolombiana, S.A. (FLota) and Andino Chemical Shipping Inc. and Maritima Transligra, S.A. in the trades between the United States and Colombia.
2. Agreements Nos. 3103-66 and 150-66: self-policing amendments to the Japan/Korea Atlantic and Gulf Freight Conference and the Trans-Pacific Freight Conference of Japan-Korea agreements.
3. Agreements Nos. 9873-3 and 10330: Cargo revenue pooling agreement in the United States West Coast/Brazil trades.
4. Agreement No. 10116-2: Application for extension of a pooling agreement in the trades between Japanese and U.S. West Coast ports.
5. Proposed rules implementing the domestic offshore tariff filing requirements of Public Law 95-475.
6. Possible sanctions against Baltic Shipping Company pursuant to section 19 of the Merchant Marine Act, 1920.
7. Implementation of "Controlled carrier" bill (P.L. 95-483).
8. Docket No. 73-64: Self-Policing Systems—Consideration of petition for stay of effective date of rules.
9. Special Docket No. 556: *Pan-American Industries, Inc. v. Sea-Land Service, Inc.*—Consideration of the record.

Portion closed to the public:

1. Docket No. 74-53: Agreement No. 17-34—Application of the Far East Conference for Intermodal Authority—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2530-78 Filed 12-14-78; 11:25 am]

[6725-01-M]

14

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., December 21, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Local Union 1957, UMWA, David Biggs, et al. v. Southern Ohio Coal Company,* Docket No. VINC 77-112 (petition for discretionary review).
2. *Local Union No. 1110, UMWA and Robert L. Carney v. Consol,* Docket No. MORG 77-20 (discrimination proceeding).
3. *Penn Allegh Coal Co. Inc.,* Docket No. PITT 78-97-P (petition for discretionary review).
4. *Pittsburg & Midway Coal Co.,* Docket No. IBMA 76-57 (withdrawal order proceeding).

CONTACT PERSON FOR FURTHER INFORMATION:

Donald Terry, 202-653-5644.

[S-2546-78 Filed 12-14-78; 3:54 pm]

[6750-01-M]

15

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, December 11, 1978, Page No. 58012.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Thursday, December 14, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the date of the previously announced oral argument from Thursday, December 14, 1978, 2 p.m., to Friday, December 15, 1978, 2 p.m.

[S-2531-78 Filed 12-14-78; 11:25 am]

[6750-01-M]

16

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, December 11, 1978, Page No. 58012.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, December 15, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the time and date of the previously announced monthly policy review session from Friday, December 15, 1978, 10 a.m., to Thursday December 14, 1978, 2 p.m.

[S-2532-78 Filed 12-14-78; 8:45 am]

[8010-01-M]

17

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [43 FR 58012, December 11, 1978]

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, November 27, 1978.

CHANGES IN MEETING: Rescheduling of items/additional items.

The following items will not be considered at the closed meeting scheduled for Tuesday, December 12, 1978 at 10 a.m., but have been rescheduled for the closed meeting on Wednesday, December 13, 1978, at 9 a.m.:

Institution of injunctive action.
Personnel matter.

The following additional items will be considered at the closed meeting scheduled for Wednesday, December 13, 1978, at 9 a.m.:

Regulatory matters regarding financial institutions.

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

DECEMBER 12, 1978.

[S-2540-78 Filed 12-14-78; 3:18 pm]

Federal Register

MONDAY, DECEMBER 18, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

CAREER EDUCATION INCENTIVE PROGRAMS

Proposed Regulations

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Parts 161 and 161a]

CAREER EDUCATION INCENTIVE PROGRAMS

Proposed Regulations

AGENCY: Office of Education, HEW.

ACTION: Proposed regulations.

SUMMARY: The Commissioner of Education proposes to issue regulations to govern the Career Education Incentive Program established through the enactment of the Career Education Incentive Act.

The Act authorized four new programs of financial assistance to enable public and private agencies and organizations to make career education a major goal of education by increasing the emphasis they place on career awareness, exploration, decisionmaking, and planning. Each agency and organization funded under these programs must conduct these activities in a manner that eliminates practices that promote discrimination, bias, and stereotyping based on race, sex, age, economic status, and handicap.

DATES: Comments must be received on or before February 1, 1979. Public meetings will be held in three cities at the addresses listed below. The date and time for each meeting follow:

December 29, 1978, 9:00 a.m.-3:00 p.m.—St. Louis, Missouri

January 6, 1979, 9:00 a.m.-3:00 p.m.—Phoenix, Arizona

January 12, 1979, 9:00 a.m.-3:00 p.m.—Washington, D.C.

ADDRESSES: Submit comments to Dr. Sidney C. High, Jr., U.S. Office of Education, 7th and D Streets, SW., Regional Office Building 3, Room 3108-A, Washington, D.C. 20202. The public meetings will be held at the following locations:

December 29, 1978—9:00 a.m.-3:00 p.m.—Stowe College Auditorium, 3026 Laclede Avenue, St. Louis, Missouri

January 6, 1979—9:00 a.m.-3:00 p.m.—Phoenix College, Building C, Room 102, 1202 West Thomas Road, Phoenix, Arizona

January 12, 1979—9:00 a.m.-3:00 p.m.—HEW North Auditorium, 300 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Sidney C. High, Jr., Telephone 202-245-2331.

SUPPLEMENTARY INFORMATION:

(a) *Organization.*

Part 161, as set forth in these proposed regulations, contains those provisions applicable to the program of Federal assistance to States and Insular Areas to enable them to provide leadership and to implement career education in public and private nonprofit elementary and secondary schools. The assistance provided under this Part is also subject to the applicable provisions contained in the Office of Education General Provisions Regulations published in 45 CFR Parts 100 and 100b (38 FR 30661, 30679, November 6, 1973).

Part 161a, as set forth in these proposed regulations, contains those provisions applicable to the three discretionary programs authorized under Secs. 10, 11, and 12 of the Act.

The first of these programs, the model demonstration program, enables State and local educational agencies, institutions of postsecondary education, and other non-profit agencies to demonstrate effective career education techniques and to develop exemplary career education models. Both new applicants as well as applicants who have conducted projects of proven effectiveness may apply for assistance under this program. Projects funded under the model demonstration program may address any of the following purposes:

1. Promote and sustain diverse community and parent collaboration in the delivery of career awareness, exploration, decisionmaking and planning;

2. Eliminate or counteract practices of discrimination, bias, and stereotyping based on race/ethnicity, sex, age, economic status, and handicap in career awareness, exploration, decisionmaking and planning; or

3. Enable handicapped students to engage in career awareness, exploration, decisionmaking and planning.

Each project funded under this program must include objectives, methods, and evaluation techniques that address the elimination of discrimination, bias, and stereotyping in career education activities. Section 10 of the Act authorizes the Commissioner to conduct this program by issuing grants.

The second program, the postsecondary career education demonstration program, authorized under Sec. 11 of the Act, enables public and private non-profit agencies and organizations to conduct postsecondary career education projects.

Each project must be of national significance or of special value to others. Each project must address the elimination of discrimination, bias, and stereotyping in career education activities. Projects may demonstrate effective techniques of—

1. Promoting career education in postsecondary education programs;

2. Promoting postsecondary career guidance and counseling programs designed to overcome bias and discrimination based on race, sex, age, economic status and handicap; or

3. Strengthening career guidance, counseling placement and followup.

The final program, the career education information program, authorized under Sec. 12 of the Act, enables the Commissioner to provide financial assistance to projects designend to furnish information on Federal programs that gather, analyze and disseminate occupational and career information. The program also provides financial assistance to projects designed to gather and disseminate information about exemplary career education programs.

The postsecondary career education program and the career education information program may be conducted by grant, by contract, through some other arrangement, or by a combination of these methods.

If the Commissioner administers either of these programs by contract, as authorized by Secs. 11 and 12 of the Act, the programs are governed by the applicable provisions of the Federal Procurement Regulations, 41 CFR Chapters 1 and 3.

If the Commissioner administers either of these programs by grant the programs are governed by the applicable provisions of 45 CFR Parts 100 and 100a (38 FR 30661, 30662, November 6, 1973, as amended).

(b) *Questions and Answers.*

The Career Education Incentive Act is explained by the following questions and answers:

Have there been other career education programs and projects?

The Office of Education has funded career education research and demonstration projects under the Vocational Education Act, the Cooperative Research Act, and the Education Professions Development Act.

Since August 1974, the Office of Education has funded projects under section 406 of the Education Amendments of 1974.

Section 406 of the Education Amendments of 1974 enables public and private non-profit agencies and organizations to conduct career education demonstration projects at the elementary and secondary school levels. It also enables States and Insular Areas to plan for the implementation of career education in elementary and secondary schools. This legislation expires on September 30, 1978, unless it is extended.

In the Education Amendments of 1976, Congress authorized two one-year programs, one for States to plan for the career education and career de-

velopment of individuals of all ages, and one for public and private non-private agencies and organizations to conduct career information projects. Neither of these programs was funded.

The new Career Education Incentive Act enables States and Insular Areas to implement career education in the elementary and secondary schools. It enables public and private agencies and organizations to conduct model demonstration projects, postsecondary career education demonstration projects, and career education information projects. The new Act extends the planning activities, authorized under section 406, to implement as well as to expand the scope of demonstration activities to include postsecondary career education demonstration activities. It also includes a career education information program that is designed to gather and disseminate information about other Federal occupational information programs and exemplary career education programs for use by projects assisted under the Act and by the general public.

Why is this Act called the Career Education Incentive Act?

Congress wants the recipients of these funds to incorporate career education into the existing educational programs over a five year period. Thus, the Federal cost is viewed as an incentive to achieve this goal.

Why did Congress enact the Career Education Incentive Act?

The Congress declares that:

1. A major purpose of education is to prepare each person for a career that is suitable to that person's preference;
2. Career education should be a integral part of the Nation's educational process;
3. Career education holds a promise of improving the quality of education and of opening career opportunities to all students by relating education to their life aspirations; and
4. Educational agencies and organizations should make every effort to fulfill that purpose.

(Sec. 2, Pub. L. 95-207; 20 U.S.C. 2601)

Why does the Act place so much emphasis on the elimination of discrimination, bias and stereotyping based on race, sex, age, economic status, and handicap?

Discrimination, stereotyping, and bias exist in society and are reflected in the schools. At an early age children learn that certain behavior is "appropriate" for girls and that other behavior is"appropriate" for boys.

Children learn that some occupations are "appropriate" for women and others are "appropriate" for men. They learn similar false notions about racial and ethnic groups, old people, poor people, and handicapped people.

Aside from the fact that discrimination, stereotyping, and bias are unfair, they are destructive in that they limit the aspiration and achievement of one set of students and distort the perception of the others. Career opportunities *must* be open to all students.

For these reasons the Career Education Incentive Act requires that each funded program and project promote equal opportunity for all students through the elimination of discrimination, bias, and stereotyping based on race, sex, age, economic status and handicap.

What does this mean for programs and projects assisted under this Act?

It means that the staff of each program and project must become aware of the practices that promote and perpetuate discrimination, stereotyping, and bias. Only those instructional materials that are free of bias and stereotyping should be purchased. If existing instructional materials are biased or depict stereotypes, teachers and counselors must alert students and take measures to counteract the bias and stereotyping.

Readers are urged to review *Guidelines to Insure Sex Fairness in Education Division Communication and Products*, prepared by Women on Words and Images Inc., for the National Advisory Council on Women's Educational Programs. For a free copy write the Council at 1832 M Street, N.W., Washington, D.C. 20036.

Teachers and counselors should select resource persons and field experiences carefully to make sure that stereotypes are not perpetuated when students engage in career awareness and exploration activities. Students should be afforded opportunities to see "non-traditional role models." With respect to decisionmaking and planning, the race, sex, age, economic status, and handicap of a student should *never* be used as a reason for a student not to pursue a career interest.

All products developed with funds authorized under this Act must be free of bias and stereotyping.

Programs and projects assisted under this Act must adhere to the State's definition of "handicap". Career education coordinators at both the State and local levels must work closely with special education coordinators at the State and local levels to make sure that handicapped students in self-contained classrooms receive career education. The Individual Education Plan required under The Education of the Handicapped Act (Pub. L. 94-142) should include career education.

Handicapped students who attend regular classes should be afforded the same opportunities in career education, as students who are not handicapped.

Projects, particularly those in retirement communities, should provide services to, as well as seek assistance from older persons, whose wealth of experience is often untapped by schools and other community institutions.

Minorities, handicapped persons, women, older persons, and economically disadvantaged persons and groups representing their interests should be involved in planning, implementing, and evaluating programs and projects assisted under this Act.

What is the difference between career education and vocational education?

Congress has explained the difference as follows:

"Many people confuse career education and vocational education, but a distinction must be made between the two. Vocational education is specific job skills training. Career education is a comprehensive instructional strategy, beginning in the early elementary grades and extending into the adult years, providing people with awareness of the world of work, with a broad orientation to various occupations that exist in society, with guidance and counseling to aid in career decisionmaking, with assistance in methods of securing jobs, and with positive attitudes towards work." (H.Rept. No. 95-150, March 31, 1977, p. 4.)

Who is eligible to receive an allotment under the State allotment program?

Any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands may receive an allotment under the State allotment program.

Who is eligible to receive assistance under the three discretionary programs?

Any public or private non-profit agency or organization, including postsecondary institutions, may apply for assistance under the model demonstration program and the postsecondary demonstration program.

Public and private agencies and organizations may apply for assistance under the career education information program.

Will all of the discretionary programs be conducted by grant?

No. The model demonstration program is a grant program. The postsecondary demonstration program and the career education information program may be conducted by grant, contract, or through a combination of these methods. In addition, the career education information may be conducted directly.

Will States be required to write a proposal to receive an allotment in Fiscal Year 1979?

No. Any State or Insular Area that desires an allotment for Fiscal Year 1979, beginning October 1, 1978, must file the assurances required under Sec. 6 of the Act. These assurances, taken almost word-for-word from the Act, are attached to these regulations as an Appendix. Although a State only files these assurances once, they contain basic information on what the State must do to be entitled to Federal funds for the duration of the program.

There is a possibility that the Education Amendments of 1978, H.R. 15, may contain slightly different assurances to be filed by a State to cover, in one document *all* the "State plan" programs. If this becomes law, notice will be given in the FEDERAL REGISTER.

What procedures does a State or Insular Area follow to obtain its allotment in Fiscal Years 1980, 1981, 1982, and 1983?

To receive its allotment for Fiscal Years 1980 and 1981, each State or Insular Area must: (1) Submit the State plan required under Sec. 7, and (2) be in compliance with the assurances filed for the Fiscal Year 1979 allotment, and with the provisions for the use of funds in Sec. 8 of the Act.

To receive its allotment for Fiscal Years 1982 and 1983, each State or Insular Area must have satisfactorily achieved the objectives specified for Fiscal Years 1980 and 1981 as determined by the report required under Sec. 14 of the Act. Each State or Insular Area must also be in compliance with the requirements for the State plan and the use of funds under Secs. 7 and 8 of the Act.

Will there be a form for the State plan?

No form will be prescribed by the Office of Education for the State plan. Each State may plan its career education program in a comprehensive document filed with the Office of Education. The State plan must contain the information described in Sec. 7 of the Act, which requires the State to "set out explicitly the objectives the State will seek to achieve" (Sec. 7(1)), and describe the methods by which the funds . . . will be used . . ." (Sec.7(2)). The State plan must also include the procedures the State will follow "to assure equal access of all students (including handicapped persons and members of both sexes) . . ."

(Sec. 7(3), 20 U.S.C. 2606)

Will reports be required under the State allotment program?

Yes. Each State must submit an annual report that contains the information required under Sec. 14 of the Act.

Is "matching" required under the State allotment program?

Yes. The Federal share from the State's allotment will be 100 percent of the cost of State administration (Sec. 8(a)(1) of the Act) for Fiscal Year 1979. The State must pay at least 25 percent of the cost of State administration for Fiscal Year 1980, and at least 50 percent for Fiscal Years 1981, 1982, and 1983.

(Sec. 9(c) (1), 20 U.S.C. 2608)

The Federal share of the costs of State leadership and local educational agency programs (Sec. 8(a) (2), (3) of the Act) in Fiscal Years 1979 and 1980, is 100 percent. For Fiscal Year 1981, the State must pay 25 percent, for Fiscal Year 1982, at least 50 percent, and for Fiscal Year 1983, at least 75 percent of these costs.

The non-Federal share of the cost of State leadership and local implementation may be derived from State , local, and private sources. It may include cash contributions, in-kind contributions, volunteer services, materials, and equipment.

(Sec. 9 (c)(2), 20 U.S.C. 2608)

Is "maintenance of effort" required under the State allotment program?

Yes. A State must spend for career education from its own resources, an amount at least equal to the amount the State spent for career education in the preceeding fiscal year.

(Sec. 6(3) (A), 20 U.S.C. 2605.

Will the new Act interfere with the school system?

No. The House Report states "The Committee wishes to make clear that in requiring States to intergrate career education into the regular instructional program, we in no way wish to interfere with the way in which any State has organized its school system. In some States, the State Departments of Education are strong administering agents. In other States, almost all decisions are made by local school districts.

This bill in no way would interfere with any State organizational structure.

(H. Rept. No. 95-150, March 31, 1977, p. 12.)

Is there a formula for State distribution of funds to LEAs?

No, there is no formula. States are prohibited from making a per capita distribution or distribution based on a percentage of the LEAs expenditures.

(Sec. 7(2), 20 U.S.C. 2608.)

Does the Act restrict the use of funds by States and local educational agencies?

No. The Act "gives a great deal of flexibility to the States and LEAs regarding the use of funds under the Act."

(H. Rept. No. 95-150, March 31, 1977, p. 13.)

At the local level, there are many broad activities that can be funded as long as they are consistent with the purposes of the Act. The following are examples of activities that could be conducted:

Infusing career education ideas in regular classroom instruction;

Providing student career guidance and counseling services in cooperation with individuals and groups from outside the school, such as labor, industry, and women's groups and handicapped persons;

Employing new people for career education;

Training local people in career education; and

Purchasing instructional materials.

Are any funds available under the State allotment program for guidance and counseling?

Yes. At least 15 percent of the State's share of funds for local distribution must be used for guidance and counseling.

Does the model demonstration program focus on elementary and secondary programs?

Yes. Even though the Act does not specify the grade level of the persons to be served by these projects, it is reasonable to assume that this program is designed to accommodate elementary and secondary students. There is a postsecondary demonstration program with a separate authorization of appropriations. The amount of funds set aside for the model demonstration program comes from the allotment program which is primarily an elementary and secondary school program.

What is a comprehensive career education effort?

The term "comprehensive" when used to describe career education projects means that at least eight types of people are performing specific functions to support and implement career education. These people are teaching faculty, school board members, guidance and counseling personnel, persons from business, labor, industry, the professions, and government, community organizations, educational administrators, supervisors, parents and career education coordinators.

In *A Primer for Career Education*, Dr. Kenneth B. Hoyt describes fifty-three roles and functions that the eight "actors" should perform. The classroom teacher is "doing career education" in a comprehensive manner when she or he:

1. Seeks to improve academic achievement through using a career emphasis as a vehicle to:

a. make the teaching/learning process more purposeful;

b. reward students by recognizing their accomplishments;

c. use resources of the broader community to improve student achievement;

2. Helps students to acquire decisionmaking skills by having students actually engage in the decisionmaking process; and

3. Combines "doing to learn" with "learning to do" in the teaching/learning process. . . .

School boards contribute to a comprehensive effort by establishing policy endorsing career education as a vehicle for refocusing the education system. . . .

Counseling and guidance personnel contribute to a comprehensive career education effort by helping teachers to understand the career development process as a means of including career education concepts and content into the teaching/learning process. . . .

Persons from business, labor, industry, the professions, and government, may serve as resource person in the classrooms to help teachers and students understand the career implications of subject matter. They may serve as members of community career education action councils. . . .

Parents contribute to a comprehensive effort by helping children find and engage in career awareness and exploration. They may also help children develop attitudes devoid of bias with respect to race, sex, or physical or mental handicaps. . . .

Educational administrators and supervisors can provide the professional leadership and administrative support to foster career education. This includes providing time for in-service training of personnel and employing a career education coordinator. . . .

Readers may obtain a copy of *A Primer for Career Education* from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Stock No. 017-080-01752-1.

Should programs and projects assisted under this Act be coordinated with other programs at State and local levels?

Yes. Coordination, cooperation, and collaboration are essential in a comprehensive career education effort. Career education affects all academic disciplines, all levels of instruction, educators as well as non-educators. The special educator, the labor union representative and nuclear physicist, all have roles and responsibilities in implementing career education. Each must be involved in meaningful ways for career education to succeed.

Career education activities should be coordinated with similar activities as often and as extensively as possible. The staff of projects assisted under this Act must take the initiative in fostering coordination, cooperation, and collaboration.

Is all necessary information in these regulations?

No. These regulations do not repeat the Act. For a full understanding of the program, one must read the Act (Pub. L. 95-207), these regulations, and, if a real controversy over interpretation arises, the legislative history of the Act that is cited at the end of the Act. The Office of Education does not plan to issue guides, guidelines, or forms, except for the assurance form (Appendix) and the application forms for the Commissioner's three discretionary programs.

(c) *Citation of legal authority.*

As required by Sec. 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation of statutory or other legal authority for each section of the regulation has been placed in parentheses on the line following the text of that section.

(d) *Invitation to comment.*

Interested persons are invited to submit written comments, suggestions, and recommendations to be considered prior to the issuance of the final rule. Comments, suggestions, or recommendations may be sent to the address given at the beginning of these regulations. All comments received on or before the 45th day after publication of this document will be considered. All comments submitted in response to this notice will be available for public inspection both during and after the comment period in Room 3108a, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except on Federal holidays.

Authority: These proposed regulations are issued under the authority of the Career Education Incentive Act, Pub. L. 95-207.

(Catalog of Federal Domestic Assistance No. 13.554, Career Education Incentive Program)

Dated: August 30, 1978.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

Approved: December 2, 1978.

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

PART 161—CAREER EDUCATION STATE ALLOTMENT PROGRAM

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AUTHORITY: Secs. 2-16, Pub. L. 95-207, 91 Stat. 1464-1474 (20 U.S.C. 2601-2614, 2502), unless otherwise noted.

GENERAL

§ 161.1 Scope.

Part 161 contains regulations for the State allotment program of the Career Education Incentive Act, Pub. L. 95-207.

(Secs. 1-9, 13-16, 20 U.S.C. 2601-2608, 2612-2614, 2502)

§ 161.2 Purposes.

(a) Recipients of funds under this Part shall make career education a major goal in education by increasing the emphasis they place on career awareness, exploration, decisionmaking, and planning.

(b) Recipients shall conduct activities in a manner that promotes equal opportunities for students engaging in the activities and programs assisted under the Act.

(c) Recipients shall eliminate practices that promote bias and stereotyping based on race, sex, age, economic status, and handicap.

(Sec. 3, U.S.C. 2602)

§ 161.3 Definitions.

"Act" means the "Career Education Incentive Act", Pub. L. 95-207, 20 U.S.C. 2601-2614, 2502.

"Bias" means behavior resulting from the assumption that one person or group of persons is superior to another person or group of persons.

"Discrimination" means any action that limits or denies a person or group of persons opportunities, privileges, roles, or rewards on the basis of race, sex, age, economic status, religion, or handicap.

(Sec. 15, 20 U.S.C. 2614)

"Insular Areas" means the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(48 U.S.C. 1469a)

"Plan" means the State plan required under Sec. 7 of the Act.

"Recipient" means a State or Insular Area that receives an allotment under this Part.

"State" means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"Stereotyping" means attributing behavior, abilities, interests, values, and roles to a person or group of persons on the basis of sex, race, age, economic status, and handicap.

In addition, the definitions in Sec. 15 of the Act apply to this Part.

(Sec. 15, 20 U.S.C. 2614)

§ 161.4 Other regulations applicable to the State allotment program.

Programs and projects under this Part are subject to the applicable provisions of:

(a) 45 CFR Parts 100 and 100b—"General Provisions for Office of Education Programs".

These provisions relate to administrative, fiscal, property management, and other matters;

(20 U.S.C. 2301 *et seq.*)

(b) 45 CFR Parts 80 and 81.

These provisions relate to non-discrimination on the basis of race under programs reserving Federal assistance and contain hearing procedures.

(42 U.S.C. 2000d *et seq.*; 5 U.S.C. 301)

(c) 45 CFR Part 84

These provisions relate to non-discrimination on the basis of handicap.

(29 U.S.C. 794)

(d) 45 CFR Part 86

These provisions relate to non-discrimination on the basis of sex; and

(20 U.S.C. 1681 *et seq.*)

(e) 45 CFR Part 46

These provisions relate to the protection of human subjects.

(5 U.S.C. 301; 42 U.S.C. 2891-3(a))

§§ 161.5–10 [Reserved]

ALLOTMENTS-ASSURANCES—STATE PLANS

§ 161.11 Eligible applicants.

Any State or Insular Area may apply for an allotment of funds under this Part.

(Sec. 5, 20 U.S.C. 2604)

§ 161.12 Allotments.

(a) The Commissioner determines each State's allotment of funds for career education according to the formula in Sec. 5 of the Act.

(b) No State will be allotted less than $125,000 for a fiscal year.

(Sec. 5(a)(1), 20 U.S.C. 2604)

(c) The Commissioner may reserve an amount, in accordance with Sec. 5 of the Act, for payments to the Insular Areas.

(Sec. 5(a)(2)(D), 20 U.S.C. 2604)

§ 161.13 Allotments for Fiscal Year 1979.

(a) A State applying for an allotment of funds for Fiscal Year 1979 must file an application that contains the assurances listed in the Appendix to these regulations.

(Sec. 6, 20 U.S.C. 2605)

(b) An Insular Area applying for an allotment of funds for Fiscal Year 1979 must file assurances in the same manner as a State.

(Implements Sec. 5(a)(2)(D), 20 U.S.C. 2606)

§ 161.14 Allotments for Fiscal Years 1980–81.

(a) A State applying for an allotment for each of the Fiscal Years 1980 and 1981 must submit a plan to the Commissioner by July 1, 1979. In the plan the State must:

(1) Provide the information specified in Sec. 7 of the Act;

(2) Describe the methods it plans to use to evaluate the extent to which it has:

(i) Achieved its objectives for State leadership and local implementation of career education;

(ii) Eliminated discrimination, bias, and stereotyping in career education activities; and

(3) Describe the methods it plans to use to evaluate the overall effectiveness of the State program and of projects assisted under the State's allotment program.

(b) An Insular Area applying for an allotment for each of the Fiscal Years 1980 and 1981 must file a plan in the same manner as a State. The plan must contain the information required in § 161.14(a).

(Implements Sec. 7, 20 U.S.C. 2606)

(c) The Commissioner pays each State or Insular Area its allotment of funds for each of these fiscal years, provided the State or Insular Area has filed the assurances in accordance with § 161.13 and is in compliance with Secs. 6, 7, and 8 of the Act for Fiscal Years 1980 and 1981 respectively.

(Sec. 9(a)(1), 20 U.S.C. 2608)

§ 161.15 Allotments for Fiscal Years 1982—83.

(a) The Commissioner pays the State or Insular Area its allotment of funds for each Fiscal Year 1982 and 1983 respectively, provided the State or Insular Area is in compliance with Secs. 7 and 8 of the Act, for Fiscal Years 1980 and 1981 respectively.

(b) The Commissioner reduces the recipient's allotment in proportion to the extent the Commissioner determines the recipient has failed to meet the objectives in its plan.

(Implements Secs. 7, 9(a)(2), 20 U.S.C. 2606, 2608)

§§ 161.16–20 [Reserved]

USE OF FUNDS

§ 161.21 Use of funds.

(a) No State may reserve more than 10 percent of its funds received under this Part for providing State leadership activities listed in Sec. 8(a)(2) of the Act, either directly or through arrangements with public agencies and private organizations (including institutions of higher education).

(Secs. 8(a)(2), 9(b)(1), 20 U.S.C. 2607, 2608)

(b) No State may reserve more than 10 percent of its funds received under this Part for Fiscal Year 1979 and 5 percent of its funds in Fiscal Years 1980, 1981, 1982, and 1983 for:

(1) Employing additional State educational agency personnel as required for administration and coordination of programs assisted under the Act; and

(2) Reviewing and revising the State plan.

(Secs. 8(a)(1) and (4), 9(b)(2), 20 U.S.C. 2607, 2608)

(c) The remainder of these funds (the funds not reserved as described in paragraphs (a) and (b) above) must be distributed by the State to local educational agencies for comprehensive career education programs described in Sec. 8(a)(3) of the Act.

(Sec. 9(b), 20 U.S.C. 2608)

(d) At least 15 percent of the funds distributed to local educational agencies as described in paragraph (c) above, must be used for programs to develop and implement comprehensive career guidance, counseling, placement, and follow-up services using counselors, teachers, parents, and community resource personnel. For example, the State's allotment is $1,000,000 and the total amount distributed to the local educational agencies in the State is $850,000. At least 15 percent of this amount, or $127,500 must be used for these purposes. Each local educational agency does not have to use 15 percent of the funds it receives for these purposes. Some may use more. Some may use less, but the average amount spent by all the local educational agencies for these purposes must be at least 15 percent of the total local educational agencies' distribution, or $127,500.

(Secs. 6(10), 9(b), 20 U.S.C. 2605, 2608)

§§ 161-22-30 [Reserved]

LOCAL EDUCATIONAL AGENCIES

§ 161.31 Applications and review.

(a) To obtain funds for comprehensive career education programs, a local educational agency must apply to its State educational agency.

(Sec. 8(a)(3), (b), 20 U.S.C. 2607)

(b) Each State educational agency shall review applications and may make payments to local educational agencies, on an equitable basis to the extent practicable, on the basis of criteria established by the State educational agency and criteria in Sec. 8(b) of the Act.

(Sec. 8(b), 20 U.S.C. 2607)

§ 161.32 Use of funds.

Local educational agencies may use funds for any of the purposes specified in Sec. 8(a)(3) of the Act.

(Sec. 8(a)(3), 20 U.S.C. 2607)

§§ 161.33-40 [Reserved]

PRIVATE SCHOOLS

§ 161.41 Private school participation.

(a) Unless a State is prohibited by law from providing services to students and teachers in private non-profit schools, the State must make provisions for the effective participation on an equitable basis of these students and teachers in programs assisted under this Part. The participation of students from private non-profit schools shall be consistent with the number of children enrolled in these schools in the State and in the school district or districts of a local educational agency.

(Secs. 8(c)(1), 9(d)(1), 20 U.S.C. 2607, 2608)

(b) In States that are prohibited by law from providing for participation of students in private non-profit schools in programs under this Part, the Commissioner shall arrange for provision of services to these students in accordance with Sec. 9(d) of the Act.

(Secs. 8(c)(1), 9(d)(1), 20 U.S.C. 2607, 2608)

(c) Private school officials must be consulted on the participation of private school students and teachers.

(Sec. 8(c)(1), 20 U.S.C. 2607)

(d) A public agency in the State shall control the funds provided under this Part and maintain title to the materials and equipment acquired with these funds. A public agency shall administer the use of these funds, materials, and equipment.

(Sec. 8(c)(2)(A), 20 U.S.C. 2607)

(e) Services to private non-profit schools shall be provided by employees of a public agency or through a contract between the public agency and a person, association, private agency, or corporation, each of which must be independent of any private school or of any religious organization. The employment or contract must be under the control or supervision of a public agency.

(f) Funds provided under this Part to accommodate students and teachers in private schools shall not be commingled with State or local funds.

(g) No private school shall benefit from funds provided under this Part.

(h) No private school shall use funds provided under this Part to finance exiting levels of instruction.

(Sec. 8(c)(2)(B), U.S.C. 2607)

§§161.42-50 [Reserved].

MAINTENANCE OF EFFORT AND COST SHARING

§ 161.51 Maintenance of effort.

A State shall expend from its own sources an amount that is equal to or greater than the amount the State expended for career education in the immediately preceeding fiscal year.

(Sec. 6(3)(A), 20 U.S.C. 2605)

§ 161.52 Federal share of expenditures for employing State personnel.

The Federal share of the cost of employing State personnel under Sec. 8(a)(1) of the Act (subject to the limitation in § 161.21) shall not exceed:

(a) 100 percent in Fiscal Year 1979;

(b) 75 percent in Fiscal Year 1980; and

(c) 50 percent in Fiscal Years 1981, 1982, and 1983.

(Sec. 9)c)(1), 20 U.S.C. 2608)

§ 161.53 Federal share of expenditures for State leadership and local implememtation.

The Federal share of the cost of providing State leadership for career education and making payments for local implementation (subject to the limitation in § 161.21) shall not exceed:

(a) 100 percent in Fiscal Years 1979 and 1980;

(b) 75 percent in Fiscal Year 1981;

(c) 50 percent in Fiscal Year 1982; and

(d) 25 percent in Fiscal Year 1983.

(Sec. 9(c)(2), 20 U.S.C. 2608)

§ 161.54 Reports.

Each recipient under this Part shall submit to the Commissioner, on or before December 31, of each year (except the first year of operation under this program), a report that contains:

(1) An analysis of the extent to which each objective in the State plan has been achieved;

(2) A description of the extent to which State and local educational agencies are using State and local resources to achieve these objectives and a description of the extent to which funds received under this Act have been used to achieve these objectives; and

(3) A description of the programs funded within the State, including an analysis of the reasons for their successes and/or failures.

(Sec. 14, 20 U.S.C. 2613)

PART 161a—CAREER EDUCATION DISCRETIONARY PROGRAMS

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AUTHORITY: Secs. 2-16, Pub. L. 95-207, 91 Stat. 1464-1474 (20 U.S.C. 2601-2614, 2505), unless otherwise noted.

GENERAL

§ 161a.1 Scope.

Part 161a contains regulations for the discretionary model career education program, postsecondary career education demonstration program, and career education information program of the Career Education Incentive Act, Pub. L. 95-207.

(Secs. 10-12, 20 U.S.C. 2609-2611)

§ 161a.2 Definitions.

"Act" means the "Career Education Incentive Act", Pub. L. 95-207, 20 U.S.C. 2601-2614, 2502.

"Bias" means behavior resulting from the assumption that one person or group of persons is superior to another person or group of persons.

"Discrimination" means any action that limits or denies a person or group of persons opportunities, privileges, roles, or rewards on the basis of race, sex, age, economic status, religion or handicap.

"Exemplary career education program" means a career education program that has achieved the standard of performance prescribed by the Joint Dissemination Review Panel of the Education Division of the Department of Health, Education, and Welfare.

"Stereotyping" means attributing behavior, abilities, interests, values and roles to a person or group of persons on the basis of sex, race, age, economic status or handicap.

In addition, the definitions in Sec. 15 of the Act apply to this Part.

(Sec. 15, 20 U.S.C. 2614)

§ 161a.3 Other regulations applicable to the career education discretionary programs.

(a) Programs or projects under this Part are subject to the applicable provisions in:

(1) 45 CFR Parts 100 and 100a—"General Provisions for Office of Education Programs".

These provisions relate to fiscal, administrative, property management, and other matters.

(20 U.S.C. 2301 *et seq.*)

(2) 45 CFR Parts 80 and 81.

These provisions relate to non-discrimination on the basis of race under programs receiving Federal assistance and contain hearing procedures.

(42 U.S.C. 2000d *et seq.*; 5 U.S.C. 301)

(3) 45 CFR Part 84.

These provisions relate to non-discrimination on the basis of handicap.

(29 U.S.C. 794)

(4) 45 CFR Part 86.

These provisions relate to non-discrimination on the basis of sex; and

(20 U.S.C. 1681 *et seq.*)

(5) 45 CFR Part 46.

These provisions relate to the protection of human subjects.

(5 U.S.C. 301; 42 U.S.C. 2891-3(a))

(b) If the Commissoner arranges for the conduct of postsecondary career education demonstration projects under Sec. 11 of the Act or carries out the career education information program under Sec. 12 of the Act by contract, these contracts are subject to the applicable provisions of the Federal Procurement Regulations, 41 CFR Chapters 1 and 3. If the Commissioner proceeds by grant, the applicable provisions of 45 CFR Parts 100 and 100a apply.

(c) Contracts are not authorized for the model career education program under Sec. 10 of the Act.

(Secs. 10-12, 20 U.S.C. 2609-2611, 2301 *et seq.*)

§§ 161a.4-10 [Reserved]

MODEL PROGRAM

§ 161a.11 Purposes.

The Commissioner may award grants to eligible applicants to support projects at elementary and secondary levels that demonstrate effective techniques of:

(a) Eliminating or counteracting discrimination, bias, and stereotyping based on race, sex, age, economic status, and handicap in career awareness, exploration, decisionmaking, and planning;

(b) Promoting and sustaining diverse community and parent collaboration in the deliver of career awareness, exploration, decisionmaking, and planning; or

(c) Accommodating handicapped students in regular classrooms to enable them to effectively engage in career awareness, exploration, decisionmaking, and planning.

(Sec 10(a), 20 U.S.C. 2609)

§ 161a.12 Eligible applicants.

(a) Those eligible to apply for grants for model career education projects are:

(1) State educational agencies;

(2) Local educational agencies;

(3) Institutions of postsecondary education; and

(4) Other non-profit agencies and organizations.

(b) New applicants as well as those that have conducted projects of proven effectiveness may apply under this program.

(Sec. 10(a), 20 U.S.C. 2609)

§ 161a.13 Criteria for review of applications.

The Commissioner uses the criteria in § 161a.41 to review applications for model project grants.

(Implements Sec. 10(a), 20 U.S.C. 2609)

§§ 161a.14-20 [Reserved]

POSTSECONDARY CAREER EDUCATION DEMONSTRATION PROGRAM

§ 161a.21 Purposes.

(a) The Commissioner may conduct a postsecondary career education program that supports demonstration projects that:

(1) Promote career education in postsecondary education programs;

(2) Promote postsecondary career guidance and counseling programs designed to overcome bias and discrimination based on race, sex, age, economic status, or handicap;

(3) Strength career guidance, counseling, placement, and followup services.

(b) Each project assisted under Sec. 11 of the Act must be:

(1) Of national significance;

(2) Of special value to others; and

(3) Free of discrimination, bias, and sterotyping based on race, sex, age, economic status, and handicap.

(c) The Commissioner may make awards for postsecondary career education demonstration projects that show promise of fostering communication and collaboration with similar projects assisted under this Part.

(Sec. 11(a)(1)-(3), 20 U.S.C. 2610)

§ 161a.22 Eligilbe applicants.

Those eligible to apply for awards are:

(a) Institutions of higher education;

(b) Public agencies; and

(c) Non-profit private organizations.

(Sec. 11(a), 20 U.S.C. 2610)

§ 161a.23 Criteria for review of applications.

(a) The Commissioner uses the criteria in § 161a.41 to review applications for grants.

(Implements Sec. 11, 20 U.S.C. 2610)

(b) The Commissioner does not approve an application unless:

(1) The applicant addresses at least one of the purposes specified in § 161a.21; and

(2) The applicant includes adequate provisions for evaluating overall project effectiveness and the extent to which each objective is achieved.

(Sec. 11(b), 20 U.S.C. 2610)

§§ 161a.24-30 [Reserved]

CAREER EDUCATION INFORMATON PROGRAM

§ 161a.31 Purpose.

The Commissioner provides to projects assisted under this Act and to the general public information about:

(a) Federal programs which gather, analyze, and disseminate occupational and career information; and

(b) Exemplary career education programs, including programs assisted under this Act.

(Sec. 12, 20 U.S.C. 2611)

§ 161a.32 Eligible applicants.

Public and private agencies and organizations are eligible to apply for contract awards to carry out the career education information program.

(Sec. 12, 20 U.S.C. 2611)

§ 161a.33 Application information.

Applicants must apply in accordance with the application contents and application review criteria to be published each fiscal year in the Commerce Business Daily.

(Implements Sec. 12, 20 U.S.C. 2611)

§§ 161a.34–40 [Reserved]

MODEL AND POSTSECONDARY APPLICATION REQUIREMENTS AND REVIEW CRITERIA

§ 161a.41 Application requirements and application review criteria.

(a) No application for a grant under this Part shall be reviewed, unless it contains an abstract that:

(1) Specifies whether the application is for a model demonstration project or a postsecondary career education demonstration project;

(2) Specifies the purpose(s) from §§ 161a.11 or 161a.21 for which the application is submitted; and

(3) Describes the proposed project.

(b) The Commissioner uses the criteria included below in reviewing applications for grants under Secs. 10 and 11 of the Act. These criteria replace the general criteria in 45 CFR 100a.26, Review of Applications in the General Education Provisions Regulations. Each criterion is weighted and includes a maximum score. The total maximun score for these criteria is 100 points. The score is parentheses after each criterion is the maximum score the Commissioner awards for that criterion.

(1) *Need.*

The applicant clearly describes and documents the need for the project in terms of the population to be served, the setting, and its usefulness to others. (5 points)

The applicant addresses the need to eliminate discrimination, bias, and sterotyping in career education activities. (5 points)

(2) *Rationale.* The applicant reviews and describes career education processes, techniques, and material developed in previous career education projects conducted by the applicant and/or by others. The applicant explains how relevant aspects of this previous work is to be utilized in implementing the proposed project. (5 points)

(3) *Objectives.* The applicant presents objectives that are:

Clearly stated;

Revelant to project purposes;

Relevant to project needs;

Significant to others;

Attainable; and

Measurable in terms of both the process and the outcome. (10 points)

(4) The applicant's objectives adequately address the elimination of discrimination, bias, stereotyping, and discrimination based on race, sex, age, economic status, and handicap. (5 points)

(5) *Operational plan*—The applicant presents a plan that includes:

Specific procedures by which each objective will be accomplished; (5 points)

Time required for each major activity, with the period of the project it covers clearly charted; (5 points)

Specific measures for achieving effective collaboration between the world of work and the world of education; and (5 points)

The applicant's plan contains specific and effective procedures for achieving collaboration with organizations representing, respectively, minorities, women, older persons, handicapped persons, and low-income persons. (5 points)

(6) *Personnel.*

The personnel designated to carry out the project (including the project director, the staff consultants, and, if applicable, persons serving in an advisory capacity) are adequately qualified. (6 points)

The personnel designated to carry out the project reflects an appropriate representation of women, minorities, older persons, and handicapped persons. (4 points)

(7) *Evaluation plan.*

The applicant makes the provision for evaluation of the effectiveness of the project and for determining the extent to which each objective is accomplished. These provisions are adequate and include:

Criteria of success for evaluating each objective;

Evaluation design for each objective;

Data collection instruments or other techniques to be used for each objective;

Data analysis to be conducted for each objective;

Dates when data on the various objectives will be available; and

Evaluation resources of personnel and budget that will be used. (20 points)

(8) *Exemplary nature of project.*

The applicant's plan provides for a comprehensive career education project that, if successfully attained, holds high promise of serving as a useful model for others, and whose activities would be useful in other career education projects or programs for similar educational purposes. (9 points)

The plan contains sufficient provisions for coordination with similar projects and programs. (3 points)

The plan contains adequate provisions for disseminating information about the project during the funding period and at the end of the project. (3 points)

(9) *Budget and project size*—The applicant presents a budget that relates to project objectives, and that is reasonable in relation to anticipated results. The size, scope, and duration of the project are sufficient to secure productive results. (5 points)

(Implements Secs. 10(a), 11(a), 20 U.S.C. 2609, 2610)

§ 161a.42 Project duration.

(a) Projects will be funded normally for one year.

(b) Projects that desire funding for more than one year must submit a new application each fiscal year.

(20 U.S.C. 1221e-3(a)(1), 2602)

APPENDIX A—ASSURANCES

The State or Insular Area assures the Commissioner that it will conduct the State allotment program in Part 161 in accordance with the following provisions. Those provisions preceded by an asterik do no apply to the Insular Areas.

1. The State has notified the legislature and the Chief Executive that it is applying for an allotment of funds under Part 161.

(Sec. 6(2), 20 U.S.C. 2605.)

2. The State educational agency will plan for the use of funds and will administer the expenditure of funds received under Part 161.

(Sec. 6(1), 20 U.S.C. 2605.)

3. The State will make every possible effort to integrate career education into the regular educational programs offered in elementary and secondary schools.

(Sec. 6(4), 20 U.S.C. 2605.)

4. The State educational agency will require that career education programs assisted under the State allotment program be administered by State and local educational agencies in a way that affects all elementary and secondary school instructional programs, and not solely as a part of the vocational education program.

(Sec. 6(5), 20 U.S.C. 2605.)

5. The State educational agency will designate a person with prior experience in career education to coordinate the programs assisted under the State allotment program.

(Sec. 6(5), 20 U.S.C. 2605.)

State leadership activities.

6. The State will reserve not more than ten percent of its allotment for Fiscal Years 1979, 1980, 1981, 1982, and 1983 for the following State leadership activities:

Conducting in-service institutes for educational personnel;

Training local career education coordinators;

Collecting, evaluating, and disseminating career education materials with special emphasis on overcoming sex bias;

Conducting Statewide needs assessment and evaluation studies;

Conducting Statewide career education leadership conferences;

Engaging in collaborative relationships with other agencies of State government and with public agencies and private organizations representing business, labor, industry, and the professions and organizations representing handicapped persons, minority groups, women, low-income persons and older persons; and

Assisting institutions of higher education to adapt teacher-training curricula to the concept of career education.

(Sec. 6(11), 20 U.S.C. 2605.)

7. The State will reserve not more than ten percent of its allotment for Fiscal Year 1979 and not more than five percent of its allotment for Fiscal Years 1980, 1981, 1982, and 1983 for:

Employing additional personnel to administer and to coordinate programs described in Part 161; and

Reviewing and revising the State plan.

*8. The State educational agency will employ the staff necessary to administer the State allotment program and the programs assisted under it, including but not limited to:

A person or persons experienced in dealing with problems of discrimination in the labor market, and stereotyping in career education, including bias and stereotyping based on race, sex, age, economic status, and handicap;

A professional trained in guidance and counseling who shall work jointly in the office of the principal staff person responsible for the administration of this program and in the office of the person responsible for guidance and counseling for the State, if the latter office exists.

This paragraph does not apply if the State receives only the minimum allotment of funds for the fiscal year.

(Secs. 5(c), 6(6), 20 U.S.C. 2604, 2605.)

Review and revision of State plans.

9. The State educational agency will continuously review and revise the plan submitted under Part 161.

10. The State educational agency will report to the Commissioner any amendments to the plan.

(Sec. 6(7), 20 U.S.C. 2605.)

Maintenance of Effort and Cost Sharing.

*11. The State will expend, from its own sources, an amount equal to or greater than the amount it expended for career education the immediately preceding fiscal year.

*12. The State will pay from non-Federal sources the non-Federal share of the costs of carrying out the plan for fiscal years 1980, 1981, 1982, and 1983.

9Sec. 6(3), 20 U.S.C. 2605.)

State payments to local educational agencies.

*13. If the State determines that the jurisdiction in which a local educational agency is located is making a reasonable tax effort, the State will not deny funds to the local educational agency solely because the agency is unable to pay the non-federal share of cost of programs assisted under Part 161.

*14. The State will not make payments to local educational agencies based on per capita enrollment or through matching of local expenditures on a uniform percentage basis.

(Sec. 6(9), 20 U.S.C. 2605.)

*15. The State will make payments to local educational agencies, on an equitable basis to the extent practicable, on the basis of criteria established by the State educational agency and will consider the special needs of local educational agencies that serve areas with:

High incidence and prevalence of youth and adult unemployment;

Sparse population; or

Relatively few students.

(Secs. 6(11), 8(b), 20 U.S.C. 2605, 2607.)

Local implementation activities.

16. The State will use at least 15 percent of funds reserved for payments to local educational agencies under Sec. 9(b) of the Act to enable local agencies to develop and implement comprehensive career guidance programs. These programs include career counseling, information placement, and follow-up services using counselors, teachers, parents, and community resource persons.

17. The State will distribute the remainder of its allotment of funds (that is not reserved under Sec. 9(b) of the Act or as described in Assurance 16 above) to local educational agencies to enable them to conduct comprehensive programs, including:

Incorporating career education concepts and approaches into the instructional program;

Developing and implementing comprehensive career guidance counseling, placement, and follow-up services using counselors, teachers, parents, and community resource personnel;

Developing and implementing collaborative relationships with organizations representing handicapped persons, minority groups, women, older persons, low-income persons, and other members of the community, and using persons from these groups as resource persons in schools and for student field trips into the community;

Providing students whose primary purpose is career exploration with non-discriminatory and non-stereotyped work experiences that relate to existing or potential career opportunities and with work experiences that do not cause students to displace other workers;

Employing career education coordinators in local educational agencies or in combinations of thes agencies (but not at the individual school building level);

Training local career education coordinators;

Providing in-service education for teachers, counselors, and school administrators to enable them to understand career education, the changing work patterns of men and women, ways of overcoming sex stereotyping in career education, ways of helping men and women broaden their career horizons, and to develop competencies in the field of career education;

Conducting institutes for members of boards of local educational agencies, community leaders, and parents about the nature and goals of career education;

Purchasing instructional materials and supplies for career education activities;

Establishing and operating community career education councils with appropriate representation of women, minorities, older persons, low-income persons, and handicapped persons;

Establishing and operating career education resource centers to serve both students and the general public;

Adopting, reviewing, and revising local plans for coordinating the implementation of the comprehensive program; and

Conducting needs assessments and evaluations.

(Secs. 6(8), (11), 8(a)(3), 9(b), 20 U.S.C. 2605, 2607, 2608.)

Services to students and teachers in private non-profit schools.

18. The State will consult with officials of private non-profit elementary and secondary schools. It will make provision for the effective participation, on an equitable basis, of students and teachers in programs and services assisted under Part 161.

19. A public agency will control the funds provided under Part 161 and maintain title to and administer the use of the materials and equipment acquired with these funds.

20. A public agency will provide these services to private non-profit schools directly using agency employees, or through a contract.

21. The public agency will not award a contract for the provisions of these services to a person, association, private agency, or corporation that is not independent of any private school or religious organization.

22. The State will not commingle with State or local funds those funds received under Part 161 to accommodate students and teachers in private, non-profit schools.

(Secs. 6(11), 8(c), 20 U.S.C. 2605, 2607.)

Public Law 95-207
95th Congress

An Act

Dec. 13, 1977
[H.R. 7]

To authorize a career education program for elementary and secondary schools, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Career Education Incentive Act".

Career Education Incentive Act.
20 USC 2601 note.

DECLARATIONS

20 USC 2601.

SEC. 2. The Congress declares that—

(1) a major purpose of education is to prepare every individual for a career suitable to that individual's preference,

(2) career education should be an integral part of the Nation's educational process which serves as preparation for work,

(3) career education holds promise of improving the quality of education and opening career opportunities for all students by relating education to their life aspirations, and

(4) educational agencies and institutions (including agencies and institutions of elementary and secondary education, higher education, adult education, employment training and retraining, and vocational education) should make every effort to fulfill that purpose.

PURPOSE

20 USC 2602.

SEC. 3. In recognition of the prime importance of work in our society and in recognition of the role that the schools play in the lives of all Americans, it is the purpose of this Act to assist States and local educational agencies and institutions of postsecondary education, including collaborative arrangements with the appropriate agencies and organizations, in making education as preparation for work, and as a means of relating work values to other life roles and choices (such as family life), a major goal of all who teach and all who learn by increasing the emphasis they place on career awareness, exploration, decisionmaking, and planning, and to do so in a manner which will promote equal opportunity in making career choices through the elimination of bias and stereotyping in such activities, including bias and stereotyping on account of race, sex, age, economic status, or handicap.

AUTHORIZATION OF APPROPRIATIONS

20 USC 2603.

SEC. 4. (a) Subject to the provisions of subsections (b) and (c), there are authorized to be appropriated $50,000,000 for fiscal year 1979, $100,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, and $25,000,000 for fiscal year 1983 to carry out the provisions of this Act, other than section 11 of this Act.

(b) No funds are authorized to be appropriated pursuant to subsection (a) for any fiscal year beginning after September 30, 1979, unless an appropriation was made for the immediately preceding fiscal year.

(c) No funds are authorized to be appropriated pursuant to subsection (a) for any fiscal year beginning after September 30, 1979, unless such funds are appropriated in the fiscal year prior to the fiscal year in which such funds will be obligated, and unless such funds are made available for expenditure to the States prior to the beginning of such fiscal year.

ALLOTMENTS

State allotments, minimum.
20 USC 2604.

SEC. 5. (a)(1) From the funds appropriated pursuant to section 4 for each fiscal year which are not reserved under paragraph (2) of this subsection, the Commissioner shall allot to each State an amount which bears the same ratio to such funds as such State's population aged five to eighteen, inclusive, bears to the total population, aged five to eighteen, inclusive, of all the States, except that no State shall be allotted from such funds for each fiscal year an amount less than $125,000.

Reserves.

(2) From the remainder of the funds appropriated pursuant to section 4 for each fiscal year, the Commissioner may reserve—

(A) an amount not to exceed 5 per centum each year for the administration of this Act and for making model program grants pursuant to section 10,

(B) an amount not to exceed 1 per centum each year for the purpose of carrying out the information program pursuant to section 12 of this Act,

(C) an amount not to exceed one-half of one per centum each year for the purpose of carrying out a national evaluation of the effectiveness of programs assisted under this Act in carrying out the purposes of this Act, and

(D) an amount equal to 1 per centum for the purpose of making payments to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands in furtherance of the purposes of this Act.

Reallotment.

(b)(1) Any funds allotted to a State under paragraph (1) of subsection (a) for which a State has not applied or for which a State application has not been approved shall be reallotted by ratably increasing the allocations of each of the States which have approved applications.

(2) If the sums appropriated for any fiscal year are not sufficient to make the allotments of the minimum amounts specified in paragraph (1) of subsection (a), such minimum amounts shall be ratably reduced. If additional sums become available during a fiscal year for which such allotments were reduced, such allotments shall be increased on the same basis as they were reduced.

(c) Notwithstanding any other provision of this Act, any State which receives, in any fiscal year, the minimum allotment prescribed under paragraph (1) of subsection (a) of this section does not have to comply with the provisions of section 6(6) relating to staff employed at the State level.

APPLICATIONS

Contents.
20 USC 2605

SEC. 6. Every State desiring to receive funds appropriated under section 4 for fiscal year 1979 shall submit to the Commissioner an application containing assurances that—

(1) the State educational agency will be the agency responsible for planning the use, and administering the expenditure, of funds received under this Act, other than funds made available under sections 10, 11, and 12;

PROPOSED RULES

(2) the State legislature and the Governor have been notified of the State's application for such funds;

(3) (A) the State will expend, from its own sources, for any fiscal year for which funds are received under this Act, an amount equal to or exceeding the amount which such State expended for career education during the fiscal year preceding the fiscal year for which the determination is made;

Non-Federal share costs, payment.

(B) the State will pay from non-Federal sources the non-Federal share of the costs of carrying out the State plan for fiscal year 1980 and for each of the three succeeding fiscal years;

(4) the State will make every possible effort to integrate career education into the regular education programs offered in elementary and secondary schools in the State;

(5) (A) the State educational agency will require that programs of career education assisted under this Act will be administered by State and local educational agencies in such a manner as to affect all instructional programs in elementary and secondary education, and will not be administered solely as a part of the vocational education program;

(B) the State educational agency will require that programs of career education will be coordinated by an individual having prior experience in the field of career education (who shall be designated as a State coordinator of career education);

(6) such agency will employ such staff as are necessary to provide for the administration of this Act and programs of career education funded under this Act, including a person or persons experienced with respect to problems of discrimination in the labor market and stereotyping affecting career education, including bias and stereotyping on account of race, sex, age, economic status, or handicap, and including at least one professional trained in guidance and counseling who shall work jointly in the office of the principal staff person responsible for such administration and coordination and in the office of the State educational agency responsible for guidance and counseling, if any such office exists;

Review.

(7) such agency will continuously review the plan submitted under section 7 and will submit such amendments thereto as may be deemed appropriate in response to such agency's experience with the program;

(8) the State educational agency will comply with the provisions of section 9(b) with respect to the distribution of funds to local educational agencies within the State;

(9) the State educational agency will not allocate payments under this Act among local educational agencies within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any local educational agency if the applicable jurisdiction in which such agency is located is making a reasonable tax effort solely because such agency is unable to pay the non-Federal share of the costs of programs assisted under this Act;

(10) not less than 15 per centum of that portion of a State's grant for any fiscal year which is not reserved pursuant to section 9(b) will be used for programs described in section 8(a)(3)(B); and

(11) the funds received under this Act will be used in accordance with the provisions of section 8.

STATE PLANS

Contents. 20 USC 2606.

SEC. 7. Every State desiring to receive funds appropriated pursuant to section 4 shall submit to the Commissioner by July 1, 1979, a State plan which shall—

(1) set out explicitly the objectives the State will seek to achieve by the end of each of the fiscal years for which funds are made available under this Act in implementing the goal of providing career education for students in elementary and secondary schools within the State, with special emphasis on overcoming sex bias and stereotyping, and set out the methods by which the State will seek each year to achieve such objectives with all resources available;

(2) describe the methods by which the funds received under this Act will be used, in accordance with section 8, to implement the overall objectives in each of the fiscal years for which funds are made available under this Act;

(3) set forth policies and procedures which the State will follow to assure equal access of all students (including the handicapped and members of both sexes) to career education programs carried out under the State plan;

(4) provide adequate assurance that the requirements of section 6 will be met in each fiscal year after fiscal year 1979; and

(5) provide proposed criteria to the Commissioner for the evaluation of the extent to which the State will achieve the objectives set out in the State plan.

USE OF FUNDS

Federal share payments. 20 USC 2607.

SEC. 8. (a) Subject to the provisions of sections 9(b) and 10, funds received under this Act may be used only to pay the Federal share of the total costs of—

(1) employing such additional State educational agency personnel as may be required for the administration and coordination of programs assisted under this Act;

(2) providing State leadership for career education, either directly or through arrangements with public agencies and private organizations (including institutions of higher education), in—

(A) conducting inservice institutes for educational personnel;

(B) training local career education coordinators;

(C) collecting, evaluating, and disseminating career education materials on an intrastate and interstate basis with special emphasis on overcoming sex bias and stereotyping;

(D) conducting statewide needs assessment and evaluation studies;

(E) conducting statewide career education leadership conferences;

(F) engaging in collaborative relationships with other agencies of State government and with public agencies and private organizations representing business, labor, industry and the professions and organizations representing the handicapped, minority groups, women, and older Americans; and

(G) promoting the adaptation of teacher-training curric-

ula to the concept of career education by institutions of higher education located in the State;

(3) making payments to local educational agencies for comprehensive programs including—

(A) instilling career education concepts and approaches in the classroom;

(B) developing and implementing comprehensive career guidance, counseling, placement, and followup services utilizing counselors, teachers, parents, and community resource personnel;

(C) developing and implementing collaborative relationships with organizations representing the handicapped, minority groups, and women and with all other elements of the community, including the use of personnel from such organizations and the community as resource persons in schools and for student field trips into that community;

(D) developing and implementing work experiences for students whose primary purpose is career exploration, if such work experiences are related to existing or potential career opportunities and do not displace other workers who perform such work;

(E) employing coordinators of career education in local educational agencies or in combinations of such agencies (but not the individual school building level);

(F) training of local career education coordinators;

(G) providing inservice education for educational personnel, especially teachers, counselors, and school administrators, designed to help such personnel to understand career education, to acquire competencies in the field of career education and to acquaint such personnel with the changing work patterns of men and women, ways of overcoming sex stereotyping in career education, and ways of assisting women and men to broaden their career horizons;

(H) conducting institutes for members of boards of local educational agencies, community leaders, and parents concerning the nature and goals of career education;

(I) purchasing instructional materials and supplies for career education activities;

(J) establishing and operating community career education councils;

(K) establishing and operating career education resource centers serving both students and the general public;

(L) adopting, reviewing, and revising local plans for coordinating the implementation of the comprehensive program; and

(M) conducting needs assessments and evaluations; and

(4) reviewing and revising the State plan.

(b) The State shall make payments to local educational agencies for the purposes described in paragraph (3) of subsection (a) from funds received under this Act upon applications approved by the State educational agency. Such payments shall, to the extent practicable, be made on an equitable basis in accordance with criteria established by the State educational agency, consistent with section 6(9), having due regard for the special needs of local educational agencies

serving areas of high incidence and prevalence of youth and adult unemployment, serving sparsely populated areas or serving relatively few students.

Private nonprofit elementary and secondary schools, participation.

(c)(1) To the extent consistent with the number of children enrolled in private nonprofit elementary and secondary schools within the State, with respect to services described under paragraph (2) of subsection (a), and within the school district, with respect to payments made to a local educational agency for the purposes described in paragraph (3) of such subsection, after consultation with appropriate private school officials, provision shall be made for the effective participation on an equitable basis of such children and the teachers of such children in such services and in programs assisted with such payments.

Funds, control.

(2)(A) The control of funds provided under this Act and title to materials and equipment therewith shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

Contracts for services.

(B) The provisions of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this Act to accommodate students and teachers in nonprofit public schools shall not be commingled with State or local funds.

PAYMENTS

20 USC 2608.

SEC. 9. (a)(1) The Commissioner, upon receipt of an application of assurances for fiscal year 1979 which the Commissioner finds to be in compliance with section 6, and upon finding the State to be in compliance with sections 7 and 8 for fiscal years 1980 and 1981, shall pay to the State the amount which it is entitled to receive for each such year under this Act.

(2) The Commissioner, upon finding the State to be in compliance with sections 7 and 8 for fiscal years 1982 and 1983 by reviewing the report required to be submitted by the State under section 14 for fiscal years 1980 and 1981, respectively, shall pay to the State the amount which it is entitled to receive for each of the fiscal years 1982 and 1983 under this Act reduced in proportion to the extent to which the Commissioner determines that such State has substantially failed to achieve the objectives for fiscal years 1980 and 1981 set forth in its State plan.

(b) Any State receiving funds appropriated under section 4 of this Act may reserve (1) not more than 10 per centum of such funds for State leadership purposes described in paragraph (2) of section 8(a), and (2) not more than 10 per centum of such funds appropriated for the fiscal year 1979, and not more than 5 per centum of the funds appropriated for succeeding fiscal years, for the purposes described in paragraphs (1) and (4) of section 8(a). The remainder of such funds shall be distributed by the State to local educational agencies within that State for the purposes described in paragraph (3) of section 8(a).

(c)(1) For the purposes of paying the cost of employing State

career education coordinators and staff described in paragraph (1) of section 8(a), the Federal share of the payments made under this Act from a State's allotment shall be not more than 100 per centum for the fiscal year 1979, not more than 75 per centum for the fiscal year 1980 and not more than 50 per centum for the fiscal years 1981, 1982, and 1983.

(2) For the purposes described in paragraphs (2) and (3) of section 8(a), the Federal share of the payments made under this Act from a State's allotment shall be not more than 100 per centum for the fiscal years 1979 and 1980, not more than 75 per centum for the fiscal year 1981, not more than 50 per centum for the fiscal year 1982, and not more than 25 per centum for the fiscal year 1983.

Waiver. (d)(1) If a State is prohibited by law from providing for the participation in programs of children enrolled in private nonprofit elementary and secondary schools, as required by section 8(c), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of that section.

Waiver. (2) If the Commissioner determines that a State or a local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private nonprofit elementary and secondary schools as required by section 8(c), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of that section.

MODEL PROGRAMS

Grants. 20 USC 2609. SEC. 10. (a) From funds reserved under section 5(a)(2)(A) of this Act, the Commissioner is authorized to make grants directly to State and local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models particularly projects designed to eliminate bias and stereotyping on account of race, sex, age, economic status, or handicap.

(b) Notwithstanding any other provision of law, no funds may be made available under the provisions of section 406(f)(1) of the Education Amendments of 1974 for grants or contracts with local educational agencies for any fiscal year in which funds are appropriated under this Act and reserved for the purposes of this section under section 5(a)(2)(A). 20 USC 1865.

POSTSECONDARY EDUCATIONAL DEMONSTRATION PROJECTS

20 USC 2610. SEC. 11. (a) The Commissioner is authorized to arrange by way of grant, contract, or other arrangement with institutions of higher education, public agencies and nonprofit private organizations for the conduct of postsecondary educational career demonstration projects which—

(1) may have national significance or be of special value in promoting the field of career education in postsecondary educational programs,

(2) have unusual promise of promoting postsecondary career guidance and counseling programs, particularly postsecondary guidance and counseling programs designed to overcome bias and stereotyping on account of race, sex, age, economic status, or handicap, or

(3) show promise of strengthening career guidance, counseling, placement, and followup services.

Approval. (b) The Commissioner shall approve arrangements under subsection (a) of this section if he finds—

(1) that the funds for which assistance is sought will be used for one of the purposes set forth in subsection (a) of this section, and

(2) that effective procedures, including objective measurements, will be adopted for evaluating at least annually the effectiveness of the project.

Appropriation authorization. (c) For the purpose of carrying out the provisions of this section there is authorized to be appropriated $15,000,000 for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983.

(d) Notwithstanding any other provision of law, no funds may be made available under the provisions of section 406(f)(1) of the Education Amendments of 1974 for grants or contracts with institutions of higher education for any fiscal year in which funds are appropriated pursuant to subsection (c) of this section. 20 USC 1865.

CAREER EDUCATION INFORMATION

Examination. 20 USC 2611. SEC. 12. (a) In consultation with members of the National Occupational Information Coordinating Committee, the Commissioner shall examine the occupational information needs of individuals and organizations eligible for participation in programs assisted by this Act. The examination shall consider the present activities of the National Occupational Information Coordinating Committee, the State Occupational Information Coordinating Committees, and other occupational information activities of the Office of Education, the National Institute of Education, the Bureau of Labor Statistics, the Employment and Training Administration, and such other Federal agencies as the Commissioner deems appropriate. Upon the conclusion of the examination, the Commissioner shall, either directly or by way of grant, contract or other arrangement, furnish information to interested parties on Federal programs which gather, analyze and disseminate occupational and career information.

Dissemination. (b) The Commissioner shall, either directly or by way of grant, contract or other arrangement, disseminate information to interested parties on exemplary career education programs, including but not limited to programs assisted under this Act.

ADMINISTRATION

20 USC 2612. SEC. 13. (a)(1) The Office of Carcer Education created pursuant to section 406 of the Education Amendments of 1974 shall be the administering agency within the Office of Education for the review of the State plans, applications, and reports submitted pursuant to this Act. In addition, the Office of Career Education shall perform a national leadership role in furthering the purposes of this Act.

58924 PROPOSED RULES

Technical assistance.

(2) The Office of Career Education shall, upon request, provide technical assistance to all participating State educational agencies and to Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Infra.

(b) The National Advisory Council on Career Education created pursuant to section 406 of the Education Amendments of 1974 shall perform the same functions with respect to the programs authorized under this Act as the Council is authorized to perform with respect to the programs authorized under that section.

Cooperation between the Office of Education and Institute.

(c) Nothing in this Act shall be construed to prohibit the National Institute of Education from continuing to carry out its functions in the field of career education. The Assistant Secretary of Health, Education, and Welfare for Education shall assure such cooperation as the Assistant Secretary deems appropriate between the Office of Education and the Institute to identify research and development priorities and, either directly or through arrangements with public agencies and private organizations (including institutions of higher education), to disseminate the results of the research and development undertaken by the Institute.

Staff and resources.

(d) The Office of Education shall provide the Office of Career Education and the National Advisory Council on Career Education with sufficient staff and resources required to carry out their responsibilities under this Act and under section 406 of the Education Amendments of 1974.

20 USC 1865.

(e) Section 406(g)(1)(B) of the Education Amendments of 1974 is amended to read as follows:

"(B) not less than fifteen public members broadly representative of the fields of education, guidance, and counseling, the arts, the humanities, the sciences, community services, business and industry, and the general public, including (i) members of organizations of handicapped persons, minority groups knowledgeable with respect to discrimination in employment and stereotyping affecting career choices, and women who are knowledgeable with respect to sex discrimination and stereotyping, and (ii) not less than two members who shall be representative of labor and of business, respectively.".

REPORTS

20 USC 2613.

SEC. 14. (a) Unless the Commissioner finds the requirements of this subsection unnecessary, not later than December 31 of each fiscal year each State receiving funds under this Act shall submit to the Commissioner a report evaluating the programs assisted with funds provided under this Act for the preceding fiscal year. Such report shall include—

Contents.

(1) an analysis of the extent to which the objectives set out in the State plan submitted pursuant to section 6 have been fulfilled during that preceding fiscal year;

(2) a description of the extent to which the State and local educational agencies within the State are using State and local resources to implement these objectives and a description of the extent to which funds received under this Act have been used to achieve these objectives; and

(3) a description of the exemplary programs funded within the State, including an analysis of the reasons for their success, and a description of the programs which were not successful within the State, including an analysis of the reasons for their failure.

Analysis and recommendations.

(b) The Commissioner, through the Office of Career Education, shall analyze each one of the State reports submitted pursuant to subsection (a) and shall provide to the State no later than three months after the date of such submission an analysis of the report and recommendations for improvement in the operation and administration of programs being provided by the State with funds made available under this Act.

Review; report to congressional committees.

(c) The Commissioner shall conduct a comprehensive review of a random sample of the State programs funded under this Act and shall submit a report on such review to the Committee on Education and Labor of the House of Representatives and the Committee on Human Resources of the Senate by no later than September 30, 1982.

DEFINITIONS

20 USC 2614.

SEC. 15. For purposes of this Act the term—

(1)(A) "career education", for the purposes of this Act, except for paragraphs (2) and (3) of section 8(a), and sections 8(b), 8(c), 9, 10, and 11, means the totality of experiences, which are designed to be free of bias and stereotyping (including bias or stereotyping on account of race, sex, age, economic status, or handicap), through which one learns about, and prepares to engage in, work as part of his or her way of living, and through which he or she relates work values to other life roles and choices (such as family life);

(B) "career education", for purposes of paragraphs (2) and (3) of section 8(a), and sections 8(b), 8(c), 9, 10, and 11, shall be limited to activities involving career awareness, exploration, decisionmaking, and planning, which activities are free of or are designed to eliminate bias and stereotyping (including bias or stereotyping on account of race, sex, age, economic status, or handicap), and shall not include any activities carried out by such agencies involving specific job skill training;

(2) "Commissioner" means the Commissioner of Education;

(3) "handicapped" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired persons, or persons with specific learning disabilities who by reason thereof require special education and related services;

(4) "local educational agency" has the meaning given such term by section 801(f) of the Elementary and Secondary Education Act of 1965;

20 USC 881.

(5) "State" means the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(6) "State educational agency" has the meaning given such term by section 801(k) of the Elementary and Secondary Education Act of 1965.

PROPOSED RULES

AMENDMENT TO THE EDUCATION AMENDMENTS OF 1976

20 USC 2502.

SEC. 16. Section 332 of the Education Amendments of 1976 is amended—

(1) in subsection (b)(2), by striking out "3 per centum" and inserting in lieu thereof "1 per centum", and by striking out "the Commonwealth of Puerto Rico,"; and

(2) in subsection (b)(3)(B), by striking out "and the District of Columbia" and inserting in lieu thereof ", the District of Columbia, and the Commonwealth of Puerto Rico".

Approved December 13, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-150 (Comm. on Education and Labor) and No. 95-816 (Comm. of Conference).

SENATE REPORTS: No. 95-498 accompanying S. 1328 and 95-513 (both from Comm. on Human Resources).

CONGRESSIONAL RECORD, Vol. 123 (1977):

Apr. 5, considered and passed House.

Oct. 20, considered and passed Senate, amended, in lieu of S. 1328.

Nov. 22, Senate agreed to conference report.

Nov. 29, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 13, No. 51:

Dec. 13, Presidential statement.

○

[FR Doc. 78-34810 Filed 12-15-78; 8:45 am]

federal register

MONDAY, DECEMBER 18, 1978
PART III



DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

■

REPORTING REQUIREMENTS AND FORMULA APPORTIONMENTS FOR URBANIZED AREAS

[4910-57-M]

Title 49—Transportation

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket Number 78-A]

PART 630—UNIFORM SYSTEM OF ACCOUNTS AND RECORDS AND REPORTING SYSTEM

Reporting Requirements for Urbanized Areas—UMTA Circular 2710

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Emergency regulation; request for comments.

SUMMARY: This regulation requests data from all urbanized areas for apportioning funds under section 5 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1604) as amended by section 103(a) of Pub. L. 93-503 (88 Stat. 1565; November 26, 1974), the National Mass Transportation Act of 1974, and the Federal Public Transportation Act of 1978 (FPTA), Title III of Pub. L. 95-599. In so doing it:

1. Requests fixed guideway and commuter rail data required by the FPTA to apportion additional appropriated fiscal year 1979 funds. These data include fixed guideway route miles, commuter rail train miles and commuter rail route miles operated in each urbanized area. This regulation establishes a mechanism for submission of these data and apportionment of funds.

2. Requests bus data which is required to conduct the bus related section 5 capital fund apportionment study. Congress has directed UMTA to conduct a study of alternative means of apportioning funds authorized for the procurement of buses and related equipment and the construction of related facilities. To accomplish this UMTA must obtain from each urbanized area data relating to the characteristics and operations of their bus fleets.

DATES: Effective date: November 6, 1978. Comments must be received on or before February 18, 1979.

ADDRESS: Comments on these regulations are invited and should be sent to UMTA Docket No. 78-A, Urban Mass Transportation Administration, Room 9320, UCC-10, 400-7th Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m., ET. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Peter Benjamin, Director of Program Analysis, Urban Mass Transportation Administration, 400-7th Street, SW., Washington, D.C. 20590, Phone 202-472-2435.

SUPPLEMENTARY INFORMATION: Information regarding the interim apportionment of fiscal year 1979 funds to all urbanized areas is contained in the Notice section of this FEDERAL REGISTER. (See FR Doc. 78-34827) Instructions for applying for formula apportioned funds are published in UMTA Circular 9050.1, "Application Instruction for Section 5 Operating Assistance Projects," for operating support, and UMTA Order 1000.2, "External Operating Manual," for capital support. This rule amends Part 630 of 49 CFR to add a new Subpart D.

This rule does not consititute a significant regulation for the purpose of the DOT Order implementing E.O. 12044 and does not require a regulatory analysis since Congress has mandated these requirements and no alternative mechanisms exist.

Since this information is necessary to administer financial assistance programs and a portion of the dispersal of funds cannot be apportioned without this data, the Urban Mass Transportation Administration has determined that it is necessary to publish this rule as an emergency regulation as defined in E.O. 12044 and make it effective immediately. However, UMTA invites public comment for the next 60 days and will revise this regulation if it is warranted.

These data are required to be collected to administer the provisions of section 5 of the UMT Act as amended, and to respond to the Congressional mandate of section 319(a) of FPTA for a report by January 1, 1980. The data are being requested through the statutory mechanism established in section 15 of the UMT Act, as amended.

In consideration of the foregoing a new Subpart D is added to Part 630, Chapter VI, Title 49, Code of Federal Regulations, to read as follows:

1. The table of Subparts is revised to read:

Subpart D—Apportionment Factors

630.30 Purpose.
630.31 Scope.
630.32 Reporting requirements for fixed guideway and commuter rail systems.
630.33 Reporting requirements for bus systems.
630.34 Failure to report data.
630.35 Waivers.

2. Subpart D is added to read as follows:

Subpart D—Apportionment Factors

Sec.
630.30 Purpose.
630.31 Scope.
630.32 Reporting requirements for fixed guideway and commuter rail systems.
630.33 Reporting requirements for bus systems.
630.34 Failure to report data.
630.35 Waivers.
Appendix A—Reporting Requirements for Fixed Guideway and Commuter Rail Systems
Appendix B—Reporting Requirements for Bus Systems
Appendix C—UMTA Regional Offices

AUTHORITY: Secs. 304, 319, Pub. L. 95-599, 92 Stat. 2689 (49 U.S.C. 1604, 1607 note; 49 CFR 1.51)

Subpart D—Apportionment Factors

§ 630.30 Purpose.

The purpose of this subpart is to establish special data reporting requirements under section 15 of the Urban Mass Transportation Act (49 U.S.C. 1611) for designated recipients who receive Federal assistance under section 5 of the Act (49 U.S.C. 1604). These data are necessary to calculate the apportionments for urbanized areas because of changes to the section 5 program made by the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599).

§ 630.31 Scope.

(a) Section 630.32 establishes the reporting requirements for designated recipients and/or metropolitan planning organizations as identified in Appendix A to this part for urbanized areas that contain fixed guideway and commuter rail systems.

(b) Section 630.33 establishes a one-time reporting requirement for designated recipients and/or metropolitan planning organizations as identified in Appendix B to this part for urbanized areas that contain bus systems.

(c) If an urbanized area contains both a fixed guideway system and a bus system, then the designated recipient must comply with the reporting requirements of both §§ 630.32 and 630.33.

§ 630.32 Reporting requirements for fixed guideway and commuter rail systems.

The required reporting entity in each urbanized area served by fixed guideway and/or commuter rail service, operated by or under contract for a public transportation agency, must submit data in accordance with the definitions, timetables, and procedures set forth in Appendix A to this part.

§ 630.33 Reporting requirements for bus systems.

The required reporting entity in each urbanized area served by bus service, operated by or under contract

for a public transportation agency, must submit data in accordance with the definitions, timetable, and procedures set forth in Appendix B to this part.

§ 630.34 Failure to report data.

(a) Failure to report fixed guideway and commuter rail data in the manner required by § 630.32 will require UMTA to estimate data for that urbanized area so that a national apportionment can be calculated. Although UMTA will estimate an apportionment of these funds for areas that have not submitted data, the funds will not be available to that area until the area has submitted the required data. If an area submits these data after the deadline, and use of the submitted data would have resulted in an apportionment which is greater than UMTA's calculation, the amount available to that area shall be limited to amount initially apportioned by UMTA. If the use of data submitted after the deadline would have resulted in an apportionment which is less than UMTA's calculation, only the amount resulting from the use of the submitted data will made available to that area. Excess funds resulting from such a restriction will be added to the total amount for the next year's apportionment to all areas in this category.

(b) Failure to report bus data in the manner required by § 630.33 will make the designated recipient ineligible to receive section 5 grants after March 1, 1979.

§ 630.35 Waivers.

The Administrator has the authority to waive data reporting requirements established by this subpart when such a waiver would be in the public interest.

(49 U.S.C. 1604, 1611; sec. 319 of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599, 92 Stat. 2689; 49 CFR 1.51)

NOTE.—The Urban Mass Transportation Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

Issued on: December 1, 1978.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

APPENDIX A—REPORTING REQUIREMENTS FOR FIXED GUIDEWAY AND COMMUTER RAIL SYSTEMS

I. Responsibility for data submission

Data required under this Appendix for fixed guideway and commuter rail systems shall be submitted by:

(A) The single Section 5 designated recipient where there is only one such recipient for that urbanized area; or

(B) In all other cases, the Metropolitan Planning Organization (MPO). UMTA will accept only the data submitted by the MPO for these areas. In areas where there is more than one MPO, it will be the responsibility of the various MPOs jointly to designate a single MPO with responsibility for submitting the data.

II. Deadline for data submission.

Data for Federal fiscal year 1979 apportionments must be submitted within 60 days from the date of this FEDERAL REGISTER. The data should be sent to the appropriate Regional Office. A list of UMTA Regional Offices is provided in Appendix C.

For apportionments of Section 5 funds for fiscal year 1980 and future years, the required data shall be submitted to the appropriate UMTA Regional Office by May 1 preceding the beginning of the next fiscal year.

III. Data required.

A. *Standard Data Collection Period.* The law requires that apportionments be based upon data for the previous fiscal year. Because the fiscal years of the various operators differ, it is necessary to define a standard data collection period. The standard data collection period is accordingly defined as the operator's most recent fiscal year ending on or before the January 1 prior to the beginning of the Federal fiscal year of the apportionment. The following table explains this more fully:

For apportionments in fiscal year—	Commuter rail & fixed guideway data must be submitted to UMTA regional office by May 1, of—	For the standard data collection period ending on or before January 1 of—
1980	1979	1979
1981	1980	1980
1982	1981	1981

If there is more than one operator within an urbanized area, and these operators have different fiscal calendars, the data from each shall correspond to its own fiscal calendar, collected in accordance with the above schedule.

B. *Required Information.* Data should be presented in a format similar to that shown as Attachment #1. All data submitted by the responsible agency identified in paragraph I of this Appendix must be accompanied by a signature of an authorized certifying official stating: "I hereby certify that the data submitted are correct." If the data submitted are not accompanied by this certification, the data will not be accepted. The data should be aggregated for all operators serving the urbanized area. In cases where there is more than one State within an urbanized area, the data must be disaggregated into each State part.

1. *Fixed Guideway Route Miles.* The data required are the route miles of fixed guideway existing within the confines of the urbanized area at the end of the standard data collection period, and owned and maintained by or under a contract for a public transportation agency.

A fixed guideway route mile is a length of one statute mile of a single or contiguous group of rail transit tracks, guideway lanes, or tracks, or roadway lanes, with each of the following characteristics:

a. It is permanently and physically separated from other transportation facilities and is at all times dedicated exclusively to use by transit and/or other high occupancy vehicles and emergency vehicles.

b. It has operating upon it transit vehicles which are available to the general public and are carrying passengers; and/or it is available and used for the operation of private and public high occupancy vehicles.

Where separate such tracks or lanes converge and become contiguous or coincident, the converged portion is considered to be a single "route" for the purpose of determining route mileage. The number of tracks or lanes that may be contiguous in any given portion is not a consideration in the calculation of the fixed guideway route mileage. Also, the term "fixed guideway route mile" is not intended to apply to separately numbered or labelled transit operating routes, such as bus or rapid transit train routes. Where more than one public transit mode shares the same right-of-way, each gets credit for the fixed guideway route mileage separately. Examples of this situation are where heavy and light rail lines share a tunnel, and where light rail and bus services share an exclusive guideway. However, high occupancy automotive vehicle operations, such as car pools and van pools, do not count as a public transit mode in this regard.

Excluded from the computation of fixed guideway route mileage are commuter rail tracks, tracks and lanes in maintenance and storage yards, lanes separated from conventional roadway lanes by painted markings and insubstantial barriers such as traffic cones, and test track mileage not in revenue service. Only the fixed guideway route mileage within the confines of the urbanized area is eligible for inclusion. When running in mixed traffic, trolley bus routes and streetcar/light rail routes are not eligible for inclusion.

2. *Commuter Rail Route Miles.* The data required are the route miles of commuter rail service existing within or outside of but still serving the urbanized area, operated and maintained by or under contract for a public transportation agency, on the last day of standard data collection period.

A commuter rail route mile is a length of one statute mile of a single or contiguous group of tracks over which commuter rail service is operated. Where separate such tracks converge and become coincident or contiguous, the converged portion is considered to be a single "route" for the purpose of determining route mileage. The number of commuter rail tracks that may be contiguous in any given portion is not a consideration in the calculation of commuter rail route mileage. Also, the term "commuter rail route mile" is not intended to apply to separately numbered or labelled commuter rail routes. In cases where the commuter rail tracks are contiguous or coincident with guideway of another transit mode, each mode gets credit separately in its appropriate category for the route mileage involved.

Only those route miles over which commuter rail trains are operating and carrying passengers or are available to the general public for carrying passengers may be included in the calculation of commuter rail route mileage. Excluded from the calculation are route miles to, from, and within storage and maintenance areas.

In cases where the same commuter rail service traverses two urbanized areas, the commuter rail route mileage from this serv-

ice attributable to each urbanized area is determined as follows:

a. Each urbanized area gets credit for the route mileage within its confines.

b. Any route mileage in a non-urbanized area between the two is pro-rated between them according to the ratio of the financial support for the service provided directly by or attributable to each area to the total of the financial support for the service provided by or attributable to both of them. If a regional or state organization provides financial support for the service such that amounts are not provided by or attributable to both urbanized areas, the non-urbanized route mileage is attributed equally between the two.

For the purposes of this calculation, commuter rail service is that provided by the operation of a commuter rail transit train. A commuter rail transit train is one or more linked railroad passenger cars moving together along a railroad track and operated on a regular basis by, or under contract for, a transit operator for the purpose of transporting passengers within urbanized areas, or between urbanized areas and outlying areas. Commuter rail service is typically characterized as urban passenger train service for local short-distance travel between a central city and adjacent suburbs, using both locomotive-hauled and self-propelled railroad passenger cars. It does not include heavy rail rapid transit or light rail/streetcar transit service.

Rail passenger service of a predominantly intercity nature is excluded, except where a portion of it is operated under contract to a public transit agency for commuter purposes. In such cases, only the portion of the service provided under the contract is eligible for inclusion in the commuter rail route mileage figure.

3. *Commuter Rail Train Miles.* The data required are the total commuter rail train miles operated within the urbanized area, and outside of but still serving the urbanized area, by or under contract to a public transit agency, during the standard data collection period.

A commuter rail train mile is a distance of one statute mile travelled by a commuter rail transit train while it is carrying passengers or is available to the general public to carry passengers. Excluded from the commuter rail train mileage figure is any deadhead mileage, such as mileage to and from storage and maintenance facilities.

The description of commuter rail transit trains, the allocation of mileage between urbanized areas for commuter rail service operating between them, and the exclusion/inclusion of intercity service, is as described in subparagraph 2 "Commuter Rail Route Miles," above.

IV. *Audit Requirement.* The agency submitting the data to UMTA must have an independent auditor review the commuter rail and fixed guideway data submitted to verify its accuracy and the method of accumulating the data. This audit report must be submitted to the appropriate UMTA Regional Office within two months of the specified date of submission of the data by the same agency which submitted the data.

The audit must be conducted by a certified accounting firm. The cost of this audit is an eligible section 5 operating assistance expense.

The audit report may be in any format but must be a formal report containing the specific data requested in this Appendix as well as an evaluation of the method of data accumulation. The information used to support the data submitted must be available to UMTA for review for 3 years after the data is supplied. UMTA may conduct its own audits, in addition to the independent audit, at any time to verify the data and the supporting information.

After the publication of the apportionments based on submitted data, but before receipt of the audit report, one/half of the additional amounts apportioned to each area will be available. If the urbanized area's audit confirms the data submitted, the remaining half of the additional funds will be made available to that area. If the audit report provides data which would have caused an apportionment which is greater than the amount actually apportioned, the amount made available shall be limited to that apportioned. If the audit report provides data which would have caused an apportionment which is less than the amount actually apportioned only the amount resulting from the data verified by the audit shall be made available. Excess funds resulting from such a restriction will be added to the total amount for the next year's apportionment to all areas in this category.

V. *Additional Information.* It is anticipated that the final fiscal year 1979 apportionment will be published in the FEDERAL REGISTER three months after the date of this regulation. Apportionments for future years will be published in the FEDERAL REGISTER approximately one month after UMTA appropriations for that fiscal year have been enacted.

The definitions of the data requested will remain the same for future fiscal years unless amended by a new FEDERAL REGISTER regulation. If a change does occur, it will be published in the FEDERAL REGISTER. All questions are to be submitted to the appropriate UMTA Regional Office.

ATTACHMENT 1

SAMPLE Format for Submission of Data for Apportionment of Fiscal Year 1979 Section 5 Operations Assistance Based on the "Federal Public Transportation Act of 1978

URBANIZED AREA: _____

FACTOR	NUMBER	1/ Part: _____ (State)	1/ Part: _____ (State)
Fixed Guideway Route Miles			
Commuter Rail Route Miles			
Commuter Rail Train Miles			

I hereby certify that the data submitted are correct.

a. _____
Typed name and title of certifying representative

b. _____
Signature

c. _____
Date

1/ NOTE: These columns are to be completed for those urbanized areas which are considered part of more than one State. The blank should be filled in With the name of the State.

APPENDIX B—REPORTING REQUIREMENTS FOR BUS SYSTEM

I. *Responsibility for data submission* Data required under this Appendix for bus systems shall be submitted by:

(A) The single Section 5 designated recipient where there is only one such recipient for that urbanized area; or

(B) In all other cases, the Metropolitan Planning Organization (MPO). UMTA will accept only the data accepted by the MPO for these areas. In areas where there is more than one MPO, it will be the responsibility of the various MPO's to designate a single MPO with responsibility for submitting the data.

II. *Deadline for data submission.* Data must be collected for each operator of bus transit service for a data collection period corresponding to the operator's most recent fiscal year ending on or before January 1, 19 9 The data must be sent to the appropria'_ UMTA Regional Office by March 1, 1979. A list of UMTA Regional Offices is provided in Appendix C. If the available records do not permit identification of the required data for that time period, the data may instead be reported for any one-year period, as close to that time period as possible, for which it can be made available. If this is the case, the time period of the data collection must be indicated.

III. *Data required.* The new legislation mandates that UMTA carry out a study of alternative methods of distributing funds apportioned for the purchase of buses and related equipment and the construction of bus related facilities. In order to perform this study, data for a one year period on all bus operations is required from each urbanized area.

Data should be presented in a format similar to that shown as Attachment #1. All data submitted by the responsible agency identified in paragraph I of this Appendix must be accompanied by a signature of an authorized certifying official stating: "I hereby certify that the data submitted are correct." If the data submitted are not accompanied by this certification, the data will not be accepted. The data should be identified separately for each operator serving the urbanized area. In cases where there is more than one State within an urbanized area, the data must be disaggregated into each State part. If any of the data called for here have been previously submitted as part of a section 15 report, this previous report may be cited and these particular data need not be repeated here.

If an accurate and complete collection of data is not possible, then estimates of these incomplete data, developed by justifiable approximations and extrapolations of existing data, may be substituted. If this is done, a description of the estimation procedure must accompany the data.

A. *Required Data*—1. *Bus Fleet Age Distribution.* The data shall represent the situation on the last day of the data collection period. The following shall be provided for each bus, including trolleybuses, operated by or under contract to a public transit agency in the urbanized area, and over twenty-two feet in length:

a. Year of manufacture
b. Year of acquisition by the operator
c. Number of seats
d. Type (e.g., trolleybus, diesel, gasoline, propane)
e. Length of bus
f. Total mileage operated by bus

2. *Bus Revenue Vehicle Miles.* The required data are the total transit bus revenue vehicle miles operated within the urbanized area, and outside of but still serving the urbanized area, by or under contract to a public transit agency, during the data collection period.

A transit bus revenue vehicle mile is a distance of one statute mile travelled by a transit bus while it is carrying passengers, or is available to the general public to carry passengers. Excluded from this is any deadhead mileage, such as mileage to and from storage and maintenance facilities. Also excluded is mileage operated during charter service. However, mileage operated during commuter subscription service and school tripper service is eligible for inclusion.

In cases where a particular transit bus service traverses two urbanized areas, the bus revenue vehicle mileage from this service attributable to each is determined as follows:

a. Vehicle revenue mileage from this service operated within the confines of each urbanized area is attributed to that urbanized area.

b. Vehicle revenue mileage operated in a non-urbanized area between the two urbanized areas is pro-rated between them according to the ratio of the financial support for the service provided directly by or attributable to each area to the total of the financial support for the service provided by or attributable to both of them. If a regional or state organization provides financial support for the service such that amounts are not provided by or attributable to both urbanized areas, the non-urbanized vehicle revenue mileage is to be divided equally among the two urbanized areas.

Vehicle revenue mileages for all buses over twenty-two feet in length must be included in the data submitted. Data need not be disaggregated by individual bus or by category or type of bus, however. Only a single total value for the urbanized area, or for each state part of a multi-state urbanized area, is required.

3. *Bus Revenue Seat Miles.* The data required are the total transit bus revenue seat miles operated within the urbanized area, and outside of but still serving the urbanized area, by or under contract for a public transit agency, during the data collection period. This figure is calculated by determining for each transit bus operating in the fleet the product of the revenue miles it has travelled, as described in section 2, "Bus Revenue Vehicle Miles," above, and the number of passenger seats it carries, and summing those products for all such buses.

In cases where a particular transit service traverses two urbanized areas, the bus revenue seat mileage attributable to each is calculated in the same manner as for bus revenue seat mileages for all buses including trolleybuses over twenty-two feet in length must be included in the data submitted. Data need not be disaggregated by individual bus or by category or type of bus, however. Only a single total value for the urbanized area, or for each state part of a multi-state urbanized area, is required.

4. *Bus Route Miles.* The data required are the total transit bus revenue route miles within the urbanized area, and outside of but still serving the urbanized area, operated by or under contract for a public transit agency, at the end of the data collection period.

A transit bus revenue route mile is a distance of one statute mile along a route on which transit buses regularly travel while carrying passengers or while available to the general public to carry passengers. Excluded from this is any deadhead route mileage, such as mileage to and from maintenance and storage facilities. Also excluded is mileage operated during charter service. However, commuter subscription service, if operated on defined routes, is eligible for inclusion.

For these purposes, the length of a route is the round-trip distance traversed by a bus in travelling completely over the route and returning to the starting point to begin another circuit of the route. If a route is only defined in one direction, then this one-directional distance is the route length.

In cases where two or more separately numbered or labelled bus routes join and progress together for some distance along a street or highway, these routes are considered separate over this joined distance and their lengths are measured separately. Any routes separately distinguished by number, letter, name, or color, for reasons of differing paths, stop patterns, or schedules, are considered as separate routes for these purposes. In cases where a particular transit route traverses two urbanized areas, the bus revenue route mileage attributable to each urbanized area is determined as described for bus revenue vehicle miles, section 2 above.

Bus revenue route mileage for all routes operated with buses, including trolleybuses, over twenty-two feet in length must be included in the data submitted. Data need not be disaggregated by route or type of bus, however. Only a single total figure for the urbanized area, or for each state part of a multi-state urbanized area, is required.

IV. *Audit requirement.* No audit will be required of this data. UMTA will rely on the certification submitted by the designated recipient.

V. *Additional information.* Questions should be directed to the appropriate UMTA Regional Office.

ATTACHMENT 1

SAMPLE FORMAT FOR SUBMITTAL OF BUS OPERATIONS
DATA REQUIRED TO CONDUCT STUDY OF BUS FUNDING APPORTIONMENT UNDER
FEDERAL PUBLIC TRANSPORTATION ACT OF 1978

Name of Urbanized Area _____ page_____
State Part of Urbanized
Area (if applicable) _____
Operator _____

A. Bus Fleet Age Distribution

Year of Manufacture	Year Acquired by Operator	Number of Seats	Type (trolleybus, diesel, etc.)	Length (feet)	Total Mileage

ATTACHMENT 1(cont.)

SAMPLE FORMAT FOR SUBMITTAL OF BUS OPERATING DATA REQUIRED TO CONDUCT STUDY OF BUS FUNDING APPORTIONMENT UNDER FEDERAL PUBLIC TRANSPORTATION ACT OF 1978, cont.

page_____

Name of Urbanized Area _____
State Part of Urbanized Area (if applicable) _____
Operator _____

B. Bus Revenue Vehicle Miles _____

C. Bus Revenue Seat Miles _____

D. Bus Revenue Route Miles _____

I hereby certify that the data submitted are correct.

a. _____
Typed name and title of certifying representative

b. _____
Signature

c. _____
Date

APPENDIX C—UMTA REGIONAL OFFICES

I—Peter N. Stowell, Regional Director, Transportation Systems Center, Kendall Square, 55 Broadway, Cambridge, MA 02142, Tel: (617) 494-2055.

II—Hiram Walker, Regional Director, Suite 1811, 26 Federal Plaza, New York, NY 10007, Tel: (212) 264-8162.

III—Franz K. Gimmler, Regional Director, Suite 1010, 434 Walnut Street, Philadelphia, PA 19106, Tel: (215) 597-8098.

IV—Doug Campion, Regional Director, Suite 400, 1720 Peachtree Road, N.W., Atlanta, GA 30309, Tel: (404) 881-3948.

V—Theodore Weigle, Regional Director, Suite 1740, 300 S. Wacker Drive, Chicago, IL 60606, Tel: (312) 353-2789.

VI—Glen Ford, Regional Director, Suite 9A32, 819 Taylor Street, Fort Worth, TX 76102, Tel: (817) 334-3787.

VII—Lee Waddleton, Regional Director, Suite 303, 6301 Rock Hill Road, Kansas City, MO 64131, Tel: (816) 926-5053.

VIII—Lou Mraz, Regional Director, Suite 1822, Prudential Plaza, 1050 17th Street, Denver, CO 80265, Tel: (303) 837-3242.

IX—Dee Jacobs, Regional Director, Suite 620, Two Embarcadero Center, San Francisco, CA 94111, Tel: (415) 556-2884.

X—F. William Fort, Regional Director, Suite 3106, Federal Building, 915 Second Avenue, Seattle, WA 98174, Tel: (206) 442-4210.

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[4910-57-M]

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

(Attachment to UMTA Circular 9050.1)

URBANIZED AREA FORMULA APPORTIONMENTS

AGENCY: Urban Mass Transportation Administration.

ACTION: Notice of Formula Apportionments For Urbanized Areas Under Section 5 of The Urban Mass Transportation Act.

SUMMARY: This Notice apportions funds to urbanized areas under Section 5 of the Urban Mass Transportation Act of 1964 (49 USC 1604) as amended by Section 103(a) of the National Mass Transportation Act of 1974 (Public Law 93-503 88 Stat. 1565; November 26, 1974), and the Federal Public Transportation Act of 1978 (FPTA), Title III of Pub. L. 95-599. This Notice:

1. Describes the formula apportionment mechanism of Section 5 as amended by the recently enacted FPTA.

2. Lists amounts previously apportioned under Section 5 to urbanized areas in fiscal years 1977 and 1978 which remain available to urbanized areas to the extent that the funds have not already been utilized.

3. Provides a partial apportionment under Section 5 for fiscal year 1979 based on those formula elements in the FPTA utilizing population and population density factors.

A final rule issued in the Regulations section of this issue of the FEDERAL REGISTER requires the submittal of data to UMTA by all the urbanized areas so that the apportionment of Section 5 funds for fiscal year 1979 can be completed. Instructions for applying for formula apportioned funds are published in UMTA Circular 9050.1, "Application Instructions for Section 5 Operating Assistance Projects," for operating support, and UMTA Order 1000.2, "External Operating Manual," for capital support.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter Benjamin, Director of Program Analysis, UMTA, 400 Seventh Street, S.W., Washington, D.C. 20590, Phone 202-472-2435.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

Notice is hereby given of the following background information and formula apportionments for grants under Section 5 of the UMT Act as amended.

BACKGROUND INFORMATION

A program of Federal Assistance to urban mass transportation systems through grants on a formula basis for capital and operating assistance was enacted November 26, 1974 as Section 5 of the Urban Mass Transportation Act of 1964, as amended. An aggregate amount of $3,975 million was authorized for this program for fiscal years 1975 through 1980. In fiscal years 1977 and 1978, $650 million and $775 million, respectively, were apportioned. FPTA authorized $6,525 million for Section 5 for fiscal years 1979 through 1982 of which a total of $1,515 million is authorized for fiscal year 1979. The Department of Transportation and Related Agencies Appropriations Act of 1979 (Pub. L. 95-335) provides for an apportionment of $1,375 million in fiscal year 1979.

I. PREVIOUS APPORTIONMENT MECHANISM

The previous legislation in effect from fiscal years 1975 through 1978, Section 5(b)(1) of the Urban Mass Transportation Act of 1964, as amended, directed the Secretary of Transportation to apportion authorized funds "on the basis of a population and population density formula" as follows:

(A) One-half of the funds apportioned according to population. Each urbanized area's share is proportional to the ratio of that area's population to the total population of all urbanized areas.

(B) The other half of the funds are apportioned according to the product of population and population density. Each urbanized area's share is proportional to the ratio of the product of population and population density for that area to the total of the products of population and population density for all the urbanized areas.

II. NEW APPORTIONMENT MECHANISM

The Federal Public Transportation Act of 1978 changes the formula for the operating assistance program. Section 5(a) of the UMT Act, as amended (the "Act") directs the Secretary to apportion the funds appropriated to the urbanized areas on the basis of several factors. These factors, and the amounts attributable to each in fiscal year 1979, are as follows:

A. Under paragraph (a)(1) of Section 5 of the Act, $850 million to be apportioned among all the urbanized areas on the basis of their populations and population densities. These funds are available for capital or operating purposes, and are apportioned by population and population density as in the previous legislation.

B. Under paragraph (a)(4) of Section 5 of the Act, $300 million to be apportioned among all the urbanized areas on the basis of their populations and population densities, in the same manner as described in A above. These funds are available only for the purchase of buses and related equipment, or the construction of bus related facilities.

C. Under paragraph (a)(3) of Section 5 of the Act, $75 million to be apportioned among all the urbanized areas on the basis of their fixed guideway and commuter rail route mileages and commuter rail train mileages. In future years, these funds are expected to be available for capital and operating expenses related to both fixed guideway and commuter rail systems. Also, in future years, the amounts apportioned on the basis of fixed guideways are expected to be available for both fixed guideway and commuter rail purposes, and the amounts apportioned on the basis of commuter rail are expected to be available for commuter rail and fixed guideway purposes. Because of restrictions in the Appropriations Act, (Pub. L. 95-335), pending clarification from Congress, in fiscal year 1979:

- These funds are available only for operating support for commuter rail systems. These funds are not available for operating support for other rail modes such as rapid rail or light rail, for fixed guideway systems such as busways, or for capital expenditures for any type system.
- The following apportionment mechanism will be applied in fiscal years 1980, 1981, and 1982. The exact mechanism to be used in fiscal year 1979 is under review, pending resolution of possibly conflicting wordings of the authorization and appropriations acts.

These funds are apportioned as follows:

1. One-third of the amount appropriated is to be apportioned according to the number of fixed guideway route miles in each urbanized area. Each eligible urbanized area's share is proportional to the ratio of the fixed guideway route miles (excluding commuter rail) within the area to the total of all such fixed guideway route miles in all the urbanized areas. No single State's portion of an urbanized area shall receive more than 30% of the amount apportioned under this subcategory.

2. The remainder of the appropriation to be apportioned based upon the commuter rail service serving each urbanized area. No single eligible state's portion of an urbanized area shall receive more than 30% nor less than ½ of 1% of the amount apportioned under this subcategory. The funds are apportioned as follows:

a. ⅓ of the total appropriation to be apportioned according to commuter rail route miles. Each eligible urbanized area's share is proportional to the

ratio of the commuter rail route miles within or serving the area to the total of all such commuter rail route miles within or serving all the urbanized areas.

b. ⅓ of the total appropriation to be apportioned according to commuter rail train miles. Each eligible urbanized area's share is proportional to the ratio of the commuter rail train miles operated within or serving the area to the total of all such commuter rail train miles operated within or serving all the urbanized areas.

D. Under paragraph (a)(2) of Section 5 of the Act, $150 million is to be apportioned on the basis of population and population density. These funds, which are available for capital or operating purposes, are apportioned as follows:

1. 85% of the funds are apportioned among urbanized areas with populations greater than 750,000. Each such urbanized area's share is determined in a manner identical to that described in A, with the exception that the population and population density of each such urbanized area is compared to the totals for those urbanized areas over 750,000 population instead of for all urbanized areas in the country.

2. 15% of the funds are apportioned among urbanized areas with populations less than 750,000. Each such urbanized area's share is determined in a manner identical to that described in A, with the exception that the population and population density of each such urbanized area is compared to the totals for those urbanized areas under 750,000 population instead of for all urbanized areas in the country.

Appendix A contains further details of the apportionment mechanism.

III. APPORTIONMENTS FOR FISCAL YEARS 1977 AND 1978, AND PARTIAL APPORTIONMENT FOR FISCAL YEAR 1979

Appendix B contains the apportionments to the urbanized areas for fiscal years 1977 and 1978. In fiscal years 1977 and 1978, $650 million and $775 million, respectively, were made available. These funds remain available for obligation for two fiscal years following the year in which they were apportioned.

Also shown is a partial apportionment for 1979 under the Act. The amounts shown are those apportioned on the bases of population and population density, as described in part II, above. A total of $1,300 million is apportioned. The first column lists each urbanized area's share of the capital and operating support described in part II A., the second column lists the funds apportioned for bus and related facility capital expenditures described in part II B., and the third and fourth columns lists the supplemental funds apportioned, respectively, to urbanized areas with populations greater than and less than 750,000 as described in part II D. The fifth column lists the total of this partial apportionment for each urbanized area. These funds are now available and will remain available for three fiscal years following fiscal year 1979.

In Appendix B, amounts apportioned to urbanized areas greater then 200,000 in population are available directly to those urbanized areas. Amounts apportioned to urbanized areas under 200,000 in population are available to the Governors of the state(s) in which the urbanized area or a portion of an urbanized area is located. Amounts for these areas are listed under their states, and a state total is shown. For the FY 1979 partial apportionment, total amounts attributable to each urbanized area under 200,000 in population are also shown.

The tables in Appendix B contain round-off errors for some items of information. In cases of differences, the controlling apportionments will be the urbanized area aggregate for multistate urbanized areas over 200,000 in population and the state aggregate for urbanized areas under 200,000 in population. Further, for the fiscal year 1979 apportionments, the apportionments listed under the individual headings of the "apportionment basis" control where there are differences with the column entitled "total apportionment."

The apportionments listed in Appendix B are final for factors of the apportionment that are based on population and population density. Your attention is directed to a final rule published in the rules section of this issue of the Federal Register which describes the data that must be submitted from each urbanized area to complete this apportionment and to apportion funds for future fiscal years. Failure of an urbanized area to provide this information could affect the apportionment to that urbanized area in fiscal year 1979 and the following fiscal years.

APPENDIX A: EXPLANATION OF POPULATION AND POPULATION DENSITY BASED FORMULA AND DATA SOURCES

Section 5(b)(1) of the Urban Mass Transportation Act of 1964, prior to amendment in 1978, directed the Secretary to apportion authorized funds "on the basis of a formula under which urbanized areas are entitled to receive an amount equal to the sum of:

(A) One-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census; bears to the total population of all urbanized areas in all States as shown in the latest available Census; and

(b) One-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary."

Formula funds were apportioned on this basis up through Fiscal Year 1978.

Sections 5(a)(1) and 5(a)(3) of the Urban Mass Transportation Act as amended in 1978, (the "Act") provide similar instruction for apportioning formula funds for fiscal years 1979, 1980, 1981, and 1982. Section 5(a)(2) of this Act specifies that a category of funds apportioned on this basis be directed 85% to urbanized areas greater than 750,000 population and 15% to those under 750,000 with the difference that apportionments in each of these two groups be based upon the respective total populations and density-weighted populations for each group, instead of upon the totals for all the urbanized areas in the country.

In order to determine urbanized area's apportionment under this procedure, a factor was developed for each urbanized area representing its share of the funds apportioned. The general expression of this factor for any urbanized areas is as follows:

factor for i-th urbanized area =

$$\left[\frac{\left(\frac{P_i}{\sum_{1}^{N} P_j}\right) + \left(\frac{P_i d_i}{\sum_{1}^{N} P_j d_j}\right)}{2}\right]$$

Where:

P_i = population of i-th urbanized area
P_j = population of j-th urbanized area
d_i = density of j-th urbanized area
d_j = density of i-th urbanized area
N = is the number of urbanized areas used as the basis for the factor. In all cases but one, N is all 279 urbanized areas. The one exception occurs in the case of the funds specified in Section 5(a) (2) (A) of

the Act as being directed 85% towards urbanized areas greater than 750,000 in population and 15% towards those less than 750,000 in population. For this case, N is the number of urbanized areas greater than or less than 750,000 in population, as appropriate for the particular urbanized area for which the factor is being determined.

An urbanized area's apportionment of a given category of funds, such as those authorized under Section 5(a)(1) or 5(a)(2) of the Act, is then calculated by multiplying its factor by the total amount appropriated to be apportioned in that category.

In cases wherein the urbanized area is divided by two or more State boundaries, an apportionment factor is calculated for the whole area. State allocation is made on the basis of the ratios of each State urbanized area component factor to the total of all component factors, and applying those ratios to the apportionment factor of the whole urbanized area.

The primary source of data was the Bureau of the Census Report of the County and City Data Book of 1972. Additional Bureau of the Census reports, PC(1) and HC(3) series, were consulted to vertify data items and multi-state components. Population densities are calculated by the Bureau of the Census on a land area to the nearest whole square mile. Due to rounding in computation, the various splits of the funds apportioned in multi-state urbanized areas and for urbanized areas less than 200,000 in population, for which the apportionment is calculated for the state as a whole, may not add to the printed totals for the urbanized area or state. In each case, the total apportioned to the urbanized area for urbanized areas over 200,000 population, or to the state for urbanized areas under 200,000 population, represents the proper amount apportioned.

Appendix B: UMTA Section 5 Formula Apportionments for Fiscal Years 1977 and 1978 and Interim Apportionment for Fiscal Year 1979

National Mass Transportation Assistance Act of 1974 Section 5 Apportionments to Urbanized Areas Over 200,000 Population

State and urbanized areas	FY 1977 Alloc.	FY 1978 Alloc.
Akron, Ohio	2,416,726	2,879,096
Albany-Schenectady-Troy, N.Y	2,340,359	2,799,965
Albuquerque, N. Mex	1,310,008	1,561,927
Allentown-Bethlehem-Easton, Pa.-N.J	1,865,799	2,224,604
(Part: New Jersey)	131,494	156,780
(Part: Pennsylvania)	1,734,305	2,067,824
Atlanta, Ga	5,240,228	6,247,964
Aurora-Elgin, Ill	1,093,138	1,303,356
Austin, Tex	1,250,191	1,490,611

National Mass Transportation Assistance Act of 1974 Section 5 Apportionments to Urbanized Areas Over 200,000 Population— Continued

State and urbanized areas	FY 1977 Alloc.	FY 1978 Alloc.
Baltimore, Md	9,597,944	11,443,703
Baton Rouge, La	1,156,800	1,379,260
Birmingham, Ala	2,415,075	2,879,511
Boston, Mass	14,147,828	16,868,566
Bridgeport, Conn	1,869,644	2,229,189
Buffalo, N.Y	6,588,531	7,855,556
Canton, Ohio	1,167,831	1,392,413
Charleston, S.C	960,447	1,145,147
Charlotte, N.C	1,239,482	1,477,843
Chatanooga, Tenn-Ga	882,555	1,052,275
(Part: Georgia)	115,544	137,763
(Part: Tennessee)	767,010	914,512
Chicago, Ill., Northwestern Indiana	41,484,830	49,462,690
(Part: Illinois)	39,202,217	46,741,111
(Part: Indiana)	2,282,611	2,721,574
Cincinnati, Ohio-Ky	5,420,295	6,462,658
(Part: Kentucky)	907,306	1,081,786
(Part: Ohio)	4,512,988	5,380,869
Cleveland, Ohio	9,198,205	10,967,091
Colorado Springs, Colo	857,375	1,022,254
Columbia, S.C	1,023,016	1,219,749
Columbus, Ga.-Ala	830,173	989,819
(Part: Alabama)	89,666	106,908
(Part: Georgia)	740,507	882,911
Columbus, Ohio	3,885,009	4,632,125
Corpus Christi, Tex	799,863	953,682
Dallas, Tex	5,346,860	6,375,102
Davenport-Rock Island-Moline, Iowa-Ill	1,109,469	1,322,826
(Part: Illinois)	616,756	735,362
(Part: Iowa)	492,712	587,463
Dayton, Ohio	3,231,664	3,853,139
Denver, Colo	5,295,734	6,314,144
Des Moines, Iowa	1,083,118	1,291,408
Detroit, Mich	22,664,997	27,023,654
El Paso, Tex	1,537,189	1,832,802
Flint, Mich	1,635,787	1,950,361
Fort Lauderdale-Hollywood, Fla	2,823,322	3,366,269
Fort Wayne, Ind	1,091,580	1,301,498
Fort Worth, Tex	2,578,129	3,073,923
Fresno, Calif	1,284,980	1,532,091
Grand Rapids, Mich	1,509,067	1,799,271
Harrisburg, PA	1,136,014	1,354,477
Hartford, Conn	2,346,933	2,798,266
Honolulu, Hawaii	2,316,743	2,762,271
Houston, Tex	7,966,502	9,498,521
Indianapolis, Ind	3,367,132	4,014,658
Jacksonville, Fla	1,946,189	2,320,456
Kansas City, Mo.-Kans	4,583,124	5,464,493
(Part: Kansas)	1,535,129	1,830,346
(Part: Missouri)	3,047,994	3,634,146
Lansing, Mich	1,091,592	1,301,513
Las Vegas, Nev	940,116	1,120,907
Lawrence-Haverhill, Mass-N.H	851,699	1,015,485
(Part: Massachusetts)	787,844	939,352
(Part: New Hampshire)	63,854	76,132
Little Rock-North Little-Rock, Ark	941,183	1,122,179
Los Angeles—Long Beach	51,909,102	61,891,633
Louisville, Ky.-Ind	3,707,655	4,420,666
(Part: Indiana)	375,065	447,192
(Part: Kentucky)	3,332,590	3,973,473
Madison, Wis	957,813	1,142,007
Memphis, Tenn.-Miss	3,277,149	3,907,369
(Part: Mississippi)	42,845	51,084
(Part: Tennessee)	3,234,303	3,856,284
Miami, Fla	7,094,041	8,458,280
Milwaukee, Wis	5,636,395	6,720,317
Minneapolis-St. Paul	7,236,737	8,628,417
Mobile, Ala	951,416	1,134,380
Nashville-Davidson, Tenn	1,587,513	1,892,803
New Haven, Conn	1,684,396	2,008,317
New Orleans, La	5,922,601	7,061,563
Newport News-Hampton, Va	1,051,053	1,253,178
New York, N.Y., Northeastern N.J	115,563,412	137,787,169
(Part: New Jersey)	23,111,747	27,556,316
(Part: New York)	92,451,660	110,230,845

National Mass Transportation Assistance Act of 1974 Section 5 Apportionments to Urbanized Areas Over 200,000 Population— Continued

State and urbanized areas	FY 1977 Alloc.	FY 1978 Alloc.
Norfolk-Portsmouth, Va	2,780,215	3,314,872
Oklahoma City, Okla	2,208,886	2,633,672
Omaha, Nebr.-Iowa	2,379,944	2,837,624
(Part: Iowa)	233,607	278,531
(Part: Nebraska)	2,146,336	2,559,093
Orlando, Fla	1,288,249	1,535,989
Oxnard-Ventura-Thousand Oaks, Calif	1,011,153	1,205,605
Peoria, Ill	1,041,485	1,241,770
Philadelphia, Pa.-New Jersey	25,090,471	29,915,565
(Part: New Jersey)	3,561,975	4,246,970
(Part: Pennsylvania)	21,528,494	25,668,592
Phoenix, Ariz	3,587,862	4,277,836
Pittsburgh, Pa	8,740,362	10,421,202
Portland, Oreg.-Wash	3,904,084	4,654,869
(Part: Oregon)	3,596,697	4,288,369
(Part: Washington)	307,387	366,499
Providence-Pawtucket-Warwick, R.I.-Mass	3,852,084	4,592,869
(Part: Massachusetts)	262,923	313,485
(Part: Rhode Island)	3,589,160	4,279,383
Richmond, Va	1,912,754	2,280,590
Rochester, N.Y	3,261,642	3,888,882
Rockford, Ill	1,014,680	1,209,810
Sacramento, Calif	2,823,687	3,366,704
Salt Lake City, Utah	2,111,397	2,517,434
San Antonio, Tex	3,848,958	4,589,161
San Bernadino-Riverside, Calif	2,291,205	2,731,822
San Diego, Calif	5,716,050	6,815,290
San Franciso-Oakland	16,724,135	19,940,318
San Jose, Calif. (Inc)	5,267,823	6,280,866
San Juan, P.R	6,552,533	7,812,636
Scranton, Pa	827,755	986,937
Seattle-Everette, Wash	5,780,982	6,892,710
Shreveport, La	1,015,348	1,210,606
South Bend, Ind.-Mich	1,310,793	1,562,866
(Part: Indiana)	1,219,440	1,453,947
(Part: Michigan)	91,352	108,919
Spokane, Wash	1,065,091	1,269,915
Springfield-Chicopee-Holyoke, Mass.-Conn	2,114,994	2,521,722
(Part: Connecticut)	249,992	298,066
(Part: Massachusetts)	1,865,001	2,223,654
St. Louis, Mo.-Ill	10,163,614	12,118,155
(Part: Illinois)	1,345,786	1,604,590
(Part: Missouri)	8,817,825	10,513,560
St. Petersburg, Fla	2,341,098	2,791,308
Syracuse, NY	1,985,746	2,367,619
Tacoma, Wash	1,460,908	1,741,851
Tampa, Fla	1,679,629	2,002,634
Toledo, Ohio-Mich	2,261,304	2,696,169
(Part: Michigan)	41,781	49,814
(Part: Ohio)	2,219,523	2,646,354
Trenton, N.J.-Pa	1,498,815	1,787,047
(Part: New Jersey)	1,352,807	1,612,961
(Part: Pennsylvania)	146,008	174,085
Tucson, Ariz	1,336,873	1,593,963
Tulsa, Okla	1,502,912	1,791,932
Washington, D.C.-Maryland-Virginia	14,935,418	17,807,612
(Part: Maryland)	4,792,690	5,714,360
(Part: District of Columbia)	6,788,416	8,093,880
(Part: Virginia)	3,354,308	3,999,367
West Palm Beach, Fla	1,171,979	1,397,358
Wichita, Kans	1,387,435	1,654,249
Wilkes-Barre, Pa	996,397	1,188,011
Wilmington, Del.-NJ	1,828,724	2,180,399
(Part: Delaware)	1,748,169	2,084,355
(Part: New Jersey)	80,554	96,044
Worcestor, Mass	1,144,334	1,364,397
Youngstown-Warren, Ohio	1,867,725	2,226,902

National Mass Transportation Assistance Act of 1974 Section 5 Apportionments to Urbanized Areas Under 200,000 Population

State and urbanized areas	FY 1977 Alloc.	FY 1978 Alloc.
State—Alabama		
Huntsville, Ala		
Montgomery, Ala		
Tuscaloosa, Ala		
Gadsden, Ala		
Florence, Ala		
Anniston, Ala		
Governors apportionment for Alabama	2,158,419	2,573,503
State—Alaska		
Anchorage, Alaska		
Governors apportionment for Alaska	445,952	531,712
State—Arizona		
Governors apportionment for Arizona	.....	.....
State—Arkansas		
Fort Smith, Ark.-Okla		
Pine Bluff, Ark		
Texarkana, Tex.-Ark		
Governors apportionment for Arkansas	629,635	750,720
State—California		
Bakersfield, Calif		
Stockton, Calif		
Santa Barbara, Calif		
Modesto, Calif		
Seaside-Monterey, Calif		
Santa Rosa, Calif		
Santa Cruz, Calif		
Salinas, Calif		
Antioch-Pittsburg, Calif		
Simi Valley, Calif		
Governors apportionment for California	4,714,759	5,621,451
State—Colorado		
Pueblo, Colo		
Boulder, Colo		
Governors apportionment for Colorado	907,995	1,082,611
State—Connecticut		
Stamford, Conn.		
Waterbury, Conn		
New London-Norwich, Conn		
New Britain, Conn		
Norwalk, Conn		
Meriden, Conn		
Bristol, Conn		
Danbury, Conn		
Governors apportionment for Connecticut	4,040,021	4,816,952
State—Delaware		
Governors apportionment for Delaware	.....	.....
State—District of Columbia		
Governors apportionment for Dist. of Columbia	.....	.....
State—Florida		
Melbourne-Cocoa, Fla		
Sarasota-Bradenton, Fla		
Pensacola, Fla		
Daytona Beach, Fla		
Tallahassee, Fla		
Gainesville, Fla		
Fort Myers, Fla		
Lakeland, Fla		
Governors apportionment for Florida	3,647,339	4,348,755
State—Georgia		
Savannah, Ga		
Augusta, Ga.-S.C		
Macon, Ga		
Albany, Ga		
Governors apportionment for Georgia	2,166,856	2,583,561
State—Hawaii		
Governors apportionment for Hawaii	.....	.....
State—Idaho		
Boise, Idaho		
Governors apportionment for Idaho	392,124	467,533
State—Illinois		
Joliet, Ill		
Springfield, Ill		
Champaign-Urbana, Ill		
Decatur, Ill		
Alton, Ill		
Bloomington-Normal, Ill		
Dubuque, Iowa-Ill		
Governors apportionment for Illinois	3,162,213	3,770,336
State—Indiana		
Evansville, Ind		
Muncie, Ind		
Terre Haute, Ind		
Anderson, Ind		
Lafayette-West Lafayette, Ind		
Governors apportionment for Indiana	2,284,482	2,723,808
State—Iowa		
Cedar Rapids, Iowa		
Waterloo, Iowa		
Sioux City, Iowa-Nebr.-S. Dak		
Dubuque, Iowa-Ill		
Governors apportionment for Iowa	1,603,535	1,911,910
State—Kansas		
Topeka, Kans		
St. Joseph, Mo.-Kans		
Governors apportionment for Kansas	577,313	688,336
State—Kentucky		
Huntington-Ashland, W. Va.-Ky.-Ohio		
Lexington, KY		
Clarksville, Ky.-Tenn		
Owensboro, KY		
Governors apportionment for Kentucky	1,422,856	1,696,483
State—Louisiana		
Monroe, LA		
Lake Charles, LA		
Lafayette, LA		
Alexandria, LA		
Governors apportionment for Louisiana	1,459,457	1,740,125
State—Maine		
Portland, Maine		
Lewiston-Auburn, Maine		
Governors apportionment for Maine	636,429	758,821
State—Maryland		
Governors apportionment for Maryland	.....	.....
State—Massachusetts		
Lowell, Mass		
Brockton, Mass		
Fall River, Mass.-R.I		
New Bedford, Mass		
Fitchburg-Leominster, Mass		
Pittsfield, Mass		
Governors apportionment for Massachussetts	3,360,902	4,007,232
State—Michigan		
Ann Arbor, Mich		
Kalamazoo, Mich		
Saginaw, Mich		
Muskegon-Muskegon Heights, Mich		
Jackson, Mich		
Bay City, Mich		
Battle Creek, Mich		
Governors apportionment for Michigan	3,744,872	4,465,044
State—Minnesota		
Duluth-Superior, Moorhead, N. Dak.-Minn		
La Crosse, Wis.-Minn		
Rochester, Minn		
St. Cloud, Minn		
Governors apportionment for Minnesota	1,075,401	1,282,212
State—Mississippi		
Jackson, Miss		
Biloxi-Gulfport		
Governors apportionment for Mississippi	1,320,542	1,574,493
State—Missouri		
Springfield, MO		
St. Joseph, Mo.-Kans		
Columbia, MO		
Governors apportionment for Missouri	1,020,061	1,216,229
State—Montana		
Billings, Mont		
Great Falls, Mont		
Governors apportionment for Montana	658,985	785,712
State—Nebraska		
Lincoln, Nebr.		
Sioux City, Iowa-Nebr.-S. Dak		
Governors apportionment for Nebraska	741,969	884,657
State—Nevada		
Reno, Nev		
Governors apportionment for Nevada	442,893	528,065
State—New Hampshire		
Manchester, N.H		
Nashua, N.H		
Governors apportionment for New Hampshire	645,124	769,188
State—New Jersey		
Atlantic City, N.J		
Vineland-Milluille, N.J		
Governors apportionment for New Jersey	774,966	923,999
State—New Mexico		
Governors apportionment for New Mexico	.....	.....
State—New York		
Utica-Rome, N.Y		
Binghamton, N.Y		
Poughkeepsie, N.Y		
Elmira, N.Y		
Governors apportionment for New York	2,329,380	2,777,340
State—North Carolina		
Fayetteville, N.C		
Raleigh, N.C		
Greensboro, N.C		
Winston-Salem, N.C		
Durham, N.C		
Gastonia, N.C		
High Point, N.C		
Asheville, N.C		
Burlington, N.C		
Wilmington, N.C		
Governors apportionment for North Carolina	4,434,739	5,287,582
State—North Dakota		
Fargo-Moorhead, N. Dak.-Minn		
Governors apportionment for North Dakota	278,138	331,627
State—Ohio		
Lorain-Elyria, Ohio		
Huntington-Ashland, W. Va.-Ky.-Ohio		
Springfield, Ohio		
Wheeling, W. Va.-Ohio		
Hamilton, Ohio		
Steubenville-Weirton, Ohio-W. Va		
Mansfield, Ohio		
Lima, Ohio		
Parkersburg, W. Va.-Ohio		
Governors apportionment for Ohio	2,770,929	3,303,805
State—Oklahoma		
Lawton, Okla		
Fort Smith, Ark.-Okla		
Governors apportionment for Oklahoma	400,851	477,937
State—Oregon		
Eugene, Oreg		
Salem, Oreg		

National Mass Transportation Assistance Act of 1974 Section 5 Apportionments to Urbanized Areas Under 200,000 Population—Continued

State and urbanized areas	FY 1977 Alloc.	FY 1978 Alloc.
Governors apportionment for Oregon	1,010,958	1,205,375
State—Pennsylvania		
Erie, Pa		
Reading, Pa		
York, Pa		
Lancaster, Pa		
Johnstown, Pa		
Altoona, Pa		
Williamsport, Pa		
Governors apportionment for Pennsylvania	4,209,935	5,019,543
State—Puerto Rico		
Ponce, P.R		
Mayaguez, P.R		
Chauas, P.R		
Governors apportionment for Puerto Rico	1,915,745	2,284,160
State—Rhode Island		
Fall River, Mass.-R.I		
Governors apportionment for Rhode Island	52,852	63,016
State—South Carolina		
Greenville, S.C		
Augusta, Ga.-S.C		
Spartanburg, S.C		
Governors apportionment for South Carolina	1,028,478	1,226,263
State—South Dakota		
Sioux City, Iowa-Nebr.-S. Dak		
Sioux Falls, S. Dak		
Governors apportionment for South Dakata	343,596	409,672

National Mass Transportation Assistance Act of 1974 Section 5 Apportionments to Urbanized Areas Under 200,000 Population—Continued

State and urbanized areas	FY 1977 Alloc.	FY 1978 Alloc.
State—Tennessee		
Knoxville, Tenn.		
Kingsport, Tenn.-Va.		
Clarksville, Ky.-Tenn.		
Governors apportionment for Tennessee	1,186,575	1,414,764
State—Texas		
Lubbock, Tex.		
Amarillo, Tex.		
Waco, Tex.		
Port Arthur, Tex.		
Beaumont, Tex.		
Wichita Falls, Tex.		
McAllen-Pharr-Edinburg, Tex.		
Abilene, Tex.		
Texas City-La Marque, Tex.		
Odessa, Tex.		
Killeen, Tex.		
Laredo, Tex.		
San Angelo, Tex.		
Galveston, Tex.		
Midland, Tex.		
Tyler, Tex.		
Texarkana, Tex.-Ark.		
Sherman-Denison, Tex.		
Brownsville, Tex.		
Bryan-College Station, Tex.		
Marligen-San Benito, Tex.		
Governors Apportionment for Texas	6,841,983	6,157,763
State—Utah		
Ogden, Utah.		
Provo-Orem, Utah		

National Mass Transportation Assistance Act of 1974 Section 5 Apportionments to Urbanized Areas Under 200,000 Population—Continued

State and urbanized areas	FY 1977 Alloc.	FY 1978 Alloc.
Governors Apportionment for Utah	1,034,048	1,232,904
State—Virginia		
Roanoke, Va.		
Petersburg-Colonial Heights, Va.		
Lynchburg, Va.		
Kingsport, Tenn.-Va.		
Governors apportionment for Virginia	1,387,415	1,654,227
State—Washington		
Richland-Kennewick, Wash		
Yakima, Wash		
Governors apportionment for Washington	550,661	656,558
State—West Virginia		
Huntington-Ashland, W. Va-Ky-Ohio		
Charleston, W. Va.		
Wheeling, W. Va.-Ohio		
Steubenville-Weirton, Ohio-W. Va		
Governors apportionment for West Virgina	1,835,732	2,188,760
State—Wisconsin		
Duluth-Superior, Minn.-Wis		
Appleton, Wis		
Green Bay, Wis		
Racine, Wis		
Kenosha, Wis		
La Crosse, Wis.-Minn.		
Oshkosh, Wis.		
Governors apportionment for Wisconsin	2,959,518	3,528,661

Urbanized area	Apportionment basis: All areas population and population density	Business and related capital expenses	Areas with population over 750,000	Areas with population under 750,000	Total apportionment
INTERIM FISCAL YEAR 1979 UMTA SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION					
Akron	$3,157,719	$1,114,489		$274,689	$4,546,897
Albany-Schenectady-Troy	$3,070,930	$1,083,858		$272,278	$4,427,066
Albuquerque	$1,713,082	$604,617		$148,649	$2,466,348
Allentown-Bethlehem-Eas	$2,439,889	$861,137		$219,191	$3,520,218
(Part: New Jersey)	$171,952	$60,689		$15,500	$248,141
(Part: Pennsylvania)	$2,267,937	$800,448		$203,692	$3,272,077
Atlanta	$6,852,606	$2,418,567	$1,512,998		$10,784,170
Aurora-Elgin	$1,429,488	$504,525		$125,942	$2,059,954
Austin	$1,634,865	$577,011		$144,270	$2,356,145
Baltimore	$12,551,158	$4,429,820	$2,697,131		$19,678,110
Baton Rouge	$1,512,737	$533,907		$132,905	$2,179,550
Birmingham	$3,158,174	$1,114,650		$272,834	$4,545,657
Boston	$18,501,007	$6,529,767	$4,017,913		$29,048,687
Bridgeport	$2,444,918	$862,912		$213,539	$3,521,369
Buffalo	$8,615,771	$3,040,860	$1,851,732		$13,508,363
Canton	$1,527,163	$538,999		$135,113	$2,201,274
Charleston	$1,255,969	$443,283		$107,701	$1,806,952
Charlotte	$1,620,861	$572,068		$140,884	$2,333,813
Chattanooga	$1,154,109	$407,332		$97,262	$1,658,704
(Part: Georgia)	$151,095	$53,328		$12,774	$217,197
(Part: Tennessee)	$1,003,014	$354,005		$84,489	$1,441,507
Chicago	$54,249,398	$19,146,846	$11,642,898		$85,039,142
(Part: Illinois)	$51,264,445	$18,093,333	$10,981,426		$80,339,205
(Part: Indiana)	$2,984,953	$1,053,513	$661,472		$4,699,938
Cincinnati	$7,088,076	$2,501,674	$1,551,621		$11,141,371
(Part: Kentucky)	$1,186,476	$418,756	$261,172		$1,866,404
(Part: Ohio)	$5,901,599	$2,082,917	$1,290,449		$9,274,966
Cleveland	$12,028,422	$4,245,325	$2,642,911		$18,916,659
Colorado Springs	$1,121,182	$395,711		$96,034	$1,612,927
Columbia	$1,337,790	$472,161		$114,903	$1,924,854
Columbus	$1,085,609	$383,156		$91,700	$1,560,465
(Part: Alabama)	$117,254	$41,384		$9,563	$168,201
(Part: Georgia)	$968,355	$341,772		$82,138	$1,392,265
Columbus	$5,080,395	$1,793,080	$1,111,353		$7,984,829
Corpus Christi	$1,045,974	$369,167		$86,883	$1,502,025

INTERIM FISCAL YEAR 1979 UMTA SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION—Continued

Urbanized area	Apportionment basis				Total apportionment
	All areas population and population density	Business and related capital expenses	Areas with population over 750,000	Areas with population under 750,000	
Dallas	$6,992,046	$2,467,781	$1,562,296		$11,022,124
Davenport-Rock Island-M	$1,450,842	$512,062		$124,128	$2,087,032
(Part: Illinois)	$806,527	$284,656		$70,011	$1,161,195
(Part: Iowa)	$644,315	$227,405		$54,116	$925,837
Dayton	$4,226,022	$1,491,537		$372,651	$6,090,211
Denver	$6,925,190	$2,444,185	$1,511,053		$10,880,428
Des Monies	$1,416,384	$499,900		$121,674	$2,037,958
Detroit	$29,638,846	$10,460,769	$6,400,403		$46,500,018
El Paso	$2,010,170	$709,472		$175,866	$2,895,507
Flint	$2,139,106	$754,978		$190,750	$3,084,834
Fort Lauderdale-Hollywo	$3,692,036	$1,303,072		$323,758	$5,318,866
Fort Wayne	$1,427,450	$503,806		$126,682	$2,057,938
Fort Worth	$3,371,399	$1,189,906		$281,163	$4,842,468
Fresno	$1,680,358	$593,068		$149,397	$2,422,823
Grand Rapids	$1,973,395	$696,492		$169,987	$2,839,874
Harrisburg	$1,485,566	$524,314		$131,043	$2,140,913
Hardford	$3,069,066	$1,083,200		$274,752	$4,427,018
Honolulu	$3,029,588	$1,069,266		$273,284	$4,372,138
Houston	$10,417,733	$3,676,847	$2,286,455		$16,381,035
Indianapolis	$4,403,173	$1,554,061	$980,874		$6,938,108
Jacksonville	$2,545,016	$898,241		$209,937	$3,653,195
Kansas City	$5,993,314	$2,115,287	$1,333,187		$9,441,789
(Part: Kansas)	$2,007,476	$708,521	$444,099		$3,160,097
(Part: Missour)	$3,985,838	$1,406,766	$889,088		$6,281,692
Lansing	$1,427,466	$503,812		$126,145	$2,057,423
Las Vegas	$1,229,382	$433,900		$103,790	$1,767,072
Lawence-Haverhill	$1,113,758	$393,091		$95,787	$1,602,636
(Part: Massachusetts)	$1,030,258	$363,620		$88,957	$1,482,835
(Part: New Hampshire)	$83,501	$29,471		$6,830	$119,801
Little Rock-North Littl	$1,230,777	$434,392		$105,690	$1,770,859
Los Angeles-Long Beach	$67,881,147	$23,958,051	$14,561,930		$106,401,128
Louisville	$4,848,471	$1,711,225		$433,454	$6,993,150
(Part: Indiana	$490,469	$173,107		$43,016	$706,591
(Part: Kentucky)	$4,358,003	$1,538,119		$390,438	$6,286,559
Madison	$1,252,524	$442,067		$110,180	$1,804,772
Memphis	$4,285,501	$1,512,530		$381,827	$6,179,858
(Part: Mississippi)	$56,028	$19,774		$4,961	$80,763
(Part: Tennessee)	$4,229,473	$1,492,755		$376,866	$6,099,095
Miami	$9,276,823	$3,274,173	$2,000,284		$14,551,280
Milwaukee	$7,370,670	$2,601,413	$1,626,211		$11,598,293
Minneapolis-St. Paul	$9,463,425	$3,340,032	$2,100,499		$14,903,956
Mobile	$1,244,159	$439,115		$102,764	$1,786,039
Nashville-Davidson	$2,075,978	$732,698		$169,200	$2,977,876
New Haven	$2,202,671	$777,413		$195,373	$3,175,458
New Orleans	$7,744,940	$2,733,508	$1,662,610		$12,141,058
Newport News-Hampton	$1,374,453	$485,101		$115,584	$1,975,138
New York	$151,121,410	$53,336,965	$32,107,851		$236,566,225
(Part: New Jersey)	$30,223,057	$10,666,961	$6,629,310		$47,519,329
(Part: New York)	$120,898,348	$42,670,004	$25,478,541		$189,046,890
Norfolk-Portsmouth	$3,635,666	$1,283,176		$310,879	$5,229,721
Oklahoma City	$2,888,544	$1,019,486		$240,920	$4,148,950
Omaha	$3,112,233	$1,098,435		$276,101	$4,486,770
(Part:Iowa)	$305,486	$107,818		$25,040	$438,345
(Part: Nebraska)	$2,806,748	$990,617		$251,061	$4,048,425
Orlando	$1,684,634	$594,577		$144,568	$2,423,778
Oxnard-Ventura-Thousand	$1,322,277	$466,686		$112,865	$1,901,828
Peoria	$1,361,941	$480,685		$116,856	$1,959,483
Philadelphia	$32,810,617	$11,580,218	$7,036,539		$51,427,374
(Part New Jersey)	$4,657,968	$1,643,989	$1,021,515		$7,323,471
(Part Pennsylvania)	$28,152,649	$9,936,229	$6,015,023		$44,103,902
Phoenix	$4,691,820	$1,655,936	$1,043,784		$7,391,540
Pittsburgh	$11,429,704	$4,034,013	$2,509,237		$17,972,955
Portland	$5,105,340	$1,801,885	$1,120,854		$8,028,078
(Part Oregon)	$4,703,373	$1,660,014	$1,031,532		$7,394,919
(Part Washington)	$401,967	$141,871	$89,321		$633,158
Providence-Pawtucket-WA	$5,037,340	$1,777,885	$1,103,497		$7,918,721
(Part Massachusetts)	$343,822	$121,349	$76,842		$542,014
(Part Rhode Island)	$4,693,517	$1,656,535	$1,026,655		$7,376,707
Richmond	$2,501,293	$882,809		$219,250	$3,603,353
Rochester	$4,265,224	$1,505,373		$387,414	$6,158,012
Rockford	$1,326,889	$468,314		$118,160	$1,913,363
Sacramento	$3,692,514	$1,303,240		$320,458	$5,316,212
Salt Lake City	$2,761,058	$974,491		$239,593	$3,975,142
San Antonio	$5,033,251	$1,776,442	$1,099,714		$7,909,407
San Bernadino-Riverside	$2,996,191	$1,057,479		$252,111	$4,305,782
San Diego	$7,474,834	$2,638,177	$1,639,831		$11,752,841
San Francisco-Oakland	$21,870,026	$7,718,832	$4,730,315		$34,319,174
San Jose	$6,888,691	$2,431,303	$1,500,937		$10,820,930

INTERIM FISCAL YEAR 1979 UMTA SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION—Continued

Urbanized area	Apportionment basis				Total apportionment
	All areas population and population density	Business and related capital expenses	Areas with population over 750,000	Areas with population under 750,000	
San Juan	$8,568,697	$3,024,246	$1,807,703		$13,400,646
Scranton	$1,082,448	$382,040		$91,906	$1,556,394
Seattle-Everett	$7,559,746	$2,668,146	$1,661,870		$11,889,762
Shreveport	$1,327,762	$468,622		$114,714	$1,911,098
South Bend	$1,714,112	$604,981		$149,864	$2,468,956
(Part Indiana)	$1,594,652	$562,818		$139,832	$2,297,302
(Part Michigan)	$119,460	$42,162		$10,032	$171,655
Spokane	$1,392,811	$491,580		$122,377	$2,006,768
Springfield-Chicopee-Ho	$2,765,759	$976,150		$235,756	$3,977,665
(Part Connecticut)	$326,912	$115,381		$28,192	$470,484
(Part Massachusetts)	$2,438,847	$860,770		$207,564	$3,507,181
St. Louis	$13,290,875	$4,690,897	$2,883,466		$20,865,238
(Part: Illinois)	$1,759,873	$621,132	$390,296		$2,771,301
(Part: Missouri)	$11,531,002	$4,069,765	$2,493,169		$18,093,937
St. Petersburg	$3,061,436	$1,080,507		$270,176	$4,412,118
Syracuse	$2,596,744	$916,498		$234,615	$3,747,857
Tacoma	$1,910,418	$674,265		$165,672	$2,750,354
Tampa	$2,196,438	$775,213		$192,162	$3,163,813
Toledo	$2,957,089	$1,043,678		$259,785	$4,260,552
(Part: Michigan)	$54,635	$19,283		$4,446	$78,364
(Part: Ohio)	$2,902,453	$1,024,395		$255,339	$4,182,188
Trenton	$1,959,987	$691,760		$178,300	$2,830,047
(Part: New Jersey)	$1,769,055	$624,372		$161,524	$2,554,951
(Part: Pennsylvania)	$190,932	$67,388		$16,776	$275,096
Tucson	$1,748,218	$617,018		$152,862	$2,518,098
Tulsa	$1,965,345	$693,651		$166,778	$2,825,775
Washington	$19,530,925	$6,893,268	$4,200,043		$30,624,235
(Part: Maryland)	$6,267,363	$2,212,010	$1,375,508		$9,854,881
(Part: District of Columbia)	$8,877,159	$3,133,115	$1,860,597		$13,870,872
(Part: Virginia)	$4,386,402	$1,548,142	$963,937		$6,898,483
West Palm Beach	$1,532,587	$540,913		$130,320	$2,203,819
Wichita	$1,814,338	$640,354		$159,014	$2,613,706
Wilkes-Barre	$1,302,980	$459,875		$113,487	$1,876,343
Wilmington	$2,391,406	$844,026		$212,974	$3,448,406
(Part: Delaware)	$2,286,067	$806,847		$204,244	$3,297,159
(Part: New Jersey)	$105,339	$37,178		$8,730	$151,247
Worcester	$1,496,436	$528,154		$131,393	$2,155,983
Youngstown-Warren	$2,442,410	$862,027		$215,483	$3,519,920

INTERIM FISCAL YEAR 1979 UMTA SECTION 5 APPORTIONMENTS TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION

Alabama	$2,822,553	$996,195		$236,117	$4,054,865
Huntsville	$663,774	$234,273		$53,705	$951,752
Montgomery	$814,998	$287,646		$71,034	$1,173,678
Tuscaloosa	$446,957	$157,750		$37,756	$642,463
Gadsen	$308,760	$108,974		$25,040	$442,774
Florence	$301,853	$106,536		$24,885	$433,275
Anniston	$286,211	$101,016		$23,697	$418,924
Alaska	$583,169	$205,824		$49,419	$838,412
Anchorage	$583,169	$205,824		$49,419	$838,412
Arizona					
Arkansas	$823,371	$290,602		$69,824	$1,183,797
Fort Smith	$337,412	$119,086		$27,434	$483,932
Pine Bluff	$368,222	$129,961		$32,328	$538,510
Texarkana	$117,738	$41,554		$10,062	$169,355
California	$6,165,463	$2,176,046		$544,570	$8,886,079
Bakerfield	$1,088,350	$384,124		$96,033	$1,568,507
Stockton	$1,039,437	$366,860		$92,695	$1,496,992
Santa Barbara	$849,159	$299,703		$75,881	$1,224,743
Modesto	$656,772	$231,802		$57,976	$946,550
Sesside-Monterey	$640,775	$226,156		$57,837	$924,768
Santa Rosa	$390,853	$137,948		$33,018	$561,819
Santa Cruz	$395,420	$139,560		$33,678	$568,658
Salinas	$444,995	$157,057		$40,455	$642,506
Antioch-Pittsburg	$346,910	$122,439		$30,183	$499,531
Simi Valley	$312,793	$110,398		$26,816	$450,006
Colorado	$1,187,380	$419,075		$107,288	$1,713,744
Pueblo	$656,175	$231,591		$58,260	$946,027
Boulder	$531,204	$187,484		$49,028	$767,716
Connecticut	$5,283,109	$1,864,627		$453,635	$7,601,370
Stanford	$1,074,072	$379,084		$93,399	$1,546,555
Waterbury	$906,997	$320,116		$78,765	$1,305,678
New London-Norwich	$709,510	$250,415		$59,586	$1,019,512
New Britain	$843,522	$297,714		$75,074	$1,216,310
Norwalk	$611,848	$215,946		$53,033	$880,827
Meriden	$463,252	$163,501		$37,958	$664,710
Bristol	370,716$	$130,841		$31,253	$532,809

INTERIM FISCAL YEAR 1979 UMTA SECTION 5 APPORTIONMENTS TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION—Continued

Urbanized area	Apportionment basis				Total apportionment
	All areas population and population density	Business and related capital expenses	Areas with population over 750,000	Areas with population under 750,000	
Danbury	$303,192	$107,009		$24,568	$434,769
Delaware					
District of Columbia					
Florida	$4,769,603	$1,683,389		$403,562	$6,856,555
Melbourne-Cocoa	$886,218	$312,783		$73,783	$1,272,784
Sarasota-Bradenton	$850,436	$300,154		$71,354	$1,221,944
Pensacola	$946,357	$334,008		$81,832	$1,362,197
Daytona Beach	$538,111	$189,922		$43,990	$772,023
Tallahassee	$449,177	$158,533		$38,994	$646,705
Gainesville	$386,628	$136,457		$33,276	$556,361
Fort Myers	$337,343	$119,062		$27,960	$484,365
Lakeland	$375,332	$132,470		$32,374	$540,176
Georgia	$2,833,584	$1,000,088		$245,493	$4,079,165
Savannah	$936,656	$330,584		$81,137	$1,348,377
Augusta	$748,659	$264,232		$65,364	$1,078,255
Macon	$725,926	$256,209		$62,739	$1,044,874
Albany	$422,344	$149,062		$36,253	$607,659
Hawaii					
Idaho	$512,779	$180,981		$44,974	$738,733
Boise	$512,779	$180,981		$44,974	$738,733
Illinois	$4,135,207	$1,459,485		$368,000	$5,962,692
Joliet	$926,383	$326,959		$81,050	$1,334,391
Springfield	$801,791	$282,985		$71,864	$1,156,641
Champaign-Urbana	$831,471	$293,460		$77,614	$1,202,545
Decatur	$581,119	$205,101		$50,576	$836,795
Alton	$528,816	$186,641		$45,367	$760,824
Bloomington-Normal	$453,391	$160,020		$40,502	$653,913
Dubuque	$12,237	$4,319		$1,027	$17,582
Indiana	$2,987,403	$1,054,378		$264,830	$4,306,611
Evansville	$934,761	$329,916		$83,577	$1,348,254
Muncie	$606,937	$214,213		$54,525	$875,675
Terre Haute	$463,141	$163,462		$40,127	$666,730
Anderson	$412,644	$145,639		$34,680	$592,963
Lafayette-West Lafayette	$569,921	$201,148		$51,920	$822,989
Iowa	$2,096,934	$740,094		$178,092	$3,015,120
Cedar Rapids	$705,971	$249,166		$60,087	$1,015,224
Waterloo	$554,200	$195,600		$46,019	$795,819
Sioux City	$423,859	$149,597		$35,094	$608,550
Dubuque	$412,904	$145,731		$36,892	$595,526
Kansas	$754,950	$266,453		$65,222	$1,086,625
Topeka	$749,535	$264,542		$64,795	$1,078,872
St. Joseph	$5,415	$1,911		$427	$7,753
Kentucky	$1,860,659	$656,704		$166,859	$2,684,222
Huntington-Ashland	$282,097	$99,564		$23,940	$405,600
Lexington	$1,113,571	$393,025		$100,832	$1,607,428
Clarksville	$72,457	$25,573		$6,159	$104,189
Owensboro	$392,534	$138,541		$35,929	$567,005
Louisiana	$1,908,525	$673,597		$165,161	$2,747,282
Monroe	$494,628	$174,574		$42,338	$711,540
Lake Charles	$511,006	$180,355		$44,400	$735,761
Lafayette	$490,349	$173,064		$43,369	$706,782
Alexandria	$412,541	$145,603		$35,054	$593,197
Maine	$832,255	$293,737		$68,823	$1,194,815
Portland	$550,072	$194,143		$46,353	$790,568
Lewiston-Auburn	$282,183	$99,594		$22,470	$404,247
Maryland					
Massachusetts	$4,395,030	$1,551,187		$385,530	$6,331,746
Lowell	$1,107,119	$390,748		$97,249	$1,595,116
Brockton	$887,770	$313,330		$77,693	$1,278,794
Fall River	$812,670	$286,825		$72,708	$1,172,202
New Bedford	$929,257	$327,973		$84,076	$1,341,306
Fitchburg-Leominster	$359,695	$126,951		$29,273	$515,918
Pittsfield	$298,519	$105,360		$24,531	$428,410
Michigan	$4,897,146	$1,728,404		$428,888	$7,054,438
Ann Arbor	$1,242,136	$438,401		$112,392	$1,792,929
Kalamazoo	$806,160	$284,527		$68,448	$1,159,135
Saginaw	$951,830	$335,940		$84,796	$1,372,566
Muskegon-Muskegon Heigh	$555,393	$196,021		$47,039	$798,454
Jackson	$423,492	$149,468		$36,121	$609,081
Bay City	$475,760	$167,915		$41,844	$685,520

INTERIM FISCAL YEAR 1979 UMTA SECTION 5 APPORTIONMENTS TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION—Continued

Urbanized area	Apportionment basis				Total apportionment
	All areas population and population density	Business and related capital expenses	Areas with population over 750,000	Areas with population under 750,000	
Battle Creek	$442,374	$156,132		$38,248	$636,754
Minnesota	$1,406,298	$496,340		$121,371	$2,024,009
Duluth-Superior	$496,770	$175,330		$40,696	$712,797
Fargo-Moorhead	$205,681	$72,593		$18,306	$296,581
La Crosse	$14,793	$5,221		$1,212	$21,227
Rochester	$381,551	$134,665		$34,308	$550,524
St. Cloud	$307,502	$108,530		$26,849	$442,881
Mississippi	$1,726,864	$609,481		$148,375	$2,484,721
Jackson	$1,099,909	$338,203		$95,557	$1,583,669
Biloxi-Gulfport	$626,955	$221,278		$52,819	$901,052
Missouri	$1,333,929	$470,798		$112,654	$1,917,381
Springfield	$627,093	$221,327		$52,866	$901,285
St. Joseph	$427,259	$150,797		$36,857	$614,913
Columbia	$279,577	$98,674		$22,931	$401,182
Montana	$861,750	$304,147		$75,712	$1,241,609
Billings	$412,961	$145,751		$35,897	$594,609
Great Falls	$448,788	$158,396		$39,815	$646,999
Nebraska	$970,269	$342,448		$85,077	$1,397,794
Lincoln	$929,939	$328,214		$81,691	$1,339,844
Sioux City	$40,331	$14,234		$3,386	$57,951
Nevada	$579,169	$204,412		$50,365	$833,946
Reno	$579,169	$204,412		$50,365	$833,946
New Hampshire	$843,626	$297,750		$72,008	$1,213,384
Manchester	$534,058	$188,491		$46,042	$768,592
Nashua	$309,567	$109,259		$25,966	$444,792
New Jersey	$1,013,418	$357,677		$84,005	$1,455,100
Atlantic City	$701,263	$247,504		$59,327	$1,008,094
Vineland-Millville	$312,156	$110,173		$24,678	$447,006
New Mexico					
New York	$3,046,115	$1,075,100		$264,897	$4,386,112
Utica-Rome	$1,010,042	$356,485		$87,025	$1,453,553
Binghamton	$1,050,256	$370,678		$93,015	$1,513,950
Poughkeepsie	$526,374	$185,779		$44,276	$756,428
Elmira	$459,445	$162,157		$40,580	$662,182
North Carolina	$5,799,284	$2,046,806		$493,204	$8,339,294
Fayetteville	$873,284	$308,218		$74,567	$1,256,069
Raleigh	$818,555	$288,902		$69,765	$1,177,222
Greensboro	$861,964	$304,222		$74,473	$1,240,660
Winston-Salem	$766,391	$270,491		$65,319	$1,102,201
Durham	$557,710	$196,839		$47,906	$802,454
Gastonia	$464,399	$163,906		$38,546	$666,850
High Point	$473,083	$166,970		$39,633	$679,686
Asheville	$372,786	$131,572		$31,388	$535,745
Burlington	$310,984	$109,759		$26,252	$446,996
Wilmington	$300,127	$105,927		$25,355	$431,410
North Dakota	$363,720	$128,372		$32,771	$524,863
Fargo-Moorehead	$363,720	$128,372		$32,771	$524,863
Ohio	$3,623,529	$1,278,893		$312,870	$5,215,292
Lorain-Elyria	$974,163	$343,822		$81,657	$1,399,642
Huntington-Ashland	$156,198	$55,129		$13,289	$224,615
Springfield	$629,489	$222,172		$56,568	$908,229
Wheeling	$242,783	$85,688		$22,300	$350,771
Hamilton	$506,118	$178,630		$43,540	$728,288
Steubenville/Weirton	$273,797	$96,634		$23,668	$394,100
Mansfield	$399,275	$140,920		$33,618	$573,813
Lima	$402,758	$142,150		$34,903	$579,811
Parkersburg	$38,950	$13,747		$3,327	$56,023
Oklahoma	$524,190	$185,008		$44,644	$753,843
Lawton	$515,573	$181,967		$43,971	$741,510
Fort Smith	$8,618	$3,042		$673	$12,333
Oregon	$1,322,025	$466,597		$114,374	$1,902,996
Eugene	$792,030	$279,540		$68,511	$1,140,081
Salem	$529,995	$187,057		$45,863	$762,914
Pennsylvania	$5,505,306	$1,943,049		$493,958	$7,942,312
Erie	$1,223,790	$431,926		$110,820	$1,766,536
Reading	$1,185,065	$418,258		$107,535	$1,710,858
York	$784,243	$276,792		$69,675	$1,130,710
Lancaster	$717,947	$253,393		$63,238	$1,034,578
Johnstown	$623,745	$220,145		$55,636	$899,526
Altoona	$583,426	$205,915		$53,051	$842,392
Williamsport	$387,088	$136,619		$34,003	$557,711
Puerto Rico	$2,505,208	$884,191		$238,687	$3,628,086

INTERIM FISCAL YEAR 1979 UMTA SECTION 5 APPORTIONMENTS TO GOVERNORS FOR URBANIZED AREAS UNDER 200,000 POPULATION—Continued

Urbanized area	Apportionment basis				Total apportionment
	All areas population and population density	Business and related capital expenses	Areas with population over 750,000	Areas with population under 750,000	
Ponce	$1,292,012	$456,004		$124,059	$1,872,075
Mayaguez	$538,113	$189,922		$49,662	$777,697
Caguas	$675,083	$238,264		$64,966	$978,313
Rhode Island	$69,115	$24,394		$5,512	$99,021
Fall River	$69,115	$24,394		$5,512	$99,021
South Carolina	$1,344,935	$474,683		$114,296	$1,933,913
Greenville	$851,813	$300,640		$72,774	$1,225,227
Augusta	$105,033	$37,070		$8,623	$150,727
Spartanburg	$388,089	$136,972		$32,898	$557,959
South Dakota	$449,319	$158,583		$39,239	$647,140
Sioux City	$3,805	$1,343		$305	$5,454
Sioux Falls	$445,513	$157,240		$38,933	$641,686
Tennessee	$1,551,678	$547,651		$130,656	$2,229,984
Knoxville	$1,032,767	$364,506		$88,226	$1,485,499
Kingsport	$313,324	$110,585		$25,713	$449,622
Clarksville	$205,587	$72,560		$16,716	$294,863
Texas	$8,947,224	$3,157,844		$756,907	$12,861,976
Lubbock	$779,709	$275,191		$65,824	$1,120,724
Amarillo	$675,139	$238,284		$57,367	$970,791
Waco	$551,819	$194,760		$45,020	$791,599
Port Arthur	$568,687	$200,713		$47,142	$816,542
Beaumont	$564,627	$199,280		$46,718	$810,625
Wichita Falls	$537,357	$189,655		$46,098	$773,111
McAllen-Pharr-Edinburg	$539,784	$190,512		$47,160	$777,456
Abilene	$407,337	$143,766		$32,879	$583,982
Texas City-La Marque	$367,826	$129,821		$29,408	$527,054
Odessa	$516,767	$182,388		$45,846	$745,001
Killeen	$374,060	$132,021		$31,385	$537,465
Laredo	$439,588	$155,149		$38,906	$633,643
San Angelo	$328,650	$115,994		$27,670	$472,314
Galveston	$363,906	$128,437		$31,748	$524,092
Midland	$310,103	$109,448		$26,097	$445,648
Tyler	$334,427	$118,033		$28,806	$481,266
Texarkana	$183,881	$64,899		$15,339	$264,120
Sherman-Denison	$270,600	$95,506		$22,442	$388,548
Brownsville	$342,704	$120,954		$30,592	$494,251
Bryan-College Station	$248,379	$87,663		$20,525	$356,567
Harligen-San Benito	$241,877	$85,368		$19,935	$347,180
Utah	$1,352,218	$477,254		$114,968	$1,944,440
Ogden	$843,354	$297,654		$72,771	$1,213,779
Provo-Orem	$508,865	$179,599		$42,197	$730,662
Virginia	$1,814,314	$640,346		$155,304	$2,609,964
Roanoke	$869,056	$306,726		$74,699	$1,250,481
Petersburg-Colonial Hei	$559,532	$197,482		$48,122	$805,136
Lynchburg	$364,941	$128,803		$30,737	$524,481
Kingsport	$20,786	$7,336		$1,746	$29,868
Washington	$720,096	$254,152		$61,124	$1,035,372
Richland-Kennewick	$329,440	$116,273		$26,841	$472,554
Yakima	$390,656	$137,878		$34,284	$562,818
West Virginia	$2,400,576	$847,262		$210,590	$3,458,428
Huntington-Ashland	$588,314	$207,640		$53,180	$849,134
Charleston	$901,265	$318,094		$78,060	$1,297,418
Wheeling	$352,804	$124,519		$30,683	$508,006
Steubenville-Weirton	$188,561	$66,551		$15,804	$270,915
Parkersburg	$369,632	$130,458		$32,865	$532,955
Wisconsin	$3,870,144	$1,365,934		$343,687	$5,579,765
Duluth-Superior	$136,695	$48,245		$10,745	$195,686
Appleton	$846,784	$298,865		$75,653	$1,221,302
Green Bay	$638,024	$225,185		$53,085	$916,295
Racine	$837,959	$295,750		$76,204	$1,209,913
Kenosha	$648,260	$228,798		$59,769	$936,827
La Crosse	$355,553	$125,489		$31,039	$512,082
Oshkosh	$406,870	$143,601		$37,191	$587,661

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federal register

MONDAY, DECEMBER 18, 1978
PART IV



ENVIRONMENTAL PROTECTION AGENCY

■

Hazardous Waste

Proposed Guidelines and Regulations and Proposal on Identification and Listing

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 250]

[FRL 1014.5]

HAZARDOUS WASTE GUIDELINES AND REGULATIONS

AGENCY: Environmental Protection Agency.

ACTION: Proposed rules.

SUMMARY: The Environmental Protection Agency (EPA) today issues proposed rules under Sections 3001, 3002, and 3004 of the Solid Waste Disposal Act as substantially amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580 (Oct. 21, 1976)). These proposals respectively cover: (1) criteria for identifying and listing hazardous waste, identification methods, and a hazardous waste list; (2) standards applicable to generators of such waste for recordkeeping, labeling, containerizing, and using a transport manifest; and (3) performance standards for hazardous waste management facilities. In separate sections of today's FEDERAL REGISTER EPA explains in detail the proposals under Sections 3002 and 3004.

These proposals together with those already published pursuant to Section 3003, (April 28, 1978, 43 FR 18506-18512), Section 3006 (February 1, 1978, 43 FR 4366-4373), Section 3008 (August 4, 1978, 43 FR 34738-34747), and Section 3010 (July 11, 1978, 43 FR 29908-29918) and that of the Department of Transportation pursuant to the Hazardous Materials Transportation Act (May 25, 1978, 43 FR 22626-22634) along with Section 3005 regulations constitute the hazardous waste regulatory program under Subtitle C of the Act.

EPA has chosen to integrate its regulations pursuant to Section 3005 and Section 3006 of the Act with proposals under the National Pollutant Discharge Elimination System required by Section 402 of the Clean Water Act and the Underground Injection Control Program of the Safe Drinking Water Act. This integration of programs will appear soon as proposed rules under 40 CFR Parts 122, 123, 124 and 128.

In addition to the proposals announced today, EPA is publishing in today's FEDERAL REGISTER an Advance Notice of Proposed Rulemaking, that calls attention to suggested expansion of characteristics to be used in identifying hazardous waste under Subtitle C.

DATES: Comments are due March 16, 1979. Hearings: listed below.

ADDRESSES: Comments should be addressed to: John P. Lehman, Director, Hazardous Waste Management Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket or notice number, such as "Section 3001", Section 3002", etc.

The official record for this rulemaking is available at: Room 2111D, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

Hearings: Five sets of consolidated public hearings on Section 3001-4 proposals are scheduled. The portion of the hearing devoted to Section 3003 will be held jointly with the Department of Transportation.

The schedule and location for the hearings are as follows:

February 7, 8, 9 (1979)—United Engineering Center, Main Auditorium, 345 East 47th Street, New York, N.Y.
February 14, 15, 16—Breckenridge Pavilion Hotel, One Broadway, St. Louis, Missouri 63102, 314-421-1776
February 20, 21, 22—Department of Commerce, Main Auditorium, 14th Street Entrance, Washington, D.C.
March 7, 8, 9—Holdiay Inn-Airport, P.O. Box 38218, 4040 Quebec Street, Denver, Colorado 80216, 303-321-6666.
March 12, 13, 14—EPA Regional Office, Sixth Floor Conference Room, 215 Fremont Street, San Francisco, Calif.

A block of rooms has been reserved in St. Louis and Denver for attendees. Please make reservations directly with the hotel by requesting an EPA reserved room at least two weeks prior to the hearing.

An evening session will be held the second day of each hearing to accommodate those who cannot attend during the day. The evening session will cover all four proposed regulations.

The agenda below will generally be followed:

Day 1:
Registration—8:00-8:30 a.m.
Section 3001—8:30-5:00 p.m.
Day 2:
Continuing Registration—8:00-8:30 a.m.
Section 3002—8:30-12:30
Section 3003—2:00-5:00 p.m.
Section 3001-3004—7:00 p.m.
Day 3:
Continuing Registration—8:00-8:30 a.m.
Section 3004—8:30-5:00 p.m.

Anyone wishing to make an oral statement(s) at the hearing(s) should notify, in writing;

Mrs. Geraldine Wyer, Public Participation Officer, Office of Solid Waste (WH-562), U.S. E.P.A., 401 M Street SW., Washington, D.C. 20460.

Please indicate which hearing (location) and the specific regulation(s) that comment(s) will be directed to.

Oral or written comments may be submitted at the public hearings. Persons who wish to make oral presentations must restrict their presentations to ten minutes, and are encouraged to have written copies of their complete comments for inclusion in the official record.

FOR FURTHER INFORMATION CONTACT:

Hazardous Waste Management Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D,C, 20460.

Section 3001—Mr. Alan Corson, 202-755-9187.

Section 3002—Mr. Harry Trask, 202-755-9187.

Section 3004—Mr. Timothy Fields, Jr., 202-755-9296.

SUPPLEMENTARY INFORMATION:

INTRODUCTION

The EPA is today proposing the core elements of a major regulatory program to manage and control the country's hazardous waste from generation to final disposal. The Congress directed this action in the Resource Conservation and Recovery Act of 1976 (RCRA), recognizing that disposal of hazardous waste is a crucial environmental and health problem which must be controlled.

In our proposal, we have outlined two sets of requirements: one which sets norms of conduct for Federal and State agencies in implementing the program and the second which sets minimum norms of conduct for those who generate, transport, treat, store, and dispose of hazardous waste.

These requirements, we believe, will close the circle of environmental control begun earlier with regulatory control of emissions and discharges of contaminants to air, water, and the oceans.

We do not underestimate the complexity and difficulty of our proposed regulations. Rather, they reflect the large amounts of hazardous waste generated and the complexity of the movement of hazardous waste in our diverse society. These regulations will affect a large number of industries. Other non-industrial sources of hazardous waste, such as laboratories and commerical pesticide applicators, as well as transporters of hazardous waste, will also be included. The Agency estimates that approximately 270,000 waste generating facilities and 10,000 transporters will be regulated, although only about 30,000 of that number will require treatment, storage, or disposal permits. Under this

program, approximately 35 million metric tons per year of hazardous waste, mainly from industrial sources, will be controlled, while another several hundred million tons per year of high-volume, relatively low risk waste, such as certain mining waste, will be brought under limited control pending further rulemaking.

These proposed controls are necessary to protect public health and the environment. Based on documented damage cases and other data, EPA estimates that disposal of as much as 90 percent of hazardous waste is not currently in accord with these proposed rules.

The Resource Conservation and Recovery Act, under which the Agency is acting, is a demanding statute. It requires promulgating seven regulations providing comprehensive control of hazardous waste from its generation to its final disposal. The statute set a deadline of April 1978 for the promulgation of these regulations, and the Agency has been sued for not meeting that deadline. Our action today is based on the need and the Agency's commitment to act as quickly as possible to create a system to manage hazardous waste.

Our proposal is the result of two years of analysis and consultation by the staff of the Agency with the interested and affected parties throughout State and Federal government and the private sector. In dealing with a new and extremely complex area of environmental regulation, our objective has been to create a program based on as much substantive data and analysis as possible, but even where we have limited data the statute requires that we establish standards and controls.

The fact that the Agency is proposing these rules, however, does not mean that final judgments have been made on the program described in the proposal. A number of issues have been identified, and in some cases alternatives have been suggested, on which we seek public comment.

Further, the Agency anticipates and expects that during the comment period additional issues will be identified and alternatives not described in the proposal will be suggested. The Agency affirmatively solicits comprehensive review during the comment period, in the hope that the final promulgation of these rules will represent the sound exercise of authority granted to us by Congress, and will serve the public interest by protecting human health and the environment in the most efficient and effective way.

The Agency requests comments on all issues raised in the preambles to these regulations and the documents referenced therein, all issues raised by the regulations, and any issues raised in Sections 3001, 3002, and 3004 of the Resource Conservation and Recovery Act which may not be addressed in today's FEDERAL REGISTER.

Because we are launching this extraordinarily important program, we especially need not only comments but ideas. For instance, one issue raised in this proposal involves balancing the need to protect human health and the environment from the adverse impact of potential mismanagement of small quantities of hazardous waste with the need to hold the administrative and economic burden of management of these wastes under RCRA within reasonable and practical limits.

The Agency has proposed a conditional exclusion of persons who generate and dispose of 100 kilograms per month or less of hazardous waste. Another alternative that has been suggested is to use a 1000 kilograms per month exclusion. These alternatives, however, raise issues which are very difficult to resolve. The Agency recognizes that there is some hazardous waste which if improperly disposed in quantities smaller than 100 kilograms can present a significant threat to public health and the environment. There may be other ways to describe the types and quantities of hazardous waste which should be subject to full controls under this program. The Agency positively solicits such proposals.

A second major issue concerns the impact of these proposed regulations on a small number of industrial product categories. These impacts include the possiblities of plant closures in some of these segments.

The Agency recognizes that it is impossible to change waste disposal practices overnight. We estimate that it will take up to five years for EPA and the States to issue permits to all treatment, storage, and disposal sites. The Act provides for phrasing the regulatory program by authorizing existing sites to obtain interim status under Section 3005. During the interim status period, a facility is subject only to a limited set of requirements pending issuance of a full permit. The Agency has developed implementation plans which would give first priority for permitting to off-site disposal facilities and new facilities, and which would seek to consolidate permitting under RCRA with discharge permits under the Clean Water Act wherever practicable. Furthermore, the Agency expects that many permitted facilities will be placed on compliance schedules under which they will have time to upgrade their facilities. We seek comment on the most desirable strategy for phasing implementation of the Act.

The Agency believes that the States are the preferred level of government for implementation of this program. If this preference is to be realized, the States need the information and guidance that is contained in this proposal and the promulgated requirements that will follow in order to prepare their programs. Although the Agency recognizes that there are several issues and provisions in these regulations which will be modified before final promulgation, the provisions of these regulations dealing with design and performance standards, and the design of the manifest system, should give the States improved ability to prepare for carrying out this program. In particular, the design and performance standards proposed today should provide a measure for evaluating the adequacy and/or inadequacy of existing and abandoned hazardous waste sites.

One last point concerns the period for public comment. As stated earlier, the Agency is in litigation regarding the schedule for promulgating these regulations. We must anticipate that the Court will issue an order establishing a final promulgation date which may require us to further expedite our work on these regulations. Accordingly, we plan to close the public comment on March 16, 1979, and the public should therefore ensure that the Agency receives all comments by that date.

OVERVIEW OF SUBTITLE C

HAZARDOUS WASTE CONTROL PROGRAM

The proposals announced today and the Section 3005-6 proposals will, when they are promulgated along with the other rules that have already been proposed, establish a comprehensive system designed to safely dispose of, treat, store or reuse hazardous waste. The statutory authority for these regulations is the Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq. (referred to from time to time as "RCRA" or "the Act"). In a sense EPA is today attempting to "close the loop" on environmental protection: EPA has and the States have substantial programs in place to control air and water pollution, and to restrict unsafe pesticide use. But the ultimate fate of the pollutants removed from the air and water has become a great concern. As Congress stated in Section 1002(b)(3) of the Act:

> As a result of the Clean Air Act, the Water Pollution Control Act, and other Federal and State laws respecting public health and the environment, greater amounts of solid waste (in the form of sludge and other pollution treatment residues) have been created. Similarly, inadequate and environmentally unsound practices for the disposal or use of solid waste have created greater amounts of air and water pollution and other problems for the environment and for health.

Virtually every day, the media carries a story on a dangerous situation

resulting from improper disposal of hazardous waste. The tragedy at Love Canal in New York State is but one recent example. EPA has compiled over 400 case studies of the harmful consequences of inadequate hazardous waste management. These cases include incidents of surface and groundwater contamination, direct contact poisoning, various forms of air pollution, and damage from fires and explosions. Nationwide, half of all drinking water is supplied from groundwater sources and in some areas contamination of groundwater resources currently poses a threat to public health. EPA studies of a number of generating industries in 1975 showed that approximately 90% of the potentially hazardous waste generated by those industries was managed by practices which were not adequate for protection of human health and the environment.

The Resource Conservation and Recovery Act of 1976 was passed to address these problems. Subtitle C establishes a comprehensive program to protect the public health and environment from improper disposal of hazardous waste. Although the outline of the programs is to be announced by the Federal government, the Act provides that States with adequate programs can assume responsibility for regulation of hazardous waste. The basic idea of Subtitle C is that the public health and environment will be protected if there is careful monitoring of transportation of hazardous waste, and assurance that such waste is treated or disposed of either at the site where it is generated or after it is carried from that site to a special facility (both on-site and off-site facilities would require permits) in accordance with certain standards, published under Section 3004 (and also proposed today).

The Act requires EPA to define hazardous waste, and to publish standards that generators of such waste must follow so that if the substance is not disposed of where it is generated, every person coming in contact with the waste will know exactly what the waste is, and the quantity. Waste which is defined as hazardous can be disposed of, treated, or stored at the place of generation or at an off-site facility, only in accordance with Federal standards published under Subtitle C, or, after States have assumed the programs, in accordance with those State standards. There are serious consequences if persons subject to this Act do not obey the requirements for recordkeeping and reporting, transportation, or treatment, storage, and disposal.

Launching this Subtitle C program is an ambitious undertaking because there is so much waste and because there are so many people who will be subject to these regulations (under the regulatory program being proposed today approximately 272,000 waste generators would become subject to the Federal requirements). There are a number of major issues on which EPA seeks assistance from the public. These issues are highlighted in the respective preambles published today. Any regulatory program as large and as new as the hazardous waste program can be expected to require many adjustments on the part of the regulated community. In particular, the requirement that generators of hazardous waste must manage their waste in an environmentally sound manner will create large new demand for adequate hazardous waste management capacity. EPA must take into account the need for more hazardous waste management capacity as it develops this regulatory program because public health and the environment will not be well protected if one of the results of the program is to shut down most of the facilities currently available. EPA also has considered the Administrative feasibility of running a full scale hazardous waste control program. It is concerned that by attempting initial coverage of waste, generators, and disposers that is quite broad, the whole program including addressing the problems brought on by the most hazardous will become bogged down.

Unlike the EPA experience with the Clean Air Act and Clean Water Act, RCRA was not preceded by substantial Federal involvement in the substantive areas covered by RCRA. Nor was there considerable Congressional debate over key provisions in RCRA; indeed, there is not even a Conference Report. Thus, EPA has been forced to make several initial policy decisions without the assistance of clear Congressional direction. One paramount concern does stand out in review of RCRA: Congress believed that the improper management of hazardous wastes is an imminent national problem and the EPA, in its implimentation of this new public health legislation, should attempt as quickly as possible to bring hazardous waste transportation and disposal under Federal control. In its definition of hazardous waste, particularly in its listing of specific hazardous waste streams, EPA has not demanded extensive empirical testing of particular substances. Rather, the Agency has relied on a variety of information including knowledge of the substances that enter waste streams as a result of air and water pollution control efforts, to classify those waste streams. In the rules proposed today provision is made for persons who wish to demonstrate by certain tests that their wastes should not be included in Subtitle C coverage.

There are some issues that permeate the Subtitle C program. The first relates to reliance on waste-specific standards versus industry-specific standards. Under the water and air pollution laws regulations are directed at specific private or public sources. Under RCRA, regulations for the most part will be based on standards that do not vary according to the source. EPA experts believe that *most* waste classified as hazardous requires similar management techniques. This is true not only for the financial and administrative requirements of the program, but also with respect to performance, design, and operating standards for treatment, storage, and disposal facilities. However, it was also determined that some waste can be handled with differing facility design and operating standards or differing administrative requirements, and still be handled in such a way as to meet environmental and public health standards. Further, there is some waste for which insufficient data are available to determine appropriate management techniques. The proposed rules attempt to control this problem by allowing for the following: (1) general standards for transportation, treatment, storage, and disposal applicable to all waste; (2) specific provisions in the treatment, storage, and disposal regulations for different design and operating standards to be used by permit writers in the preparation of permits for specific waste types and facilities as long as an equivalent or greater degree of performance is achieved; (3) deferral of applicability of most of the treatment, storage, and disposal standards for selected high-volume, relatively low risk waste categories (i.e., mining waste, utility waste, gas and oil drilling muds, gypsum piles, and cement kiln dusts) until information is gathered and assessed to determine how they can best be handled; and (4) specific provisions for the large numbers of retailers, farmers, and generators of small quantities of hazardous waste.

The second major issue relates to the possible phasing of the Subtitle C program, such as by first issuing regulations for (or making general regulations first effective with respect to) the most hazardous wastes first. Phasing could be accomplished by addressing only larger (either in terms of number of facilities or amount of waste) industry categories first. To some extent, deference has been paid to phasing by proposing special procedures for mining waste, utility waste, etc. But EPA is not relying on the approach nearly to the extent that it has in implementing the Clean Water Act, for example, where small pollution sources often are excluded altogether from the national pollution regulatory coverage.

A third set of basic issues revolves around the regulatory definition of hazardous waste; this will be analyzed in more detail below.

It is difficult to evaluate any one Section of Subtitle C without appreciating the interlocking function of the seven sections establishing the hazardous waste program. Section 3001 will be explained in some detail in this preamble; it essentially defines those wastes deemed to be hazardous and therefore subjected to Subtitle C. Although in other preambles associated with the other specific proposals, Sections 3002–3006 and Section 3010 are explained, it may assist in understanding Section 3001 if a brief summary of those other provisions is presented.

Subtitle C creates a "cradle-to-grave" management control system for hazardous waste. Solid waste which is excluded from Subtitle C will be subject to the requirements of Subtitle D of the Act, under which open dumping is prohibited and environmentally acceptable practices are required.

Section 3002 addresses the standards applicable to generators. EPA's regulations under this section define generators to exclude individual homeowners and others who produce small quantities of hazardous waste which do not pose a significant threat to human health or the environment. Section 3002 regulations announce the mechanics of the manifest system which will track waste transported from the point of generation to its ultimate disposition.

Section 3003 authorizes standards for transporters of hazardous waste, to assure that such waste is carried carefully. The Agency has attempted to coordinate closely with proposed and current U.S. Department of Transportation (DOT) regulations.

Section 3004 addresses standards affecting owners and operators of hazardous waste treatment, storage, and disposal facilities. These standards define the levels of human health and environmental protection to be achieved by these facilities and provide the criteria against which EPA (or State) officials will measure applications for permits. Facilities on a generator's property as well as off-site facilities are covered by these regulations and do require permits; generators and transporters do not otherwise need permits.

Section 3005 regulations set out the scope and coverage of the actual permit-granting process for facility owners and operators. Requirements for the permit application as well as for the issuance and revocation process are defined by regulations to be proposed under 40 CFR Parts 122, 124, and 128. Sections 3005(e) provides for interim status during the time period that the Agency or the States are reviewing the pending permit applications. Special regulations under Section 3004 apply to facilities during this interim status period.

Section 3006 requires EPA to issue guidelines under which States may seek both full and interim authorization to carry out the hazardous waste program in lieu of an EPA-administered program. States seeking authorization in accordance with Section 3006 guidelines need to demonstrate that their hazardous waste management regulations are *consistent with and* equivalent in effect to EPA regulations under Sections 3001–5.

Section 3010 requires any person generating, transporting, or owning or operating a facility for treatment, storage, and disposal of hazardous waste to notify EPA of this activity within 90 days after promulgation or revision of regulations identifying and listing a hazardous waste pursuant to Section 3001. No hazardous waste subject to Subtitle C regulation may be legally transported, treated, stored, or disposed after the 90-day period unless this timely notification has been given to EPA or an authorized State during the above 90-day period. Owners and operators of inactive facilities are not required to notify.

Table I appearing below cross references the numbered sections of the Act to the Subpart designations to be used in the regulations:

TABLE I

Solid Waste Disposal Act as amended
Subtitle C—Numbering System
Subpart A—Section 3001 Identification, and Listing of Hazardous Waste
Subpart B—Section 3002 Standards Applicable to Generators of Hazardous Waste
Subpart C—Section 3003 Standards Applicable to Transporters of Hazardous Waste
Subpart D—Section 3004 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
Subpart E—Section 3005 Permits for Treatment, Storage, and Disposal of Hazardous Waste
Subpart F—Section 3006 Guidelines for Authorized State Hazardous Waste Programs
Subpart G—Section 3010 Preliminary Notification of Hazardous Waste Activities.

A "sunshine" philosophy was used in the development of these proposed regulations. Over 85 public meetings have been held throughout the Nation over the past 20 months with participation by industry, citizens, and environmental groups; Federal, State, regional, and local government representatives; and the general public. As the several drafts of each of the regulations proposed today were developed, they were sent for comment to State officials and over 800 industrial concerns and environmental groups. In addition, the EPA Office of Solid Waste and regional office personnel have made presentations on the philosophy and content of the regulations to literally hundreds of industry, legal, environmental, and State and local government groups at conferences, seminars, and meetings of various kinds. This process has resulted in substantial improvement and refinement of the regulations.

A number of other Federal agencies have participated directly on the EPA working groups which have been responsible for overseeing development of these regulations. The Intergovernmental Regulatory Liaison Group (IRLG) has assisted the Agency in development of test methods for defining hazardous waste and in designation of common codes in Subpart A of the regulations. The Department of Energy has provided significant assistance in regulatory development for utility waste control. The Agency has closely coordinated the content and timing of the Subpart B and C regulations with the Hazardous Material Transportation Act (HMTA) hazardous material regulations developed by the Department of Transportation. In fact, joint public hearings and meetings were held to consider the already proposed Section 3003 and HMTA regulations.

In addition to actual working group involvement by a number of agencies, EPA has participated in more than 40 meetings with Federal agencies concerning development of specific regulations.

State personnel from California, Texas, Illinois, Missouri, Mississippi, Tennessee, South Carolina, Maryland, and New Jersey all participated directly on one or more of the work groups. Meetings were held with State government representatives in every EPA region. In addition, the Agency has maintained close contact with the National Governors' Association subcommittee on hazardous waste on which personnel from approximately 20 States routinely participate. State assistance has been invaluable in developing practical regulations since many of the participating State have had direct experience in implementing similar regulations at the State level.

(40 CFR PART 250 SUBPART A)

SECTION 3001 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Section 3001 is the keystone of Subtitle C. Its purpose is to provide a means for determining whether a waste is hazardous for the purposes of the Act and, therefore, whether it must be managed according to the other Subtitle C regulations.

Section 3001(b) provides two mechanisms for determining whether a waste is hazardous: a set of characteristics of hazardous waste and a list of particular hazardous wastes. A waste

must be managed according to the Subtitle C regulations if it either exhibits any of the characteristics set out in proposed regulation § 250.13 *or* if it is listed in § 250.14. (Reference to a section of the regulation will be preceded by "§" and of the Act by "Section".) Also, EPA is directed by Section 3001(a) of the Act to develop criteria for identifying the set of characteristics of hazardous waste and for determining which wastes to list. In this proposed rule, EPA sets out those criteria, identifies a set of characteristics of hazardous waste, and establishes a list of particular hazardous wastes.1The Act defines solid waste broadly, so that included are essentially all substances destined for disposal and not regulated by the Federal Water Pollution Control Act or Atomic Energy Act of 1954. One phrase contained in the Act's Section 1004(27) lengthy definition of solid waste that has caused some uncertainty is "other discarded material". For the purposes of this proposed rule, EPA has defined the term "other discarded material" to mean any material which is: (1) not reused (that is, the material is abandoned or committed to final disposition); (2) reused, if such use constitutes disposal (as defined in Section 1004(3) of the Act); or (3) a waste oil (excluding animal or vegetable oil), incinerated or burned as a fuel.

Under this definition, for example, used solvents sent to a solvent reclaiming facility would not be considered a discarded material, and, therefore, would not be considered a solid waste or a hazardous waste. Consequently, the solvent reclaiming facility would not be subject to Section 3004 controls nor would it require a RCRA permit. However, a solvent reclaimer would be a generator subject to Section 3002 regulations if his waste is hazardous. Similarly, empty drums that formerly contained hazardous waste, but which are being delivered for reconditioning and reuse, would not be included. Also, production residues (e.g., chemical intermediates) being prepared for further processing or in the process of being recycled (e.g., through a waste exchange contract) are not considered to be discarded.

The second element of the definition of "other discarded material" covers material which are reused by placement into or on any land or water so that any constituent thereof may enter the environment. This would include such materials reused as soil conditioners, fertilizers, fill material, dust suppressants, etc. The reuse of materials in this manner could result in serious adverse impacts due to uncontrolled release and dispersion of contaminants into the environment.

Waste oils are singled out for special treatment because the use of waste oils for dust suppression or incineration of these oils has been known to cause serious environmental effects

The Act defines "hazardous waste" in Section 1004(5) as:

> A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may—
>
> (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
>
> (b) pose a substantial present or potential hazard to human health or the environment ehen improperly treated, stored, transported, or disposed of, or otherwise managed.

Obviously, this definition cannot by itself provide clear guidance to waste producers as to whether their waste is hazardous. EPA is obligated by Section 3001 to flesh out the criteria for and characteristics of hazardous waste. Section 3001(a) calls for the Federal government to identify the criteria for identifying the characteristics of and for listing hazardous waste. Section 3001(b) then provides two mechanisms for determining whether a waste is hazardous: a set of characteristics of waste and a list of particular hazardous wastes.

Three criteria were used in developing the candidate set of characteristics: that a characteristic was specifically mentioned in Section 3001 or strongly suggested by the definition of hazardous waste in Section 1004(5) of the Act; that damage cases collected by EPA over the past several years demonstrated incidents of harm to human health or the environment attributable to a characteristic or property of waste; or that other government agencies or private organizations which regulate or recommend management methods for hazardous substances have identified a characteristic.

Three criteria were then used for refining the candidate set of characteristics : that the characteristic provides a grnerally applicable description of a waste property or attribute rather than merely a list of sources; that the likelihood of a hazard developing if the waste is mismanaged is sufficiently great; and that a reliable identification or test method for the presence of the characteristic is available. Use of this last criterion has lead EPA to try to describe each characteristic by specific testing protocols. Where this was not possibile (e.g., reactivity), the characteristic is set out as a description readily recognizable by persons working in the field (e.g., "readily capable of detonation at normal temperatures and pressures") together with a test protocol available in cases of uncertainty.

The Agency emphasizes that even after promulgation of these rules, neither the set of characteristics nor the list are intended by the Agency to be static. Both may be added to or changed by the Agency through the rulemaking process as information develops. In addition, two procedures are built into the Act to provide for public initiation of this process. Section 3001(c) allows any State Governor to petition the Administrator to "identify or list a material as a hazardous waste." Section 7004(a) allows any person to petition the Administrator "for the promulgation, amendment, or repeal of any regulation" under the Act. As both the set of characteristics and the list will be "regulations under the Act" once promulgated, the petition process provided by Section 7004(a) will be available for those seeking changes in the characteristics or the list.

EPA distilled the common features of hazardous waste—when improperly disposed of—into the following groups of candidate characteristics:

1. Ignitability.
2. Corrosivity.
3. Reactivity.
4. Toxicity (using an extraction procedure designed to determined the pollutants that could migrate from a waste when disposed in an open dump environment).
5. Radioactivity.
6. Infectiousness.
7. Phytotoxicity.
8. Teratogenicity and Mutagenicity.

Today EPA proposes to rely only on consideration of the first four characteristics because those are the only ones for which the Agency confidently believes test protocols are available. Also published today is an Advance Notice of Proposed Rulemaking that would, if promulgated, expand the characteristics to include radioactivity, unnatural genetic activity, bioaccumulation, and separate considerations of toxicity to aquatic organisms, terrestrial plants and humans (via chronic exposure to organic chemicals).

The characteristics that EPA plans to use immediately are relatively straightforward, the tests are well developed, inexpensive, and recognized by the scientific community, and they cover a large proportion of the total amount of hazardous waste EPA believes should be controlled. Generators will not be required to test for characteristics of waste outside these characteristics for purposes of determining if the waste is hazardous. However, it was also decided to list specific hazardous wastes using *all* of the candidate characteristics.

Despite its perhaps literal application to these wastes, EPA has deleted from Section 3001 coverage the following categories of materials, relying principally on the legislative history of RCRA, and on the desire to avoid unnecessary duplications with other regulatory programs. The proposed regu-

lations do not apply to agricultural waste, including manure and crop residues, that are returned to the soil as fertilizers or soil conditioners; or to most mining overburden intended for return to the mine site. This limitation in scope is based on the House Committee Report accompanying the House Bill which was a predecessor to the Act. See H. Rep. No. 94-1491, 94th Cong., 2nd Sess. 2 (1976). However, the House Committee Report also states certain mining overburdens may be considered hazardous; thus some are listed in § 250.14.

Sewage sludge from publicly owned treatment works is excluded from coverage under this regulation and will be regulated under Section 405 of the Clean Water Act. Section 1006(b) of the Act directs the Administrator to integrate the regulations under this Act with EPA's other regulatory authority, consistent with the goals and policies of all EPA's authority. EPA's reliance on Section 405 of the Clean Water Act is intended to provide equivalent protection from improperly disposed sewage sludge while avoiding a duplicative permit process.

With those exceptions noted, any solid waste which is described by the characteristics of § 250.13 or is contained on the lists of § 250.14 is a hazardous waste subject to the regulations of this Part. Generators who know or have reason to believe that their waste is hazardous must evaluate their waste against the characteristics. Of course, persons who generate waste specifically described on the list of hazardous wastes need not perform any tests unless they wish to demonstrate that they are not subject to Subtitle C. Similarly, a generator may elect to declare his waste to be hazardous and hence subject to the regulations of this Part without specifically testing against the characteristics or examining the list.

WASTE SAMPLING

The results from the testing methods provided in this Subpart are only as valid as the sample of the waste used in the test is representative of the aggregate waste. Since the classification of the waste as hazardous depends on those results, the sampling protocol used is essential to the implementation of this Subpart.

Given the wide diversity of waste types, the large number of manufacturing processes utilized, and the many points along the process stream at which waste can be generated, the Agency does not have the resources or the time to develop sampling protocols for each process stream. In light of this, the Agency considered several alternatives. These included:

(1) Identifying those process streams which are "typical" of those generating large volumes of hazardous waste and writing exacting protocols for the sampling of these process types.

(2) Identifying the different types of waste matrices that exist and specifying sampling protocols for each matrix type in recognition that the most difficult aspect of sampling relates to the problem of obtaining a representative sample of heterogeneous waste.

(3) Specifying no sampling protocols.

The second option has been chosen. This option has several advantages over the first option. It does not leave any industrial segment or process without a sampling protocol specification. Also, since it requires the generator to determine the sampling technique (by deciding what type of matrix the waste is in), it requires the person most familiar with the waste make-up to identify the matrix type. Waste from the same general process can and does vary as to consistency and make-up. If EPA were to specify a particular sampling protocol based on some generalized idea of what the waste matrix usually resembles, the specified protocol might be inappropriate.

However, as long as a protocol is specified for each *type* of waste, such as drummed viscous liquids, tank trucks, lagoons, etc., the sampling protocol will be proper and the Agency has addressed the most important and most difficult aspect of waste sampling.

With that introduction, it is now appropriate to examine the characteristics that EPA has chosen to define hazardous waste:

1. *Ignitability.* The objective of the ignitability characteristic is to identify waste which presents fire hazard due to being ignitable under routine waste disposal and storage conditions. The resulting fires at disposal and storage sites present not only the immediate danger of heat and smoke, but also can initiate explosions, generate toxic vapors, and provide a pathway by which toxic particulates can spread to the surrounding area. The term "ignitable" was chosen to avoid confusion with the Department of Transportation's category of "flammable" in its hazardous materials transportation regulations.

There are several methods used to identify ignitable materials, depending upon the physical state of the materials as a liquid, solid, or contained gas. The one most widely used for liquids, and for which the most background information and verification exists, is use of the flash point of the material. The testing methods available for flash point measurements are also the most reproducible. The flash point proposed as the upper limit for identifying ignitable liquid waste, 140° F or 60° C, was chosen taking into account the ambient temperatures to which waste may be exposed during management.

EPA has received comments during the development of these regulations emphasizing the need for consistency with DOT definitions for fire hazard. The flash point defining a DOT "flammable liquid" is 100° F (38° C) while that of a "combustible liquid" is 200° F (93° C). Although the DOT limit for "flammable liquid" is adequate for transportation purposes, waste may be subject to much higher temperatures during storage, disposal, or handling incident to waste management; consequently the DOT level is not adequate for the purposes of Section 3001. Comment is solicited on this issue, however.

For waste solids, EPA has proposed a descriptive definition of the properties which make such waste ignitable. This approach was chosen because test methods are not available for ignitable solids which stimulate the field conditions to which a waste is subject during handling and management. For waste gases, EPA proposes to use the DOT identification for flammable compressed gases, since the major hazard to the environment arising from flammable gases would be during transport.

2. *Corrosivity.* The corrosivity characteristic is designed to identify waste which must be segregated from other waste because of its ability to extract and solubilize toxic contaminants (especially heavy metals) from other waste, and to identify waste which requires use of special containers because of the danger that such wastes will, over time, corrode the containers in which they are segregated.

While heavy metal solubilization is an extremely complex phenomenon, pH has been found to be its most important indicator. The pH limits chosen in these proposed regulations were based upon skin corrosion limits, aquatic toxicity limits, and heavy metal solubilization data. The metal corrosion limits were taken from DOT Hazardous Materials regulations, because EPA's concern about container damage is identical to that of DOT's in this case. Testing protocols are standard EPA and DOT procedures.

It has been suggested that the corrosivity characteristic address percent acidity and alkalinity as well as pH, so that more information will be provided to the disposer about the capacity of the waste to affect the pH of the surroundings when disposed. Although the Agency feels that such information would certainly be useful for disposal purposes, it does not have an approach as to how percent acidity or alkalinity can be used in assessing the hazard a waste presents. Comments

are solicited as to how percent acidity-alkalinity should be addressed.

The proposed regulations address only liquid waste. The Agency is concerned that solid waste which forms aqueous solutions of high or low pH may also present a danger; information is solicited concerning these dangers from waste solids.

3. *Reactivity.* The objective of the reactive waste characteristic is to identify waste which under routine management presents a hazard because of instability or extreme reactivity. Reactivity includes the tendency to autopolymerize; to create a vigorous reaction with air or water; and to exhibit the following problems: thermal instability with regard to shock, ready reaction to generate toxic gases, and the tendency to explode.

EPA has proposed a descriptive definition of reactive waste, together with test methods for thermal and shock instability.

The largest stumbling block to developing general test methods for use in identifying reactive waste is that while there are many stresses (inputs of energy) that may cause a waste to react or exhibit hazardous properties, there is no one stress that can cause all reactive waste to do so. To compound the problem, the reactivity of a waste sample is not just a function of the composition of the waste, temperature, and the availability of initiating agents. Reactivity is also affected by the mass and geometry of the waste, because these factors may affect its heat transport properties. Thus, the reactivity of a tested waste sample may not necessarily correspond to the reactivity of the waste as a whole.

Since reactive waste is dangerous to the generator's own operations (as well as being hazardous for long term disposal), generators of reactive waste tend to be aware that their waste has that characteristic and that it requires cautious handling. For this reason, EPA feels that in the event that the generator is unsure of the reactivity of the waste, the proposed descriptive definition will be an adequate identification method when used in conjunction with test methods identifying thermal and shock instability.

4. *Toxicity.* The toxicity characteristic is intended to identify waste which, if improperly disposed of, may release toxic materials in sufficient amounts to pose a substantial hazard to human health or the environment.

The concept of toxicity includes several factors:

Unnatural genetic activity (including oncogenic, mutagenic and teratogenic activity);

Potential for bioaccumulation in tissue; or

Acute and chronic toxicity to various organisms, including humans.

The major problem with developing a simple characteristic to address all these factors of toxicity is the difficulty in setting out either a test or a description which could, for example, identify waste causing unnatural genetic activity, without creating a significant number of false negatives and false positives, and without a lengthy testing program. Thus, even though science has advanced to the point where we can identify some oncogenic, mutagenic, teratogenic, and bioaccumulative waste, we do not yet have a relatively simple, well-accepted test or description to reliably identify all waste in those categories. Consequently, EPA has decided to *list* specific wastes having those properties of toxicity if it can be shown that they may cause harm when improperly managed or can contribute to an increase in morbidity/mortality, and to publish for comment in the ANPR, and set out for future development and incorporation in the general hazardous waste characteristics, the other aspects of toxicity. As further information is obtained and quantitative measurement techniques are developed, these other aspects probably will be added as characteristics of hazardous waste.

Since the most likely pathways for exposures to waste contaminants are leaching to groundwater or surface runoff, the only aspect of toxicity proposed for control now as a waste characteristic is chronic toxicity to humans. This toxicity characteristic is based on an Extraction Procedure, assumed forms of contamination, and reference to the EPA National Interim Primary Drinking Water Standards.

The statutory definition of hazardous waste in Section 1004(5) requires EPA to make a judgment as to the hazard posed by a waste "when improperly treated, stored, transported, or disposed of, or otherwise managed." For waste containing toxic constituents, this hazard is dependent on two factors: the intrinsic hazard of the constituents of the waste, and the release of the constituents to the environment under conditions of improper management.

Leachate formation and runoff are the pathways most often responsible for the contamination of the environment from hazardous waste. To assess the hazard posed by these routes of contamination, EPA has developed a procedure to measure the tendency of the constituents of a waste to migrate out and become available to contaminate the environment under poor management conditions. This procedure has been termed the Extraction Procedure (EP). It was the original intent of the Agency to develop an extraction procedure which closely modeled the effects of indiscriminate land disposal; these include weathering of the waste and biological activity in the land disposal environment. The various procedures developed to model these conditions proved to be incompatible with the bioassay techniques contemplated (for ultimate inclusion in regulation and as noted in the ANPR published today). The Agency is still considering this approach and is continuing its research; also the Agency is working closely with the American Society for Testing and Materials (ASTM) in its development of extraction procedures for use in the permit process, as well as other parts of the testing protocols.

The EP that is included in the proposed rulemaking has been designed to "model" improper management by simulating the leaching action of rain and groundwater in the acidic environment present in landfills or open dumps. It does not necessarily address any one actual disposal method that may be used in a particular circumstance, but is based on a modification of disposal conditions which resulted in documented damage cases.

The extract resulting from the EP is available to undergo whatever toxicity test is specified in the regulation. This procedure is designed to allow a more realistic assessment of the hazard from waste having toxic constituents than would direct testing of the waste. It is designed to encourage the chemical or physical "fixing" of waste so that its constituents are no longer available to be leached out, and to insure coverage by the Subtitle C system of waste which might not test out as hazardous directly, but whose hazardous constituents can be released under poor management conditions.

Some commenters have suggested that the EP approach is overly stringent in defining hazardous waste, since *all* is required to be managed properly at facilities in accordance with the Section 4004 Land Disposal Criteria in Subtitle D of the Act. However, the Agency believes the EP approach is necessary, because *only* waste designated as hazardous is subject to transport controls as well as disposal controls. While non-hazardous waste may be managed properly at facilities subject to Subtitle D controls, there is not guarantee that such waste will, in fact, be delivered to such facilities. Thus, waste which has the potential to cause significant human health and environmental damages if not managed properly, i.e., if *not* delivered to a Subtitle C facility, is considered to be hazardous waste.

To analyze a waste for chronic toxicity to humans, EPA relates levels of contaminants in the EP extract to potential environmental concentrations and to levels that are believed to be hazardous to humans. For the purposes of determining potential chronic

toxicity to humans, EPA assumes disposal of the waste in a nonsecure landfill or dump (one in which there is no functional barrier which prevents subsurface movement of leachate, e.g., a sand or gravel pit) which is situated directly over a usable aquifer that is source of a drinking water. Once he EP has been applied to the waste, allowing the assessment of the availability of the contaminant to the environment, a dilution factor is then applied in an effort to roughly duplicate actual human exposure. Use of this groundwater model to assess contamination is not meant to imply that other contamination routes are not also of concern. However it is considered a reasonable indicator of risk. Toxic waste whose hazard is through another route can and will be listed based on Section 1004(5) of the Act.

In general, when contaminants leach into groundwater, they form a plume of contaminated water which extends down-gradient from the contaminated source. The shape and size of a plume depends upon the local geology, the groundwater flow, the type and concentration of contaminants, and the continuity of waste disposal. Any modifications of the groundwater system made by human activities, such as well pumping from a point source, will cause the plume to become elongated. Where the flow is low, contamination will tend to spread more laterally to form a somewhat wider plume. Irregular plumes can be created by local influence such as location of pumping wells and variations in permeability. An important aspect of groundwater contamination is that it may persist underground for years, decades, or even centuries; this is in marked contrast to most surface water pollution. The average residence time of groundwater may be on the order of 200 years; consequently, a contaminant which is not readily degraded or sorbed underground can remain as a degrading influence on the resource for indefinite periods.

For the purposes of calculating the dilution that a leachate plume would undergo between the time it enters the underground aquifer · until it reaches a well, it was assumed that wells will be situated no closer than 500 feet from the disposal site. Examination of the available data indicated that a 10-fold dilution factor, while probably conservative, would be reasonable. It should be emphasized that there are instances where dilution has been higher as well as cases where it has been lower at a distance of 500 feet.

Based on this model, before human exposure is expected to occur, the leachate from the waste would become diluted by a factor of 10. Thus, in order to protect human health, the maximum allowable contaminant concentration permissible in the EP extract would be 10 times the level that would be acceptable in drinking water. Consequently, waste whose EP extract shows more than 10 times the levels of certain contaminants allowed by the EPA National Interim Primary Drinking Water Standards (40 CFR Part 141) will be considered to be hazardous.

The EPA National Interim Primary Drinking Water Standards, promulgated pursuant to the Safe Drinking Water Act, are being revised. The Agency intends to change the identity and/or levels of contaminants in the Extraction Procedure extract which cause a waste to be considered hazardous to reflect these revisions, or any future revisions. Further, the Agency is considering using the Water Quality Criteria of the Clean Water Act, in addition to the Primary Drinking Water Standards, as a basis for setting levels of contaminants in the EP extract leading to hazardous waste classification. Public comment on this concept is solicited.

The Agency emphasizes that the toxicity characteristic discussed above, based on the Extraction Procedure, assumptions of mismanagement, and a linkage to the drinking water standards, is a *screening mechanism* designed to sort out solid waste which deserves special management, including transportation controls, provided by Subtitle C. Many commenters on drafts of these regulations have missed the point of this screening technique by saying, in effect, that their waste is managed in a much better way than indicated in the screening process, and therfore that their waste should not be considered hazardous. If a waste identified as hazardous by this characteristic is properly managed now, there will be no problem in obtaining a permit to continue present practice. Further, the Section 3004 regulations have a great deal of built-in flexibility to allow variations from the standards, so long as equivalent control can be demonstrated, for specific waste in specific management situations.

HAZARDOUS WASTE LISTINGS

A waste is identified as hazardous either because it exhibits one of the characteristics or because it appears on the list of hazardous waste. Both particular wastes and sources or classes of waste streams appear on the list. EPA has chosen to emphasize waste streams rather that specific hazardous substances wherever possible because industrial wastes tend to be complex mixtures, containing many different components, only some of which may exhibit hazardous characteristics. This approach will relieve waste generators of much of the testing burden and uncertainties which are involved in relating a waste containing many substances to a list of specific substances.

A solid waste, or source or class of solid waste is listed if the waste:

(1) Possesses any of the characteristics identified in proposed 40 CFR § 250.13, and/or

(2) Meets the statutory definition of hazardous waste.

As noted earlier, one branch of the statutory definition of hazardous waste relies on judgements of the overall character and risk of the waste when improperly managed. Over the past several years, EPA has documented several hundred cases of damage to human health or the environment resulting from improper management of waste. Damage cases such as these can be, and in many cases have been, used as the basis for listing of certain hazardous waste. In effect, these cases serve as alternates to the Extraction Procedure-contamination analysis discussed above, and are other facets of the hazardous waste definition process.

The list proposed today is only a first step, and is subject to revision through the rulemaking process. As EPA determines waste which meets the criteria listed above, it will be added to the lists. This process may be initiated independently by EPA, by State Governors pursuant to Section 3001(c), or by a citizen petition pursuant to Section 7004(a).

DEMONSTRATION OF NON-INCLUSION IN SUBTITLE C

The Agency recognizes that individual waste streams may vary depending on raw materials, industrial processes and other factors. Thus, while a waste generally described in these proposals may be hazardous, a specific waste from an individual facility may not be. For this reason, proposed 40 CFR § 250.15 provides a mechinsm for persons to demonstrate that a specific waste should not be included in the Subtitle C regulatory control system.

The person seeking relief must perform the test(s) described for those characteristic or properties indicated by the code(s) following the listing. The waste stream must be non-hazardous according to the results of each characteristic or property tested, and the test results must be certified to the EPA Administrator.

COMMON CODING

The Agency is engaged in an extensive internal program to provide a common coding system for all materials which it regulates under each of its regulatory statutes. This program involves other Federal regulatory agencies as well. In cooperation with the

Chemical Abstract Service, the Agency intends to provide a code for each listed waste or waste stream to facilitate data management both by those regulated and by the Agency. Although the codes are not available at this time, the Agency intends to include the codes in its final promulgation, if they are available then.

ENFORCEMENT

In an enforcement action under Section 3008 of the Act, involving a waste specifically listed in § 250.14 of these regulations, the government need only show that the waste is on the list and that it is being transported, disposed of, treated, etc, in violation of the requirements of this Part. The government does not have a burden of demonstrating that the waste is hazardous, and the question whether the waste is properly on the list is not an issue relevant to an enforcement proceeding. That issue may be resolved only by petition under Section 7004(a) of the Act, or under § 250.15 of this Part, and any subsequent judicial review of the Agency determination under these provisions.

The Agency believes that waste composition may change over time because of changes in the waste-producing process. Therefore, EPA expects persons who generate waste to regularly check the waste against the hazardous waste characteristics and the list to confirm that the waste is not hazardous.

EPA intends to check those persons who have claimed that they do not generate a hazardous waste to determine whether the claim is accurate. If EPA discovers that such a person is generating a hazardous waste, and there is not pending a request for a determination that the waste is improperly listed, pursuant to § 250.15, for which the Administrator has granted a stay under § 250.15(h), he will be treated as any other violator who has failed to manage his hazardous waste pursuant to the Subtitle C requirements. The Agency also tends to act on citizen complaints evidencing failure to properly manage hazardous waste.

BACKGROUND DOCUMENT

A background document is being developed in support of these proposed rules. This document is in the draft stage, and is subject to change as new data and information are received. Copies of the draft will be available for review in the EPA Regional Office libraries and in the EPA library reading room, Room 2404, Waterside Mall, 401 M Street, SW., Washington, D.C.

ECONOMIC, ENVIRONMENTAL, AND REGULATORY IMPACTS

In accordance with Executive Orders 11821, as amended by Executive Order 11949, and OMB Circular A-107, EPA policy as stipulated in 39 FR 37419, October 21, 1974, and Executive Order 12044, respectively, analyses of the economic, environmental, and regulatory impacts are being performed for the entirety of Subtitle C, Hazardous Waste Management. Drafts of these analyses have been completed and will be available for review by January 8, 1979, in the EPA Regional Office libraries and the EPA library reading room, Room 2404, waterside Mall, 401 M Street, S.W., Washington, D.C. Final versions of these documents will be issued at the time of promulgation.

Dated: December 11, 1978.

DOUGLAS COSTLE,
Administrator.

It is proposed to amend Title 40, CFR, Part 250 by adding a new Subpart A consisting of Sections 250.10-250.15 as follows:

PART 250—HAZARDOUS WASTE GUIDELINES AND REGULATIONS

Subpart A—Identification and Listing of Hazardous Waste

Sec.

250.10 Purpose, scope, and applicability.
250.11 Definitions.
250.12 Criteria.
250.13 Hazardous waste characteristics.
250.14 Hazardous waste lists.
250.15 Demonstration of non-inclusion in the hazardous waste system.

FIGURES

Figure 1—Compaction Tester.
Figure 2—Extractor.

APPENDICES

Appendix I—Sampling Methods.
Appendix II—Explosion Temperature Test.
Appendix III—Selected Cancelled and RPAR Pesticides.
Appendix IV—Selected Department of Transportation (DOT) Classification Poison A, Poison B, and ORM-A Substances.
Appendix V—Selected Priority Pollutants.
Appendix VI—Center for Disease Control (CDC) Classification of Etiologic Agents.
Appendix VII—Infectious Waste Treatment Specifications.
Appendix VIII—Radioactive Waste Measurements.
Appendix IX—Controlled Substance List.
Appendix X—Mutagenic Activity Detection.
Appendix XI—Bioaccumulation Potential Test.

AUTHORITY: Sections 1006, 2002(a), and 3001, Pub. L. 94-580, 90 Stat. 2802, 2804, 2806, (42 USC 6905, 6912, 6921).

Subpart A—Identification and Listing of Hazardous Waste

§ 250.10 Purpose, scope, and applicability.

(a) The purpose of these regulations is to describe the characteristics and lists which shall be used when appropriate by a waste generator, transporter, or owner/operator of a waste treatment, storage, or disposal facility to determine if the waste he handles is a hazardous waste subject to the regulations of this Part.

(b) Hazardous waste as defined in § 250.11(b)(3) is a subset of solid waste which is defined in Section 1004(27) of the Act. The term "other discarded material" in the solid waste definition (1004(27)) has been defined by EPA to mean any material which:

(1) Is not re-used (that is, is abandoned or committed to final disposition), or

(2) Is re-used (including materials treated prior to re-use)

(i) If such re-use constitutes disposal (as defined in the Act), or

(ii) If the material is:

(A) Used lubricating, hydraulic, transformer, transmission, or cutting oil which is incinerated or burned as a fuel.

(B) [Reserved]

NOTE.—Other materials and their uses will be included by amendment to this list upon a finding by the EPA that it is necessary to control such uses.

(c) In order to receive EPA approval under Subpart F (State Program Requirements) States must demonstrate that their programs contain standards and procedures which identify as hazardous at least the same universe of wastes defined as hazardous by the characteristics and lists in this Subpart. In evaluating State application for full authorization, the Regional Administrator will evaluate whether the State program will cover the wastes covered by this Subpart. A finding that any waste defined as hazardous by this Subpart is not so defined by a State program will constitute a *de facto* finding of a less stringent State program and may provide the basis for rejection of a State's authorization. Additionally, where State programs are approved, EPA retains independent authority to enforce the standards in this Subpart pursuant to Section 3008 of the Act.

(d) To the degree specified below, these regulations impose certain duties upon persons who generate solid waste which is ignitable, corrosive, reactive, or toxic (as defined in § 250.13 of this subpart), or which is listed in § 250.14 of this subpart.

(1) Except as provided herein, all generators of solid waste who know or have reason to believe that their waste is hazardous shall evaluate their waste in accordance with the characteristics

set forth in § 250.13. Generators of solid waste who find their waste to be hazardous following such evaluation, and who meet the definition of hazardous waste generator in Subpart B of this Part, shall comply with the requirements of Subparts B and G of this Part.

NOTE.—Retailers, farmers, and persons who generate and dispose of less than 100 kilograms per month are only regulated as defined in § 250.29.

(i) Generators of solid waste may elect to declare their waste hazardous and subject to the regulations of this Part. In these cases, generators need not perform the specified evaluation.

(ii) Persons who generate waste listed under § 250.14 are deemed to be generators of hazardous waste and need not perform the specified evaluation. However, they may demonstrate that their waste is not hazardous and, therefore, not subject to the regulations of this Part by meeting the requirements of § 250.15.

(iii) Generators who determine that their waste is not hazardous shall retain copies of the evaluation performed and shall repeat the necessary evaluation or testing when there is a significant change in their feed materials or operations which may alter the test results.

(iv) A generator of solid waste which is listed under § 250.14 who has demonstrated that his waste is not hazardous under § 250.15 shall repeat the necessary testing annually in addition to repeating it under the circumstances described in paragraph (iii) above.

(v) If a waste is found or declared to be hazardous, all applicable data (including test results, if available) shall be reported to the EPA Regional Administrator, and the generator shall comply with the requirements of Subparts B and G of this Part.

(vi) A determination that a waste is not hazardous under paragraphs (i) through (iv) above does not preclude a later determination by EPA, using the characteristics and testing methods set forth in § 250.13, that the waste is hazardous. In these cases, EPA will notify the generator of its determination and assign the generator an identification number if he does not already have one.

(2) Notwithstanding any of the above:

(i) Agricultural wastes, including manures and crop residues, which are returned to the soil as fertilizers or soil conditioners are not subject to the regulations of this Part.

(ii) Overburden resulting from mining operations and intended for return to the mine site is not subject to the regulations of this Part unless specifically listed in § 250.14.

(iii) Pursuant to Section 1006 of the Act (42 USC 6905), sewage sludge from publicly owned treatment works is not subject to these regulations and will be regulated pursuant to the guidelines promulgated under Section 405(b) and (d) of the Clean Water Act.

§ 250.11 Definitions.

(a) When used in this Subpart, the following terms have the meanings given in the Act:

(1) "Administrator"—Sec. 1004(1)
(2) "Disposal"—Sec. 1004(3)
(3) "Federal Agency"—Sec. 1004(4)
(4) "Hazardous waste management"—Sec. 1004(7)
(5) "Person"—Sec. 1004(15)
(6) "Sludge"—Sec. 1004(26A)
(7) "Solid waste"—Sec. 1004(27)
(8) "Solid waste mangement"—Sec. 1004(28)
(9) "State"—Sec. 1004(31)
(10) "Storage"—Sec. 1004(33)
(11) "Treatment" Sec. 1004(34)

(b) Other terms used in this Subpart have the following meanings:

(1) "Act" means the Solid Waste Disposal Act as amended by the Resources Conservation and Recovery Act of 1976, Public Law 94-580.

(2) "Equivalent method" means any testing method which the Administrator determines to be functionally equivalent or superior to the method specified.

(3) "Hazardous waste" has the meaning given in Section 1004(5) of the Act as further defined and identified in this Subpart.

(4) "Publicly owned treatment works" or "POTW" means a treatment works as defined by Section 212 of the Clean Water Act (CWA), which is owned by a State or municipality (as defined by Section 502(4) of the CWA). This definition includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. This term also means the municipality as defined in Section 502(4) of the CWA, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(5) "Representative sample" means any sample of the waste which is statistically equivalent to the total waste in composition, and in physical and chemical properties. Representative samples may be generated using the methods set out in Appendix I of this Subpart.

(6) "Triple rinsed" refers to containers which have been flushed three times, each time using a volume of diluent at least equal to ten percent of the container's capacity.

§ 250.12 Criteria.

(a) *Criteria for identifying the characteristics of hazardous waste.* A characteristic of hazardous waste will be established under § 250.13 where, based on information from damage incidents or scientific and technical information, the Administrator determines that:

(1) The characteristic can be defined in terms of specific physical, chemical, toxic, infectious, or other properties of a solid waste that will cause the waste to be a hazardous waste pursuant to the definition in Section 1004(5) of the Act, and

(2) The properties defining the characteristic are measurable by standardized and available testing protocols applicable to waste.

(b) *Criteria for listing hazardous waste.* A solid waste, or source or class of solid waste, will be listed as a hazardous waste in § 250.14 if the Administrator determines that the solid waste:

(1) Possesses any of the characteristics defined in § 250.13, and/or

(2) Meets the definition of hazardous waste found in Section 1004(5) of the Act.

(c) *Petitions.* The petition by a State Governor (under Section 3001(c) of the Act) or by a person (under Section 7004(a) of the Act) to identify a characteristic or list a solid waste as a hazardous waste will be granted if the Administrator determines that the waste which is the subject of the Petition meets the criteria of paragraphs (a) or (b) above.

§ 250.13 Hazardous waste characteristics.

(a) *Ignitable waste.* (1) *Definition*—A solid waste is a hazardous waste if a representative sample of the waste:

(i) Is a liquid and has a flash point less than 60°C (140°F) determined by the method cited below or an equivalent method, or

(ii) Is not a liquid and is liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, or retained heat from manufacturing or processing, or when ignited burns so vigorously and persistently as to create a hazard during its management, or

(iii) Is an ignitable compressed gas as defined in 49 CFR 173.300(b), or

(iv) Is an oxidizer as defined in 49 CFR 173.151.

(2) *Identification method.* (i) Flash point of liquids shall be determined by a Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM Standard D-93-72, or the Setaflash Closed Tester using the protocol specified in ASTM standard D-3278-73 or any other equivalent method as defined in this Subpart.

(ii) Ignitable gases shall be determined by the methods described in 49 CFR 173.300.

(b) *Corrosive waste.* (1) *Definition*—A solid waste is a hazardous waste if a representative sample of the waste:

(i) Is aqueous and has a pH less than or equal to 3 or greater than or equal to 12 as determined by the method cited below or an equivalent method, or

(ii) Corrodes stell (SAE 1020) at a rate greater than 0.250 inch per year at a test temperature of 130°F as determined by the method cited below or an equivalent method.

(2) *Identification method.* (1) pH shall be determined using a pH meter, following the protocol specified in the *"Manual of Methods for Chemical Analysis of Water and Wastes" (EPA-625-16-74 003).*

(ii) Rate of metal corrosion shall be determined using the protocol specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69.

(c) *Reactive waste.* (1) *Definition*—A solid waste is a hazardous waste if a representative sample of the waste:

(i) Is normally unstable and readily undergoes violent chemical change without detonating; reacts violently with water, forms potentially explosive mixtures with water, or generates toxic gases, vapors, or fumes when mixed with water; or is a cyanide or sulfide bearing waste which can generate toxic gases, vapors, or fumes when exposed to mild acidic or basic conditions.

(ii) Is capable of detonation or explosive reaction but requires a strong initiating source or which must be heated under confinement before initiation can take place, or which reacts explosively with water.

(iii) Is readily capable of detonation or of explosive decomposition or reaction at normal temperatures and pressures.

(iv) Is a forbidden explosive as defined in 49 CFR 173.51, a Class A explosive as defined in 49 CFR 173.53, or a Class B explosive as defined in 49 CFR 173.58.

NOTE:—Such waste includes pyrophoric substances, explosives, autopolymerizable material and oxidizing agents. If it is not apparent whether a waste is a hazardous waste using this description, then the methods cited below or equivalent methods can be used to determine if the waste is hazardous waste.

(2) *Identification method.* (1) Thermally unstable waste can be identified using the Explosion Temperature Test cited in Appendix II of this Subpart (waste for which explosion, ignition, or decomposition occurs at 125°C after 5 minutes is classed as hazardous waste).

(ii) Waste unstable to mechanical shock can be identified using the Bureau of Explosives impact apparatus and the tests cited in 49 CFR 173.53(b), (c), (d), or (f), as appropriate.

(d) *Toxic waste.* (1) *Definition*—A solid waste is a hazardous waste if, according to the methods specified in paragraph (2), the extract obtained from applying the Extraction Procedure (EP) cited below to a representative sample of the waste has concentrations of a contaminant that exceeds any of the following values:

Contaminant:	*Extract level, milligrams per liter*
Arsenic	0.50
Barium	10.0
Cadmium	0.10
Chromium	0.50
Lead	0.50
Mercury	0.02
Selenium	0.10
Silver	0.50
Endrin (1,2,3,4,10,10-hexacloro-6, 7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-1, 4-endo, endo-5, 8-di methano naphthalene)	0.002
Lindane (1,2,3,4,5,6-hexachlorocyclo hexane gamma isomer)	0.040
Methoxychlor (1,1,1-Trichloroethane) 2,2-bis (p-methoxyphenyl)	1.0
Toxaphene ($C_{10}H_{10}Cl_8$-technical chlorinated camphene, 67-69 percent chlorine)	0.050
2,4-D, (2,4-Dichlorophenoxyacetic acid)	1.0
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.10

NOTE:—Extract levels specified for the above substances equal ten times the EPA National Interim Primary Drinking Water Standards for these substances. These standards are being revised. Extract levels specified above will be changed to reflect revisions to these standards. Also, EPA is considering use of the Water Quality Criteria under the Clean Water Act as a basis for setting extract levels, in addition to the EPA National Interim Primary Drinking Water Standards.

(2) *Identification method.* (i) *Extraction procedure.* (A) Take a representative sample (minimum size 100 gms) of the waste to be tested and separate it into its component phases using either the filtration method or the centrifugation method described in this section. Reserve the liquid fraction under refrigeration at 1–5°C (34–41°F) for use as described in paragraph (F) of this section.

(*1*) Filtration Method.

Equipment: Millipore YY22 142 30 filter holder (Millipore Corp., Beford, MA 01730) equipped with an XX42 142 08 accessory 1.5 liter reservoir, or Nuclepore Corp., Pleasanton, CA 94566) equipped with a 1.5 liter reservoir, or equivalent filter holder.

Procedure: 1. Using the filter holder place a 0.45 micron filter membrane (Millipore type HAWP142, Nuclepore type 112007, or equivalent) on the support screen. On top of the membrane (upstream) place a prefilter (Millipore AP25124, Nuclepore P040, or equivalent). Secure filter holder as directed in manufacturer's instructions.

2. Fill the reservoir with the sample to be separated, pressurize to no more than 75 psi (7 kg/cm²), and filter until no significant amount of fluid (●5 ml) is released during a 30 minute period.

3. After liquid flow stops, depressurize and open the top of the reservoir, invert the filter unit, replace filter pads as in step 1. above, and resume filtering. Save pads for later use. Repeat this step until no more fluid can be removed from the waste at a pressure of 75 psi (7 kg/cm2).

4. Take the solid material, and any pads used in filtration, and extract as described in paragraph (B). Subtract tare weights of filter pads in calculating the amount of solid material.

(*2*) Centrifugation Method

Equipment: Centrifuge (e.g. Damon-IEC catalog no. 7165, Damon-IEC Corp., Needham Heights, MA, or equivalent) equipped with a rotor for 600 ml to 1 liter containers (Damon-IEC catalog no. 976, or equivalent). For flammable material containing wastes, explosion proof equipment is recommended.

GLASS CENTRIFUGE BOTTLES

Procedure: 1. Centrifuge sample for 30 minutes at 2300 rpm. Hold temperature at 20-40°C (68-104°F).

2. Using a ruler, measure the size of the liquid and solid layers, to the nearest mm (0.40 inch). Calculate the liquid to solid ratio.

3. Repeat 1 and 2 above until the liquid: solid ratio calculated after two consecutive 30 minute centrifugations is within 3%.

4. Decant or siphon off the layers and extract the solid as described in paragaph B.

(B) Take the solid portion obtained in paragraph (i), and prepare it for extraction by either grinding it to pass through a 9.5 mm (⅜") standard sieve or by subjecting it to the following structural integrity procedure.

STRUCTURAL INTEGRITY PROCEDURE

Equipment: Compaction tester having a 1.25 inch diameter hammer weighing 0.73 lbs. and having a free fall of 6 inches (Figure 1) (one suitable device is the Associated Design and Manufacturing Company, Alexandria, Va. 22314, catalog no. 125).

Procedure: 1. Fill the sample holder with the material to be tested. If the waste sample is a monolithic block, then cut out a representive sample from the block having the dimensions of a 1.3" dia. × 2.8" cylinder.

2. Place the sample holder into the Compaction Tester and apply 15 hammer blows to the sample.

3. Remove the now compacted sample from the sample holder and transfer it to the extraction apparatus for extraction.

(C) Take the solid material from paragraph (B), weigh it and place it in an extractor. A suitable extractor will not only prevent stratification of sample and extraction fluid but also insure that all sample surfaces are continuously brought into contact with well mixed extraction fluid. (When operated at greater than or equal to 40 rpm, one suitable device is shown in figure 2 and available as Part No. 3736 produced by the Associated

Design and Mfg. Co., Alexandria, Va. 22314.)

(D) Add to the extractor a weight of deionized water equal to 16 times the weight of solid material added to the extractor. This includes any water used in transferring the solid material to the extractor.

(E) Begin agitation and adjust the pH of the solution to 5.0±0.2 using 0.5N acetic acid. Hold the pH at 5.0±0.2 and continue agitation for 24±0.5 hours. If more than 4 ml of acid for each gm of solid is required to hold the pH at 5, then once 4 ml of acid per gm has been added, complete the 24 hour extraction without adding any additional acid. Maintain the extractant at 20-40° C (68-104° F) during extraction. It is recommended that a device such as the Type 45-A pH Controller manufactured by Chemtrix, Inc., Hillsboro, OR 97123, or equivalent, be used for controlling pH. If such a device is not available then the following manual procedure can be employed.

MANUAL pH ADJUSTMENT

1. Calibrate pH meter in accordance with manufacturer's specifications.

2. Add 0.5N acetic acid and adjust pH of solution to 5.0±0.2. If more than 4 ml of acid for each gm of solid is required to hold the pH at 5, then once 4 ml of acid per gm has been added, complete the 24 hour extraction without adding any additional acid. Maintain the extractant at 20-40° C (68-104° F) during extraction.

3. Manually adjust pH of solution at 15, 30, and 60 minute intervals moving to the next longer interval if the pH did not have to be adjusted more than 0.5 pH units since the previous adjustment.

4. Continue adjustment procedure for a period of not less than 6 hours.

5. Final pH after a 24 hour period must be within the range 4.9-5.2; unless 4 ml of acid per gram of solid has already been added.

6. If the conditions of 5 are not met, continue pH adjustment at approximately one hour intervals for a period of not less than 4 hours.

(F) At the end of the 24 hour extraction period, separate the material in the extractor into solid and liquid phases as in paragraph (A). Adjust the volume of the resulting liquid phase with deionized water so that its volume is 20 times that occupied by a quantity of water at 4° C equal in weight to the initial quantity of solid material charged to the extractor (e.g., for an initial weight of 1 gm, dilute to 20 ml). Combine this solution with the original liquid phase from paragraph (A). This combined liquid, and any precipitate which may later form, is the Extraction Procedure Extract.

(ii) *Analysis*—Analyses conducted to determine conformance with Section 250.13(b)(1) shall be made in accordance with the following or equivalent methods:

(A) *Arsenic*—Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes," pp. 95-96, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

(B) *Barium*—Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," latest edition, or "Methods for Chemical Analysis of Water and Wastes," pp 97-98, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

(C) *Cadmium*—Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," latest edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 101-103, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

(D) *Chromium*—Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," latest edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 112-113, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

(E) *Lead*—Atomic Absorption Method, "Standard Methods for the Examination of Water and Wastewater," latest edition, or "Methods for Chemical Analysis of Water and Wastes," pp. 112-113, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

(F) *Mercury*—Flameless Atomic Absorption Method, "Methods for Chemical Analysis of Water and Wastes," pp. 118-126, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460.

(G) *Selenium*—Atomic Absorption Method, "Methods for Chemical analysis of Water and Wastes," p. 145, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

(H) *Silver*—Atomic Absorption Method, "Standard Method for the Examination of Water and Wastewater," latest edition, or "Methods for Chemical Analysis of Water and Wastes," p. 146, Environmental Protection Agency, Office of Technology Transfer, Washington, D.C. 20460, 1974.

(I) *Endrin, Lindane, Methoxychlor,* or *Toxaphene*—as described in "Method for Organochlorine Pesticides in Industrial Effluents," MDQARL, Environmental Protection Agency, Cincinnati, Ohio, November 28, 1973.

(J) *2, 4-d* and *2, 4,5-TP Silver*—as described in "Methods for Chlorinated Phenoxy Acid Herbicides in Industrial Effluents," MDQARL, Environmental Protection Agency, Cincinnati, Ohio, November 28, 1973.

§ 250.14 Hazardous waste lists.

A solid waste is a hazardous waste if it is listed in paragraphs (a) or (b) below unless it can be demonstrated, pursuant to the procedures under § 250.15, that the Administrator's basis for listing the waste does not meet the criteria for listing under § 250.12(b). The Administrator's basis for listing a waste in paragraphs (a) and (b) is identified by parenthetical codes that follow each listed waste. These codes reference the following bases for listing:

I—Meets the criterion of § 250.12(b)(1) because the waste meets the ignitable characteristic of § 250.13(a)
C—Meets the criterion of § 250.12(b)(1) because the waste meets the corrosive characteristic of § 250.13(b).
R—Meets the criterion of § 250.12(b)(1) because the waste meets the reactive characteristic of § 250.13(c).
T—Meets the criterion of § 250.12(b)(1) because the waste meets the toxic characteristic § 250.13(d).
N—Meets the criterion of § 250.12(b)(2) because the waste contains infectious agents.
A—Meets the criterion of § 250.12(b)(2) because the waste contains redioactive substances.
M—Meets the criterion of § 250.12(b)(2) because the waste contains mutagenic, carcinogenic, or teratogenic substances.
B—Meets the criterion of § 250.12(b)(2) because the waste contains substances that bioaccumulate.
O—Meets the criterion of § 250.12(b)(2) because the waste contains toxic organic substances.

NOTE.—The process waste streams are listed by Standard Industrial Classification (SIC) codes for ease of reference only. The SIC classification of the industry generating the waste has no effect on the listing of that process waste as hazardous.

(a) *Hazardous waste.*

Waste chlorinated hydrocarbons from degreasing operations (I,T,O)
Waste non-halogenated solvent (such as methanol, acetone, isopropyl alcohol, polyvinyl alcohol, stoddard solvent and methyl ethyl ketone) and solvent sludges from cleaning, compounding milling and other processes (I,O)
Waste lubricating oil (T,O)
Waste Hydraulic or cutting oil (T,O)
Paint wastes (such as used rags, slops, latex sludge, spent solvent) (T,I,O)
Water-based paint wastes (T)
Tank bottoms, leaded (T)
Spent or waste cyanide solutions or sludges (R,T)
Etching acid solution or sludges (T,C)
Waste paint and varnish remover or stripper (I,O)
Solvents and solvent recovery still bottoms (non-halogenated (I,O)
Solvents and solvent recovery still bottoms (halogenated) (O)
Waste or waste off-spec toluene diisocyanate (I,R,O)
Leachate from hazardous waste landfills (T,O,M,B,)

Electroplating wastewater treatment sludge (T)
Material which is within the scope of Section 250.10(b) and is normally shipped using a name listed in Appendix III (Pesticides), Appendix IV (DOT Poison A, Poison B, ORM-A Materials), or Appendix V (Priority Pollutants) (T,O,M)
Spill clean-up residues and debris from spills of materials which appear in Appendix III, IV, or V (T,O,M)
Off-specification material which is within the scope of Section 250.10(b) and, if met specification would be shipped using a name listed in Appendix III, IV, or V (T,O,M)
Containers, unless triple rinsed, which have contained materials normally shipped using a name listed in Appendix III, IV, or V (T,O,M)

(b) *Hazardous waste sources and processes.* (*1*) *Sources generating hazardous waste.* The following sources generate hazardous waste unless the waste from these sources does not contain microorganisms or helminths of CDC Classes 2 through 5 of the Etiologic Agents listed in Appendix VI of this Subpart.

(i) *Health care facilities.* (A) The following departments of hospitals as defined by SIC Codes 8062 and 8069, unless the waste has been treated as specified in Appendix VII of this Subpart. (N)

Obstetrics department including patients' rooms
Emergency departments
Surgery department including patients' rooms
Morgue
Pathology department
Autopsy department
Isolation rooms
Laboratories
Intensive care unit
Pediatrics department

(B) The following departments of veterinary hospitals as defined by SIC Codes 0741 and 0742, unless the waste has been treated as specified in Appendix VII. (N)

Emergency department
Surgery department including patients' rooms
Morgue
Pathology department
Autopsy department
Isolation rooms
Laboratories
Intensive care unit

(ii) Laboratories, as defined by SIC Codes 7391, 8071 and 8922, unless the laboratories do not work with CDC Classes 2 through 5 of Etiologic Agents as listed in Appendix VI. (N)

(iii) Sewage Treatment Plants, with the exception of publicly owned treatment works, unless sludge generated by such a plant has been stabilized by means of chemical, physical thermal, or biological treatment processes that result in the significant reduction of odors, volatile organics and pathogenic microoganisms. These processes are discussed in "Municipal Sludge Management: Environmental Factors; Technical Bulletin" (42 FR 57420). Specifications for the stabilization processes discussed in this publication are given in *Process Design Manual for Sludge Treatment and Disposal*, (EPA 625/1-1-74/006, October 1974). (N)

(2) *Processes generating hazardous waste:*

SIC	*Process Description*
1094	Waste rock and overburden from uranium mining (A)
1099	Chlorinator residues and clarifier sludge from zirconium extraction (A)
1475	Overburden and slimes from phosphate surface mining (A)
2874	Waste gypsum from phosphoric acid production (A)
2819-2874	Slag and fluid bed prills from elemental phosphorus production (A)
2231	Wool fabric dying and finishing wastewater treatment sludges (T,O)
2261-2	Woven fabric dying and finishing wastewater treatment sludges (Y,O)
2250	Knit fabric dying and finishing wastewater treatment sludges (O,T)
2269	Yarn and stock dying and finishing wastewater treatment sludges (O,T)
2279	Carpet dying and finishing wastewater treatment sludges (O,T)
2299	Wool scouring wastewater treatment sludges (T)
2812	Mercury bearing sludges from brine treatment from mercury cell process in chlorine production (T)
2812	Sodium calcium sludge from production of chlorine by Down Cell process (R)
2812	Mercury bearing brine purification muds from mercury cell process in chlorine production (T)
2812	Waste water treatment sludge from diaphragm cell process in production of chlorine (T)
2812	Chlorinated hydrocarbon bearing wastes from diaphragm cell process in chlorine production (O,M)
2816	Chromium bearing wastewater treatment sludge from production of chrome green pigment (T)
2816	Chromium bearing wastewater treatment sludge and other chromium bearing wastes from production of chrome oxide green pigment (anhydrous & hydrated)
2816	Ferric ferrocyanide bearing wastewater treatment sludges from the production of iron blue pigments (T)
2816	Mercury bearing wastewater treatment sludges from the production of mercuric sulfide pigment (T)
2816	Chromium bearing wastewater treatment sludges from the production of TiO_2 pigment by the chloride process (T)
2816	Chromium bearing wastewater treatment sludges from the production of TiO_2 pigment by the sulfate process (T)
2816	Arsenic bearing sludges from purification process in the production of antimony oxide (T)
2816	Antimony bearing wastewater treatment sludge from production of antimony oxide (T)
2816	Chromium or lead bearing wastewater treatment sludge from production of chrome yellows and oranges (lead chromate) (T)
2816	Chromium or lead bearing wastewater treatment sludge from production of molybdate orange (lead molybdate lead chromate) (T)
2816	Zinc and chromium bearing wastewater treatment sludge from production of zinc yellow pigment (hydrated zinc potassium chromate) (T)
2816	Ash from incinerated still bottoms (paint and pigment production) (T)
2819	Arsenic bearing wastewater treatment sludges from production of boric acid. (T)
2834	Arsenic or organo-arsenic containing wastewater treatment sludges from production or veterinary pharmaceuticals (T,M,O)
2851	Wastewater treatment sludges from paint production (C,T)
2851	Air pollution control sludges from paint production (T)
2865	Vacuum still bottoms from the production of maleic anhydride (O)
2865	Still bottoms from distillation of benzyl chloride (O)
2865	Distillation residues from fractionating tower for recovery of benzene and chlorobenzenes (O,B)
2865	Vacuum distillation residues from purification of 1-chloro-4-nitrobenzene (O,M)
2865	Still bottoms or heavy ends from methanol recovery in methyl methacrylate production (O)
2869	Heavy ends (still bottoms) from fractionator in production of epichlorohydrin (M,O)
2869	Heavy ends from fractionation in ethyl chloride production (M,O)
2869	Column bottoms or heavy ends from production of trichloroethylene (O,B)
2869	Residues from the production of hexachlorophenol, trichlorophenol and 2,4,5-T (O)
2869	Heavy ends from distillation of vinyl chloride in production of vinyl chloride from ethylene dichloride (O)
2869	Heavy ends from distillation of ethylene dichloride in vinyl chloride production (O)
2869	Heavy ends or distillation residues from carbon tetrachloride fractionation tower (B,O)
2869	Heavy ends from distillation of ethylene dichloride in ethylene dichloride production (O)
2869	Purification column wastes from production of nitrobenzene (O)
2869	Still bottoms from production of furfural (O)
2869	Spent catalyst from fluorocarbon production (T,O)
2869	Centrifuge residue from toluene diisocyanate production (O)
2869	Lead slag from lead alkyl production (T)
2869	Stripping still tails from production of methyl ethyl pyridines (I,O)
2869	Still bottoms from aniline production (O)
2869	Aqueous effluent from scrubbing of spent acid in nitrobenzene production (O)
2869	Bottom stream from quench column in acrylonitrile production (O)
2869	Bottom stream from wastewater stripper in production of acrylonitrile (O)
2869	Still bottoms from final purification of acrylonitrile (O,M)
2869	Solid waste discharge from ion exchange column in production of acrylonitrile (O,M)

2869 Waste stream from purfication of HCN in production of acrylonitrile (O,M)
2869 Waste stream (column bottoms) from acetonitrile purification in production of acrylonitrile (O)
2890 Sludges, wastes from tub washer (Ink Formulation) (T,C,O)
2869 Wastewater treatment, sludges from the production of dieldrin, chlordane, toxaphene, disulfoton, malathion, phorate, carbaryl, pentadiene, trifluralin, alachlor, methyl parathion, vernoloate, methomyl, carbofuran, captan, creosote, dithacarbamates, pentachlorophenol, bromacil, diuron, p-chlorobenzene and cloroxuron. (O,M,B)
2869 Wastewater from oxidation of aldrin solution in production of dieldrin. (O,M,B,)
2869 Wastewater from extraction of dieldrin solution in production of dieldrin. (O,M,B)
2869 Wastewater and scrub water from chlorination of cyclopentadiene in production of chlordane. (O,M,B)
2869 Filter solids from filtration of hexachlorocyclopentadiene in production of chlordane. (O,M,B)
2869 Filter cake from filtration of toxaphene solution in production of toxaphene. (O,M,B)
2869 Unrecovered triester from production of disulfoton. (O,M)
2869 Still bottoms from toluene reclamation distillation in production of disulfoton. (O,M)
2869 Filter cakes from filtration of dimethylphosphorothion and DMTA in production of malathion. (O,M)
2869 Liquid wastes from washing and stripping in production of malathion. (O,M)
2869 Liquid and solid wastes from the washing, stripping and filtering of phorate in phorate production. (O,M)
2869 Filter cake from the filtration of diethylphosphorodithoric acid in the production of phorate. (O,M)
2869 Heavy ends and distillation residues from production of carbaryl. (O,M)
2869 2,6-D waste by-product from production of 2,4-D. (O,M,B)
2869 Heavy ends or distillation residues from distillation of tetrachlorobenzene in production of 2,4,5-T. (O,M,B)
2869 Scrubber and filter wastes from production of atrazine. (O,M)
2869 Filter cake from production of pyrethrins. (O)
2869 Filter cake from production of diazinon. (O,M)
2869 By-product salts in production of MSMA. (O)
2869 By-product salts in production of cacodylic acid. (T)
2869 Tars from manufacture of bicycloheptadiene and cyclopentadiene. (O,M,B)
2892 Wastewater treatment sludges from explosives, propellants and initiating compounds manufacture (C,T,R,I)
2892 Wastes recovered from acid vapor scrubber stream in the production of RDX/HMX (O,R,I)
2892 Catch basin materials in RDX/HMX production (C)
2892 Spent carbon columns used in treatment of wastewater-LAP operations (R)
2892 Wastewater treatment sludges from production of initiating compounds (T)
2892 Red water and pink water from TNT production (O)
2911 Petroleum refining, high octane production neutralization HF alkylation sludge (T,O,M)
2911 Petroleum refining DAF sludge (T, I, O)
2911 Petroleum refining kerosene filter cakes (T,O,M)
2911 Petroleum refining lube oil filtration clays (T,O,M)
2911 Petroleum refining—slop oil emulsion solids (T,I,O)
2911 Petroleum refining exchange bundle cleaning solvent (T,O)
2911 API separator sludge (T,O)
3111 Leather tanning and finishing: Wastewater treatment sludge from chrome tannery, beamhouse/tanhouse (T)
3111 Leather tanning and finishing: Wastewater treatment screenings from sheepskin tannery, split tannery and retan/finishers (T)
3111 Trimmings and shavings from leather tanning and finishing chrome, split, beam/tanhouse and retan/finishers (T)
3111 Wastewater treatment sludge from dehairing (R,T)
3312 Coking: Decanter tank tar (T,O)
: Decanter tank pitch sludge (T,O)
: Oleum wash waste (C)
: Caustic neutralization waste (C)
: Ammonia still lime sludge (T)
3312 Iron Making: Ferromaganese blast furnace dust (T,R)
: Ferromanganese blast furnace sludge (T)
: Electric furance dust and sludge (T)
3312 Steel Finishing: Alkaline cleaning waste (C)
: Waste pickle liquor (C)
: Cyanide-bearing wastes from electrolytic coating (T)
: Chromate and dichromate wastes from chemical treament (T)
: Descaling acid (T,C)
3331 Primary copper smelting and refining electric furnace slag, converter dust, acid plant sludge, and reverberatory dust (T)
3332 Primary lead blast furnace dust (T)
3332 Primary lead lagoon dredging from smelter (T)
3333 Zinc acid plant blowdown lime treatment: gypsum cake (acid cooling tower and neutral cooling tower) (T)
3333 Zinc production: oxide furnace residue and acid plant sludge (T)
3333 Zinc anode sludge (T)
3339 Primary antimony—electrolytic sludge (T)
3339 Primary tungsten—digestion residues (T)
3339 Primary lead sinter dust scrubbing sludge (T)
3339 Ferromanganese emissions control: baghouse dusts and scrubwater solids (T)
3339 Ferrochrome silicon furnace emission control dust or sludge (T)
3339 Ferrochrome emissions control: furnace baghouse dust, and ESP dust (T)
3339 Primary antimony—pyrometallurgical blast furnace slag (T)
3341 Secondary lead, scrubber sludge from SO_2 emission control, soft lead production (T)
3341 Secondary lead—white metal production furnace dust (T)
3341 Secondary copper—pyrometallurgical, blast furnace slag. (T)
3341 Secondary copper—electrolytic refining wastewater treatment sludge (T)
3341 Secondary aluminum dross smelting—high salt slag plant residue (T)
3341 Zinc—cadmium metal reclamation, cadmium plant residue. (T)
3691 Lead acid storage battery production wastewater treatment sludges (T)
3691 Lead acid storage battery production clean-up wastes from cathode and anode paste production (T)
3691 Nickel cadmium battery production wastewater treatment sludges (T)
3691 Cadmium silver oxide battery production wastewater treatment sludge (T)
3691 Mercury cadmium battery production wastewater treatment sludges (T)
3692 Magnesium carbon battery production chromic acid wastewater treatment sludges (T)

§ 250.15 Demonstration of non-inclusion in the hazordous waste system.

(a) Any person wishing to demonstrate to EPA that a solid waste from an individual facility, whose waste is listed in § 250.14 (a) or (b), is not a hazardous waste may do so by performing the tests described below on a representative sample of the waste for those characteristics or properties indicated by the codes (i.e., (I), (C), (R), (N), (T), (A), (O), (M), (B)) following the waste listing. A certification of the test results shall be submitted to the EPA Administrator by certified mail with return receipt requested. The results of the tests must show the waste is non-hazardous for each characteristic or property indicated.

(1) Waste designated as ignitable (I) must be shown by the § 250.13(a) ignitable characteristic method not to meet the § 250.13(a) definition.

(2) Waste designated as corrosive (C) must be shown by the § 250.13(b) corrosive characteristic method not to meet the § 250.13 (b) definition.

(3) Waste designated as reactive (R) must be shown by the § 250.13(c) reactive characteristic method not to meet the § 250.13 (c) definition.

(4) Waste designated as toxic (T) must be shown by the § 250.13(d) toxic characteristic method not to meet the § 250.13(d) definition.

(5) Waste designated as radioactive (A) must be shown to have either of the following properties:

(i) An average radium-226 concentration less than 5 picocuries per gram for solid waste or 50 picocuries (radium-226 and radium-228 combined) per liter for liquid waste as determined by either of the methods cited in Appendix VIII of this Subpart; or

(ii) A total radium-226 activity less than 10 microcuries for any single discrete source.

(6) Waste designated as mutagenic (M), bioaccumulative (B), or toxic organic (O) must be shown to have an Extraction Procedure extract (see

§ 250.13(d)(2)) with none of the following properties:

(i) *Mutagenic (M):* Contains more than one mg/liter of any compound on the Controlled Substances List in Appendix IX of this Subpart or gives a positive response in any one of a set of required tests for mutagenic activity. A total of three assays must be conducted. One shall be chosen from group I, one from group II, and one from those listed in group III. Test protocols are defined in Appendix X of this Subpart.

Group I Detection of gene mutations
1. Point mutation in bacteria
Group II Detection of gene mutations
1. Mammalian somatic cells in culture.
2. Fungal microorganisms.
Group III Detecting effects of DNA repair or recombination as an indication of genetic damage
1. DNA repair in bacteria (including differential killing of repair defective strains).
2. Unscheduled DNA synthesis in human diploid cells.
3. Sister-chromatid exchange in mammalian cells.
4. Mitotic recombination and/or gene conversion in yeast.

(ii) *Bioaccumulative (B):* Gives a positive result in the Bioaccumulation Potential Test, defined in Appendix XI of this Subpart.

(iii) *Toxic Organic (O):* Contains any organic substance which has a calculated human LD50* of less than 800 mg/kg, at a concentration in mg/l greater than or equal to 0.35 times its LD50 expressed in units of mg/kg. For purposes of this Subpart, metallic salts of organic acids containing 3 or fewer carbon atoms are considered not to be organic substances.

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* Procedure for Calculating Human LD50 Value:

The LD50 value to be used will be that for oral exposure to rats. Where a value for the rat is not available, mouse oral LD50 data may be employed. Where an appropriate LD 50 value for the rat or mouse is listed in the NIOSH *Registry of Toxic Effects of Chemical Substances* ("Registry"), this value may be used without validation. If other values are used, they must be supported by specific and verified laboratory reports. The appropriate conversion factors to use in calculating LD50s are:

Rat x.16 = human
Mouse x.066 = human
Example: Tetraethylenepentamine
Listed oral rat LD50 is 3990 mg/kg calculated human LD50 is 3990x0.16 = 638 mg/kg; 638x0.35 = 223 mg/l

Thus if the EP extract contains more than 223 mg/l of tetraethylenepentamine the waste is hazardous.

(b) A person desiring to demonstrate that solid waste from an individual facility is not hazardous may perform the tests himself or have an appropriate laboratory facility perform them.

(c) The certification of the test results shall contain the following information:

(1) *General information.* (i) The name, address and identification number of person desiring the demonstration.

(ii) The name and address of the laboratory facility performing the sampling and/or tests if different from that of the person desiring demonstration.

(iii) The name(s) and qualification(s) of the person(s) sampling the waste.

(iv) The name(s) and qualification(s) of the person(s) testing the waste.

(v) The date(s) of the sampling of the waste.

(vi) The date(s) of the testing of the waste.

(vii) The quantity of waste generated or handled per month.

(2) *Waste sampling.* (i) A description of the methodology used to obtain the representative sample.

(ii) A description of sample handling techniques (e.g., sample splitting, extraction, containerization, preservation, etc.).

(iii) A description of the equipment used in obtaining or handling the sample.

(3) *Waste testing.* (i) A description of the test(s) performed (e.g., Extraction Procedure, flash point, etc.).

(ii) The results of each test performed.

(iii) The names and model numbers of the instruments used in performing the tests.

(iv) A statement as to whether there are or will be any significant changes in the person's feed materials or operations which may alter the results of any of the tests performed.

(v) A copy of any documents indicating results of any of the tests.

(4) *Certification/signature.* The following statement signed by the person desiring demonstration, and by the supervisors of all persons who participated in the sampling and testing of the waste:

I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) If a person submits a demonstration under paragraph (a) of this section, that demonstration shall take effect 90 days after the receipt by the Administrator of the demonstration, except that it shall cease to be effective at any time the Administrator disapproves the demonstration. During the time that a demonstration is in effect, persons otherwise covered are not subject to Subparts B, C, D and E with respect to waste included in the demonstration.

(e) The Administrator may disapprove a demonstration submitted under this section for good cause and for the following reasons:

(1) The procedures prescribed in paragraphs (a) (1)–(a) (6) were not followed:

(2) The results of the demonstration do not show that the solid waste fails to meet the criteria for listing under § 250.12(b);

(3) The results of the demonstration are based on fraudulently derived or inaccurate information

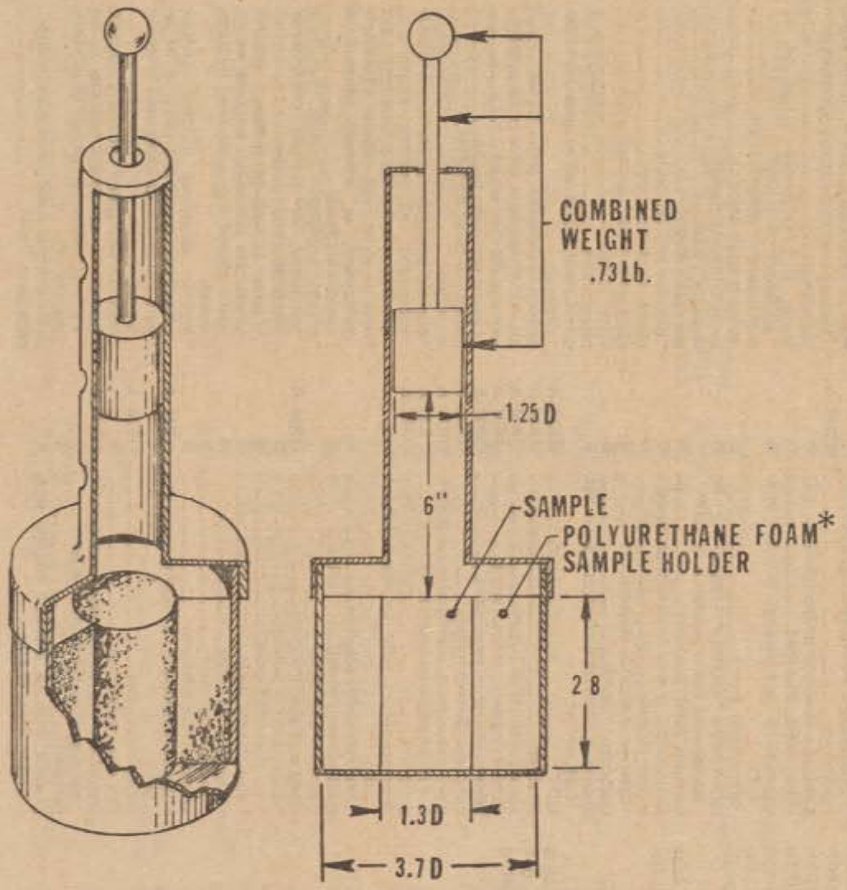
(4) There is insufficient iunformation; or on which to make a determination.

(f) Where the Administrator disapproves a demonstration, the party who submitted it may request that a public hearing be held. If a demonstration is approved, an interested party who can show that he is aggrieved by such an action may request a hearing. The Administrator may grant the request for a hearing if there are genuine and relevant factual issues that may be resolved in such a hearing. Each hearing shall be preceded by adequate public notice, shall be informal rather than a formal adjudication and shall be presided over by the Administrator or some person to whom he delegates that responsibility.

(g) The decisions of the presiding officer at a hearing held under paragraph (f) shall constitute final Agency action, and are not appealable to the Administrator.

(h) While a request for a hearing is pending, the decision which is being appealed shall be considered effective, except that at his discretion the Administrator may grant a request for a stay of the effectiveness, pending the outcome of the hearing.

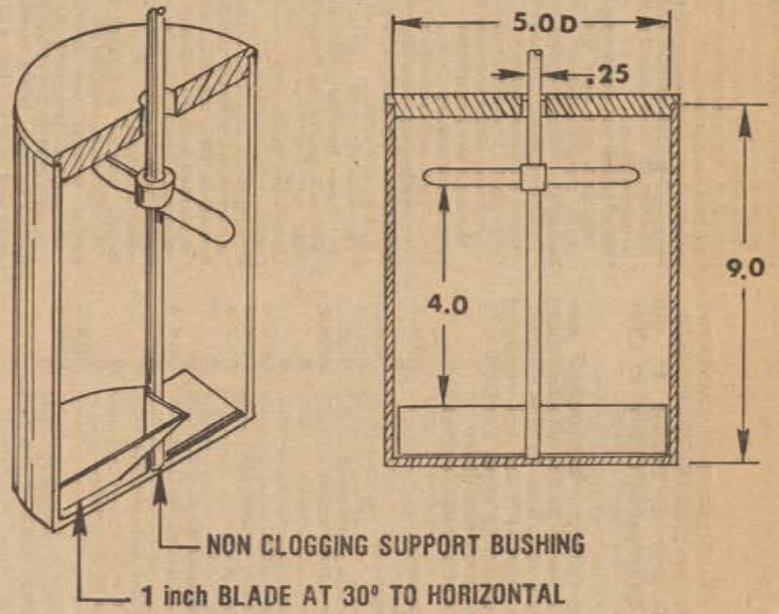
Figure 1



COMPACTION TESTER

*Polyurethane foam shall conform to requirements for Grade 21, performance Grade AD or BD, established in ASTM Standard D3453.

Figure 2



EXTRACTOR

APPENDIX I—SAMPLING METHODS

The methods and equipment used for sampling waste materials will vary with the form and consistency of the waste material to be sampled. Listed below are sampling protocols appropriate for sampling waste materials with consistencies similar to the indicated material.

Extremely viscous liquid—ASTM Standard D140-70
Crushed or powdered material—ASTM Standard D346-75
Soil or rock-like material—ASTM Standard D420-69
Soil-like material—ASTM Standard D1452-65
Fly ash-like material—ASTM Standard D2234-76

Additional protocols to be used are described in the draft report "Handbook for Sampling Hazardous Waste", Research Grant R-804692010, available from USEPA, Office of Solid Waste, Information-Materials Group, Cincinnati, Ohio 452168.

APPENDIX II—EXPLOSION TEMPERATURE TEST

1. *Purpose of Test:* To determine whether a material explodes, ignites, or decomposes after a five second immersion in a sand bath or low flammability liquid (such as high molecular weight silicone oil) at temperatures up to 125°C and if so, at what temperature.

2. *Operating Principle:* This test gives an estimate of how close the explosion temperature is to ambient condition for a material, and, hence, provides a measurable indication of thermal instability.

3. *Test Description:* The material to be tested (25 mg.) is placed in a copper test tube (high thermal conductivity) and immersed in the controlled temperature bath. This test is made at a series of bath temperatures, and the time lag prior to explosion at each temperature is recorded (up to 10 min.). The bath temperature is raised until a temperature of 125°C is reached if no explosion, ignition, or apparent decomposition occurs.

NOTE.—This is a modification of the test taken from H. Henkin, and R. G. McGill, Industrial & Engr. Chem. V44 p135.

APPENDIX III—SELECTED CANCELLED AND RPAR PESTICIDES

NOTE.—(The following listing contains those cancelled and RPAR pesticides not covered by the characteristics and not listed elsewhere in this Subpart).

Aramite
BAAM
Benomyl
Benzac
Chloranil
Chlorobenzilate
DBCP
Diallate
Dimethoate
EBDC
Kepone
Maleic Hydrazide
Mirex
Monuron
OMPA
PCNB
Phenarzine Chloride
Polychlorinated Terphenyls
Pronamide
Strobane
2,4,5-T
1080/1081
Thiophonate Methyl
Trysben

APPENDIX IV—SELECTED DEPARTMENT OF TRANSPORTATION (DOT) CLASSIFICATION POISON A, POISON B, AND ORM-A SUBSTANCES (FROM 49 CFR 172.101)

NOTE.—The following list contains substances not covered by the characterisitcs and not listed elsewhere in this Subpart. Those items marked * are not regulated unless the commodity meets the DOT definition of the hazard class listed.

* *n.o.s.-not otherwise specified.

acetaldehyde ammonia	ORM-A
acetone cyanohydrin	B
acetylene tetrabromide	ORM-A
allethrin	ORM-A
ammonium hydrosulfide solution	ORM-A
ammonium polysulfide solution	ORM-A
aniline oil drum	B
aniline oil, liquid	B
antimony lactate, solid	ORM-A
antimony potassium tartrate, solid	ORM-A
antimony sulfide, solid	ORM-A
barium cyanide, solid	B
* beryllium compound, n.o.s.	B
bone oil	ORM-A
bromoacetone	A
brucine, solid (dimethoxy strychnine)	B
calcium cyanide, solid, *or*	B
calcium cyanide mixture, solid	B
camphene	ORM-A
carbaryl	ORM-A
carbolic acid, liquid *or* phenol, liquid (liquid tar acid containing over 50% benzophenol).	B
carbolic acid, or phenol	B
carbon tetrachloride	ORM-A
chemical ammunition, nonexplosive (containing a Poison B material).	B
chemical ammunition, nonexplosive (containing a Poison A material).	A
chloroform	ORM-A
4-chloro-o-toluidine hydrochloride	B
chloropicrin, absorbed	B
chloropicrin and methyl chloride mixture.	A
chloropicrin, liquid	B
chloropicrin mixture (containing no compressed gas or Poision A liquid).	B
cocculus, solid (fishberry)	B
* compound, tree or weed killing, liquid	B
copper cyanide	B
* cyanide *or* cyanide mixture, dry	B
cyanogen bromide	B
cyanogen chloride (containing less than 0.9% water).	A
DDT	ORM-A
diazinon	ORM-A
dibromodifluoromethane	ORM-A
dichlorobenzene, ortho, liquid	ORM-A
Dichlorobenzene, para, solid	ORM-A
dichlorodifluorolthylene	ORM-A
dichloromethane or methylene chloride	ORM-A
2, 4 dichlorophenoxyacetic acid	ORM-A
dieldrin	ORM-A
dinitrobenzene, solid or dinitrobenzol, solid.	
* dinitrobenzene solution	B
dinitrochlorobenzol, solid *or* dinitrochlorobenzene.	B
dinitrocyclohexylphenol	ORM-A
* dinitrophenol solution	B
* disinfectant, liquid	B
* disinfectant, solid	B
* drugs, n.o.s., liquid	B
* drugs, n.o.s., solid	B
ethylene chlorohydrin	B
ethylene dibromide (1, 2-dibromomenthane).	ORM-A
ferrophosphorus	ORM-A
flue dust, poisonous	B
formaldehyde, or formalin solution (in containers of 110 gallons or less).	ORM-A
germane	A
grenade without bursting charge: with Poison A gas charge.	A
grenade without bursting charge: with Poison B charge.	B
hexachloroethane	ORM-A
hexaethyl tetraphosphate and compressed gas mixture.	A
hexaethyl tetraphosphate, liquid	B
hexaethyl tetraphosphate mixture, dry (containing more than 2% hexaethyl tetraphosphate).	B
* hexaethyl tetraphosphate mixture, dry (containing not more than 2% hexaethyl tetraphosphate).	B
hexaethyl tetraphosphate mixture, liquid (containing more than 25% hexaethyl tetraphosphate).	B
* hexaethyl tetraphosphate mixture, liquid (containing not more than 25% hexaethyl tetraphosphate).	B
hydrocyanic acid, liquified	A
hydrocyanic acid (prussic), solution (5% or more hydrocyanic acid).	A
hydrocyanic acid solution, less than 5% hydrocyanic acid).	B
* insecticide, dry, n.o.s.	B
insecticide, liquified gas, containing Poison A material or Poison B material.	A
* insecticide, liquid, n.o.s.	B
London purple, solid	B
Malathion	ORM-A
* medicines, n.o.s., liquid	B
* medicines, n.o.s., solid	B
* mercaptan mixture, aliphatic (in containers of 110 gallons or less).	ORM-A
methyl bromide and ethylene dibromide mixture, liquid.	B
methyl bromide and more than 2% chloropicrin mixture, liquid.	B
methyl bromide and nonflammable, nonliquified compressed gas mixture, liquid (including up to 2% chloroprin).	B
methyl bromide, liquid (bromoethane) including up to 2% chloropicrin.	B
methyl chloroform	ORM-A
methyl parathion, liquid	B
* methyl parathion mixture, dry	B
* methyl parathion mixture, liquid (containing 25% or less methyl parathion).	B
methyl parathion mixture, liquid, (containing over 25% methyl parathion).	B
Mipafox	ORM-A
Motor fuel antiknock compound, or antiknock compound.	B
napthalene or napthalin	ORM-A
nickel cyanide, solid	B
nicotine hydrochloride	B
nicotine, liquid	B
nicotine salicylate	B
* nicotine sulfate, liquid	B
nicotine sulfate, solid	B
nicotine tartrate	B
nitric oxide	A
nitroaniline	B
nitrobenzol, liquid (oil or mirbane, nitrobenzene.	B
nitrochlorobenzene, ortho, liquid	B
nitrochlorobenzene, meta or para, solid	B
nitrogen dioxide, liquid	A
nitrogen peroxide, liquid	A
nitrogen tetraoxide, liquid	A
nitroxylol	B
* organic phosphate, organic phosphate compound, or organic phosphorus compound; mixed with compressed gas.	A
* organic phosphate, organic phosphate compound, or organic phosphorus compound; liquid.	B
* organic phosphate, organic phosphate compound, or organic phosphorus, compound; solid or dry.	
* organic phosphate mixture, organic phosphate compound mixture, or organic phosphorus compound mixture, liquid.	B
* organic phosphate mixture, organic phosphate compound mixture, or organic phosphorus compound mixture, liquid.	B
* organic phosphate mixture, organic phosphate compound mixture, or organic phosphorus compound mixture, solid or dry.	B
parathion and compressed gas mixture	A
parathion, liquid	B

* parathion mixture, dry	B
parathion mixture, liquid	B
perchloro-methyl-mercaptan	B
perfluoro-2-butene	ORM-A
phencapton	ORM-A
phenyl dichloro arsine	B
phenylenediamine, meta or para, solid	ORM-A
phosgene (diphosgene)	A
phosphine	A
poisonous liquid, n.o.s. or poison B, liquid, n.o.s..	B
poisonous liquid or gas, n.o.s.	A
poisonous solid, n.o.s., or poison B, solid, n.o.s..	B
potassium cyanide, solid	B
* potassium cyanide solution	B
silver cyanide	B
sodium azide	B
sodium cyanide, solid	B
* sodium cyanide, solution	B
sodium dichromate	ORM-A
sodium pentachlorophenate	ORM-A
strontium arsenite, solid	B
* strychnine salt, solid	B
strychnine, solid	B
tetrachloroethane	ORM-A
tetrachloroethylene or perchloroethylene.	ORM-A
tetraethyl dithio pyrophosphate and compressed gas mixture.	A
tetraethyl dithio pyrophosphate, liquid..	B
tetraethyl dithio pyrophosphate, mixture, dry.	B
tetraethyl dithio pyrophosphate, mixture liquid.	B
tetraethyl lead, liquid (including flash point for export shipment by water).	B
tetraethyl pyrophosphate and compressed gas mixture.	A
tetraethyl pyrophosphate, liquid	B
tetraethyl pyrophosphate, mixture, dry..	B
tetraethyl pyrophosphate, mixture, liquid.	B
tetramethyl methylene diamine	OMR-A
*thallium salt, solid n.o.s	B
thallium sulfate, solid	B
thiophosgene	B
thiram	ORM-A
toluenediamine	ORM-A
trichloroethylene	ORM-A
zinc cyanide	B

Appendix V—Selected Priority Pollutants

Note.—The following list contains those priority pollutants not covered by the characteristics and not listed elsewhere in this Subpart.

Compound Name

1. acenaphthene
2. acrolein
3. acrylonitrile
4. benzene
5. benzidine
6. chlorobenzene
7. 1,2,4-trichlorobenzene
8. hexachlorobenzene
9. 1,2-dichloroethane
10. 1,1,1-trichloroethane
11. 1,1-dichloroethane
12. 1,1,2-trichloroethane
13. chloroethane
14. bis(chloromethyl) ether
15. bis(2-chloroethyl) ether
16. 2-chloroethyl vinyl ether (mixed)
17. 2-chloronaphthalene
18. 2,4,6-trichlorophenol
19. parachloro-m-cresol
20. 2-chlorophenol
21. 1,3-dichlorobenzene
22. 3,3'-dichlorobenzidine
23. 1,1-dichloroethylene
24. 1,2-trans-dichloroethylene
25. 2,4-dichlorophenol
26. 1,2-dichloropropane
27. 1,2-dichloropropylene (1,3-dichloropropene)
28. 2,4-dimethylphenol
29. 2,4-dinitrotoluene
30. 2,6-dinitrotoluene
31. 1,2-diphenylhydrazine
32. ethylbenzene
33. fluoranthene
34. 4-chlorophenyl phenyl ether
35. 4-bromophenyl phenyl ether
36. bis (2-chloroisopropyl) ether
37. bis (2-chloroethoxy) methane
38. methyl chloride (chloromethane)
39. bromoform (tribromomethane)
40. dichlorobromomethane
41. trichlorofluoromethane
42. dichlorodifluoromethane
43. chlorodibromomethane
44. hexachlorobutadiene
45. hexachlorocyclopentadiene
46. isophorone
47. 2-nitrophenol
48. 4-nitrophenol
49. 4,6-dinitro-o-cresol
50. N-nitrosodimethylamine
51. N-nitrosodiphenylamine
52. N-nitrosodi-n-propylamine
53. pentachlorophenol
54. bis(2-ethylhexyl)phthalate
55. butyl benzyl phthalate
56. di-n-butyl phthalate
57. di-n-octyl phthalate
58. diethyl phthalate
59. dimethyl phthalate
60. benzo(a)anthracene (1,2-benzanthracene)
61. benzo(a)pyrene (3,4-benzopyrene)
62. 3,4-benzofluoranthene
63. benzo(k)fluoranthane (11,12-benzofluoranthene)
64. chrysene
65. acenaphthylene
66. anthracene
67. benzo(g,h,i)perylene (1,12-benzoperylene)
68. fluorene
69. phenanthrene
70. dibenzo(a,h)anthracene (1,2,5,6-dibenzanthracene)
71. indeno(1,2,3-c,d)pyrene (2,3-o-phenylenepyrene)
72. pyrene
73. toluene
74. vinyl chloride (chloroethylene)
75. aldrin
76. chlordane (technical mixture & metabolites)
77. a-endosulfan-Alpha
78. b-endosulfan-Beta
79. endosulfan sulfate
80. endrin aldehyde
81. heptachlor
82. heptachlor epoxide
83. a-BHC-Alpha
84. b-BHC-Beta
85. g-BHC-Delta
86. PCB-1242 (Arochlor 1242)
87. PCB-1254 (Arochlor 1254)
88. PCB-1221 (Arochlor 1221)
89. PCB-1232 (Arochlor 1232)
90. PCB-1248 (Arochlor 1248)
91. PCB-1260 (Arochlor 1260)
92. PCB-1016 (Arochlor 1016)
93. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix VI—Center for Disease Control (CDC) Classification of Etiologic Agents

The CDC Classification of Etiologic Agents on the Basis of Hazard includes the following classes of agents which are of potential hazard:

Class 2

Agents of ordinary potential hazard. This class includes agents which may produce disease of varying degrees of severity from accidental inoculation or injection or other means of cutaneous penetration but which are contained by ordinary laboratory techniques.

Class 3

Agents involving special hazard or agents derived from outside the United States which require a federal permit for importation unless they are specified for higher classification. This class includes pathogens which require special conditions for containment.

Class 4

Agents that require the most stringent conditions for their containment because they are extremely hazardous to laboratory personnel or may cause serious epidemic disease. This class includes Class 3 agents from outside the United States when they are employed in entomological experiments or when other entomological experiments are conducted in the same laboratory area.

Class 5

Foreign animal pathogens that are excluded from the United States by law or whose entry is restricted by USDA administrative policy.

These agents are specified as follows:

A. Classification of Bacterial Agents

Class 2

Actinobacillus—all species except *A. mallei* which is in class 3
Arizona hinshawii—all serotypes
Bacillus anthracis
Bordetilla—all species
Borrelia recurrentis, B. vincenti
Clostridium botulinum,
Cl. chauvoei, Cl. haemolyticum,
Cl. histolyticum, Cl. novyi,
Cl. septicum, Cl. tetani
Corynebacterium diptheriae,
C. equi, C. renale
Diplococcus (streptococcus) pheumoniae
Erysipelothrix insidiosa
Escherichia coli—all enteropathogenic serotypes
Haemophilus ducreyi, H. influenzae
Herellea vaginicola
Klebsiella—all species and all serotypes
Listeria—all species
Mima polymorpha
Moraxella—all species
Mycobacteria—all species except those listed in Class 3
Mycoplasma—all species except Mycoplasma mycoides and mycoplasma agalactiae, which are in class 5
Neisseria gonorrhoeae, N. meningitidis
Pasteurella—all species except those listed in Class 3
Salmonella—all species and all serotypes
Shigella—all species and all serotypes
Sphacrophorus necrophorus
Staphylococcus aureus
Streptobacillus moniliformis
Streptococcus pyogenes
Treponema carateum, T. pallidum, and *T. pertenue*
Vibrio fetus, V. comma, including biotype El Tor, and V. *parahemolyticus*

Class 3

Actinobacillus mallei
Bartonella—all species
Brucella—all species
Francisella tularensis
Mycobacterium avium, M. bovis, M. tuberculosis
Pasteurella multocida type B ("buffalo" and other foreign virulent strains)
Pseudomonas pseudomallei
Yersenia pestis

B. CLASSIFICATION OF FUNGAL AGENTS

Class 2

Actinomycetes (including *Nocardia* species and *Actinomyces* species and *Arachnia propionica*)
Blastomyces dermatitidis
Cryptococcus neoformans
Paracoccidioides brasiliensis

Class 3

Coccidioides immitis
Histoplasma capsulatum
Histoplasma capsulatum var. *duboisii*

C. CLASSIFICATION OF PARASITIC AGENTS

Class 2

Endamoeba histolytica
Leishmania sp.
Naegleria gruberi
Toxoplasma gondii
Toxocara canis
Trichinella spiralis
Trypanosoma cruzi

Class 3

Schistosoma mansoni

D. CLASSIFICATION OF VIRAL, RICKETTSIAL, AND CHLAMYDIAL AGENTS.

Class 2

Adenoviruses—human—all types
Cache Valley virus
Coxsackie A and B Viruses
Cytomegaloviruses
Encephalomyocarditis virus (EMC)
Flanders Virus
Hart Park Virus
Hapatitis-associated antigen material
Herpes Viruses—except *Herpesvirus simiae* (Monkey B virus) which is in class 4
Corona viruses
Influenza viruses—all types except A/PR8/34, which is in class 1
Langat virus
Lymphogranuloma venereum agent
Measles virus
Mumps virus
Parainfluenza viruses—all types except Parainfluenza virus 3, SF4 strain, which is in Class 1
Polioviruses—all types, wild and attenuated
Poxviruses—all types except *Alastrium, smallpox, Monkey pox,* and *whitepox,* which depending on experiments, are in Class 3 or Class 4.
Rabies virus—all strains except *Rabies street virus,* which should be classified in Class 3 when inoculated into carnivores
Reoviruses—all types
Respiratory syncytial virus
Rhinoviruses—all types
Rubella virus
Similar viruses—all types except *Herpesvirus similar* (*Monkey B virus*) and *Marburg virus,* which are in Class 4
Sindbis virus
Tensaw virus
Turlock virus
Vaccinia virus
Varicella virus
Vole rickettsia
Yellow fever virus, 17D vaccine strain

Class 3

Alastrun, Smallpox, Monkey pox, and *Whitepox,* when used *in vitro*
Arboviruses—all strains except those in Class 2 and 4 (Arboviruses indigenous to the United States are in Class 3, except those listed in Class 2. *West Nile* and *Semliki Forest viruses* may be classified up or down, depending on the conditions or use and geographical location of the laboratory.)
Dengue virus, when used for transmission or animal inoculation experiments
Lymphocytic chorimeningitis virus (LCM)
Psittacosis-Ornithosis-Trachoma group of agents
Rabies street virus, when used in inoculations of carnivores (See Class 2)
Rickettsia—all species except *Vole rickettsia* when used for transmission or animal inoculation experiments
Vesicular stomatitis virus
Yellow fever virus—wild, when used *in vitro*

Class 4

Alastrun, Smallpox, Monkey pox and *Whitepox,* when used for transmission or animal inoculation experiments
Hemorrahagic fever agents, including *Crimean hemorrhagic fever* (*Congo*), *Junin,* and *Machupo viruses,* and others as yet undefined
Herpesvirus simiae (Monkey B virus)
Lassa virus
Marburg virus
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis, Kyasanur forest desease. Omsk hemorragic fever,* and *Central European encephalitis viruses*
Venzuelan equine encephalitis virus, epidemic strains, when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used for transmission or animal inoculation experiments

* * * * *

Class 5

A. Animal agents excluded from the United Stated by law.
Virus of foot and mouth disease
B. Animal agents excluded by USDA administrative policy.
African horse sickness virus
African swine fever virus
Besnoitia besnoiti
Borna desease virus
Bovine infectuous petechial fever
Camel pox virus
Ephemeral fever virus
Fowl plague virus
Goat pox virus
Hog cholera virus
Louping ill virus
Lumpy skin disease virus
Nairobi sheep disease virus
Newcastle disease virus (Asiatic strains)
Mycoplasma mycoides (contagious bovine pleuro-pneumonia
Mycoplasma agalactiae (contagious agalactia of sheep)
Rickettsia ruminatium (heart water)
Rift valley fever virus
Sheep pox virus
Swine vesicular disease virus
Teschen disease virus
Trypanosoma vivax (Nagana)
Theileria parva (East Coast fever)
Theileria annulata
Theileria lawrencei
Theileria bovis
Theileria hirci
Vesicular exanthema virus
Wesselsbron disease virus
Zyonema farciminosum (pseudofarcy)

APPENDIX VII—INFECTIOUS WASTE TREATMENT SPECIFICATIONS

Infectious waste from departments of health care facilities as defined in § 250.14(b)(1) may be rendered non-harzardous by subjecting the waste to the following autoclave temperatures and dwell times:

Steam Autoclave

(1) Trash: 250 F (121 C) for 1 hour with 15 minutes prevacuum of 27 in. Hg.
(2) Glassware: 250 F (121 C) for 1 hour with 15 minutes prevacuum of 27 in. Hg. for filled NIH Glassware can.
(3) Liquids: 250 F (121 C) for 1 hour for each gallon.
(4) Animals: 250 F (121 C) for 8 hours with 15 minutes prevacuum of 27 in. Hg.
(5) Animal Bedding: 250 F (121 C) for 8 hours with 15 minutes prevacuum of 27 in. Hg.

or equivalent treatment methods such as gas sterilization or pathological incineration. Temperatures and dwell time will vary in relation to the volume of material, moisture content and other factors.

APPENDIX VIII—RADIOACTIVE WASTE MEASUREMENTS

Radium-226 concentration can be determined by either of the following methods referenced in Part 300 of *Standard Methods for the Examination of Water and Wastewater,* 13th ed. APHA, AWWA, WPCF, New York (1970).
1. Precipitation method
2. Radon Emanation Technique
Radium-226 concentration in liquid sources can be determined by the method referenced in *Interim Radiochemical Methodology for Drinking Water* (EPA-600/4-75-008 (Revised))
Additional Information Concerning Sample Preparation
1. *Radioassay Procedures for Environmental Samples* U.S. Department of Health, Education & Welfare, Public Health Service, Rockville, MD. (1967)
2. *Method for Determination of Radium-226 in Solid Waste Samples* available from USEPA Office of Solid Waste.

APPENDIX IX—CONTROLLED SUBSTANCE LIST

NOTE.—Compounds and classes which have been reported to either mutagenic, carcinogenic, or teratogenic and which would not give a positive indication of activity using the prescribed tests. Where a class of compounds in listed, inclusion on this list does not mean that all members of the class have been shown to be either mutagenic, carcinogenic, or teratogenic. Demonstration that specific class members contained in the waste have not been shown to be either mutagenic, carcinogenic, or teratogenic, will be sufficient for a demonstration of nonhazard by reason of mutagenic activity (M).

Aloperidin
Amantadine
4-Aminoantipyrin acetamide
Aminopterin
3-Amino-1,2,4-triazole
6-Azauridine
Azo dyes
Benzene
Bisulfan
Carbon tetrachloride
Chloroquine
Chlorambucil
Cobalt salts
Colchicine
Coumarin derivatives
Cycasin
Cycloposphamide
Dextroamphetamine sulfate
Diazepam (Valium)
Diethylstilbesterol
Dimethylaminoazobenzene
Dimethylnitrosamine
Diphenylhydantoin
Ethionine
Grisefulvin
1-Hydroxysafrole
Maleic Hydrazide
Methotrexate
Methylthiouracil
Mytomycin-C
d-Penicillamine
Phenylalanine
Phorbol esters
Quinine
Resperine
p-Rosanilin
Safrole
Serotonin
Streptomycin
Testosterone
Thioacetamide thiourea
Trimethadione
d-Tubocurarine

APPENDIX X—MUTAGENIC ACTIVITY DETECTION

GROUP I—DETECTION OF GENE MUTATIONS

a. Point Mutations in Bacteria

1. *Positive Controls:* All essays must be run with a concurrent positive control. Positive control compounds or mixtures shall be selected to demonstrate both the sensitivity of the indicator organism and the functioning of the metabolic activation system.

2. *Negative controls:* A solvent negative control shall be included.

3. *Choice of Organisms:* The bacteria used shall include strains capable of detecting base pair substitutions (both transitions and transversions) and frame-shift mutations. The known spectrum of chemical mutagens capable of being detected by the strains shall be considered when selecting the strains. The strains shall also be highly sensitive to a wide range of chemical mutagens. They may include strains whose cell wall, DNA repair, or other capabilities have been altered to increase sensitivity (Ames, 1975; McCann *et al.*, 1975). Although sensitive bacterial assays for forward mutations at specific loci or over some portion of the entire genome may also be appropriate, at the present time the most sensitive and best-characterized bacteria for mutagenicity testing are those capable of indicating reverse mutations at specific loci.

4. *Methodology:*

(i) *General.* The test shall be performed in all respects in a manner known to give positive results for a wide range of chemical mutagens at low concentrations. Tests must be run with and without metabolic activation. The sensitivity and reproducibility of the metabolic activation systems and strains used shall be evaluated both by reference to past work with the method and by the concurrent use of positive controls.

(ii) *Plate assays.* In general, the EP extract should be tested by plate incorporation assays at various concentrations. Test conditions should minimize the possible effects due to extraneous nutrients, contamination by other bacteria, and high levels of spontaneous mutants.

(iii) *Liquid suspension assays.* A few chemicals (e.g., diethylnitrosamine and demethylnitrosamine) will give positive results only in tests in which the test substance, the bacteria, and the metabolic activation system are incubated together in liquid prior to plating, but not in a plate incorporation assay (Bartsch *et al.*, 1976). Thus, tests shall be conducted in liquid suspension as well as on agar plates.

(iv) *Doses.* The highest test dose which does not result in excessive cell death shall be used.

GROUP II—DETECTION OF GENE MUTATIONS

a. Mammalian Somatic Cells in Culture

1. *Choice of cell systems:* A number of tests in mammalian somatic cells in culture are available in which specific locus effects may be detected in response to chemical exposure (Shapiro *et al.*, 1972; Chu, 1971). The cell line used shall have demonstrated sensitivity of chemical induction of specific-locus mutations by a variety of chemicals. The line shall be chosen for ease of cultivation, freedom from biological contaminants such as mycoplasmas, high and reproducible cloning efficiencies, definition of genetic detection, loci, and relative karyotypic stability. The inherent capabilities of the test cells for metabolic activation of promutagens to active mutagens shall also be considered, as well as the use of metabolic activation systems similar to those used with microorganisms.

2. *Methodology:*

(i) *General.* The test shall be performed in all respects in a manner known to give positive results for a wide range of chemical mutagens. The sensitivity of the system, metabolic activation capability, and its reproducibility must be evaluated by reference to past work and by the concurrent use of positive controls. Culture conditions which may affect the detection of mutations and give falsely high or low figures for reasons other than chemical induction shall be avoided. Definition of detected genetic loci studies and verification that the observed phenotypic changes are indeed genetic alterations should be presented.

b. Mutation in Fungi

1. *Controls:* All considerations discussed under Group I, a. are applicable.

2. *Choice of Organisms:* The fungi used shall include strains capable of detecting base pair substitutions (both transitions and transversions) and frame-shift mutations. More inclusive assay systems, such as those designed to detect recessive lethals, are also acceptable. The known spectrum of chemical mutagens capable of being detected by the strains shall be considered when selecting the strains. The strains shall also be highly sensitive to a wide range of chemical mutagens. Strains altered in DNA repair or other capabilities with the intent to increase sensitivity may be used, subsequent to validation. Either forward or reverse mutation assays may be applied.

3. *Methodology:*

(i) *General:* All considerations discussed under Group I, a, 4, (i) are applicable. *Care should be taken to investigate* stage sensitivity, i.e., replicating versus non-replicating cells as well as possible requirement for post-treatment growth.

(ii) *Plate Assays:* While spot tests and plate incorporation assays are useful for preliminary testing, they shall not be considered conclusive.

GROUP III—DETECTING EFFECTS ON DNA REPAIR OR RECOMBINATION AS AN INDICATION OF GENETIC DAMAGE

a. DNA Repair in Bacteria

1. *Controls:* All considerations discussed under Group I are applicable.

2. *General:* (i) When the DNA of a cell is damaged by a chemical mutagen, the cell will utilize its DNA repair enzymes in an attempt to correct the damage. Cells which have reduced capability of repairing DNA may be more susceptible to the action of chemical mutagens, as detected by increased cell death rates. For suspension tests using DNA repair-deficient bacteria, the positive control should be similar in toxicity to the test mixture.

(ii) The DNA repair test in bacteria determine if the test substance(s) is more toxic to DNA repair-deficient cells than it is to DNA repair-competent cells. Such differential toxicity is taken as an indication that the chemical interacts with the DNA of the exposed cells to produce increased levels of genetic damage.

3. *Choice of organisms:* Two bacterial strains, with no known genetic differences other than DNA repair capability, shall be used. The strains selected shall be known to be capable of indicating the activity of a wide range of chemical mixtures capable of being detected by the strains and procedures used shall be reported.

4. *Methodology:*

(i) *Plate test.* The EP extract should be tested by spotting a quantity on an agar plate which has had a lawn of the indicator organisms spread over it. After a suitable incubation period, the zone of inhibition around the spot shall be measured for each strain and compared for the DNA repair-competent and DNA repair-deficient strains. If no discrete zone of inhibition is seen with either strain, then the results of the tests are not meaningful.

(ii) *Liquid suspension test.* The liquid suspension test shall also be performed by comparing the rates at which given concentrations of the test substances will kill each of the two indicator strains when incubated in liquid suspension. Conditions should be adjusted so that significant killing of the DNA repair-competent strain occurs, if this is possible. Methodology is discussed in Kelly *et al.* (1976).

(iii) *Doses.* The dose level of test substances used in the plate or suspension test shall be adjusted so that significant toxicity to the DNA repair-competent strain is measured. In the plate test, this means that a zone of inhibition must be visible; in the suspension test, significant loss of cell viability must be measured. This may not be possible if the test substance is not toxic to the bacteria or if, in the plate test, it does not dissolve in and diffuse through the agar.

The same dose must be used in exposing the DNA repair-competent and repair-deficient strains.

b. *Unscheduled DNA Synthesis in Human Diploid Cells*

1. *General.* DNA damage induced by chemical treatment of a cell can be measured as an increase in unscheduled DNA synthesis which is an indication of increased DNA repair. Unrepaired or misrepaired alterations may result in gene mutations or in breaks or exchanges which can lead to deletion and/or duplication of larger gene sequences or to translocations which may affect gene function by position effects (Stich, 1970; Stoltz *et al.*, 1974).

2. *Methodology:*

(i) *General.* Primary or established cell cultures with normal repair function shall be used. Standardized human cell strains from repositories are recommended. Control should be performend to detect changes in scheduled DNA synthesis at appropriate sections in the experimental design. The media conditions shall be optimal for measuring repair synthesis.

(ii) *Dose.* At least five dose levels shall be used and the time in the cycle or cynchronour or non-proliferating cells at which exposure takes place shall be given. The maximum compound dose shall induce toxicity, and the dosing period with the test substance shall not be less than sixty minutes.

c. *Sister Chromatid Exchange in Mammalian Cells With and Without Metabolic Activation*

1. *Controls:* All considerations discussed under Group I a. are applicable.

2. *General:* Cytological techniques are available to evaluate the genetic damage induced by chemicals. In the past few years a technique has been developed for identifying sister chromatid exchanges much more simply and efficiently than by the autoradiographic method. The method utilizes the fact that a fluorescent stain Hoeshst 33258 binds to thymidine-containing DNA but not, or far less efficiently, to BrdUrd-substituted DNA. This means that the order of fluorescence would be brightest for DNA unreplicated in BrdUrd, intermediate for DNA after one round or replication in BrdUrd, and least for DNA following two rounds or replication in BrdUrd. Thus a sister chromatid exchange can be seen as a switch of fluorescence pattern at the point of exchange. Perry and Wolff (Nature 251, 156-158 (1974)) combined Hoechst staining with Giemsa staining such that the brightly fluorescing regions stain darkly with Giemsa, and the dully fluorescent regions hardly stain at all.

3. *Choice of Organisms:* Chromosomal preparations of human peripheral blood leukocytes or Chinese hamster overy cells shall be used.

4. *Methodology:*

(i) *General:* The test method must be capable of detecting sister chromatid exchanges. Procedures reported by Perry and Wolff (Nature 251, 156-158 (1974) and Moorhead et al. (Exp. cell Res. 20, 613-616 (1960)) are recommended. Metabolic activation with rat liver S-9 mix should be incorporated whenever it is appropriate.

(ii) *Doses:* Test substances shall be tested to the highest dose where toxicity does not interfere with the test procedure.

d. *Mitotic Recombination and/or Gene Conversion in Yeast*

1. *Controls:* All considerations discussed under Group I are applicable.

2. *General:* One can effectively study the chromosomes of eukaryotic microorganisms by employing classical genetic methodologies which depend upon the behavior and interaction of specific markers spaced judiciously within the genome. These methods have been developed over several decades and have been applied in recent years to the study of induced genetic damage (Zimmerman, 1971, 1973, 1975; Brusick and Andrews, 1974).

3. *Choice of organisms:* Diploid strains of yeasts that detect mitotic crossing-over and/or mitotic gene conversion shall be used. Additionally, as appropriate strains are developed, monitoring for induced non-disjunction and other effects may be possible. Mitotic crossing-over shall be detected in a strain or organism in which it is possible, by genetic means, to determine with reasonable certainty that reciprocal exchange of genetic information has occurred.

Strains employed for genetic testing shall be of proven sensitivity to a wide range of mutagens.

4. *Methodology:*

(i) *General.* In general, wastes shall be tested in liquid suspension tests.

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APPENDIX XI—BIOACCUMULATION POTENTIAL TEST

(a) General. Reverse-phase liquid chromatography is a separation process in which chemicals are injected onto a column of fine particles coated with a nonpolar (water insoluble) oil and then eluted along the column with a polar solvent such as water or methanol. Recent development in this field have produced a permanently bonded reverse-phase column in which long-chain hydrocarbon groups are chemically bonded to the column packing material which leads to a more reproducible separation. The chemicals injected are moved along the column by partitioning between the mobile water phase and the stationary hydrocarbon phase. Mixtures of chemicals can be eluted in order of their hydrophobicity, with water soluble chemicals first and oil soluble chemicals last in proportion to their hydrocarbon/water partition coefficient. Calibration of the instrument using compounds of known octanol/water partition coefficient allows this procedure to be used to determine whether an unknown mixture contains compounds with octanol/water partition coefficients above a designated level.

Specific correlations exist between octanol/water partition coefficients and bioconcentration in fish. This test thus offers a rapid, inexpensive method of identifying those mixtures which contain compounds which pose a potential bioaccumulative hazard.

Compounds with log P 3.0, but which readily biodegrade would not be expected to persist in the environment long enough for accumulation to occur. Thus a degradation option has been included in order to exempt these substances from the hazardous waste control system.

(b) Chromatography Conditions. A liquid chromatograph equipped with a high pres-

sure stopflow injector and a 254 nm ultraviolet detector with an 8 ul cell volume and 1 cm path length is employed. The column is a Varian Preparative Micropak C-H (Catalog number 07-000181-00), or its equivalent, consisting of a 250 mm × 8 mm (i.d.) stainless steel cylinder filled with 10 micron lichrosorb to which octadecylsilane is permanently bonded.

The column is operated at ambient temperature. The solvent consists of a mixture of water and methanol (15:85, v/v) which is pumped through the column at 2.0 ml/minute.

(c) Retention Volume Calibration. Chemicals are dissolved in a mixture of acetone and cyclohexane (3:1, v/v). For preparing the calibration curve the quantity of individual chemicals in the solution is adjusted to give a chromatographic peak of at least 25 percent of the recorder scale. Acetone produces a large peak at approximately 2.6 minutes.

Six chemicals for which Log P has been reported are used to calibrate the elution time in units of Log P. The calibration mixture is summarized in Table 1 and includes benzene, bromobenzene, biphenyl, bibenzyl, p,p'-DDE, and 2,3,5,2',5'-pentachlorobiphenyl.

(d) Sensitivity Calibration. The mixture is chromatographed and a calibration curve prepared daily to eliminate small differences due to flow rate or temperature and to follow the retention properties of the column during prolonged use. The calibration is made by plotting Log P vs the logarithm of the absolute retention time (log RT). Figure 1 is an example of such a calibration curve.

(e) Test Procedure. (1) Prepare a calibration curve as described above.

(2) Calculate the geometric mean of the insrtumental response to the chemicals listed in Table 1 with the exception of the acetone. This value, expressed in ug/25% full scale deflection, is designated the Instrumental Sensitivity (IS).

(3) Extract X liters of the Extraction Procedure extract to be tested, using dichloromethane, and concentrate the extract to a quantity suitable for injection on to the column. The quantity X is determined by the instrumental sensitivity and is given by the relationship: X in liters=IS in micrograms.

(4) Analyze the extract using the now calibrated chromatograph. A positive response is defined as an instrumental response greater than or equal to 25 percent full scale detector response in the region of Log P greater than or equal to 3.5.

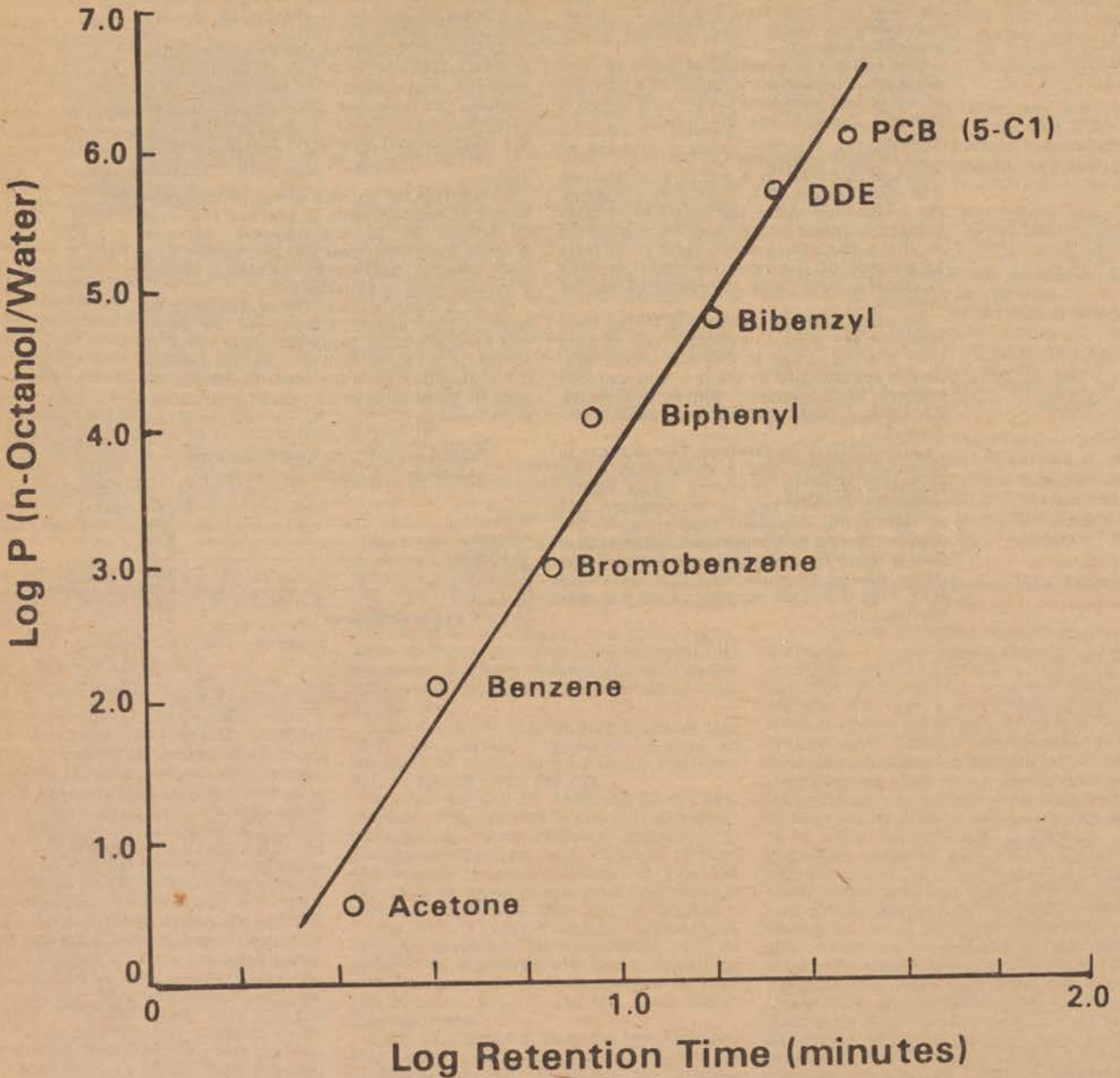
(5) If a positive response is indicated in step (4), then subject a sample of the waste to a biodegradation assay and then retest. If a positive response with the degraded waste is not obtained, then the waste is not considered to be hazardous by reason of bioaccumulativeness.

TABLE I.—*Partition Coefficients for Chemicals Used for Calibration*

	Log P
Acetone	0.55
Benzene	2.13
Bromobenzene	2.99
Biphenyl	3.76
Bibenzyl	4.81
p,p'-DDE	5.69
2,4,5,2',5'-Pentachlorobiphenyl	6.11

[6560-01-C]

Figure 1



[6560-01-M]

(40 CFR PART 250 SUBPART B)

SECTION 3002—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Section 3002 requires the Administrator to promulgate regulations establishing standards for persons generating waste identified or listed as hazardous under Subpart A (Identification and Listing of Hazardous Waste). These standards are designed to protect human health and the environment by establishing requirements for:

1. Recordkeeping to identify quantities, constituents, and disposition of hazardous waste generated;
2. Labeling of containers used for storage, transport, or disposal of hazardous waste;
3. Use of appropriate containers for hazardous waste;
4. Furnishing information on general chemical composition to persons transporting, treating, storing, or disposing of hazardous waste;
5. A manifest system to assure that hazardous waste is designated for and delivered to a permitted treatment, storage, or disposal facility; and
6. Submission of reports to the Administrator (or authorized State agency) setting out quantities and disposition of hazardous waste.

WASTE DESIGNATION

It is a generator's responsibility to determine if his waste is hazardous. This determination can be made by evaluating the waste against the characteristics outlined in § 250.13 of Subpart A, or by identifying the waste on the hazardous waste lists presented in § 250.14 of Subpart A.

A person who has knowledge of the raw materials input into his process and knows these materials to be present in the waste may utilize this information to determine whether the waste would match the characteristics set forth in § 250.13 without testing. This can be accomplished by using the manufacturer's specifications and data or by consulting scientific literature and comparing the physical and chemical properties of the raw materials in the waste to the characteristics in § 250.13 which make a waste hazardous.

If a person believes his waste to be hazardous, he may also simply declare it to be so without any references to Subpart A or to scientific literature.

IDENTIFICATION OF HAZARDOUS WASTE GENERATORS

The Act does not define a hazardous waste "generator;" however, § 1004(6) defines "hazardous waste generation" as "the act or process of producing hazardous waste." EPA has used this language to define a hazardous waste generator as a "person or Federal Agency whose act or process produces hazardous waste." Examples of generators of hazardous waste are some manufacturers included in SIC codes 20-39, laboratories, and aerial and commercial pesticide applicators.

Although the term "produces hazardous waste" implies that only manufacturers are included in the definition of generator, it is important to point out that a person who accumulates hazardous waste is considered a generator because the process of accumulation results in a hazardous waste disposal problem. For example, a laboratory that accumulates a waste designated as hazardous under Subpart A of these proposed rules would be subject to the requirements in this Subpart.

The Agency has proposed that persons who produce and dispose of less than 100 kilograms (approximately 220 pounds) of hazardous waste in any one month are exempted from the requirements of this Subpart if they comply with the provisions of § 250.29. The 100 kilogram per month level for defining generators was developed as a result of an effort to exclude from this Subpart persons whose generation of small amounts of hazardous waste does not pose a substantial threat to human health or the environment. Based on surveys of industrial waste production in five States (New Jersey, Texas, Illinois, Tennessee, Maryland) and data presented in the Draft Environmental Impact Statement for Subtitle C, it is estimated that the cut-off point of 100 kilograms per month for hazardous waste generation will allow control of 99.5 to 99.9 percent of potentially hazardous industrial waste while at the same time excluding up to 60 percent of the generators in the manufacturing industry (SIC 20-39).

Persons who dispose of less than 100 kilograms must comply with the provisions of Section 250.29. These provisions require that any hazardous waste generated, no matter how small the quantity, be disposed of either in (1) a solid waste facility which has been permitted or otherwise certified by the State as meeting the criteria pursuant to Section 4004 of RCRA; or (2) a treatment, storage, or disposal facility permitted by the Administrator pursuant to the requirements of Subpart E or permitted by an authorized State program pursuant to Subpart F. Compliance with these provisions will assure protection of human health and the environment from the disposal of all hazardous waste.

The Agency has also proposed that retailers and farmers generating any amount of hazardous waste be exempted from the requirements of this Subpart if they comply with the provisions of Section 250.29. Excepted from this are gasoline stations and companies that accumulate more than 100 kilograms per month of waste oil. Retailers rarely generate hazardous waste in excess of 100 kilograms per month. In the event that a retailer has a need to dispose of more than 100 kilograms of hazardous waste in a given month, this disposal must be in compliance with § 250.29(a). Farmers are exempted because the Federal Insecticide, Fungicide, and Rodenticide Act can be used to control the disposal of excess pesticides and pesticide containers. Pesticides and pesticide containers are likely to be the only hazardous wastes generated by farmers, and disposal will be required in accordance with § 250.29(b).

Gasoline stations and other companies that accumulate and dispose of more than 100 kilograms per month of waste oil will be subject to the requirements of this Subpart. Waste oil presents a special environmental problem because it is ubiquitous and because it is a potential carrier for other hazardous waste and substances. For example, it is sometimes mixed with transformer oil containing PCB's. Regulation of waste oil under this Subpart will tend to direct such oil to permitted treatment or recovery facilities that will promote resource conservation, a major goal of the Act.

The Agency does not anticipate that the requirements of this regulation will impose an undue burden on accumulators of waste oil because transporters and disposers have expressed a willingness to perform the generator's responsibilities under this section for a reasonable fee. Generators who arrange with transporters or disposers to perform their recordkeeping and reporting requirements will be relieved of most of the risk of non-compliance. Section 250.28 of this regulation provides that where a transporter regulated by Subpart C or a disposer regulated by Subparts D and E of this Part contracts with the generator to perform the generator's duties, the transporter or disposer will become independently liable under the Act for failure to perform. Although the generator cannot completely transfer his liability under the Act for a failure to perform, EPA enforcement actions will focus on the delinquent transporter or disposer rather than a generator who has entered into an assumption of duties contract.

Congress did not intend householders to be considered generators, nor did it intend that the type of waste substances normally used in households be included in the Subtitle C regulatory program. (S. Rep. No. 94-988, 94th Cong., 2nd sess. at 16.). Thus, households and similar establishments such as apartment houses, condominiums, and hotels are not included in the Subtitle C program.

To determine whether a person is a generator, that person must first determine if his solid waste is hazardous under Subpart A. If a person's waste is hazardous, if it is accumulated or produced and disposed of at a rate greater than 100 kilograms per month, and if the person is neither a farmer nor a retailer, that person is a generator. A generator must package or contain, label, and transport the waste in accordance with the Department of Transportation regulations for shipments of hazardous materials and with the EPA standards for transportation of hazardous waste (Subpart C). The generator must also notify EPA that he is a generator pursuant to Subpart G. A generator who stores, treats, or disposes of his hazardous waste in a facility which he owns is obligated to satisfy the requirements of Subparts D and E of this Part.

NOTE.—The Agency solicits comments on the requirements for generators of small amounts of hazardous waste, and, in particular, on whether the 100 kg/month exemption should be lowered or raised, or whether alternate requirements for small generators should be established. The Agency is considering a 1,000 kg/month exemption and will consider other levels and other means of establishing or conditioning requirements for small generators.

The principal element of this issue is how to balance the need to protect human health and the environment from the adverse impact of potential mismanagement of small quantities of hazardous waste with the need to hold the administrative and economic burden of management of these wastes under RCRA within reasonable and practical limits.

On the one hand, both individual and aggregate small quantities of hazardous waste can and often are mismanaged and therefore can be hazardous to human health and the environment. Consequently, small quantities of hazardous waste must be adequately managed. For this reason, the exemption of 100 kg/month specified in this proposed regulation is not an outright exemption but is only available on the condition that the waste is disposed of in an approved disposal facility under Subtitle D of the Act (typically a local landfill handling municipal refuse) or is treated, stored, or disposed in an approved Subtitle C facility (but the manifest and other recordkeeping and reporting requirements of these proposed rules are not required). In this way, small quantities of hazardous waste will be disposed of in a manner which protects human health and the environment but does not necessitate meeting the administrative requirements of these proposed regulations which are designed principally to maintain cognizance over the management of larger quantities of hazardous waste. If a different exemption, such as 1,000 kg/month, had been proposed, it would have been similarly conditioned to achieve the necessary protection without the administrative requirements imposed by these proposed rules.

On the other side of the issue, the Agency recognizes that management of small quantities of hazardous waste under these proposed rules (that is, quantities greater than 100 kg/month) does necessitate manifest, recordkeeping, and reporting requirements which are comparatively costly on a cost-per-ton basis and which present a new administrative burden on a large number of generators and transporters. Although there is wide agreement that these burdens are appropriate and necessary for the management of large quantities of hazardous waste, there is considerable debate whether they are necessary for the management of small quantities, particularly if other means can be used to assure that small quantities are adequately treated, disposed, and otherwise handled. In addition, it should be recognized that EPA and/or State regulatory management of small quantities of hazardous waste will require resources. Given that EPA and State resources for managing and enforcing the hazardous waste program will be limited, EPA finds good reason to minimize the administrative requirements on small quantities in order to apply its limited resources to the management and enforcement of requirements on larger quantities.

In recognition of the foregoing considerations, the Agency intends to consider a wide range of alternative means of regulating small quantities of hazardous waste and invites comments on all of the following methods and any other methods:

1. The conditioned exemption of quantities of hazardous waste up to 100 kg/month, as proposed.

2. The conditioned exemption of a different quantity of hazardous waste, up to 1,000 kg/month.

3. The conditioned exemption of different quantities of hazardous waste depending on the degree of hazard of the waste (for example, the exemption of quantities of less than 100 kg/month for highly hazardous waste and quantities less than 1,000 kg/month for all other hazardous waste).

4. The unconditioned Federal exemption of small quantities of hazardous waste (e.g., quantities less than 100 kg/month) where a State undertakes the regulation of these exempted wastes as part of its approved hazardous waste program under Section 3006 of the Act or under its approved State plan and regulatory program under Subtitle D of the Act.

5. Applying lesser administrative requirements (e.g., applying manifest requirements but not recordkeeping and reporting requirements) and/or lesser technical treatment, storage, and disposal requirements on small quantities of hazardous waste, without exempting or conditionally exempting such waste from Subtitle C management.

6. Phasing regulatory coverage of small quantities (e.g., an inital conditioned exemption of quantities at a high cutoff level, and the imposition of a lower exemption limit in two or three years).

Alternative 2 is a variation of that being proposed. Alternative 3 is another variation which requires the classification of hazardous waste by degree of hazard. The Agency has considered such classification but has found that it lacks sufficient data as of the date of this proposal to distinguish among the degrees of hazard of various waste on the basis of its potential to cause health or environmental harm, since the type of hazard potential varies as the waste moves through the storage, transport, and treatment/disposal phases of the waste management cycle. Alternative 4 rests on the proposition that the States are capable of designing and implementing regulatory programs for small quantities of hazardous waste that can be tailored to achieve the most efficient and effective management of such waste because the States are closer to the problem and can develop management solutions that EPA cannot develop in nationwide rulemaking. Alternative 5 reduces the administrative and possibly the technical requirements for managing small quantities of hazardous waste on the presumption that the strict control over management is less critical because of the smaller quantities being handled. There are several variations of this alternative including the scope of the requirements imposed and the quantities covered (less than 100 kg/month, less than 1,000 kg/month, etc.). Finally, Alternative 6 recognizes the difficulty that EPA and the States will have in being able to fully implement and enforce requirements on generators of small quantities of hazardous waste during the initial several years of implementation because priority attention will be given to regulating generators of larger quantities. Given this reality, phasing of coverage may be justified.

EPA has limited data on the numbers of generators of small quantities of hazardous waste, the amount and types of such wastes generated, the current management of these wastes, and their actual and potential impacts on human health and the environment. Consequently, the Agency is finding it difficult to resolve this issue of how best to regulate small quantities of hazardous waste. Clearly, the proposed conditional exemption of 100 kg/month is a conservative (but not the most conservative) approach designed to guarantee adequate management of small quantities of hazardous waste. If this approach is to be

changed, the Agency will need additional data to support that change in order to ensure necessary protection of human health and the environment. Accordingly, the public is invited to supply whatever factual information and quantified data it might have on the nature and scope of adequately managing small quantities of hazardous waste.

The Agency wishes to emphasize that it recognizes that the regulation of generators of hazardous waste has improtant economic implications for some industries. Preliminary economic analyses based on a 100 kg/month cutoff level indicate the potential for large economic impacts on up to 15 product segments of certain industry categories. These impacts include the possibility of plant closures in some of these segments. Details are discussed in the Draft Economic Impact Analysis for Subtitle C. It is not clear whether raising the cutoff level to 1000 kg/month would alleviate these impacts.

It is also not clear to what extent RCRA allows economic impact to be taken into accout, since the Act is silent on this point. Thus, the Agency is faced with the problem of how to deal with these potential impacts with little detailed economic data and without clear Congressional guidance.

The Agency considered proposing a temporary exemption from these regulations of industry segments where Subtitle C economic impacts are expected to be most severe. However, this approach appears questionable on legal and equity grounds. The Agency intends to conduct more detailed economic studies of highly impacted industry segments in the next several months to develop more data. Also, the Agency intends to explore alternatives to deal with this problem, including phased implementation, and may provide some relief from compliance with all Subtitle C requirements to highly impacted industry segments in the final rulemaking. The Agency solicits comment with discussion of alternatives and supporting data relevant to this issue.

GENERATOR COMPLIANCE WITH SUBPARTS D AND E OF PART 250

As a general rule, generators of hazardous waste must assure that their wastes are treated, stored, or disposed of only at a facility which has a permit issued pursuant to Subpart E. A generator may not send his hazardous waste to a facility in the United States which does not have a permit issued pursuant to this Part, except for facilities which have interim status pursuant to Section 3005(e) of the Act.

Generators who store hazardous waste on-site prior to shipment for less than 90 days in DOT specification containers need not comply with Subpart D (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities). Neither does such storage require a permit pursuant to Subpart E. However, on-site storage of hazardous waste for less than 90 days, other than in DOT specification containers, must be done in permanent storage tanks which meet the Subpart D requirements. The term "on-site" means on the same or geographically contiguous property where hazardous waste generation occurs; two or more pieces of property which are geographically contiguous and are divided only by public or private right(s)-of-way are considered a single site.

NOTE.—Comment is requested on any environmental or human health risk which may exist by exempting on-site temporary waste storage in DOT specification containers from the requirements of Subparts D and E.

GENERATOR COMPLIANCE WITH DOT HAZARDOUS MATERIALS SHIPPING REGULATIONS

According to a recent interpretation by the Department of Transportation (DOT), Materials Transportation Bureau Office of Hazardous Materials Operations, any material, including waste, which meets the DOT criteria of hazardous material must be handled according to DOT regulations.

The Office of Hazardous Materials newsletter of April/May 1977 states:

> There have been numberous inquiries to the Office of Hazardous Materials Operations regarding the applicability of the Department's Hazardous Materials Regulations to the transportation of waste materials. DOT's regulations are structured to apply to any material that may pose an undue hazard in transportation and, as such, do not differentiate between waste and other than waste material. If, after processing, a material (waste) meets the definition of hazardous material, it must be classed and shipped in accordance with the prescribed requirements. Many materials, including those considered waste materials, may have more than one hazard, while other materials may lose their hazardous characteristics due to processing. A mixture of materials, both waste and other than waste, must be properly evaluated to determine its characteristics, since after processing, a mixture may become more or less hazardous than it was prior to processing. The Department's Hazardous Materials Regulations may apply to any material regardless of its end use. The fact that material is considered a waste material does not relieve application of these (DOT) regulations.

DOT's current Hazardous Materials Transportation Regulations apply only to generators who use transporters engaged in interstate or foreign commerce. Some intrastate shipments are regulated by States that have adopted the Federal regulations or have similar regulations. In the above cases, the shipper is usually responsible for proper description of the hazardous material, proper labeling, packaging, and placarding.

DOT regulations applicable to generators of hazardous materials are found in the Code of Federal Regulations Title 49, Parts 171 (General Information, Regulations and Definitions); 172 (Hazardous Materials Table and Hazardous Materials Communications Regulations); 173 (Shipping Container Specifications); and 179 (Specifications for Tank Cars).

EPA's proposed Section 250.30, Subpart C (Standards Applicable to Transporters of Hazardous Waste) requires that when a material is both a hazardous waste as defined by EPA and a hazardous material as defined by DOT, the provisions of the U.S. DOT Hazardous Materials Regulations must be complied with for intrastate as well as interstate transportation.

NOTE.—For those hazardous wastes not currently subject to the DOT Hazardous Materials Regulations (primarily toxic materials), EPA recognizes DOT's primary mandate for the developemt of standards concerning the safety aspects of loading, unloading, communication of hazard, packaging, and handling of materials in transportation. Since EPA anticipates that DOT will redefine hazardous materials to include all hazardous waste, DOT should develop such safety standards. To the extent that problems are identified by EPA and DOT regarding additional safety measures for these newly covered wastes, the two agencies will develop appropriate revisions to the currently anticipated rulemakings. Comments are requested concerning additional safety measures that may be needed for hazardous waste.

Compliance with EPA's hazardous waste regulations (which include by reference parts of DOT's Hazardous Materials Transportation Regulations) by no means exempts the generator from compliance with the requirements of other Federal, State, or local regulations.

The standards set forth under Subparts B and C are consistent with standards developed under the Hazardous Materials Transportation Act (49 CFR 100-189). After lengthy negotiations between EPA and DOT, DOT has expressed a strong interest in broadening its Hazardous Materials Regulations to include most or all of EPA's proposed hazardous waste regulations. Depending on DOT's actions, EPA may jointly promulgate regulations with DOT, modify regulations previously proposed, or adopt forthcoming DOT regulations. EPA and DOT intend to jointly enforce any DOT regulations governing transportation of hazardous waste.

SPECIFIC STANDARDS

The following standards outline the requirements which must be undertaken by the generator, his agent, or his

private contractor to be in compliance with Subpart B of the Act: Manifest, Reporting, Recordkeeping, Identification Codes, Containers, Labeling Practices, Confidential Information and Presumption, and Waste Oil Assumption of Duties Contract.

THE MANIFEST

The manifest is a tracking document designed to record the movement of hazardous waste from the generator's premises to an authorized off-site treatment, storage, or disposal facility (see Figure 1 of the Subpart B regulations). On-site waste management does not require a manifest, but does require a permit issued under Subpart E. The generator designates on the manifest the address of one or more permitted facilities where the waste is to be delivered and signs it. The transporter's signature on the manifest indicates that he has received the hazardous waste and will comply with the generator's instructions. When the waste arrives at the permitted waste management facility, the facility owner/operator must sign the manifest and send the original to the generator. If the generator does not receive a copy of the manifest (or delivery document certifying receipt) from the permitted facility within 30 days, he is obligated to report this fact to EPA. Moreover, the generator must maintain a copy of both the initial and final manifest or delivery document for designated periods of time.

To complete the manifest, the generator must supply information in accordance with § 250.22. Any authorized person (e.g., transporter, disposer), may fill out the manifest on behalf of the generator, but the generator must sign it.

Much of the information required by DOT on a hazardous material shipping paper is also required by EPA on the manifest.

Both agencies require specific information to appear on the document in a certain order, but allow the shipper (generator, transporter, etc.) to prepare the document and add any additional information as necessary. A manifest *per se* need not accompany the shipment of hazardous waste if information required by § 250.22 accompanies the shipment in another form, e.g., on a bill of lading or hazardous material shipping paper. Similarly, a single manifest may be used for multiple shipments on the same day of hazardous waste from a single generator by the same transporter to the same facility as long as the shipping description and hazard class for each shipment is identical, the quantity per shipment is stated on the manifest, and an accounting of each shipment is documented on the manifest.

The following information which must be included on the DOT shipping paper (see 49 CFR 172.200) is also required on the manifest: the shipping description of the waste; the hazard class of the waste; the total quantity of each waste; the volume or weight of the waste, or type of container the waste was shipped in; and the shipper's certification.

Shipping Description. Section 250.22(h)(5) prescribes the procedure for determining the name of the hazardous waste which will appear on the manifest under the column entitled "Shipping Description." If the waste is regulated by the DOT, the generator must first review the DOT list of proper shipping names for hazardous materials found in 49 CFR 172. The DOT proper shipping name that most appropriately describes the hazardous waste must be used on the manifest. If the DOT proper shipping name is not applicable, or if the DOT proper shipping name contains the words "NOT OTHERWISE SPECIFIED" (NOS), the generator should review the list of EPA name(s) located in § 250.14 of Subpart A. If there is no DOT proper shipping name (NOS or otherwise) and the EPA name describes the hazardous waste, the EPA name must appear on the manifest.

If the DOT proper shipping name which most appropriately describes the hazardous waste is NOS, and there is an EPA name, then both NOS and the EPA name should appear on the manifest in that order. If there is no EPA name, then only NOS should appear on the manifest. If the waste is not regulated by DOT, the EPA proper shipping name must be used on the manifest.

Both the DOT proper shipping names and the EPA names will have common codes assigned to them which will be listed in EPA's final promulgation of Subpart A. These common codes need not appear on the manifest, but must appear on the quarterly and annual reports.

Hazard Class. The generator must next determine the hazard class associated with the hazardous waste, e.g., "corrosive." This procedure is prescribed in § 250.22(h)(6). If the waste is regulated by DOT, the generator must first determine the DOT hazard class describing the hazardous waste, then place that DOT hazard class on the manifest. If no DOT hazard class describes the hazardous waste, then the EPA characteristic from § 250.13 or property identified in § 250.14 of Subpart A must appear on the manifest. However, if the (only) DOT hazard class which describes the hazardous waste is "OTHER REGULATED MATERIALS" (ORM), then the EPA characteristic or property must also appear on the manifest. When both a DOT and an EPA name are used on the manifest under either "Shipping Description" or "Hazard Class," the DOT name must precede the EPA name. If waste is unregulated by DOT, the EPA waste characteristic or property must appear on the manifest.

The DOT shipping paper format may be utilized by a generator as a basis for meeting EPA requirements. If the generator already uses DOT shipping papers, the generator may modify them for hazardous waste shipment by adding certain information and the words "and the U.S. Environmental Protection Agency" after the words "Department of Transportation" on the certification statement. Items of information required by EPA but not DOT include the following: a manifest document number; the names, addresses, and identification codes of the generator, transporter, and treatment, storage, and disposal facility operator; the signatures of all parties (except for transfer between transporters using rail, water, or other modes of transportation); special handling information; comments; and emergency information.

The manifest document number is a serially increasing number which the generator assigns to the manifest for the purposes of recordkeeping. This document number, in addition to the identification code given to generators, transporters, and treatment, storage, and disposal facilities (TSDF), will aid EPA in identifying specific incomplete hazardous waste shipments, i.e., those which do not arrive at the TSDF designated on the manifest.

The names, addresses, and signatures of the generator, transporter, and treatment, storage, and disposal facility operator on the manifest will verify the routing of the hazardous waste. The TSDF operator will return the original of the manifest or delivery document to the generator to confirm that all waste shipped is actually received. The generator may designate several transporters and TSDF's which will each handle a part of the waste, or handle the waste sequentially, i.e., from a transfer station to a TSDF. These several transporters and TSDF's may be listed sequentially or in order of priority. If the waste is sent to a transfer station, a new manifest is not required so long as the waste's hazard characteristic identified by the generator pursuant to Subpart A does not change. Otherwise, the owner of the transfer station will be considered a generator and will be required to fill out a new manifest and properly relabel and contain the waste. In the case of international shipments, the foreign TSDF is not subject to permitting pursuant to Subpart E and, therefore, will not have an identification code. In this case, the

generator, when completing the manifest, is required to give the name and address of the foreign TSDF.

An example of special handling information to be included on the manifest would be instructions to keep a container away from contact with other containers. An example of a comment would be a warning that the containers are only partially filled or that a copy of an earlier manifest has not been returned by the TSDF operator verifying receipt of a hazardous waste shipment.

Emergency information is intended to inform persons on the scene of a spill what action to take before trained personnel arrive, e.g., whether the spill should be diluted with water or contained. A 24-hour emergency number may be specified in lieu of emergency information. In addition, the generator must list the toll free number of the National Response Center of the U.S. Coast Guard (800-424-8802) on the manifest preceded by the words "In the event of a spill contact the National Response Center, U.S. Coast guard."

NOTE.—It is EPA's intent that the hazardous waste manifest format described in Section 250.22 will be used for all hazardous waste shipments throughout the country to ensure national consistency. States may demand more information, but not less than required by EPA/DOT. It has been suggested that in States authorized pursuant to Subpart F, inconsistent additions to the manifest format might be required. However, DOT has the authority under Section 112 of the Hazardous Materials Transportation Act to preempt any such additional requirements that are inconsistent with DOT requirements. Therefore, EPA contemplates assuring through the State authorization process that state manifest formats and related transportation standards are not inconsistent with DOT standards. Comments on this approach or other alternatives are solicited.

REPORTING

The information on the manifest will be the basis for the generator's reports either to a State agency authorized pursuant to Subpart F (Guidelines for Authorized State Hazardous Waste Programs) or to an EPA Regional Office. In the EPA-administered program, the manifest itself stays in commercial channels. If the State in which the generator is located has an EPA-approved hazardous waste program, reports and/or manifests will be sent to that State in accordance with State regulations. In States where EPA is implementing the program, the EPA Regional Office will receive the reports. EPA will list authorized State agencies in the FEDERAL REGISTER.

In the case of international shipments to a foreign disposer, the generator must send quarterly reports to the EPA Regional Office or authorized State agency having regulatory jurisdiction over him and retain a copy of the manifest, which was sent with the shipments to the foreign TSDF, for a period of three years. Since the foreign disposal facility does not have to report, the Agency feels it necessary to require a more frequent (quarterly) report from the generator (as opposed to the annual report required for domestic shipments) to facilitate tracking.

NOTE.—EPA is considering a requirement that generators who ship hazardous waste to foreign TSDF's must notify both EPA and the foreign Government having jurisdiction over the receiving facility before such shipments are made. Comment is solicited on this point.

For domestic shipments of hazardous waste, the generator must file reports annually no later than 30 days after September 30, the closing date of the reporting year. The report will be filed on a standard EPA form (See Figure 2 of the Subpart B regulations) containing the information required in § 250.23.

When a generator fails to receive a signed original of a manifest from a designated domestic or foreign disposal facility, the shipment may have been lost in transport or illegally disposed or mismanaged. Instances of unreturned manifests must be described in quarterly "exception" reports submitted to an authorized State agency pursuant to Subpart F, or to the appropriate EPA Regional Office. All quarterly reports must be filed no later than 30 days after the closing date of the reporting quarter; those closing dates are the last day of March, June, September, and December. The report will be filed on a standard EPA form as specified in Figure 2 of Subpart B.

The reporting scheme of quarterly exceptions reports was chosen because it minimizes the reporting requirement on the generator while providing EPA and States with a sufficient amount of information to track violations of the manifest system. The burden of monitoring the movement of hazardous waste is on the generator. He must screen all manifests received from facilities to ensure the waste was properly delivered to the appropriate facility. It is to the generator's advantage to report any incomplete or inappropriate transporter or receiver activities so that he may protect himself from undue liability for improper management of the waste.

NOTE.—In the development of the manifest system and associated reporting requirements proposed in these regulations, the Agency has considered several options, is pursuing analyses of some of them, and may well choose to promulgate different requirements at final rulemaking. Options under consideration include:

(1) Requiring quarterly, rather than annual, reports on each manifested shipment of hazardous waste.

(2) Requiring that a copy of each manifest be sent to the Regional Administrator on a quarterly basis.

(3) Requiring that whenever a generator has reason to believe that a hazardous waste shipment has been spilled or delivered to a facility not permitted to receive the waste in the shipment, the generator must immediately report this information to the Regional Administrator. This report would include a copy of the manifest and all information which the generator has concerning the transport and disposition of the shipment, including but not limited to the parties involved and the generator's source of information.

(4) Requiring that a generator who has not received the original manifest from the facility designated on the manifest within 35 days after the date of shipment, or who determines that the returned manifest is inconsistent with the original manifest, must:

(a) Take all actions necessary to determine the cause of non-receipt or inconsistency;

(b) Assure that all steps are being taken to locate and receive the manifest and to assure that the waste is properly disposed of;

(c) If he has been unable to accomplish his requirements under (a) and (b) above, within 30 days, the generator must prepare and submit a report to the Regional Administrator. This report must be submitted within 65 days after the date of shipment, and must contain the information required in § 250.23(c) except (2). In addition, this report must include:

1. The name, address and identification code of the designated facility;
2. The actions which have been or will be taken by the generator to determine the reason the original manifest was not returned;
3. The results of the generator's investigation, including any and all information involving the shipment and cause of non-receipt; and
4. The identity of all parties who may be responsible for the non-receipt of the manifest.

Comment with supporting data, where possible, is solicited on the proposed regulations, the options described above, and any alternative schemes which enhance the enforceability of theses regulations.

Generators who store, treat, or dispose of hazardous waste on-site must specify this fact on their report by writing the word "on-site" under the column titled "Treatment, Storage, or Disposal Facility I.D. Code." Generators who store, treat, or dispose of hazardous waste off-site must write the identification code of the TSDF receiving the shipment of hazardous waste in that column. When the shipment of hazardous waste is designated to a TSDF outside the United States, the generator need only supply the name and address of the facility.

The following additional information is required on the report: the generator's identification code, name, and address; the closing date for that re-

porting year or quarter; the shipping description (name and common code) of the waste; the hazard class of the waste; the total quantity of each waste; the volume or weight of the waste, and the generator's signature.

Section 250.22(h)(5) describes how the generator who treats, stores, or disposes of hazardous waste on-site is to determine the name of the hazardous waste which will appear on the report under "Shipping Description." The same sequence described earlier in this preamble to determine the "Shipping Description" for a manifest applies to this report (see *Shipping Description* in the preamble section entitled *The Manifest*).

The generator who treats, stores, or disposes of hazardous waste on-site must next determine the hazard class associated with the hazardous waste as described under § 250.22(h)(6). The same sequence described earlier in this preamble for determining hazard class on the manifest applies here (see *Hazard Class* in the preamble section entitled *The Manifest*).

A generator who treats, stores, or disposes of hazardous waste off-site at a permitted facility that the generator does not own must transfer selected information described by § 250.23(b) from the manifest and submit this information on his report. The reports filed by the generator and the TSDF will be matched by EPA or an authorized State to ensure that all hazardous waste shipped was received at its designated destination.

A generator who treats, stores, and disposes off-site at a TSDF that the generator owns is *not* required to file a generator report; however, he must have a DOT shipping paper and must file the report required of owners and operators of treatment, storage, and disposal facilities pursuant to Subpart D.

In all cases, the shipping description (name) of the hazardous waste must be followed by its common code on the report. This common code will be published with the hazardous waste list in Subpart A.

RECORDKEEPING

If a generator ships a hazardous waste off-site to a TSDF which is not his own, a signed copy of the completed manifest (as required in § 250.22) for each shipment must be kept as a record. This record must be retained by the generator for a period of three years from the date of shipment.

Generators who treat, store, or dispose of their waste at their own treatment, storage, or disposal facilities are required to keep records as facility operators under Subpart D, rather than as generators.

IDENTIFICATION CODES

Section 250.24 of these regulations requires that every generator of hazardous waste furnish information to EPA or an authorized State about its hazardous waste generation activity. Upon submission of this information, the generator will be issued an identification code. The identification code will, in most cases, be identical to existing codes assigned to generators by other Federal or State agencies. The identification code should not be construed as a seal of approval by EPA or the issuance of a license or permit.

CONTAINERS

Generators who treat, store, or dispose of hazardous waste off-site must place their hazardous waste in a container that meets DOT requirements (See 49 CFR 173, 178, and 179) for shipment or place it in a permanent storage tank (meeting requirements of § 250.44-1, of Subpart D) until shipment. Generators who store hazardous waste for less than 90 days prior to treatment or disposal on-site are not required to comply with the DOT container standards. If a generator stores a hazardous waste for greater than 90 days, he must comply with the standards pursuant to Subparts D and E for hazardous waste facilities.

NOTE.—Presently, there are no contingency spill plans required for generators who store hazardous waste less than 90 days. The Agency will develop further regulations on this subject if public comment and supporting data indicate that these proposed regulations are inadequate to ensure protection of human health and the environment. Such comment and information are solicited by this notice.

LABELING PRACTICES

Generators who ship hazardous waste off-site must label and placard the shipment in accordance with DOT requirements under 49 CFR 172.

The generator must mark each package in accordance with DOT requirements under 49 CFR 172.300. When marking a package, the generator must follow the same naming procedure described earlier in the section on the Manifest under *Shipping Description*. In addition, the generator must mark each package with his identification code and the manifest document number for that shipment and the words "CONTROLLED WASTE—Federal Law Prohibits Improper Disposal," as prescribed in Section 250.26(c).

Generators who store hazardous waste for on-site treatment, storage, or disposal are not required to comply with EPA's marking and labeling standards. However, generators are subject to any applicable Federal Occupational Safety and Health Administration regulations or State agency regulations regarding labeling, placarding, and marking in the workplace.

NOTE.—The Agency will develop further regulations on this subject if public comment and supporting data indicate that these proposed regulations are inadequate to ensure protection of human health and the environment. Such comment and information are solicited by this notice.

CONFIDENTIAL INFORMATION

Section 250.27 allows the generator to request that certain information about his waste included on the manifest or reports to EPA be treated as proprietary by writing "CONFIDENTIAL" or a similar designation next to the sensitive items. If the information is requested by members of the public, the Administrator of EPA will issue a ruling on whether the information is confidential under the Freedom of Information Act. See 5 U.S.C. Section 552(b)(4). This procedure is described in more detail in 40 CFR Part 2.

GENERATORS OF WASTE OIL

Special problems have resulted from the indiscriminate disposal of waste oil. In an effort to lessen the regulatory burden on the large number of generators of waste oil as well as to promote resource recovery, these regulations provide for a procedure whereby any transporter regulated under Subpart C or treater, storer, or disposer regulated under Subpart D may assume a generator's responsibility for all obligations imposed by this regulation (except the duty to apply for a generator identification code under § 250.24).

Section 250.28 of the regulations outlines the requirements for a contractual agreement which must be formed between the generator and the transporter or treater/storer/disposer assuming the generator's responsibilities. Once that contract is in place, a transporter or treater/storer/disposer becomes liable to properly perform the applicable duties therein. Although the generator cannot completely transfer his own liability under the Act for a failure to perform, EPA enforcement actions will focus on the delinquent transporter or treater/storer/disposer rather than the generator if the proper contractual agreement is in force.

There is, of course, nothing to prevent a generator from contracting with any agent or independent contractor who is not a generator, transporter or treater/storer/disposer to perform the duties required under this regulation. However, since EPA has no direct regulatory authority over such persons, it could not bring an enforcement action against them. If such a person fails to perform his responsibilities, EPA would be obligated to enforce against the generator. The gen-

erator's remedy would be limited to a breach of contract action against his agent or independent contractor.

NOTE.—Comment is specifically requested on this regulatory approach and possible alternatives for regulatory coverage.

STATE PROGRAMS

These regulations describe the requirements to be met by generators where implementation of the Act is managed by EPA. Where States have been authorized by EPA, they will be carrying out implementation programs of their own in lieu of the program described in this section. Such State programs must be no less stringent than the program described in these regulations and must be judged to provide an equivalent degree of control over hazardous waste. However, the manner in which States achieve this control may vary considerably from the Federal program. Requirements for authorization of State programs are described in Subpart F.

ENFORCEMENT POLICY

The objective of the Agency's hazardous waste management program is to insure that hazardous wastes are identified and competently controlled from the point of generation, through transportation, to ultimate disposition at a permitted treatment, storage, or disposal facility. The most important aspect of this control program is the identification and inclusion of hazardous wastes in the control system.

Much of the initial responsibility of this control program falls on the shoulders of the generator. The generator must identify his waste as hazardous, and insure that his waste is placed in the hazardous waste management system, either by handling the waste on-site in a permitted facility or by shipping it off-site to be handled at a permitted facility. In addition, it is the generator's responsibility to bring to the attention of the Agency any shipments of waste for which he has not received a confirmation of delivery.

Because of this regulatory emphasis, EPA will focus a significant amount of its compliance monitoring and enforcement effort on the generator. Failure to comply with any of these requirements will cause the violator to be prosecuted to the full extent of the law. Section 3008 of RCRA provides for criminal penalties and civil fines of up to $25,000 per day per violation, and EPA intends to seek maximum penalties for such violations.

One exception to this overall strategy concerns waste oil generators. A waste oil generator who contracts out his Subpart B responsibilities to a transporter or a permitted hazardous waste management facility will not likely be an enforcement priority. The compliance monitoring effort will, in this case, be on the contractor.

BACKGROUND DOCUMENT

A background document is being developed in support of these proposed rules. This document is in the draft stage, and is subject to change as new data and information are received. Copies of the draft will be available for review in the EPA Regional Office libraries and in the EPA library reading room, Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C.

ECONOMIC, ENVIRONMENTAL, AND REGULATORY IMPACTS

In accordance with Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107, EPA policy as stipulated in 39 FR 37419, October 21, 1974, and Executive Order 12044, respectively, analyses of the economic, environmental, and regulatory impacts are being performed for the entirety of Subtitle C, Hazardous Waste Management. Drafts of these analyses have been completed and will be available for review by January 8, 1979, in the EPA Regional Office libraries and the EPA library reading room, Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C. Final versions of these documents will be issued at the time of promulgation.

Dated: December 11, 1978.

DOUGLAS COSTLE,
Administrator.

It is proposed to amend Title 40, CFR, Part 250 by adding a new Subpart B consisting of Section 250.20–250.29 as follows:

Subpart B—Standards Applicable to Generators of Hazardous Waste

Sec.
250.20 Purpose, scope, and applicability.
250.21 Definitions.
250.22 Manifest.
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250.24 Identification codes.
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250.28 Waste oil assumption of duties contract.
250.29 Persons who dispose of less than 100 kilograms per month of hazardous waste; retailers; and farmers.

Figure 1—Sample Manifest Format
Figure 2—Sample Generator Report Form

AUTHORITY: Secs. 2002(a), 3002, 3003, and 3004, Pub. L. 94-580, 90 Stat. 2804, 2806, 2807 (42 U.S.C. 6912, 6922, 6923, 6924)

Subpart B—Standards Applicable to Generators of Hazardous Waste

§ 250.20 Purpose, scope, and applicability.

(a) The purpose of these regulations is to establish standards for the management of hazardous waste by generators.

(b) In order to receive EPA approval under Subpart F (State Program Requirements), States must demonstrate that their programs cover at least the same universe of generators and contain standards that are equivalent in degree of control to, and are at least as stringert as, the standards contained in this Subpart. However, even where State programs are approved, EPA retains independent authority to enforce the standards in this Subpart pursuant to Section 3008 of the Act.

(c) Any person or Federal Agency who generates a solid waste must determine, pursuant to Subpart A, if the waste is hazardous. If it is and if that person meets the definition of a generator contained in § 250.21(b)(9) herein, he must comply with this regulation to the degree and in the manner specified below.

NOTE.—Failure to properly designate a waste as a hazardous waste, if the waste is a hazardous waste as identified or listed in Subpart A of this Part, constitutes a violation of the Act and may subject the person or Federal Agency to the compliance requirements and penalties prescribed in Section 3008 of the Act.

(1) Generators must send hazardous waste to a treatment, storage, or disposal facility permitted by the Administrator pursuant to the requirements of Subpart E and shall comply with the requirements of this Subpart as follows:

(i) If the generator sends the hazardous waste to an off-site treatment, storage or disposal facility which the generator does not own or the generator owns but which is not located in the State where generation of the hazardous waste occurred, the generator shall comply with all requirements of this Subpart except §§ 250.23 (d), (e), (f), (g), and (h) and 250.28.

(ii) If the generator sends the hazardous waste to an off-site facility within the United States which the generator owns and which is located in the same State where generation of the hazardous waste occurred, the generator shall comply with the requirements of § 250.43-5 of Subpart D of this Part and all requirements of this Subpart, except §§ 250.23 and 250.28.

(iii) If the generator sends the hazardous waste to an on-site treatment, storage or disposal facility, the generator shall comply with all requirements of this Subpart except §§ 250.22, 250.23 (a), (b), (c), (f), (g), (h), 250.25, 250.26, and 250.28.

(iv) If the generator sends the hazardous waste to an off-site treatment, storage, or disposal facility outside of the United States, the generator shall comply with all requirements of this

Subpart except §§ 250.23 (d), (e), (f), (g), (h) and 250.28.

NOTE.—If the generator sends the hazardous waste to an on-site treatment, storage, or disposal facility or an off-site treatment, storage, or disposal facility within the United States which the generator owns, the generator is also an operator of a treatment, storage, or disposal facility and shall comply with the requirements of Subpart D of this Part and shall obtain a permit from the Administrator for the operation of the facility pursuant to the requirements of Subpart E of this Part or shall comply with State requirements where the State has jurisdiction pursuant to Subpart F of this Part.

(2) Every generator must comply with Subpart D and Subpart E of this Part if the waste remains on-site for 90 days or longer.

(3) Any generator who ships his waste to a treatment, storage or disposal facility outside the jurisdiction of the United States must inform the foreign government having jurisdiction over the designated facility.

(4) Any person or Federal Agency who generates only household refuse or household septic tank pumpings is not required to comply with the requirements of this Subpart.

(5) Retailers, farmers and persons or Federal Agencies who produce and dispose of less than 100 kilograms per month of hazardous waste are specially regulated under § 250.29 of this regulation. In addition, special reporting requirements apply under § 250.23 to persons who assume a generator's responsibilities under this Subpart for waste oil.

§ 250.21 Definitions.

(a) When used in this Subpart, the following terms have the meanings given in the Act:

(1) "Administrator"—Section 1004(1)

(2) "Disposal"—Section 1004(3)

(3) "Federal Agency"—Section 1004(4)

(4) "Hazardous waste management"—Section 1004(7)

(5) "Person"—Section 1004(15)

(6) "Sludge"—Section 1004(26A)

(7) "Solid waste"—Section 1004(27)

(8) "Solid waste management"—Section 1004(28)

(9) "Solid waste management facility"—Section 1004(29)

(10) "State"—Section 1004(31)

(11) "Storage"—Section 1004(33)

(12) "Treatment"—Section 1004(34)

(b) Other terms used in this Subpart have the following meanings:

(1) "Act" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, Public Law 94-580.

(2) "Closing date" means the date which marks the end of a reporting quarter or reporting year.

(3) "Common code" means the unique code assigned by the Chemical Abstract Services to each EPA hazardous waste and to each DOT hazardous waste material listed in § 250.14 of Subpart A.

(4) "Delivery document" means a shipping paper, bill of lading, waybill, dangerous cargo manifest, or other shipping document, used in lieu of the original manifest, to fulfill the recordkeeping requirement of § 250.33 of Subpart C.

(5) "EPA" means the U.S. Environmental Protection Agency.

(6) "EPA Region" means the States and territories found in any one of the following ten regions:

Region I—Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Region II—New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Region III—Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

Region IV—Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

Region V—Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

Region VI—New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

Region VII—Nebraska, Kansas, Missouri, and Iowa.

Region VIII—Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

Region IX—California, Nevada, Arizona, Hawaii, Guam, American Samoa, Commonwealth of the Northern Mariana Islands.

Region X—Washington, Oregon, Idaho, and Alaska.

(7) "Farm" means a piece of land on which crops or animals are raised.

(8) "Farmer" means a person whose principal business is operating a farm.

(9) "Generator" means any person or Federal Agency whose act or process produces hazardous waste identified or listed under Subpart A; provided, however, that certain producers may or may not be generators depending on whether they meet the criteria specified in § 250.29 of this Subpart.

(10) "Hazardous waste" has the meaning given in Section 1004(5) of the Act as further defined and identified in Subpart A.

(11) "Household refuse" means trash or rubbish ordinarily produced by a family at their home.

(12) "Identification code" means the unique code assigned by EPA to each generator, transporter, an treatment, storage, or disposal facility, pursuant to regulations published in § 250.24 herein and Subpart G.

(13) "International shipment" means the transportation of hazardous waste between a generator located in the United States and a treatment, storage, or disposal facility located outside the jurisdiction of the United States.

(14) "Interregional shipment" means the transportation of hazardous waste between EPA regions.

(15) "Intraregional shipment" means the transportation of hazardous waste within an EPA Region.

(16) "Manifest" has the meaning given in Section 1004(12) of the Act as further defined and specified in § 250.22 herein.

(17) "Manifest document number" means the serially increasing number assigned to the manifest or delivery document by the generator for recordkeeping and reporting purposes.

(18) "On-site" means on the same or geographically contiguous property. Two or more pieces of property which are geographically contiguous and are divided by public or private right(s)-of-way are considered a single site.

(19) "Package" or "outside package" means a packaging plus its contents.

(20) "Packaging" means the assembly of one or more containers and any other components necessary to assure compliance with the minimum packaging requirements under 49 CFR 173, 178, and 179 and includes containers (other than freight containers or overpacks), portable tanks, cargo tanks, tank cars and multi-unit tank car tanks.

(21) "Permitted hazardous waste management facility" or "permitted facility" means a hazardous waste treatment, storage, or disposal facility that has received an EPA permit in accordance with the requirments of Subpart E of this Part or a permit from a State agency authorized in accordance with Subpart F of this Part.

(22) "Regional Administrator" means one of the Regional Administrators of the United States Environmental Protection Agency or his designee.

(23) "Reporting quarter" means the three (3) month time period covered by each quarterly report; the reporting quarters end on the last day of March, June, September, and December.

(24) "Reporting year" means the twelve month time period covered by each annual report; the reporting year ends on the last day of September.

(25) "Retailer" means a person engaged solely in the business of selling directly to the consumer.

(26) "Spill" means any unplanned release or discharge of a hazardous waste onto or into the air, land, or water.

(27) "Storage tank" means any manufactured nonportable covered device used for containing but not treating hazardous waste.

(28) "Triple rinsed" refers to containers which have been flushed three times, each time using a volume of diluent at least equal to ten percent of the containers capacity.

(29) "United States" means the 50 States, District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 250.22 Manifest.

(a) Any generator who meets the criteria of § 250.20(c), (1), (i), (ii), or (iv) shall prepare a manifest before shipping the hazardous waste.

(b) The manifest shall consist of at least an original and three copies and shall be signed by both the generator and the transporter.

(c) The generator shall retain at least one copy of the manifest and shall give the transporter at least the original and two copies of the manifest. Within one week of an international shipment of hazardous waste, the generator shall send a copy of the manifest to the appropriate regulatory agency of the foreign country having jurisdiction over the designated facility.

(d) The generator shall maintain on file a copy of each manifest retained in accordance with § 250.2(c) above until the original manifest or delivery document is received from the treatment, storage or disposal facility or until three years after the date of shipment of the hazardous waste, whichever occurs first.

(e) The generator shall retain the original copies of the manifests or delivery documents that he receives from the operators of the treatment, storage, or disposal facilities to which the hazardous waste is shipped. These original copies shall be maintained on file until three years after the date of shipment of the hazardous waste.

NOTE.—The original manifest or delivery document will be signed by an authorized agent of the treatment, storage, or disposal facility and returned to the generator pursuant to a requirement in § 250.43-5 of Subpart D of this Part.

(f) A single manifest may be used for multiple shipments of hazardous waste during any one day provided that;

(1) All requirements of this Section are met;

(2) The shipments are from the same generator, transported by the same transporter, and designated to the same permitted facility during any one day;

(3) The waste has the same shipping description and hazard class;

(4) The quantity of waste of each individual shipment is specified; and

(5) Each individual shipment and quantity is acknowledged by the initials of an authorized representative of the generator and the transporter.

(g) The generator shall make all originals and copies of manifests and delivery documents maintained on file, pursuant to § 250.22(d) and (e), accessible to and available for inspection by any official or employee authorized by the Administrator.

(h) The manifest shall contain the following information (see Figure 1 for the sample manifest format):

(1) A manifest document number;

(2) The generator's (or generators') identification code(s), name(s), address(es), and the date of shipment;

(3) The identification code(s), name(s), and address(es), of the transporter(s);

(4) The identification code(s), name(s), and address(es), of the permitted facility(ies). For international shipments of hazardous waste, only the name and address of the foreign treatment, storage, or disposal facility is required on the manifest;

(5) The name and common code of the hazardous waste (under the column "SHIPPING DESCRIPTION"). In naming a hazardous waste, a generator shall:

(i) Use the Department of Transportation (DOT) proper shipping name (identified in 49 CFR 172);

(ii) If the DOT proper shipping name is "NOT OTHERWISE SPECIFIED" (NOS), the EPA name (indentified in § 250.14, of Subpart A) shall also be used after the DOT proper shipping name NOS;

(iii) If no EPA name exists, then only the DOT proper shipping name NOS shall be used on the manifest.

(6) The hazard class of each waste. In naming the hazard class, a generator shall:

(i) Use the DOT hazard class (identified in 49 CFR 172);

(ii) If the DOT hazard class is "OTHER REGULATED MATERIALS" (ORM), the EPA characteristic or property (indentified in § 250.13 or 250.14 of Subpart A of this Part) shall also be used after the DOT hazard class (ORM);

(7) The quantity of each hazardous waste; by units of volume or weight in pounds (P), tons (T), gallons (G), or cubic yards (CY);

(8) Directions as to what immediate action should be taken regarding a spill or a 24-hour telephone number or numbers where information on how to handle a spill can be obtained;

(9) The statement "in the event of a spill contact the National Response Center, U.S. Coast Guard, 800-424-8802 for emergency assistance;"

(10) When available, special handling instructions;

(11) When appropriate, additional comments; and

(12) The following certification: "This is to certify that the above-named materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the U.S. Environmental Protection Agency." The information on the manifest or delivery document shall be certified by having an authorized representative of the generator sign and date it.

§ 250.23 Reporting.

(a) Any generator who meets the criteria of § 250.20(c)(1) (i) or (iv) shall:

(1) Prepare, after the closing date of each reporting quarter, a quarterly report of shipment of all hazardous waste to treatment, storage, or disposal facilities which originated during the reporting quarter but for which the original manifest or delivery document from the treatment, storage, or disposal facility has not been received pursuant to § 250.43-5 of Subpart D of this Part. The quarterly report shall also list all international shipments of hazardous waste made during the preceding quarter.

(2) Prepare, after the closing date of each reporting year, an annual report of shipments of all hazardous waste originated during the reporting year to treatment, storage, or disposal facilities;

NOTE.—The quarterly reports are exception reports listing shipments of hazardous waste for which receipt by the treatment, storage, or disposal facility has not been documented by return of the original manifest or delivery document from the facility. However, in any one quarter a generator with no outstanding manifests or delivery documents of hazardous waste and no international shipments, need not prepare or submit a quarterly exceptions report.

(3) Submit, within 30 days after the closing date of the reporting quarter or year, a single copy of each quarterly and/or annual report for the quarter or year just ended to the EPA Regional Administrator for the Region in which the generator is located.

(b) Each annual report required by § 250.23(a) shall contain the following information (see Figure 2 for the sample generator report form):

(1) The generator's identification code, name, and address;

(2) The closing date of the annual reporting period;

(3) The identification code of each permitted facility to which a hazardous waste has been sent; or the name and address of the foreign treatment, storage, or disposal facility;

(4) The name and common code of each hazardous waste appearing on the manifest or delivery document under "SHIPPING DESCRIPTION" which was treated, stored, or disposed of at a permitted facility;

(5) The total quantity of each hazardous waste;

(6) The units of volume or weight of each shipment quantity; in pounds

(P), tons (T), gallons (G), or cubic yards (CY);

(7) A list of transporters whose services were used during the annual reporting period;

(8) When appropriate, additional comments; and

(9) The following certification: "I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." The information on the report shall be certified by having an authorized representative of the generator sign and date it.

(c) Each quarterly report for exceptions and international shipments required by § 250.23(a) shall contain the following information (see Figure 2 for the sample generator report form):

(1) The generator's identification code, name, and address;

(2) The closing date of the quarterly reporting period;

(3) Under the column titled "TREATMENT, STORAGE, OR DISPOSAL FACILITY I.D. CODE" shall be:

(i) The letters "NR" for hazardous waste shipments where the original manifest or delivery document has not been returned to the generator followed by the identification code of the facility, or;

(ii) The letter "I" if the shipment was international, followed by the name and address of the foreign treatment, storage, or disposal facility to which the hazardous waste has been sent.

(4) The manifest document number, followed by the date of shipment to the treatment, storage, or disposal facility;

(5) The name and common code of each hazardous waste appearing on the manifest under "SHIPPING DESCRIPTION,";

(6) The total quantity of each hazardous waste;

(7) The units of volume or weight of each quantity; in pounds (P), tons (T), gallons (G), or cubic yards (CY); and

(8) Under "COMMENTS", a short description of efforts made by the generator to trace the whereabouts of the missing hazardous waste and/or manifest. (Not applicable to international shipments.)

(9) The following certification: "I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment." The information on the report shall be certified by having an authorized representative of the generator sign and date it.

(d) Any generator of a hazardous waste who meets the criteria of § 250.20(c)(1)(iii) shall:

(1) Prepare, after the close of each reporting year, an annual report of all hazardous waste generated and treated, stored, or disposed on-site during the reporting year;

(2) Submit, within 30 days after the closing date of the reporting year, a single copy of the annual report for the year just ended to the EPA Regional Administrator for the Region in which the generator is located.

(e) Each annual report required by § 250.23(d) above shall contain the following information (See Figure 2 for the sample generator report form):

(1) The generator's identification code, name, and address;

(2) The closing date of the annual reporting period;

(3) The word "on-site" under the column titled "TREATMENT, STORAGE, OR DISPOSAL FACILITY I.D. CODE;"

(4) The name and common code of each hazardous waste handled on-site (under "SHIPPING DESCRIPTION"), as described in § 250.22(h)(5) of this Subpart;

(5) The hazard class of each waste, as described in § 250.22(h)(6) of this Subpart;

(6) The total quantity of each type of hazardous waste generated;

(7) The units of volume or weight of each quantity, as described in § 250.22(h)(7) of this Subpart;

(8) Under "COMMENTS," the method of treatment, storage, or disposal for each waste, and

(9) The following certification: "I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." The information on the report shall be certified by having an authorized representative of the generator sign and date it.

(f) Any transporter regulated under Subpart C of this Part or any owner or operator of a treatment, storage, or disposal facility regulated under Subparts D and E of this Part who assumes a generator's duties with respect to waste oil pursuant to § 250.28 shall:

(1) Prepare, after the closing date of each reporting quarter, a quarterly report based on the information designated on the manifest or delivery document for shipments of waste oil sent during the reporting quarter to a treatment, storage, or disposal facility but for which the original manifests or delivery documents have not been received; the quarterly report also must list all international shipments of waste oil. No quarterly report is required for intraregional or interregional shipments of waste oil if all waste shipments are received by the treatment, storage, or disposal facility. Receipt of a shipment is defined by the return of the original of the manifest or delivery document to the person who assumes the generator's duties, signed by an authorized agent of the treatment, storage, or disposal facility.

(2) Prepare, after the closing date of each reporting year, an annual report for intraregional or interregional shipments of waste oil based on the information designated on the manifests or delivery documents which were dated for shipment during the reporting year;

(3) Submit, within 30 days after the closing date of the reporting quarter or year, a single copy of each quarterly and/or annual report for the quarter or year just ended to the EPA Regional Administrator with regulatory authority over the person who assumes the generator's duties.

(g) Any transporter regulated under Subpart C of this Part or any owner or operator of a treatment, storage, or disposal facility regulated under Subparts D and E of this Part who assumes the generator's duties under this Subpart for waste oil shall designate in the annual report (See Figure 2 for the sample generator report form):

(1) The transporter's or the owner's or operator's identification code, name, and address in lieu of the generator's;

(2) The closing date of the annual reporting period;

(3) The identification code of each hazardous waste treatment, storage, or disposal facility to which waste oil has been sent;

(4) The identification code of each generator whose duty was assumed during the reporting year under the column titled "MANIFEST DOCUMENT NUMBER;"

(5) The name "waste oil" and common code under the column titled "SHIPPED DESCRIPTION;"

(6) The total quantity of waste oil received from the generator and treated, stored, or disposed of at a permitted facility;

(7) The units of volume or weight of the total quantity in pounds (P), tons (T), gallons (G), or cubic yards (CY);

(8) When appropriate, additional comments; and

(9) The following certification: "I have personally examined and am familiar with the information submitted

in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." The information on the report shall be certified by having an authorized representative sign and date it.

(h) Any transporter or any owner or operator of a permitted facility who assumes the generator's duties for waste oil must designate in the quarterly report for waste oil shipment(s) not received by a treatment, storage, or disposal facility, or for international shipment(s) of waste oil (See Figure 2 for the sample generator report form):

(1) The transporter's or the owner's or operator's permitted facility identification code (if applicable), name, and address in lieu of the generator's;

(2) The closing date of the quarterly reporting period;

(3) The letters "NR" for waste oil shipments for which the original of the manifest signed by the designated facility has not been received followed by the identification code of that permitted facility, or the letter "I" if the shipment was international followed by the name and address of the treatment, storage, or disposal facility to which the waste oil has been sent;

(4) The manifest document number, followed by the date of shipment to the treatment, storage, or disposal facility;

(5) The name "waste oil" and common code under the column titled "SHIPPING DESCRIPTION;"

(6) The total quantity of waste oil shipped;

(7) The units of volume or weight of the total quantity in pounds (P), tons (T), gallons (G), or cubic yards (CY);

(8) When appropriate, additional comments; and

(9) The following certification: "I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." The information on the report shall be certified by having an authorized representative sign and date it.

§ 250.24 Identification codes.

Every generator shall apply to EPA for an identification code in accordance with the procedures under §§ 250.822 and 250.823 in Subpart G of this Part before commencing hazardous waste generation activities.

§ 250.25 Containers.

(a) Every generator shall place the hazardous waste to be shipped:

(1) In packages in accordance with the Department of Transportation regulations on packaging under 49 CFR 173, 178, and 179. If no specific packaging is required, the generator shall place the hazardous waste in a package in accordance with the Department of Transportation regulations on standard requirements for all packages in 49 CFR 173.24 (a), (b), and (c) (2)-(9); or

(2) In a permanent storage tank that complies with the requirements of § 250.44-1 of Subpart D of this Part.

§ 250.26 Labeling practices.

(a) Every generator shall label and placard each shipment of hazardous waste in accordance with the Department of Transportation regulations on hazardous materials, 49 CFR 172.

(b) Every generator shall label and mark each package of hazardous waste in accordance with the Department of Transportation regulations on labeling and marking, 40 CFR 172, and § 250.22(h)(5) of this Subpart.

(c) Every generator shall mark each package of hazardous waste using the following words:

"CONTROLLED WASTE"—Federal Law Prohibits Improper Disposal.
Generator I.D. Code————————.
Manifest Document Number————————.

The generator's identification code and the manifest document number(s) shall appear in the space following the words "Generator I.D. Code" and "Manifest Document Number," respectively. The marking shall use the same color(s), approximate dimension(s), and material(s) used to make markings required by § 250.26(b) of this Subpart.

§ 250.27 Confidential information and presumption.

(a) All information provided in connection with the manifest and reporting sections established by this Subpart shall be available to any person to the extent and in the manner authorized by Section 3007(b) of the Act, the Freedom of Information Act (FOIA) (5 U.S.C. Section 552), and the EPA Regulations adopted in compliance with the FOIA (40 CFR Part 2).

(b) In all civil enforcement proceedings brought under the Act where it has been established that a person generates hazardous waste, as identified or listed in Subpart A of this Part, there shall be a rebuttable presumption that the person's act or process produced and disposed more than 100 kilograms of hazardous waste during the time period specified in the enforcement proceeding.

§ 250.28 Waste oil assumption of duties contract.

(a) If a generator of waste oil enters into an Assumption of Duties Contract with a transporter governed by Subpart C of this Part or a treater, storer, or disposer governed by Subparts D and E of this Part, the transporter (or treater, storer, or disposer) shall become independently liable for performance of the duties assumed by him under this Subpart.

(b) Each generator entering into such a contract must keep a signed copy of it as a permanent record during the time the contract is in effect and for a period of one year following its termination.

(c) The Assumption of Duties Contract must state in writing that in exchange for valuable consideration the transporter (or treater, storer, or disposer) will perform all or part of the duties contained in this Subpart. If less than all of the duties are assumed, the contract must specify which duties are not assumed.

(d) The Contract must be signed by authorized representatives of the parties.

§ 250.29 Persons who dispose of less than 100 kilograms per month of hazardous waste; retailers; and farmers.

(a) Any person who produces and disposes of no more than 100 kilograms (approximately 220 pounds) of hazardous waste in any one month period, or any retailer disposing of hazardous waste (other than waste oil), is not a generator provided that the hazardous waste:

(1) Is disposed of in an on-site or off-site solid waste disposal facility in a State with an approved State plan under Subtitle D of the Solid Waste Disposal Act, as amended, which facility has been permitted or otherwise certified by the State as meeting the criteria adopted pursuant to Section 4004 of the Act; or (2) Is shipped to and treated, stored, or disposed of in a facility permitted by the Administrator pursuant to the requirements of Subpart E of this Part or permitted by an authorized State program pursuant to Subpart F of this Part.

(b) A farmer disposing of hazardous waste is not a generator provided he:

(1) Disposes of all waste pesticide in accordance with instructions on the pesticide label or, in the absence of label instructions, disposes of the pesticide in accordance with procedures and criteria specified in 40 CFR Parts 165 and 257, and

(2) Triple rinses each pesticide container after it has been emptied and uses the rinsate as make-up water in the tank mix or, at an application rate consistent with pesticide labeling, on crop lands; provided, however, that the pesticide must be registered for the particular crops and such application must be consistent with the criteria established in 40 CFR Part 257; and;

(3) Disposes of all other hazardous wastes in accordance with § 250.29(a) (1) or (2) above.

[6560-01-C]

Figure 1

HAZARDOUS WASTE MANIFEST	MANIFEST DOCUMENT NUMBER

IDENTIFICATION

	I.D. CODE	NAME	ADDRESS	DATE SHIPPED OR RECEIVED
GENERATOR				
TRANSPORTER				
TSDF (TREATMENT, STORAGE, OR DISPOSAL FACILITY)				

WASTE INFORMATION

SHIPPING DESCRIPTION	HAZARD CLASS	QUANTITY	UNIT	

SAMPLE

EMERGENCY INFORMATION

IMMEDIATE RESPONSE INFORMATION — PHONE NUMBER

SPECIAL HANDLING INSTRUCTIONS

COMMENTS

CERTIFICATION

This is to certify that the above-named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the U.S. Environmental Protection Agency.

GENERATOR SIGNATURE — DATE

This is to certify acceptance of the hazardous waste shipment

TRANSPORTER SIGNATURE — DATE

This is to certify acceptance of the hazardous waste for treatment, storage, or disposal

TSDF SIGNATURE — DATE

Figure 2

HAZARDOUS WASTE GENERATOR REPORT

IDENTIFICATION

NAME

ADDRESS

GENERATOR IDENTIFICATION CODE

CLOSING DATE

WASTE INFORMATION

TREATMENT, STORAGE OR DISPOSAL FACILITY I.D. CODE	MANIFEST DOCUMENT NUMBER	SHIPPING DESCRIPTION	QUANTITY	UNIT OF MEASURE

SAMPLE

COMMENTS

CERTIFICATION

I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

SIGNATURE DATE

[6560-01-M]

(40 CFR PART 250 SUBPART D)

SECTION 3004—STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Section 3004 of RCRA requires the Administrator to promulgate such performance standards for owners and operators of hazardous waste treatment, storage, and disposal facilities (hereinafter sometime referred to as facilities or facility) as may be necessary to protect human health and the environment. These standards must include requirements for site location and design, operating methods, contingency plans, continuity of operation, personnel training, financial responsibility, recordkeeping, reporting, monitoring, inspection, and compliance with the Subpart B manifest system and the Subpart E permit system.

Section 3004 standards not only establish the levels of environmental protection that hazardous waste treatment, storage, and disposal facilities must achieve, they also are the criteria against which EPA officials will measure applications for permits. Facilities which handle waste identified or listed as hazardous under Subpart A must comply with these standards. Facilities on a generator's property as well as those not on his property (hereinafter referred to as off-site facilities) are covered by these regulations and do require permits (under Subpart E), but generators and transporters who do not own or operate facilities for the treatment, storage, or disposal of hazardous waste do not need permits under RCRA.

These facility standards are key provisions in the cradle-to-grave system mandated by RCRA for handling and tracking hazardous waste. The manifest system established in Subpart B regulations comes to a close when manifested hazardous waste is received by a treatment, storage, or disposal facility and notice of receipt is sent to the generator.

In order to facilitate understanding of these rules, much of this preamble discusses the Subpart D standards in the order they appear in the regulation. These standards can best be understood when read along with the Subpart A and Subpart B standards under RCRA which also appear in today's FEDERAL REGISTER and when read in conjunction with the other standards EPA already has proposed under RCRA which are cited in the Summary of today's proposed rules under 40 CFR Part 250. Many issues overlap these regulations.

This preamble summarizes and explains the reasoning behind many of the requirements in this regulation and specifically requests comments on many issues. Because a requirement in the Subpart D regulation is not highlighted in the preamble, however, does not mean that comments on the requirement are not solicited. Comments are invited on all issues raised in the proposed regulations, this preamble and the documents referenced in the preamble. Comments also are solicited on any issues raised by Section 3004 of RCRA which may not have been addressed in today's FEDERAL REGISTER.

REGULATORY STRUCTURE

EPA considered three different ways to write standards for hazardous waste treatment, storage, and disposal facilities. Under one approach, EPA would set ambient standards for air and water quality and for other relevant parameters. The Agency would set standards at levels it believes protect human health and the environment. It is not always possible, however, to know why an ambient standard has been exceeded; that is, the source of the pollutant is difficult to determine and to remedy. Consequently, this type of standard is difficult to enforce. Also, it is extremely difficult to gather the data necessary to set safe levels for the thousands of substances that might be found in hazardous waste and to monitor for those substances.

The second type of standard the Agency has considered writing would prescribe design and operating requirements for hazardous waste management activities. Such standards can be enforced, but could tend to hold technology stagnant.

The third type of standard would directly regulate the release of pollutants from a given source, although new technology could be encouraged by this approach because an owner or operator would be free to choose his technology, such standards would be of limited utility because a hazardous waste management site often discharges a variety of pollutants in different forms from several points and so would be very difficult to regulate as a single, given source. As with ambient standards, EPA also would have great difficulty gathering the data to determine the amount of each pollutant that could safely be released into the environment and it also would be difficult and expensive to monitor for each pollutant. EPA decided to combine the strengths of all three types of standards in the Subpart D rules, although the Agency is relying primarily on the second type—design and operating standards.

DESIGN AND OPERATING STANDARDS

The design and operating standards are divided into four overlapping categories: (1) General facility standards applicable to all hazardous waste treatment, storage, and disposal facilities (with a few readily apparent exceptions); (2) standards for storage applicable to all facilities which store waste identified as hazardous pursuant to Subpart A (with the exception of facilities where generators properly store waste on-site for 90 days or less before shipment to an off-site treatment, storage, or disposal facility); (3) standards for treatment and disposal facilities categorized by method of treatment or disposal employed; and (4) standards for special waste applicable to waste the Agency has identified as requiring special handling because it is produced in very large quantities, it presents a relatively low level of hazard and it may be unsuitable to be managed by Subpart D control techniques.

The Agency intends that permit writers incorporate all those design and operating standards of Subpart D which are applicable to a given site in each permit they issue. For example, incineration standards will not be inserted in the permit of a facility which only disposes of waste by landfilling, nor will the same monitoring requirements be incorporated in each permit. EPA also intends that State adoption of equivalent or more stringent design and operating standards will be a requirement for EPA approval of a State hazardous waste program under Subpart F. Thus, in most cases, States also will incorporate such standards as conditions in the permits or licenses they issue.

Most of the design and operating standards prescribe very specific requirements with which facilities must comply. The Agency has, however, received comments on the drafts of these regulations that the design and operating standards do not allow enough flexibility to cope with the different design and operating problems facilities face which vary with facility location and the type or types of waste handled. Recognizing that these very specific Subpart D standards might discourage the development of new technologies or that different design and operating requirements might be necessary for a particular facility which is disposing of only one type of waste or waste from only one waste stream, EPA has inserted "Notes" after certain of the design and operating standards. Each Note describes the circumstances in which the Regional Administrator may allow deviation from the specific Subpart D standard to which the Note applies. Generally the Notes authorize the Regional Administrator to allow deviation from a specific requirement when the applicant for a permit demonstrates that an alternate requirement or an existing natural condition at the site will achieve at least an equivalent degree of containment, destruction, or environmental protection as the Subpart

D design or operating requirement. So, for example, § 250.43-2 (Security) requires that a facility have a 6 foot fence completely surrounding it which is capable of preventing the unknowing and unauthorized entry of persons and domestic livestock. The Note, however, states that a facility does not need such a fence if the applicant can demonstrate (at the time the permit is issued) that the facility is surrounded by some other barrier which is capable of accomplishing the same result.

The Note mechanism was chosen over the alternative of more general design and operating standards, and over the alternative of a general variance procedure, because the Agency believes the use of individual Notes best fulfills the Congressional mandate of establishing such performance standards as may be necessary to protect human health and the environment. The Agency could have written more general standards and not used Notes. Going back to the example of the 6 foot fence, EPA might just have established a requirement that the active portion of a facility be surrounded by a barrier capable of preventing the unknowing and unauthorized entry of persons and domestic livestock. Without further guidance, however, it is very likely that such a requirement would receive widely varying interpretations by permit-writers and might well have automatically necessitated an applicant's producing evidence to show that his facility met the standard. Putting the "6 foot" number in the standard, however, both gives a facility owner/operator a very specific requirement he can use to meet the standard and gives both the permit applicant and the Regional Administrator a specific requirement (without the necessity of an additional guidance manual) against which to judge an alternate barrier.

The Agency chose to use the Note mechanism rather than a general variance procedure for two reasons. First, when a Note immediately follows a design and operating standard, the Note can, if necessary, specify exactly the degree of containment, destruction, or environmental protection any alternate requirement must achieve.

Second, using the procedure of Individual Notes, the Agency can clearly establish that no deviations from certain requirements are allowed. In the Agency's judgment those requirements not accompanied by Notes must be met, as written, in order to ensure protection of human health and the environment.

Section 3005 of RCRA provides additional flexibility in the permitting system; this section states that permits may contain schedules for modification to bring facilities into compliance with section 3004 standards. Thus, in addition to the 3-tiered structure of design and operating standards, Notes, and Human Health and Environmental Standards (discussed *infra*), the permitting process will provide extra leeway, particularly for existing facilities.

The procedures governing permit applications, permit issuance, and use of the Notes will be explained in more detail in EPA's proposed Subpart E rules, which the Agency expects to publish in early 1979. EPA is also planning to publish a RCRA enforcement policy at that time which will discuss how the Agency intends to use its authority under Sections 3005(d) and 3008 to enforce these standards.

HUMAN HEALTH AND ENVIRONMENTAL STANDARDS

In addition to the design and operating standards, Subpart D contains three overriding standards called Human Health and Environmental Standards; these are designed to provide a fail-safe mechanism for the protection of groundwater, surface water, and air quality.

Section 1006 of RCRA directs EPA to integrate to the maximum extent practicable all provisions of RCRA with appropriate provisions of the other Acts of Congress which give EPA regulatory authority. One of the ways EPA has chosen to integrate RCRA with the Safe Drinking Water Act (SDWA), the Clean Air Act (CAA), and the Clean Water Act (CWA) is through the use of Human Health and Environmental Standards. Each of them—the groundwater, surface water, and air standard—establishes an overriding standard for treatment, storage, and disposal facilities by incorporating relevant limitations established under those acts.

The mandates in the Clean Water Act, the Clean Air Act, and the Safe Drinking Water Act are very close to EPA's mandate in RCRA—protection of human health and the environment. The incorporation of selected SDWA, CWA, and CAA standards not only ensures protection of human health and the environment, but also helps implement the RCRA Section 1006 directive to EPA to integrate and ensure consistency among the Agency's programs.

The Agency believes that this approach of combining overriding Human Health and Environmental Standards with specific design and operating standards (and Notes authorizing deviations therefrom) is the best way to fulfill the Congressional mandate in Section 3004 (to establish such performance standards as may be necessary to protect human health and the environment) and at the same time allow enough flexibility for permit writers to tailor the requirements in a permit to the particular circumstances of an individual facility.

Virtually every facility which conforms to the design and operating standards should achieve compliance with the Human Health and Environmental Standards because they are designed to ensure that compliance. The design and operating standards are a specific, certain, easily understood and enforceable set of rules, to the benefit of the regulated community, the States, and EPA. They are based on current state-of-the-art treatment, storage, and disposal practices and we have made the standards as specific and have quantified them as much as the current state-of-the-art allows.

The Agency considered using only design and operating standards, but we believe that no matter how specific and inclusive these standards are, there will nevertheless be a few unusual situations where use of the standards will not achieve the performance they are intended to achieve. Rather than trying to make the design and operating standards much more stringent to try to cover another small marginal group of situations, EPA has chosen to use the override mechanism of the Human Health and Environmental Standards. That is, where the permit writer has reason to believe that the design and operating standards will not achieve compliance with the Human Health and Environmental Standards, the latter will be used to establish more stringent design and operating criteria and the more stringent criteria will be incorporated as enforceable conditions of the permit.

Determining permit conditions using the Human Health and Environmental Standards, however, involves complex cause-and-effect calculations. Thus, the use of the Human Health and Environmental Standards is a less efficient way to implement a hazardous waste management regulatory program, and it provides less certainty for the regulated community as to what constitutes acceptable design and operating practice. Because of those features of the general Human Health and Environmental Standards, the Agency has chosen to rely on design and operating standards, (with accompanying Notes to allow justifiable deviations) as the principal mechanism for assuring the proper management of hazardous waste. Resort to the Human Health and Environmental Standards should be infrequent, but will be necessary to ensure protection of human health and the environment in unusual situations.

INTERIM STATUS STANDARDS

The requirements to be imposed on prospective permittees who have interim status pursuant to Section 3005(e) of RCRA presents a special problem.

These prospective permittees, who will have notified EPA of their hazardous waste activities and will have applied for a permit, will be waiting for EPA issuance or denial of a permit. Based on the time-consuming complexity of determining hazardous waste permit requirements, the limited staff that EPA expects to have available to issue permits, and based on the experience that EPA has had with the NPDES permit program under the Clean Water Act, we estimate that completing the issuance of all permits will take several years. Therefore, many prospective permittees will have interim status for an extended period of time. In keeping with the intent of Congress that hazardous waste management be regulated by national standards as quickly as possible, EPA believes that these prospective permittees should comply with selected minimal requirements of the Subpart D standards during interim status.

The Agency does not believe that permit applicants with interim status should be expected to meet all of the Subpart D standards because many of the specific requirements of the design and operating standards may be inappropriate for certain facilities and alternate requirements may be substituted when a permit is issued. Some permittees also may be allowed a reasonable period of time to comply with certain of the Subpart D standards because Section 3005(c) of RCRA provides that EPA (or a State when it is issuing the permit under a program authorized by EPA pursuant to Section 3006) may incorporate schedules for modifications in the permits it issues. Because these determinations are meant to be made in the permit issuance process, where there is full opportunity for public participation, the Agency does not believe it is appropriate to impose all of the Subpart D requirements prior to permit issuance. On the other hand, EPA believes that the prospective permittees should begin to meet certain manifest, recordkeeping, monitoring, and other less technical requirements of the Subpart D standards which will definitely be included in the permit without modification and which can help achieve RCRA's goal of protection of human health and the environment. For the same reasons, the prospective permittee also, insofar as possible, should meet the financial responsibility requirements for facility closure and post-closure monitoring and maintenance; some funds then will be available even if the facility is closed prior to issuance of a permit or as a consequence of failure to obtain a permit. Section 250.40 of Subpart D delineates the selected Subpart D standards that are applicable during interim status.

EPA considered making these interim status standards part of the permit application process under Section 3005(b) of RCRA, i.e., having the permit application require an owner or operator to submit information about how he is implementing the interim status standards. EPA would then review the application and assess the owner's or operator's explanation before notifying a prospective permittee that he has fulfilled the requirements for interim status (assuming some such notification by EPA will be provided under Subpart E regulations). The Agency, however, considers that requiring this additional information would impose too great a burden on the regulated community and evaluating the information would impose too great a burden on EPA. We believe that the mandate of RCRA will better be served by having our staff work on issuing and denying permits rather than on making complicated assessments relating to interim status. Comments are requested on all aspects of the Agency's approach to interim status standards.

APPLICABILITY OF STANDARDS TO INACTIVE FACILITIES

Neither RCRA nor its legislative history discusses whether the Section 3004 standards for owners and operators of hazardous waste treatment, storage, and disposal facilities apply or were intended to apply to inactive facilities, i.e., those facilities which have ceased receiving, treating, storing and disposing of wastes prior to the effective date of the Subtitle C regulations. This is an important issue, however, because some, and perhaps most, inactive facilities may still be "disposing" of waste within the meaning of that term in Section 1004(3) of RCRA. "Disposal" includes:

> the discharge, dumping, spilling, leaking * * * of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Many inactive facilities may well be leaking solid or hazardous waste into groundwater and thus be "disposing" under RCRA.

RCRA is written in the present tense and its regulatory scheme is organized in a way which seems to contemplate coverage only of those facilities which continue to operate after the effective date of the regulations. The Subpart D standards and Subpart E permitting procedures are not directed at inactive facilities. Enormous technical, legal, and economic problems would arise if these standards were to be directly applied to inactive facilities and all such facilities were required to upgrade. Such an approach also does not seem equitable because of the enormous difficulty of bringing a closed facility into compliance, and because the present owner of land on which an inactive site is located might have no connection (other than present ownership of the land) with the prior disposal activities.

For those reasons, EPA does not plan to apply Subpart D standards to inactive facilities. The Agency believes that it can more equitably use Section 7003 (Imminent Hazard) of RCRA to bring suit against inactive facilities which pose human health and environmental problems, although this remedy also is available only against the present owner of the land on which an inactive site is located. This section is designed to prevent any imminent and substantial endangerment to human health or the environment from the improper handling, treatment, transportation, storage, or disposal of any solid or hazardous waste. Using Section 7003, EPA can sue the owner of an inactive facility which is discharging a hazardous waste into the air, land, or water and presenting an "imminent and substantial endangerment to health or the environment." Under this procedure, the Agency can seek whatever remedy may be necessary to control the problem. Comments are requested on this policy regarding inactive facilities.

APPLICABILITY OF STANDARDS TO EXISTING FACILITIES

EPA recognizes that many existing hazardous waste treatment, storage, and disposal facilities will have difficulty complying with some of these regulations. RCRA requires, however, that all existing facilities be upgraded to the level necessary to provide human health and environmental protection. Section 3005(c) allows the leeway for such upgrading by providing that permits may specify the time allowed to modify a facility to bring it into compliance with Subpart D standards.

One type of solid waste management facility, however, may accept hazardous waste without meeting all of the Subpart D standards and without obtaining a permit. Subpart B regulations provide that retailers, farmers, and persons who produce and dispose of no more than 100 kilograms of hazardous waste per month do not have to comply with all of the Subpart B rules. Section 250.29 provides, however, that those people must dispose of their hazardous waste in a RCRA-permitted hazardous waste facility or in a solid waste disposal facility in a State with an approved State plan under Subtitle D of RCRA, which facility has been permitted or otherwise certified by the State as meeting the criteria adopted pursuant to Section

4004 of RCRA (hereinafter called a "Subtitle D" facility).

EPA does not intend to require Subtitle D facilities which accept hazardous waste only from retainers, farmers, and from persons who produce and dispose of less than 100 kg a month, to obtain permits or to comply with all Subpart D standards. The Agency believes that the Section 4004 criteria will provide a level of protection of human health and the environment sufficient to allow small amounts of hazardous waste to be disposed of in such a facility along with the large amounts of solid waste. Even under worst case assumptions, if the amount of waste allowed under § 250.29 to be disposed of in Subtitle D facilities were to go to such facilities, the Agency calculates that the co-disposal ratio of solid to hazardous waste would not exceed 40: 1.

Comments on this approach of allowing Subtitle D facilities to receive small amounts of hazardous waste without meeting Subpart D standards are requested. Comments on alternate approaches also are requested. For example, should Subtitle D facilities be required to meet certain selected Subpart D regulations?

GENERAL FACILITY STANDARDS

Site Selection

Site selection is very important in planning a facility because the potential for damage to human health and the envrionment is enhanced if a facility is not properly located.

The general site selection standards (§ 250.43-1) prohibit locating a facility in areas where the facility might harm the environment (a wetland, for example) or where the environment might harm the facility (an active fault zone, for example). These standards also apply to esxisting facilities which may have to modify their operations to comply. If an existing facility cannot be modified to conform to applicable standards, it will have to close.

The Agency has considered writing regulations which would restrict the location of hazardous waste facilities in permafrost (permanently frozen subsoil) areas, which are very fragile ecosystems with significant potential erosion and groundwater contamination problems. However, because permafrost is, for the most part, confined to Alaska, EPA believes that the State of Alaska, rather than the Federal Government, should decide what is feasible and necessary to protect these remote areas in that State. Comment is solicited on the decision not to specifically address permafrost areas in these regulations.

A key issue in site selection is what provision for a site buffer zone should be made. The Agency believes that buffer zones reduce risks to public health and the environment by allowing unexpected discharges or releases from fires, explosions, spills, and underground leaks to be controlled before crossing the property boundary.

These proposed rules require 200 feet between the active portion of a facility and its property boundary line. Comment is requested as to whether 200 feet is an appropriate buffer distance to protect human health and the environment.

Section 250.43-7(c) also relates to site selection. As part of the permit application process, an owner/operator must submit a closure plan which includes a description of possible uses for the land after closure of the facility. The Agency wants to encourage, when possible, the return to another acceptable use of land where hazardous waste facilities have been operated.

Security, Contingency Plan and Emergency Procedures, Training

After examining its file of damage incidents which have occurred at hazardous waste management facilities, EPA has established standards in these rules for site security, contingency plans, and employee job training. Through such measures, the Agency hopes to eliminate many past causes of human health and environmental damage at hazardous waste facilities. The agency also is preparing a guidance manual on job training which will provide further information in this critical area.

Manifests, Recordkeeping, and Reporting Requirements

Section 250.43-5 specifies the manifest, recordkeeping, and reporting requirements for hazardous waste facilities. These requirements prescribe the final steps in the manifest system established in Subpart B rules to track hazardous waste from its origin with the generator through its trip with the transporter to its disposition at a treatment, storage, or disposal facility. This system is the heart of RCRA's cradle-to-grave management system for hazardous waste. Owners/operators of facilities which receive waste from off-site must sign and return the original manifest to the generator within 30 days, and must make annual reports to the Regional Administrator summarizing the information on the manifests (i.e., the types and amounts of waste received, source of waste, etc.).

All facility owners/operators are required to keep records of how waste is treated, stored, and disposed of. Such records must include the location of waste in landfills, operating conditions, personnel training, monitoring results, and incidents of damage to human health or the environment. All facility owners/operators must make quarterly reports of certain monitoring data to the EPA Regional Administrator. In addition, all facility owners/operators are required to immediately report damage incidents such as fires, spills, explosions, and problems detected via monitoring to the Regional Administrator. Reporting requirements for on-site facilities are specified in Subpart B.

The Agency believes that the reporting and recordkeeping required by these regulations are necessary to effectively regulate owners/operators of hazardous waste facilities. Much of the information required will be generated by standard business practices and operating procedures. In many instances, standard operating logs can be used to comply with the recordkeeping requirements.

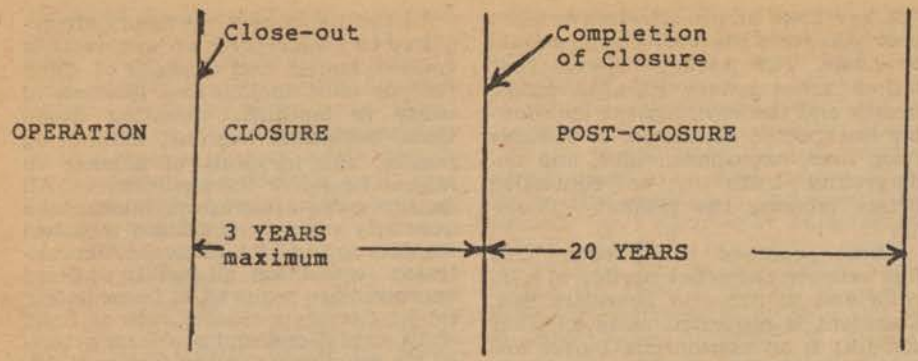
The Agency is considering changing the frequency of monitoring data reporting from quarterly to semi-annually or annually, and also is considering requiring facility owners/operators to return the original manifest to the generator immediately, rather than within 30 days. Comments on these proposals are requested. Comments also are requested on the utility, burden, and practicality of, and need for additional items in, the recordkeeping and reporting requirements.

Inspections

The proposed rules require daily visual inspection of hazardous waste facilities by the owners/operators of these facilities. This requirement is designed to insure that potentially dangerous situations are discovered quickly. Daily visual inspections are considered to be a good management practice which represents a minimum burden to hazardous waste facility owners and operators.

Closure and Post-Closure

The closure and post-closure standards (§ 250.43-7) specify what facility owners and operators must do after close-out (the time wastes are no longer received for treatment, storage, or disposal). As shown on the diagram below, closure is the period after close-out during which treatment, storage, and disposal operations are completed, final cover is applied to landfills, and equipment is dismantled and decontaminated. This period may not exceed three (3) years.



These proposed regulations require that notice of partial and final closure be given to the Regional Administrator. Such notice allows time for inspection to assure compliance with the standards. Professional certification also is required to provide added assurance that closure operations have been carried out properly. Filing a survey plat is considered necessary to insure that a properly recorded report of facility activities is available for future reference.

Post-closure is the period after closure during which certain monitoring and maintenance must be conducted. The regulations provide that post-closure care shall continue for 20 years. The facility owner or operator may, however, request the Regional Administrator to authorize a reduction or discontinuation of the post-closure requirements before the expiration of 20 years and must produce evidence to support the request. EPA is considering establishing criteria on which the Regional Administrator will base this determination.

Comments are requested on all of the preceding requirements, especially on the periods of time now specified in these proposed rules to complete closure and post-closure activities at hazardous waste facilities.

Groundwater and Leachate Monitoring

These proposed rules require groundwater and leachate monitoring at all landfills and surface impoundments (§ 250.43-8). Monitoring at landfarms is treated separately in § 250.43-5.

The goundwater monitoring requirements specify installation of a minimum of three monitoring wells hydraulically downgradient from the facility and one well upgradient from the facility.

The leachate monitoring requirements specify the installation of Leachate Monitoring System under the primary liner or natural soil barrier of landfills and surface impoundments. This standard is accompanied by a Note which allows an alternate monitoring system if it is equally capable of detecting a leak. Sampling and analysis is required at regular intervals to determine changes in concentrations of chemical constituents in groundwater and leachate.

The Agency recognizes that the technology of leachate monitoring is still being refined, but the equipment for such monitoring is currently available. EPA considers leachate monitoring extremely important because it can provide an early warning that groundwater contamination may occur. This early warning is crucial because once groundwater contamination has occurred, it is extremely difficult or impossible to remedy, particularly where an acquifer is located far beneath a facility. Groundwater monitoring alone does not sufficiently protect the environment because the leak must move through and cause extensive contamination of the zone of aeration before it reaches and contaminates the groundwater.

EPA is preparing a manual which will provide further guidance on groundwater and leachate monitoring.

Financial Requirements

Continuity-of-Operation: Closure. Hazardous waste facility owners and operators are responsible for closing their sites in accordance with the closure requirments of § 250.43-7. In order to ensure that adequate funds are available for closure when the time comes, the continuity-of-operation standard (§ 250.43-9(a)) requires that an owner/operator establish a trust fund for the amount of the estimated closure cost for the facility; the estimate must be accepted by the Regional Administrator and cash must be deposited before a permit will be issued.

EPA considered allowing owners/operators to post a surety bond rather than requiring them to establish trust funds. The Agency believed that provisions for surety bonds would help offset the financial burden which might occur when a facility owner or operator must deposit the total amount of cash for closure before the permit is granted. However, in conversations with surety brokers, the Agency found that many of the facilities we expected would want to use this method would not be able to qualify for surety bonds. Further, surety bonds are subject to year-to-year renewal and thus do not serve the purpose of providing an assured source of funds for closure. Because closure represents a minor portion of the total cost of operating a hazardous waste management business and because EPA considers the availability of funds to adequately close the site is essential to fully assure the protection of the public health and the environment, the Agency is proposing the establishment of this trust fund as a condition of receiving a permit.

Because the trust fund will be established at the beginning of operations but not used until closure, the interest that will accrue from the fund will be taken into account by the Regional Administrator in determining the fund size. A real interest rate of 2% is used in calculating the present value factor. For example, if an owner or operator estimated at today's prices a cost of $10,000 for final closure of a site expected to operate for eighteen years, the deposit required would be $7,000.

Continuity-of-Operation: Post-Closure Monitoring and Maintenance. Section 230.43-7 requires each hazardous waste disposal facility owner or operator to maintain the facility security and waste containment devices and monitor for possible leakage for the twenty years following site closure. Post-closure monitoring and maintenance requirements do not apply to treatment or storage facilities because when those facilities close no hazardous waste will remain at such sites.

Each disposal facility owner/operator must estimate the costs of complying with the post-closure regulation when applying for a permit. The estimate will be accepted or revised by the Regional Administrator as part of the permitting activity. To ensure the availability of the necessary funds, EPA is requiring each disposal facility to establish an individual trust fund for post-closure monitoring and maintenance which is to be built up over the life of the site or over twenty

years, whichever is shorter. EPA considered requiring a shorter period for deposit of the needed funds, but the preliminary economic impact work indicated that too short a pay-in period could cause a severe financial burden on a disposal site operator.

Another alternative considered would have required a permit holder to obtain a surety bond for the portion of the estimate that was not yet covered by deposits in the trust fund. As EPA discovered was the case when it examined this option for the closure standard, very few facilities have sufficient assets to obtain surety bonds in the required amounts, nor would surety bonds necessarily be renewed annually.

EPA again has used a real interest rate of 2% to calculate expected growth in the closure and post-closure monitoring and maintenance trust fund. EPA has made this choice on the assumption that nominal interest rates and the rate of inflation will move up and down together (as has been true for long periods of time) and that the rate of increase in real purchasing power of the funds in the trust will therefore remain constant at 2%. The Agency also is assuming that the rate of increase in the costs of the required task (i.e., post-closure monitoring and maintenance) will be the same as the rate of increase of prices in general as it is the latter rate that is reflected in nominal interest rates.

Financial Responsibility: Site Life Liability. EPA has interpreted the term financial responsibility in Section 3004 of RCRA to include the ability to pay for injuries to people and property which result from the escape of hazardous waste into the environment. The primary objective of the site life liability standard is to ensure that funds will be available to satisfy legitimate damage claims against a facility during its operating life.

The proposed regulations require a facility to show evidence of a minimum of $5 million of financial responsibility per occurrence per site for sudden and accidental occurrences during the life of the site. In addition, the owner or operator of a facility, or group of facilities, is required to have and maintain financial responsibility for non-sudden and accidental occurrences in the amount of $5 million per occurrence, and an annual aggregate of $10 million, including legal defense costs. Both types of insurance coverage in these amounts are now available from the private sector.

Financial responsibility, which is intended to include claims arising from both sudden and non-sudden escape of hazardous waste to the environment, can be established by liability insurance, self-insurance, a combination of the two, or some other form of financial responsibility acceptable to the Regional Administrator. If a company elects self-insurance, however, such insurance for all sites owned and insured may not exceed 10 percent of the firm's equity.

The major difficulty the Agency faces in establishing insurance and indemnification levels is the lack of actuarial data on a regulated waste management industry. While it is clear that the Subtitle C regulations will reduce both the number of damage cases and their severity, the degree to which this will occur is open to speculation.

EPA has used its existing damage case data from an unregulated industry to set the financial responsibility requirement, but the data on recent damage incidents do not allow us to compare in dollars the relative hazards posed by different wastes and different treatment, storage, and disposal processes. The dollar value of damage incidents in EPA files ranges from $100,000 to many millions of dollars. It is not unrealistic to imagine claims of several million dollars against a hazardous waste management facility.

The Agency has attempted to establish with very little actual data and minimal experience with a regulated hazardous waste industry a level of coverage that will provide reasonable protection to the public, but is not prohibitively expensive for many firms. The $5 million level for financial responsibility will apply to all permitted facilities.

Many of the comments EPA has received on this point during development of these regulations take the position that all hazardous waste management firms do not require this amount of protection. While this may be true, EPA has been unable to identify reliable criteria for determining different levels of financial responsibility for different permit holders.

Comments on how criteria for different levels of financial responsibility could reliably be determined are requested. EPA also requests comments on whether this provision of funds to satisfy damage claims is a legitimate Federal responsibility under RCRA. The Agency believes that such a provision is with the terms of the Act which require us to establish such requirements for financial responsibility "as may be necessary or desirable," but is interested in public reaction to our requiring this kind of financial responsibility.

The Agency also has received comments that such liability insurance is prohibitively expensive. EPA has discussed this point with several insurance industry representatives, has reviewed ranges of premium costs for such liability insurance being written today, and has concluded that insurance costs are not unreasonable.

Financial Responsibility: Post-Closure Liability for Hazardous Waste Disposal Facilities. EPA initially thought that liability insurance would be the best way to provide a post-closure source of funds to satisfy legitimate damage claims against hazardous waste disposal facilities. Most existing liability policies, however, only offer protection against sudden occurrences such as explosions, pipeline ruptures, or abrupt failures of containment vessels during facility operation. The critical insurance protection for post-closure liability is coverage for non-sudden occurrences. Coverage of non-sudden occurrences after facility closure is not readily available. EPA estimates that even if such coverage should become generally available, the premiums would be prohibitive.

Because of the uncertainties associated with long-term disposal of hazardous waste and the unavailability of post-closure non-sudden liability coverage from the private sector, EPA is considering seeking legislative authority to create a Federally administered fund to provide such protection. The fund would be available to satisfy legitimate claims for damage when damage occurs after a hazardous waste disposal facility has closed, but would be established in such a way as to encourage responsible waste management by the owner/operator during facility operation. As now envisioned, the fund would be administered by the Federal Government and financed from a surcharge levied on the disposal of hazardous waste. The fund would be responsible for damage claims and remedial action up to a specified amount per claim. Until the necessary legislative authority is granted by Congress, EPA is reserving proposal of this portion of the regulation.

Financial Responsibility: Request for Comments. In addition to the comments requested in the discussion of the various financial responsibility requirements, EPA encourages comment in the following areas:

(1) Are there reasonable alternatives (such as interest bearing accounts in financial institutions) to the "trust fund" mechanism for closure and post-closure financial requirements in the continuity of operation section (§ 250.43-9(a))?

(2) Are there reasonable alternatives to the proposed financial responsibility regulation (§ 250.43-9(b))?

(3) Should site life insurance coverage for non-sudden and sudden events exclude legal defense costs?

(4) Is a Federal fund for post-closure financial responsibility for hazardous waste disposal sites desirable and if so, how should it operate?

(a) What should the size of the fund be?

(b) Should there be a maximum amount available for any one claim; if so, what amount?

(c) What amount should be charged per unit of waste disposed?

(d) How should the fund be administered?

(e) What are the alternatives to a Federally administered fund?

(f) Should the fund provide separate regulations for publicly owned and privately owned facilities?

Further, the Agency is considering, and solicits comments on additional closure and post-closure financial responsibility provisions designed to insure that adequate funds are available for closure and post-closure care. To that end, a system of periodic checks would be established. The closure and post-closure financial responsibility provisions would require the facility to biannually re-evaluate and revise the estimate of the amount of total and annual payments necessary to provide adequate financing for closure and post-closure care. A report of the re-evaluation and revision would be included in the annual report required to be submitted to the Regional Administrator. The evaluation and revision would be subject to the approval of the Regional Administrator. In addition, the provisions would require the owner/operator to certify in the annual report that he has made the required annual payments to the trust funds.

STANDARDS FOR STORAGE

The storage standards proposed in § 250.44 are intended to prevent the release of hazardous waste from storage areas into the environment. Section 1004(33) of RCRA defines "storage" as the containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of hazardous waste. Section 1004(3) of RCRA defines "disposal" as

> the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Because "storage" cannot constitute "disposal," the regulations for hazardous waste storage operations require that storage be conducted in such a manner that no discharge or release of any waste occurs.

An issue central in the storage standards is when storage begins. The Agency believes that it would be inappropriate to require generators to comply with Subpart D storage regulations the instant a waste is generated because they really are not storage facility operators. However, the Agency also recognizes that generators tend to accumulate considerable quantities of hazardous waste over extended periods of time. With prolonged storage, the Agency believes the generator does become a storage facility operator, with the attendant environmental risks, and should have to comply with the storage regulations.

The Agency has decided to allow generators a reasonable period of time to accumulate hazardous waste on-site (with the intent to ship off-site) within which time they will not be considered storage facility operators. Ninety days has been selected as this interim period, as EPA considers that the likelihood of discharge of waste to the environment occurring within 90 days is low. Accordingly, a storage facility is defined as any facility that stores hazardous waste, except a facility used by a generator to store his own hazardous waste on-site in DOT specification containers for less than 90 days for subsequent transport off-site.

In order to prevent the release of waste to the environment, the standards for storage (§ 240.44) include the requirement that storage tanks and containers be of sturdy and leakproof construction. The Occupational Safety and Health Administration (OSHA) has written explicit design specifications for tanks and containers used to store flammable and combustible liquids (29 CFR 1910, Subpart H, § 1910.106). EPA proposes to require that facility owners/operators store all of their hazardous waste in tanks and containers which meet the specifications in OSHA's regulations for flammable and combustible liquid containers. OSHA's specifications are designed to ensure that no discharge from containers meeting those specifications will occur. Subpart D standards go beyond OSHA specifications, however, by providing that storage tanks and containers must be constructed of materials which are compatible with the hazardous waste to be contained or must be protected by a liner compatible with the waste to be contained. Comments are requested on this proposal to adopt OSHA's specifications for storage containers.

STANDARDS FOR TREATMENT/DISPOSAL

Section 250.45 prohibits treatment or disposal of certain kinds of waste in landfills, surface impoundments, basins, or landfarms unless the owner/operator can demonstrate that such treatment or disposal will not exceed OSHA's permissible contaminant levels for any listed airborne contaminants (29 CFR § 1910.1000) above such non-point sources and that it will not contribute two or more airborne contaminants to the air in a manner which will cause a specified equation to exceed unity. EPA believes that this prohibition is justified because reactive, ignitable, and volatile waste pose special treatment and disposal problems. The Agency does not know of any way to ensure protection of human health and the environment without imposing this prohibition and attendant Note requirement. Comments on this approach are requested.

Air sampling at non-point sources (e.g., surface impoundments, landfills) is not required in these regulations. Sampling at a non-point source may be made a permit condition, however, in a situation such as this, where the owner/operator is authorized to deviate from a design and operating standard. Air sampling procedures for non-point sources are under development. A manual will be provided by EPA following promulgation of these rules to describe the procedures by which air sampling at non-point sources could be accomplished.

Incineration

The standards in § 250.45-1 apply to hazardous waste incinerators which are defined as combustion devices. One example of an incinerator is a rotary kiln. These regulations also apply to cement kilns, utility boilers, and any other devices which burn hazardous waste by combustion.

The Subpart D performance standards for the incineration of hazardous waste prescribe conditions for destruction of the waste introduced and for control of the resulting emissions. Thus, these proposed rules include specifications on residence time, combustion temperature, excess air, combustion efficiency, scrubber efficiency, and automatic feed cutoffs. Trial burns are required for incinerators burning waste of a type which has not previously been burned in similar incinerators. The results of trial burns must be submitted to the Regional Administrator. Additionally, an emission standard for particulates is given.

EPA sponsored a program to assess processes for destroying chemical waste in commercial scale incinerators, as well as programs to destroy chemical waste in experimental incineration units. EPA has concluded that thermal destruction as a method of treatment of primarily organic chemical waste is both technically feasible and environmentally sound.

The successful utilization of certain cement kilns for destruction of chlorinated organic waste is one of the more important results of EPA's program. Cement kilns use the halogen content of the waste to reduce alkalinity in the cement clinker while using the hydrocarbons as fuel. The BTU value of wate reduces the fuel otherwise required to produce cement. Com-

bustion conditions in the kiln are more rigorous than those in incinerators designed solely for hazardous waste disposal. Thus, the combustion conditions are usually more than adequate for the destruction of halogenated and non-halogenated hydrocarbon fuels, including PCBs.

EPA has received comments that incineration should not be so strictly regulated that already costly incineration facilities become more so. EPA believes that because incineration has been found to be technically feasible and environmentally sound, and because it reduces or eliminates the volume and/or toxicity of waste to be land disposed, it should be actively encouraged.

Comments are requested on all of the regulations prescribed for incineration, particularly the standards for which explicit limiting values are proposed. These include 99 percent halogen removal in emission control systems, 99.9 percent combustion efficiency, 99.99 percent destruction efficiency, 1000° C combustion zone temperature, two-second retention time, 0.08 grains per dry standard cubic foot stack concentration limit for particulates, and the monitoring requirements.

Landfills

The Agency recognizes that the state-of-the-art for predicting discharges or releases from landfills is poor and thus believes that the only option available to ensure protection of human health and the environment is to prescribe design and operating standards which will provide maximum containment in landfills; that is what these standards are designed to do. The Notes accompanying the landfill standards allow the substitution of alternate standards if the permit applicant can demonstrate to the Regional Administrator that the alternative will provide equivalent or better performance than the specified standard.

Maximizing containment minimizes the escape of hazardous waste constituents. Although EPA recognizes that some escape of waste constituents conceivably may not present a hazard to the environment, the Agency is not aware of any method for designing landfills to allow specific constituent release rates, nor is the Agency aware of any method to determine what release rates would be acceptable. The Agency also cannot predict how long hazardous waste in a landfill will remain hazardous. Accordingly, the only viable alternative the Agency sees to fulfill its Section 3004 mandate to protect human health and the environment is to require that landfills be designed, constructed, and operated so that discharges are minimized or do not occur.

The landfill designs in these proposed standards are separated into two categories; different designs are required for different natural geologic and climatic conditions at the selected site. Where site conditions allow, i.e., at those sites which have extensive homogeneous clay deposits and where the evaporation rate exceeds precipitation by at least 20 inches per year, the landfill design must include 10 feet of natural in-place soil with a permeability of $<1\times10^{-7}$ cm/sec. as a liner. No leachate collection is necessary at such sites, provided that a "bathtub" situation is not expected to occur, i.e., provided that liquids would not accumulate in the landfill to the extent that they overflow to the surface or create leaks to the groundwater due to excessive hydraulic head.

Two alternate landfill designs are suggested where the geology and climate of the site location do not allow the use of the design just discussed. Both of these latter designs utilize a liner system(s) in conjunction with leachate collection. The decision of which design to use is entirely up to the owner/operator. Design I consists of a leachate collection and removal system on top of a soil liner or natural soil or mantle barrier at least 5 feet thick with a permeability not greater than 1×10^{-7} cm/sec. Design II is a more complex design involving a double liner, leachate collection and removal, and a leachate detection and removal system. The double liner consists of a soil liner (3 feet thick with a permeability of $<1\times10^{-7}$ cm/sec.) overlying a synthetic membrane (>20 mils thickness with a permeability of $<1\times10^{-7}$ cm/sec.). The leachate collection and removal system must be placed on top of the soil liner to collect and remove leachate generated in the fill. a leachate detection and removal system must be located beneath the synthetic bottom liner. The top soil liner will provide primary containment of the waste and protection for the synthetic membrane liner. The synthetic liner will provide containment of any waste which migrates or leaks through the soil liner. The Agency feels there is, at present, inadequate information available on the long-term reliability of synthetic liners, used by themselves, for waste containment in landfills. Therefore, Design II provides a bottom leachate detection and removal system to ensure complete containment of waste and leachate. The presence of such a bottom leachate detection and removal system also makes unnecessary the need for leachate (zone of aeration) monitoring under the Landfill, and prevents the possibility of groundwater contacting the bottom of the landfill due to the pumping mechanisms inherent in the leachate detection and removal system.

Discouraging the landfilling of liquid hazardous waste is another key element of EPA's strategy for maximizing the containment of waste in landfills. It is important to understand that the regulations do not categorically ban liquids from landfills. Rather, they require that liquids be modified and/or treated to a non-flowing consistency prior to landfilling or *in situ*. The Agency feels it is important to discourage the landfilling of liquid hazardous waste because such waste increases the likelihood that hazardous materials will enter the environment. The hydraulic head created by liquids is the driving force which causes landfills to leak. The Agency wants to prevent hydraulic head from being created; thus, these standards emphasize leachate collection and require that liquids be modified before landfilling.

Comments are requested on all of the regulations for land filling hazardous waste, particularly the standards for which explicit limiting values are proposed. These include the 1.5 meter (5 foot) separation between the bottom of the liner system(s) or natural in-place soil or mantle barrier and the water table, the 150 meter (500 foot) separation from any functioning public or private water supply, the 20 mil minimum thickness and 1×10^{-12} cm/sec. or less permeability of synthetic membrane liners, the design specifications for landfill construction, the criteria for soil liners and natural impermeable soil barriers, the minimum capacity for leachate collection sumps, and the final cover specifications.

Basins and Surface Impoundments

For the purpose of these regulations, a "basin" is any uncovered aboveground device constructed of artificial materials which is used to retain hazardous waste as part of a treatment process. Basins usually have a capacity of less than 100,000 gallons. Examples of basins are open mixing tanks, clarifiers, and settling tanks. In comparison, surface impoundments, which may serve the same purpose, are any natural topographic depressions, artificial excavations, or dike arrangements which: (1) Are used primarily for holding, treatment, or disposal or waste; (2) may be constructed above, below, or partially in the ground or in navigable waters (e.g., wetlands), and (3) may or may not have a permeable bottom and/or sides.

Although basins are a subset of surface impoundments and both may serve the same purposes, i.e., containment of hazardous waste for treatment or retention, the difference in

construction and the attendant environmental problems associated with each require that they be subject to different standards in certain areas. Compare § 250.45-3 standards with § 250.45-4 standards.

Surface impoundments usually are built by constructing earth dikes around the impoundment area. They are usually lined, either with soil (natural in-place soil or reworked/reconstructed soil) or synthetic materials. Liners and dikes are the primary barriers to movement of hazardous waste from the impoundment. The surface impoundment regulations primarily are concerned with ensuring the impermeability, structural stability, and integrity of dikes, soil barriers, and synthetic liners.

In comparison, basins are usually constructed entirely above ground from materials such as concrete or steel. The construction material(s) serves as the primary barrier to movement of waste from such structures. Basins may be lined or unlined, but basin liners serve only to protect against corrosion of, or waste incompatibility with, construction materials. Because of the materials used and the above-ground construction of basins and because they generally are small, most corrosion problems, cracks, or other damage to them that can lead to hazardous waste migration or seepage can be detected through visual inspection. Surface impoundments however, which usually are at least partially underground and which use liners and dikes for containment must be subject to different standards in order to protect groundwater and surface water as hazardous waste constituent migration from surface impoundments usually cannot be detected visually.

Another reason basins are subject to different standards is that they are temporary structures and thus Subpart D standards require that they be removed or decontaminated at facility closure. In comparison, some surface impoundments could be used for permanent disposal of hazardous waste. If they are used for permanent disposal, they must be designed, constructed, and closed according to § 250.45-2 landfill regulations. Even if not used for permanent containment, however, they still must be closed pursuant to specifications which are different than those for basin closure.

Landfarming

Landfarming is an environmentally acceptable method for treating and disposing of some hazardous waste, provided certain operating and design parameters are used. Section 250.45-5 of these proposed rules contains standards for landfarming which EPA believes will protect human health and the environment.

Certain types of waste generally should not be landfarmed. Excessive volatilization, i.e., vaporization, of a hazardous waste, for example, releases contaminants to the air. Therefore, hazardous waste with a vapor pressure exceeding 78 mm Hg at 25°C generally should not be landfarmed. However, the Agency recognizes that it may be possible to safely landfarm hazardous waste with vapor pressures exceeding 78 mm Hg using special methods such as subsurface soil injection, so an exception to this general prohibition is provided. A note accompanying the standard allows volatile wastes to be landfarmed provided the facility owner/operator demonstrates that such a practice will not violate permissible airborne contaminant levels.

Environmentally persistent organics ideally should not be landfarmed in such concentrations that they could not be degraded fairly quickly. However, landfarming of this class of waste is not specifically banned by the regulations because of the difficulty in defining the term "environmentally persistent organics." Such a definition logically should include either a finite half-life or finite time that it takes such substances to be degraded to harmless by-products. Degradation, however, includes reactions of a chemical, biological, and/or photochemical nature. Degradation is dependent on many factors, including the concentration of the compound in the soil, and the definition may need to include this parameter in order to protect human health and the environment. EPA does not have the data needed to make such a definition at this time. Comment is requested on the subject of defining environmentally persistent organics. For example, should we shift the burden to the owner/operator to show that an organic applied in a certain concentration will be degraded within a certain amount of time?

The regulations require that landfarms be located on areas of fine grained soil types (OH, CH, MH, CL, and OL) as defined by the Unified Soil Classification System. These soils were selected for their favorable waste attenuating characteristics. The potential for attenuation is based on surface area per unit weight and silt/clay/colloid composition. Use of alternate soil types is allowed, provided they prevent vertical migration of hazardous constituents. Comment is requested concerning the appropriateness of specifying soil types and the suitability of the soils specified. Suggestions on alternate (or additional) soil types and soil classification systems, with appropriate supporting data, are solicited.

The landfarming regulations require extensive soil monitoring to detect and provide time for preventing the migration of hazardous waste below the zone of incorporation, i.e., the depth to which the soil on a landfarm is plowed or tilled to receive waste. Because soil monitoring will detect migration long before groundwater is threatened, groundwater monitoring is not required. The Agency also is not requiring groundwater monitoring because we are not aware of any documented case of groundwater pollution resulting from hazardous waste landfarming. The Agency requests comment on whether groundwater monitoring is desirable at landfarms, and if so, why.

Soil conditions at a landfarm are determined by soil monitoring. Soil monitoring consists of taking core samples, sample analysis, and statistical comparison of analytical results to previously established background soil conditions. The soil monitoring regulations require one soil core per acre semi-annually. The depth of the core is three times the depth of the zone of incorporation. The bottom one-third of the soil core is quantitatively analyzed to determine if there is a significant increase, above background, in the concentration of constituents that make the waste hazardous. A significant increase over background is considered unacceptable and remedial actions are required. Comments are requested on all aspects of the soil monitoring requirements. Specific information is needed on the adequacy, statistical or otherwise, of the number, depth, and frequency of soil cores required. Suggestions for alternate approaches are requested, e.g., a formula for the number of cores to be taken per unit area, based on landfarm size and representative soil types. Specific information and suggestions are also requested for the purpose of defining, via statistical methods, "significant increase above background." The information submitted should reflect dependence of the defining statistical method on the method developed for determining the number of soil cores to be taken per unit area.

One objective of these proposed rules on landfarming is to prevent the conversion of huge tracts of productive land to land with limited potential for future use. Comments on whether this is a reasonable Federal objective under RCRA are requested. Meeting this objective requires that the soil of the treated area(s) of a landfarm be returned to it previously existing (i.e., pre-landfarming) condition when landfarming operations cease. New facilities will utilize soil monitoring background data developed prior to beginning operation for this purpose. Existing facilities must use the background soil conditions of similar local soils as the basis for comparison unless site

data exist that establish background conditions for the soil of the treated area(s) prior to any waste application.

The soil in a landfarm functions as a filter medium which, when subject to application of waste containing non-degradable contaminants, eventually becomes loaded with such contaminants, especially heavy metals. Left unattended, the contaminants of the soil-filter medium will eventually be carried away by surface run-off, or will migrate to groundwater due to natural changes in physical and chemical soil parameters. Therefore, the contaminated soil-filter medium, if it would be considered a hazardous waste under Subpart A, must either be decontaminated or disposed of as a hazardous waste. Comments are requested, though, on whether under certain specified circumstances the soil-filter medium could be left as it is at the end of operations without the potential for human health or environmental damage.

Growth of food chain crops upon hazardous waste landfarms is prohibited. The purpose of this prohibition is to protect against human consumption of toxic materials that may adhere to or be taken up by such crops. The Agency recognizes, however, that certain hazardous waste probably could be safely applied to land on which food chain crops are grown if certain management practices are employed. For example, for waste similar to sewage sludge from publicly owned treatment works, EPA may be able to develop mangement controls (control of application rates, soil/waste pH, etc.) similar to those we are currently developing for such sludges under Section 4004 of this Act and Section 405 of the Clean Water Act which will ensure protection of human health.

EPA has considerable data on the effect that POTW sewage sludge has on food crops and thus we can develop rules for landfarming POTW sludge which will allow growth of food chain crops on such land but, the Agency has little or no information on the effects of other types of sludge on food crops. Given the possibility of high levels of toxic constituents in the hazardous waste that might be landfarmed under these regulations, the absence of adequate information on crop uptake of the contaminants in these wastes, and the lack of data on management control that would be necessary to allow growth of food crops, the Agency deems a general prohibition on the growth of food crops on such land warranted. Comments and data are requested that would assist the Agency in developing regulations that would provide for the controlled application of hazardous waste to food chain croplands.

Chemical, Physical, and Biological Treatment Facilities

The section of the proposed Subpart D standards which specifically addresses chemical, physical, and biological treatment facilities (§ 250.45-6) deserves special emphasis. Treatment is defined in Section 1004(34) of RCRA to include any process designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, render it nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume.

Although this section in the regulation is relatively short, it covers a large and important facet of hazardous waste management. The Agency prefers chemical, physical, and biological treatment rather than disposal techniques such as landfilling as a means of waste management because such treatment can detoxify a waste and thus reduce the potential for human health or environmental damage. Treatment also reduces the burden that present practices place on future resources.

The reason why these standards are not extensive is that treatment techniques vary widely and thus it is very difficult to write design and operating standards which apply to all possible chemical, physical, and biological treatment systems. Furthermore, the Agency wants to allow flexibility so that owners and operators of treatment facilities can match treatment processes with waste types. Treatment processes should be tailored to fit the individual requirements of the facility and hazardous waste being handled. The advantages of writing standards which allow a facility operator to tailor his processes to the waste being handled are that such standards allow flexibility in the construction of treatment facilities thereby encouraging design innovations, and they encourage treatment by not regulating it extensively.

If in treating hazardous waste, facilities produce residues which are not hazardous according to Subpart A standards, such residues are not subject to Subtitle C regulations. Thus, the treatment facility would be subject to Subtitle C regulations and need a permit because it is treating hazardous waste, but any non-hazardous residuals such as chemically fixed waste, or neutralized acid or alkaline waste, do not have to be handled at a permitted facility, nor do they need a manifest if shipped offsite. One example of a residue which may be non-hazardous is the ash from a hazardous waste incinerator.

Commercial products

EPA knows of several instances where waste which is likely to be hazardous under Subpart A rules is being used to make commercial products. Hazardous waste can be used, for example, to make soil conditioners and fertilizers, fuel oil, and construction products. EPA believes it must regulate hazardous waste which is used to make commercial products when such regulation appears necessary to protect human health and the environment. Except for radioactive special waste, there currently are no Subpart D standards covering commercial products made from hazardous waste. The Agency has, however, considered and is continuing to consider developing standards for such reuse of hazardous waste. We believe such protection probably could best be achieved by imposing standards on product quality control.

One approach the Agency has considered is to require that any product made from hazardous waste not pose a threat to human health or the environment greater than the threat posed by the virgin product it replaces. Commercial products made from a hazardous waste which met this criterion which then cease being hazardous waste for purposes of Subtitle C of RCRA and thus would no longer be subject to Subtitle C regulations. There are probably other viable approaches as well.

Comments on feasible regulatory approaches for commercial products made from a hazardous waste are requested. In addition, the Agency requests any data that are available which we might use to support future standards in this area.

SPECIAL WASTE STANDARDS

In the course of preparing Subtitle C regulations under RCRA, the Agency realized that some portions of certain very large volume wastes will be hazardous under Subpart A standards and thus will come within the purview of the Subtitle C regulatory scheme. These wastes are cement kiln dust, utility waste (fly ash, bottom ash, and scrubber sludge), phosphate mining and processing waste, uranium and other mining waste, and gas and oil drilling muds and oil production brines.

The Agency has very little information on the composition, characteristics, and the degree of hazard posed by these wastes, nor does the Agency yet have data on the effectiveness of current or potential waste management technologies or the technical or economic practicability of imposing the Subpart D standards on facilities managing such waste.

The limited information the Agency does have indicates that such waste

occurs in very large volumes, that the potential hazards posed by the waste are relatively low, and that the waste generally is not amendable to the control techniques developed in Subpart D. The Agency is calling such high-volume hazardous waste "special waste" and is proposing to regulate it with special standards.

The following table provides some information about those wastes which, when hazardous, the Agency proposes to regulate with special standards. With two exceptions, EPA does not know how much of the total amount of waste generated in these categories is, in fact, hazardous and thus subject to Subtitle C regulations. Only waste which is hazardous under Subpart A standards, however, is "special waste" under this Subpart. Any portion of the waste on the following table which is not hazardous under Subpart A standards is not regulated at all under Subtitle C and thus is not "special waste."

Special Waste

[Metric tons/yr]

Waste	Quantity	Possible hazard
Cement Kiln Dust	12 million*	Alkalinity and heavy metals
Utility Waste (fly ash, bottom ash, scrubber sludge).	66 million*	Heavy metals (trace)
Phosphate Mining, Beneficiation, and Processing Waste.	400 million	Radioactivity (low levels)
Uranium Mining	150 million	Radioactivity
Other Mining Waste	~[2] billion*	Heavy metals, acidity
Gas and Oil Drilling Muds and Oil Production Brines.	5 million*	Alkalinity, heavy metals, toxic organics, salinity

NOTE.—It is not yet known how much of the total quantity of waste marked with an asterisk (*) is, in fact, hazardous waste.

A proposed rulemaking will be published at a later date regarding the treatment, storage, and disposal of special waste. The Agency will be developing additional information in order to write substantive standards for special waste, and hereby solicits information and comment from the public which may assist the Agency in developing its proposals. For the time being, all facilities which handle special waste will be exempted from the storage standards (§ 250.44) and the treatment and disposal standards (§ 250.45). In order to provide some protection from special waste and to collect additional information on special waste streams, EPA has prepared special standards for each type of special waste. Many of the general facility standards in § 250.43 are prescribed for special waste. In addition, some special waste must meet standards which are designed to control potential problems unique to that waste.

Dredge Spoils

Certain dredge spoils may prove to be hazardous and thus subject to these regulations. The Agency has little information regarding hazard levels and potential threats to human health and the environment associated with on-land disposal of these wastes. Information on acceptable waste management techniques and associated economics is also limited. Therefore, EPA is considering designating dredge spoils as a special waste under Section 250.46, thus deferring most requirements pending further study. As an alternative, the agency is considering exempting these wastes from RCRA requirements and covering them solely via regulation under section 404 of the Clean Water Act. Comments on how these wastes should be managed are invited.

Infectious Waste

EPA has received comments from the U.S. Army Environmental Hygiene Agency (USAEHA) that infectious waste defined as a hazardous waste pursuant to Subpart A should be considered a special waste and allowed to be disposed of at a landfill facility which does not meet all of the Subpart D landfill standards. USAEHA also suggested that certain infectious waste could be adequately managed at facilities that meet the Section 4004 "Criteria for Classification of Solid Waste Disposal Facilities" proposed under Subtitle D of RCRA (43 FR 4914). The U.S. Army Environmental Hygiene Agency agrees, however, that certain infectious waste, because of the extreme hazard associated with it, should go to facilities with a demonstrated capability to manage such waste.

EPA believes the above proposal has some merit, and is considering various administrative and regulatory options which we could employ to accomplish it. Consideration is being given to designating all or certain categories of infectious waste which is hazardous under Subpart A as "special waste." The Agency would then write different Subpart D regulations for such infectious waste.

The Agency invites comments from the public on this issue.

OPERATING AND DESIGN MANUALS AND INDUSTRY-SPECIFIC MANUALS

To assist with the implementation of these regulations, the Agency is preparing a number of detailed manuals.

The operating and design manuals will provide much more detailed information on waste management technologies than that given in the regulations. The manuals will cover acceptable practices for different types of treatment, storage, and disposal facilities, including landfills, landfarms, storage facilities, incinerators, chemical, physical, and biological treatment facilities, and surface impoundments. Manuals on monitoring and training also are being developed. These manuals will be organized to correspond closely with the regulations, but will be guidance manuals with no regulatory effect. The Agency expects to issue the manuals prior to final promulgation of the Subtitle C regulations.

The industry-specific guidance manuals will help various industries understand how the regulations apply to them. They will be issued as concise brochures. Sample diagrams and terms meaningful to the particular industry will be used. Eventually, manuals will be prepared for all major industrial categories. Initially, though, these manuals will be prepared for industries comprised primarily of small companies which can least afford to devote much effort toward understanding these regulations. The first industry-specific guidance manuals are being prepared for the electroplating and battery manufacturing industries.

OTHER ISSUES

Definition of Aquifer

As defined in § 250.41, an aquifer means any water-bearing stratum or unit which, due to its ability to store and transmit water, is capable of yielding a useable quantity of groundwater to a well or spring. The key concept in this definition is "a useable quantity of groundwater." EPA has received many inquiries about how one determines a useable quantity. EPA, at this time, has not decided on what basis to make this determination (it could, for example, be 600 gal/day which is enough for a single household of 4 people) since relatively low yield aquifers can still be useable in certain

circumstances. Comment is requested on the current definition of aquifer, specifically on how the Agency should define a "useable quantity" of water.

Test of Significance

The term "significant" or "significantly" as used in these proposed rules has not always been defined in quantitative terms. A statistical test or tests to quantitatively define "significant" will be developed where the Agency believes it is necessary and will be cited or referenced where appropriate in the final rules. One method specified in these rules is the use of Student's t-test.

Comment and information from the public regarding appropriate statistical methods or tests to apply in these regulations where the term "significant" is used, but no quantification is made would be appreciated.

INTEGRATION WITH OTHER ACTS

Underground Injection and Ocean Disposal

The disposal of hazardous waste by underground injection and ocean disposal is not covered by these proposed rules where these activities are regulated under the Safe Drinking Water Act (SDWA), and the Marine Protection, Research, and Sanctuaries Act (MPRSA). Most underground injection facilities, however, involve aboveground storage of waste prior to injection. Some of these facilities will have to comply with both the Subpart D (RCRA) standards and the Underground Injection Control (UIC) regulations to be promulgated under the SDWA. The UIC regulations also will include closure procedures for underground injection wells. Similarly, most ocean disposal operations involve onshore facilities which must comply with the Subpart D (RCRA) standards.

NPDES Permitted Facilities

These proposed rules apply to owners/operators of all treatment, storage, and disposal facilities which receive hazardous waste. Accordingly, they may apply to some National Pollutant Discharge Elimination System (NPDES) permitted facilities, such as publicly or industrially owned waste water treatment plants which handle hazardous waste. The regulatory considerations for publicly owned facilities differ from those for industrially owned facilities, and accordingly are discussed separately below.

These hazardous waste control regulations apply only to the transport of hazardous waste directly by truck or rail to publicly owned treatment works (POTW). Once a hazardous waste, transported to a POTW, has been mixed with sewage, the resulting mixture is no longer considered a solid waste under RCRA. However, the General Pretreatment Regulations (43 FR 27736, June 26, 1978) and the specific pretreatment standards (40 CFR Chapter I, Subchapter N) regulate these materials prior to their introduction by industry into the municipal system, during transport to the publicly owned treatment works, and their treatment and disposal at the treatment works. The pretreatment requirements apply regardless of whether the materials are discharged into municipal sewers or are transported by truck or rail to the publicly owned treatment works. Therefore, these proposed hazardous waste rules are in addition to the pretreatment requirements and only apply to the handling of hazardous waste during delivery to a POTW by truck or rail and before it is mixed with sewage.

Industrially owned waste water treatment plants which discharge directly to surface waters are currently permitted under the NPDES program. These NPDES permits apply only to surface discharges to navigable waters. Since these facilities frequently involve surface impoundments which receive and treat hazardous waste, the possibility exists for subsurface discharges and/or air emissions which are harmful to human health and the environment. Thus, if these impoundments receive hazardous waste, as defined in Subpart A, these facilities are subject to these proposed rules in addition to the current NPDES program. (It should be noted that any hazardous waste (sludge) generated by such industrial wastewater treatment plants is also subject to these regulations.)

Similarly, industrially owned wastewater treatment plants which discharge to publicly owned treatment works are currently regulated by pretreatment standards. Where these facilities involve surface impoundments for hazardous waste, as defined in Subpart A, such facilities are subject to these proposed rules in addition to the pretreatment standards.

Several commenters to previous drafts of these proposed rules have expressed concern that it is inappropriate to apply RCRA Subtitle C technical and other standards to hazardous waste inpoundments in an industrial wastewater treatment train subject to pretreatment standards and/or a NPDES permit, especially for existing impoundments which show no signs of leaching to groundwater or of emissions to the air. In response to these comments, it should be noted that these proposed rules allow the owner/operator of any existing hazardous waste impoundment which does not meet all the design and operating standards to show that such an impoundment provides the same or greater degree of performance (e.g., containment) as an impoundment which meets the standards. Thus, if an owner/operator of an existing hazardous waste impoundment can show by monitoring and other means that the impoundment does not leak or exceed air emission requirements, that impoundment may be issued a permit even if it does not meet all the design and operating standards specified herein. The Agency solicits comment on this point with respect to existing hazardous waste impoundments.

Integration with BAT/Pretreatment Standards

Best Available Technology (BAT) toxic effluent guidelines and pretreatment standards are being developed for specific industries under the Clean Water Act during the same time frame as these proposed rules. The Agency may review the Subpart D facility standards on a case-by-case basis for those industries for which BAT and pretreatment standards are being developed in order to ensure that the two programs together provide the greatest environmental protection. Such evaluation would include consideration of compliance costs. At present, however, the proposed regulations apply to all industries, except as specified in § 250.46.

Clean Air Act

Owners and operators of hazardous waste management facilities must comply with all applicable standards promulgated under the Clean Air Act. Where applicable, new source performance standards for industrial incinerators promulgated under Section 111 of the Clean Air Act supersede emission standards for hazardous waste incineration established in these Subpart D rules.

Toxic Substances Control Act

Final rules regarding disposal and marking requirements for polychlorinated biphenyls (PCB's) were promulgated on February 17, 1978, pursuant to Section 6(e) of the Toxic Substances Control Act (TSCA). Those rules are intended to protect the environment from further contamination resulting from improper handling and disposal of PCB's.

The Agency is now considering various options for the integration of the Subpart D standards and TSCA rules for disposal of PCB's and other special chemicals. The options with respect to integration of the PCB regulations with the Subpart D standards are:

(1) Publish two sets of rules which are totally independent;

(2) Specify that the PCB rules supersede the Subpart D regulations in areas of overlap;

(3) Amend the PCB rules to make them identical with the Subpart D standards in areas of overlap. Administer the two rules jointly, citing both authorities (TSCA and RCRA);

(4) Merge the PCB rules with the Subpart D standards and co-promulgate them;

(5) Specify that Subpart D regulations are independent of the PCB rules, but integrate the permitting process.

The Agency's current position is that the PCB disposal rules should be merged with the Subpart D regulations and co-promulgated (Option 4). This will allow integrated implementation via RCRA permits and EPA/State hazardous waste programs.

Similar options were considered for other specific toxic chemical disposal regulations which could be promulgated under either TSCA or RCRA authority. The Agency's current plan is to amend Subpart D regulations when necessary in the future when the Agency believes that special requirements in addition to the Subpart D design and operating standards are necessary in order for a specific toxic chemical waste to be properly disposed of.

The Agency requests comment on the above options, and the position taken by the Agency with respect to this issue.

COMPLIANCE AND PENALTIES

Failure to comply with these regulations or with permit conditions may result in civil and/or criminal penalties of as much as $25,000 a day for each day of violation, as specified in Section 3008 of the Act. A facility owner and/or operator must comply fully with all applicable regulations in order to receive a permit under Subpart E or the permit must contain a compliance schedule for modifying the facility to conform to the Subpart D standards.

BACKGROUND DOCUMENTS

Twenty-seven (27) background documents have been developed to support these proposed rules. All of these documents are in draft form, and are subject to change as new data and information are received. These background documents basically correspond to each section of the proposed rules. Copies of these documents will be available for review in the EPA Regional Office libraries and the EPA library reading room, Room 2404, Waterside Mall, 401 "M" Street, S.W., Washington, D.C. Comments on these documents are invited.

A list of these background documents is as follows:

(1) Groundwater Human Health and Environmental Standard

(2) Surface Water Human Health and Environmental Standard

(3) Air Human Health and Environmental Standard

(4) General Facility Standards

(5) General Site Selection

(6) Security

(7) Contingency Plan and Emergency Procedures

(8) Training

(9) Manifest System, Recordkeeping and Reporting

(10) Visual Inspections

(11) Closure and Post-Closure

(12) Groundwater and Leachate Monitoring

(13) Financial Requirements

(14) Standards for Storage

(15) Standards for Treatment/Disposal

(16) Incineration

(17) Landfills

(18) Surface Impoundments

(19) Basins

(20) Landfarms

(21) Chemical, Physical, and Biological Treatment Facilities

(22) Cement Kiln Dust Waste

(23) Utility Waste

(24) Phosphate Rock Mining, Beneficiation, and Processing Waste

(25) Uranium Mining Waste

(26) Other Mining Waste

(27) Gas and Oil Drilling Muds and Oil Production Brines

Economic, Environmental, and Regulatory Impacts

In accordance with Executive Orders 11821, as amended by Executive Order 11949, and OMB Circular A-107, EPA policy as stipulated in 39 FR 37419, October 21, 1974, and Executive Order 12044, respectively, analyses of the economic, environmental, and regulatory impacts are being performed for the entirely of Subtitle C, Hazardous Waste Management. Drafts of these analyses have been completed and will be available for review by January 8, 1979, in the EPA Regional Office libraries and the EPA library reading room, Room 2404, Waterside Mall, 401 M Street, S.W., Washington, D.C. Final versions of these documents will be issued at the time of promulgation.

Dated: December 11, 1978.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Title 40, CFR, Part 250 by adding a new Subpart D consisting of §§ 250.40-250.46; Subpart E consisting of § 250.50; and Subpart F consisting of § 250.60 as follows:

PART 250—HAZARDOUS WASTE GUIDELINES AND REGULATIONS

Subpart D—Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Sec.
250.40 Purpose, scope, and applicability.
250.41 Definitions.
250.42 Human health and environmental standards.
250.42-1 Groundwater human health and environmental standard.
250.42-2 Surface water human health and environmental standard.
250.42-3 Air human health and environmental standard.
250.43 General facility standards.
250.43-1 General site selection.
250.43-2 Security.
250.43-3 Contingency plan and emergency procedures.
250.43-4 Training.
250.43-5 Manifest system, recordkeeping, and reporting.
250.43-6 Visual inspections.
250.43-7 Closure and post-closure.
250.43-8 Groundwater and leachate monitoring.
250.43-9 Financial requirements.
250.44 Standards for storage.
250.44-1 Storage tanks.
250.44-2 Containers.
250.45 Standards for treatment/disposal.
250.45-1 Incineration.
250.45-2 Landfills.
250.45-3 Surface impoundments.
250.45-4 Basins.
250.45-5 Landfarms
250.45-6 Chemical, physical, and biological treatment facilities.
250.46 Special waste standards.
250.46-1 Cement kiln dust waste.
250.46-2 Utility waste.
250.46-3 Phosphate rock mining, beneficiation, and processing waste.
250.46-4 Uranium mining waste.
250.46-5 Other mining waste.
250.46-6 Gas and oil drilling muds and oil production brines.
FIGURE 1—Treatment, storage, and disposal facility (TSDF) report.
APPENDIX I—Incompatible waste.
APPENDIX II—EPA interim primary and proposed secondary drinking water standards
APPENDIX III—Permissible exposure levels for airborne contaminants.
APPENDIX IV—Methods for determining soil pH.

Subpart E—Permits for Treatment, Storage, or Disposal of Hazardous Waste

250.50 Reference.

Subpart F—Guidelines for Authorized State Hazardous Waste Programs

250.60 Reference.

AUTHORITY: Secs. 1006, 2002(a), 3004, 3005, and 3006, Pub. L. 94-580, 90 Stat. 2802, 2804, 2807 (42 U.S.C. 6905, 6912, 6924), 2808 (42 U.S.C. 6925), and 2809 (42 U.S.C. 6926).

Subpart D—Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

§ 250.40 Purpose, scope, and applicability.

(a) The purpose of the requirements in this Subpart is to establish mini-

mum national standards defining acceptable hazardous management practices applicable to owners and operators of facilities which treat, store, and dispose of hazardous waste.

(b) In order to receive EPA approval under Subpart F (State Program Requirements), a State must demonstrate that its program contains standards that are equivalent in degree of control to, and at least as stringent as, the standards contained in this Subpart. However, even where a State program is approved, EPA retains independent authority to enforce the requirements in this Subpart pursuant to Section 3008 of the Act.

(c) Except as otherwise provided in this paragraph, an owner/operator of a facility that stores, treats, and/or disposes of hazardous waste shall comply with all of the applicable requirements of §§ 250.42, 250.43, 250.44, and 250.45 unless he is in compliance with a current and effective permit issued by EPA pursuant to Subpart E.

(1) An owner/operator of a facility that treats, stores, and/or disposes of any of the special wastes covered by § 250.46 shall comply with the applicable requirements of § 250.46 with respect to the special waste.

(2) During the period of interim status, as identified in Section 3005 of the Act, an owner/operator of a facility that treats, stores, and/or disposes of hazardous waste shall, at a minimum, comply with the following requirements, as applicable, for active portions of the facility:

(i) Security requirements under § 250.43-2;

(ii) Contingency Plan and Emergency Procedures requirements under § 250.43-3;

(iii) Training requirements under § 250.43-4;

(iv) Manifest System, Recordkeeping, and Reporting requirements under § 250.43-5;

(v) Visual Inspection requirements under § 250.43-6;

(vi) Closure and Post-Closure requirements under § 250.43-7 (a,b,d,e,f,g,h,j,k,l, and m);

(vii) Groundwater and Leachate Monitoring requirements under § 250.43-8 (c) and (d), where a facility has a groundwater and/or leachate monitoring system in place.

(viii) Financial Requirements in lieu of § 250.43-9 as follows:

(A) On the effective date of these regulations, each owner/operator of a facility receiving hazardous waste shall provide a cash deposit equal to the entire amount of the estimated closure costs of the facility in a trust fund designated "in trust for closure of (facility name)". Upon granting of a permit under Subpart E, this fund will be incorporated into the required fund under § 250.43-9(a)(1)(ii). Any excess shall be refunded at that time. Should closure occur prior to permitting under Subpart E, upon completion of all closure requirements provided under this section, any excess funds shall be reimbursed to the owner/operator upon written concurrence by the Regional Administrator.

(B) On the effective date of these regulations, each owner/operator of a disposal facility receiving hazardous waste shall estimate the cost of complying with the post-closure monitoring and maintenance requirements under § 250.43-7, and shall establish a fund in accordance with this estimate in the same manner as is prescribed in § 250.43-9(a)(2)(ii). Upon granting of a permit under Subpart E, this fund will be incorporated into the fund required under § 250.43-9(a)(2)(ii) and the payment rates thereon shall be adjusted as may be appropriate. Should closure occur prior to permitting under Subpart E, reimbursement of post-closure costs shall be in accordance with § 250.43-9(a)(2)(iii).

(C) Regulations under § 250.43-9(a)(3) shall apply during interim status.

(D) If the owner/operator can demonstrate that full compliance with the closure and post-closure financial responsibility requirements of paragraphs (A) and (B) above would render the facility owner/operator insolvent, the Regional Administrator may consider the financial status of the facility to be a mitigating factor, and may enter into a written agreement with the owner/operator for partial compliance with the financial responsibility requirements of this section.

(ix) Standards for Storage requirements under § 250.44(b), (h), and (i).

(x) Storage Container requirements under § 250.44-2(a), (b), (d), (f), and (g).

(xi)0 Standards for Treatment/Disposal requirements under § 250.45(a) and (b).

(xii) Landfill requirements under § 250.45-2(b) (3, 4, and 5), (c), and (d).

(xiii) Surface Impoundment requirements under § 250.45-3(d) (3, 5, and 6), and (e).

(xiv) Basin requirements under § 250.45-4(h).

(xv) Landfarm requirements under § 250.45-5 (g), and

(xvi) Chemical, Physical, and Biological Treatment Facilities requirements under § 250.45-6(i).

(3) Owners/operators of publicly owned treatment works (POTW) which receive hazardous waste by truck or rail are exempt from all requirements of this Subpart except the requirements of § 250.43-5(a).

(4) Except as otherwise provided in paragraphs (3) and (5), every facility owner/operator shall apply to EPA for an identification code before commencing hazardous waste treatment, storage, or disposal activities in accordance with the procedures of §§ 250.822 and 250.823 in Subpart G.

(5) An owner/operator of a solid waste management facility which only receives hazardous waste from persons subject to § 250.29 in Subpart B is exempt from the requirements of this Subpart.

(6) An owner/operator (1) of any facility treating, storing, or disposing of solid waste which receives waste which is not manifested under Subpart B of this Part, and is not certified under Subpart C as coming from generators covered by § 250.29, and is in a quantity greater than 100 kilograms, and (2) who knows or has reason to believe that the waste is or may be hazardous shall report to the Regional Administrator the names, addresses and identification numbers (if known) of the generator and the transporter of the waste.

(d) The Regional Administrator shall use the requirements of this Subpart as the basis for:

(1) Assessing the equivalency of a State hazardous waste program in making determinations to approve such programs pursuant to Subpart F, and

(2) Issuing, reissuing or revising permits pursuant to Subpart E.

(i) The Regional Administrator shall incorporate each of the applicable requirements of §§ 250.43, 250.44, and 250.45 as conditions in each permit except:

(A) where the Regional Administrator determines that the requirements will not achieve compliance with the requirements of § 250.42, in which case, the Regional Administrator shall substitute and incorporate in the permit more stringent requirements which will achieve compliance with the requirements of § 250.42, or

(B) where the Regional Administrator substitutes and incorporates an alternative requirement in the permit in accordance with paragraph (ii).

(ii) The Regional Administrator may substitute and incorporate an alternative requirement in the permit only if the alternative requirement:

(A) Is authorized by a note immediately following the requirement for which it is to be substituted, and

(B) Provides the same or greater degree of performance as the requirement for which it is to be substituted pursuant to criteria prescribed in the note.

(iii) For permits that the Regional Administrator has issued, he shall use the requirements of this Subpart as a basis for reopening permits for revision and reissuance in accordance with Subpart E, where he has evidence showing that compliance with the requirements of this Subpart.

(3) Bringing enforcement actions against a facility that:

(i) Has a State issued permit or license pursuant to authority under Subpart F, but where there is evidence that compliance with such permit or license will not provide compliance with the standards of this Subpart, or

(ii) Does not have a permit or a pending permit application.

(e) The requirements contained in these regulations do not apply to the following:

(1) Solid or dissolved materials in domestic sewage;

(2) Solid or dissolved materials in irrigation return follows;

(3) Industrial discharges which are point sources subject to permits under Section 402 of the Clean Water Act;

(4) Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended;

(5) Point source air emissions regulated under the authority of Sections 111 and 112 of the Clean Air Act, as amended;

(6) The disposal of hazardous waste via underground injection pursuant to Safe Drinking Water Act (SDWA) regulations; or

(7) The disposal of hazardous waste via ocean disposal pursuant to Marine Protection, Research, and Sanctuaries Act (MPRSA) regulations.

§ 250.41 Definitions.

(a) When used in this Subpart, the following terms have the meanings given in the Act:

(1) "Administrator"—Sec. 1004(1)

(2) "disposal"—Sec. 1004(3)

(3) "Federal Agency"—Sec. 1004(4)

(4) "hazardous waste management"—Sec. 1004(7)

(5) "open dump"—Sec. 1004(14)

(6) "person"—Sec. 1004(15)

(7) "resource recovery"—Sec. 1004(22)

(8) "sanitary landfill"—Sec. 1004(26)

(9) "sludge"—Sec. 1004(26A)

(10) "solid waste"—Sec. 1004(27)

(11) "solid waste management"—Sec. 1004(28)

(12) "solid waste management facility"—Sec. 1004(29)

(13) "State"—Sec. 1004(31)

(14) "storage"—Sec. 1004(33)

(15) "treatment"—Sec. 1004(34)

(b) Other terms used in this Subpart have the following meanings:

(1) "Act" means the Resource Conservation and Recovery Act of 1976, Public Law 94-580.

(2) "Active Fault Zone" means a land area which, according to the weight of the geologic evidence, has a reasonable probability of being affected by movement along a fault to the extent that a hazardous waste facility would be damaged and thereby pose a threat to human health and the environment.

(3) "Active Portion" means that portion of a facility where treatment, storage, or disposal operations are being conducted. It includes the treated area of a landfarm and the active face of a landfill, but does not include those portions of a facility which have been closed in accordance with the facility closure plan and all applicable closure standards.

(4) "Annular Space" means the space between the bore hole and the casing. A bore hole is the man-made hole in a geological formation for installation of a monitoring well.

(5) "Aquifer" means a geologic formation, group of formations, or part of a formation that is capable of yielding useable quantities of groundwater to wells or springs.

(6) "Attenuation" means any decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled resulting from a physical, chemical, and/or biological reaction or transformation occurring in the zone of aeration or zone of saturation.

(7) "Basin" means any uncovered device constructed of artificial materials, used to retain wastes as part of a treatment process, usually with a capacity of less than 100,000 gallons. Examples of basins include open mixing tanks, clarifiers, and open settling tanks.

(8) "Cell" means a portion of waste in a landfill which is isolated horizontally and vertically from other portions of waste in the landfill by means of a soil barrier which meets criteria specified in Section 250.45-2(b) (14).

(9) "Chemical Fixation" means the treatment process involving reactions between the waste and certain chemicals, resulting in solids which encapsulate, immobilize or otherwise tie up hazardous components in the waste so as to minimize the leaching of hazardous components and render the waste nonhazardous or more suitable for disposal.

(10) "Close Out" means the point in time at which facility owners/operators discontinue operation by ceasing to accept hazardous waste for treatment, storage, or disposal.

(11) "Closed Portion" means that portion of a facility which has been closed in accordance with the facility closure plan and all applicable closure requirements in this Subpart.

(12) "Closing Date" means the date which marks the end of a reporting quarter or reporting year.

(13) "Closure" means the act of securing a facility pursuant to the requirements of Section 250.43-7.

(14) "Closure Procedures" means the measures which must be taken to effect closure in accordance with the requirements of Section 250.43-7 by a facility owner/operator who no longer accepts hazardous waste for treatment, storage, or disposal.

(15) "Coastal High Hazard Area" means the area subject to high velocity waters, including, but not limited to, hurricane wave wash or tsunamis as designated on Flood Insurance Rate Maps (FIRM) as zone VI-30.

(16) "Combustion Zone" means that portion of the internal capacity of an incinerator where the gas temperatures of the materials being burned are within 100°C of the specified operating temperature.

(17) "Common Code" means the unique code assigned by the Chemical Abstract Services to each EPA hazardous waste and to each DOT hazardous waste material listed in Section 250.14 of Subpart A.

(18) "Container" means any portable enclosure in which a material can be stored, handled, transported, treated, or disposed.

(19) "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of man's activities.

(20) "Contigency Plan" means an organized, planned, and coordinated course of action to be followed in the event of a fire, explosion, or discharge or release of waste into the environment which has the potential for endangering human health or the environment.

(21) "Cover Material" means soil or other material that is used to cover hazardous waste.

(22) "Delivery Document" means a shipping paper, bill of lading, waybill, dangerous cargo manifest, or other shipping document, used in lieu of the original manifest to fulfill the recordkeeping requirement of § 250.33 of Subpart C.

(23) "Direct Contact" means the physical intersection between the lowest part of a facility (e.g., the bottom of a landfill, a surface impoundment liner system or a natural in-place soil barrier, including leachate detection/removal systems) and a water table, a saturated zone, or an underground drinking water source, or between the active portion of a facility and any navigable water.

(24) "Disposal Facility" means any facility which disposes of hazardous waste.

(25) "Endangerment" means the introduction of a substance into groundwater so as to:

(i) Cause the maximum allowable contaminant levels established in the National Primary Drinking Water standards in effect as of the date of promulgation of this Subpart to be exceeded in the groundwater; or

(ii) Require additional treatment of the groundwater in order not to exceed the maximum contaminant levels established in any promulgated National Primary Drinking Water regulations at the point such water is used for human consumption; or

(iii) Reserved (Note: Upon promulgation of revisions to the Primary Drinking Water Standards and National Secondary Drinking Water Standards under the Safe Drinking Water Act and/or standards for other specific pollutants as may be appropriate).

(26) "EPA" means the U.S. Environmental Protection Agency.

(27) "EPA Region" means the States and other jurisdictions in the ten EPA Regions as follows:

Region I—Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.
Region II—New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.
Region III—Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.
Region IV—Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.
Region V—Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.
Region VI—New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.
Region VII—Nebraska, Kansas, Missouri, and Iowa.
Region VIII—Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.
Region IX—California, Nevada, Arizona, Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
Region X—Washington, Oregon, Idaho, and Alaska.

(28) "Facility" means any land and appurtenances, thereon and thereto, used for the treatment, storage, and/or disposal of hazardous waste.

(29) "Fertilizer" means any substance containing one or more recognized plant nutrient(s) which is used for its plant nutrient content, and which is designed for use or claimed to have value in promoting plant growth.

(30) "Final Cover" means cover material that is applied upon closure of a landfill and is permanently exposed at the surface.

(31) "Five-Hundred-Year Flood" means a flood that has a 0.2 percent or one in 500 chance of recurring in any year. In any given 500-year interval, such a flood may not occur, or more than one such flood may occur.

(32) "Flash Point" means the minimum temperature at which a liquid or solid gives off sufficient vapor to form an ignitable vapor-air mixture near the surface of the liquid or solid. An ignitable mixture is one that, when ignited, is capable of the initiation and propagation of flame away from the source of ignition. Propagation of flame means the spread of the flame from layer to layer independent of the source of ignition.

(33) "Food Chain Crops" means tobacco; crops grown for human consumption; or crops grown for pasture, forage or feed grain for animals whose products are consumed by humans.

(34) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal areas of the mainland and off-shore islands, including, at a minimum, areas subject to a one percent or greater chance of flooding in any given year.

(35) "Freeboard" means the vertical distance between the average maximum level of the surface of waste in a surface impoundment, basin, open tank, or other containment and the top of the dike or sides of an impoundment, basin, open tank, or other containment.

(36) "Fugitive Emissions" means air contaminant emissions which are not planned and emanate from sources other than stacks, ducts, or vents or from non-point emission sources.

(37) "Generator" means any person or Federal Agency whose act or process produces hazardous waste identified or listed under Subpart A; provided, however, that certain producers may or may not be generators depending on whether they meet the criteria specified in Section 250.29 of Subpart B.

(38) "Groundwater" means water in the saturated zone beneath the land surface.

(39) "Hazardous Waste" has the meaning given in Section 1004(5) of the Act as further defined and identified in Subpart A.

(40) "Hazardous Waste Facility Personnel" means all persons who work at a hazardous waste treatment, storage, or disposal facility, and whose actions or failure to act may result in damage to human health or the environment.

(41) "Hazardous Waste Landfill" means an area in which hazardous waste is disposed of in accordance with the requirements of § 250.45-2.

(42) "Hydraulic Gradient" means the change in hydraulic pressure per unit of distance in a given direction.

(43) "Identification Code" means the unique code assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility, pursuant to regulations published in § 250.40(c) herein and Subpart G.

(44) "Incinerator" means an engineered device using controlled flame combustion to thermally degrade hazardous waste. Examples of devices used for incineration include rotary kilns, fluidized beds, liquid injection incinerators, cement kilns, and utility boilers.

(45) "Incompatible Waste" means a waste unsuitable for commingling with another waste or material, because the commingling might result in:

(i) Generation of extreme heat or pressure,

(ii) Fire,

(iii) Explosion or violent reaction,

(iv) Formation of substances which are shock sensitive friction-sensitive, or otherwise have the potential of reacting violently,

(v) Formation of toxic (as defined in Subpart A) dusts, mists, fumes, gases, or other chemicals, and

(vi) Volatilization of ignitable or toxic chemicals due to heat generation, in such a manner that the likelihood of contamination of groundwater, or escape of the substances into the environment, is increased, or

(vii) Any other reactions which might result in not meeting the Air Human Health and Environmental Standard. (See Appendix I for more details.)

(46) "Landfarming of a Waste" means application of waste onto land and/or incorporation into the surface soil, including the use of such waste as a fertilizer or soil conditioner. Synonyms include land application, land cultivation, land irrigation, land spreading, soilfarming, and soil incorporation.

(47) "Leachate" means the liquid that has percolated through or drained from hazardous waste or other man emplaced materials and contains soluble, partially soluble, or miscible components removed from such waste.

(48) "Leachate Collection and Removal System" means a system capable of collecting leachate and/or liquids generated within a hazardous waste landfill, and removing the leachate and/or liquids from the landfill. The system is placed or constructed above the landfill liner system.

(49) "Leachate Detection System" means a gravity flow drainage system installed between the top and bottom liners of a surface impoundment capable of detecting any leachate that passes through the top liner.

(50) "Leachate Detection and Removal System" means a system capable of detecting the presence of leachate and/or liquids beneath the bottom liner system of a landfill, and is capable of periodically removing leachate and/or liquids if found or known to be present.

(51) "Leachate Monitoring System" means a system beneath a facility used to monitor water quality in the unsaturated zone (zone of aeration) as necessary to detect leaks from landfills and surface impoundments. (For example, a pressure-vacuum lysimeter may be used to monitor water quality in the zone of aeration.)

(52) "Liner" means a layer of emplaced materials beneath a surface impoundment or landfill which serves to

restrict the escape of waste or its constituents from the impoundment of landfill.

(53) "Manifest" has the meaning given in Section 1004(12) of the Act as further defined and specified in Subpart B.

(54) "Manifest Document Number" means the serially increasing number assigned to the manifest by the generator for recordkeeping and reporting purposes.

(55) "Monitoring" means all procedures used to systematically inspect and collect data on operational parameters of the facility or on the quality of the air, groundwater, surface water, or soils.

(56) "Monitoring Well" means a well used to obtain water samples for water quality analysis or to measure groundwater levels.

(57) "Navigable Waters" means "waters of the United States, including the territorial seas". This term includes, but is not limited to:

(i) All waters which are presently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide, intermittent streams, and adjacent wetlands. "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds.

(ii) Tributaries of navigable waters of the United States, including adjacent wetlands;

(iii) Interstate waters, including wetlands; and

(iv) All other waters of the United States, such as intrastate lakes, rivers, streams, mudflats, sandflats, and wetlands, the use, degradation or destruction of which would affect or could affect interstate commerce, including, but not limited to:

(A) Intrastate lakes, rivers, streams, and wetlands which are or could be used by interstate travelers for recreational or other purposes;

(B) Intrastate lakes, rivers, streams, and wetlands from which fish or shellfish are or could be taken and sold in interstate commerce; and

(C) Intrastate lakes, rivers, streams, and wetlands which are used or could be used for industrial purposes by industries in interstate commerce.

(v) All impoundments of waters of the United States otherwise defined as navigable waters under this paragraph.

(58) "Non-Point Source" means a source from which pollutants emanate in an unconfined and unchannelled manner, including, but not limited to, the following:

(i) For non-point sources of water effluent, this includes those sources which are not controllable through permits issued pursuant to Sections 301 and 402 of the Clean Water Act. Non-point source water pollutants are not traceable to a discrete identifiable origin, but result from natural processes, such as nonchannelled run-off, precipitation, drainage, or seepage.

(ii) For non-point sources of air contaminant emissions, this normally includes any landfills, landfarms, surface impoundments, and basins.

(59) "On-site" means on the same or geographically contiguous property. Two or more pieces of property which are geographically contiguous and are divided by public or private right(s)-of-way are considered a single site.

(60) "Open Burning" means the combustion of any material without the following characteristics:

(i) Control of combustion air to maintain adequate temperature for efficient combustion,

(ii) Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(iii) Emission of the gaseous combustion products through a stack duct or vent adequate for both visual monitoring and point source sampling.

(61) "Owner/Operator" means the person who owns the land on which a facility is located and/or the person who is responsible for the overall operation of the facility.

(62) "Partial Closure Procedures" means the measures which must be taken by facility owners/operators who no longer accept hazardous waste for treatment, storage, or disposal on a specific portion of the site.

(63) "Permitted hazardous waste management facility (or permitted facility)" means a hazardous waste treatment, storage, or disposal facility that has received an EPA permit in accordance with the requirements of Subpart E or a permit from a State authorized in accordance with Subpart F.

(64) "Point Source" means any discernible, confined, and discrete conveyance, including, but not limited to, the following:

(i) For point sources of water effluent, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated feeding operation, vessel, or other floating craft from which pollutants are or may be discharged; and

(ii) For point sources of air contaminant emissions, any stack, duct, or vent from which pollutants are or may be discharged.

(65) "Post-Closure Care" means the monitoring and facility maintenance activities conducted after closure.

(66) "Publicly Owned Treatment Works" or "POTW" means a treatment works as defined in Section 212 of the Clean Water Act (CWA), which is owned by a State or municipality (as defined by Section 502(4) of the CWA). This definition includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. This term also means the municipality as defined in Section 502(4) of the CWA, which has jurisdiction over the indirect discharges to, and the discharges from, such a treatment works.

(67) "Reactive Hazardous Waste" means hazardous waste defined by § 250.13(c)(1) of Subpart A.

(68) "Recharge Zone" means an area through which water enters an aquifer.

(69) "Regional Administrator" means the Regional Administrator for the Environmental Protection Agency Region in which the facility concerned is located, or his designee.

(70) "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than a designated height.

(71) "Reporting Quarter" means the three (3) month time period covered by each quarterly report; the reporting quarters end on the last day of March, June, September, and December.

(72) "Reporting Year" means the twelve month time period covered by each annual report; the reporting year ends on the last day of September.

(73) "Representative Sample" means a sample having average characteristics of all groundwater in the aquifer beneath the facility.

(74) "Retention Time" means the time hazardous waste is subjected to the combustion zone temperature.

(75) "Run-off" means that portion of precipitation that drains over land as surface flow.

(76) "Saturated Zone (Zone of Saturation)" means that part of the earth's crust in which all voids are filled with water.

(77) "Scavenging" means the unauthorized or uncontrolled removal of hazardous waste materials from a facility.

(78) "Secondary Container" means a storage device into which a container can be placed for the purpose of containing any leakage of hazardous waste from such emplaced container.

(79) "Spill" means any unplanned discharge or release of hazardous waste onto or into the land, air or water.

(80) "Soil Barrier" means a layer of soil of a minimum of 1.5 meters (5 feet) in thickness with a permeability of 1×10^{-7} cm/sec or less which is used in construction of a landfill or a surface impoundment.

(81) "Soil Conditioner" means any substance added to the soil for the purpose of improving the soil's physical properties by increasing water content, increasing water retention, enhancing aggregation, increasing soil aeration, improving permeability, increasing infiltration, or reducing surface crusting.

(82) "Sole Source Aquifers" means those aquifers designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 (Pub. L. 93-523) which solely or principally supply drinking water to a large percentage of a populated area.

(83) "Storage Facility" means any facility which stores hazardous waste, except for generators who store their own waste on-site for less than 90 days for subsequent transport off-site, in accordance with regulations in Subpart B.

(84) "Storage Tank" means any manufactured non-portable covered device used for containing pumpable hazardous waste.

(85) "Surface Impoundment" means a natural topographic depression, artifical excavation, or dike arrangement with the following characteristics: (i) It is used primarily for holding, treatment, or disposal of waste; (ii) it may be constructed above, below, or partially in the ground or in navigable waters (e.g., wetlands); and (iii) it may or may not have a permeable bottom and/or sides. Examples include holding ponds and aeration ponds.

(86) "Training" means formal instruction, supplementing an employee's existing job knowledge, designed to protect human health and the environment via attendance and successful completion of a course of instruction in hazardous waste management procedures, including contingency plan implementation, relevant to those operations connected with the employee's position at the facility.

(87) "Transporter" means a person or Federal Agency engaged in the transportation of hazardous waste by air, rail, highway, or water.

(88) "Treated Area of a Landfarm" means that portion of a landfarm that has had hazardous waste applied to it, to include the zone of incorporation.

(89) "Treatment Facility" means any facility which treats hazardous waste.

(90) "Triple Rinsed" refers to a container which has been flushed three times, each time using a volume of diluent at least equal to ten percent of the container's capacity.

(91) "True Vapor Pressure" means the pressure exerted when a solid and/or liquid is in equilibrium with its own vapor. The vapor pressure is a function of the substance and of the temperature.

(92) "24-hour, 25-year Storm" means a storm of 24-hour duration with a probable recurrence interval of once in twenty-five years as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States", May 1961, and subsequent amendments, or equivalent regional or State rainfall probability information developed therefrom.

(93) "Unsaturated Zone (Zone of Aeration)" means the zone between the land surface and the nearest saturated zone, in which the interstices are occupied partially by air.

(94) "United States" means the 50 States, District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(95) "Underground Drinking Water Source" (UDWS) means:

(i) An aquifer supplying drinking water for human consumption, or

(ii) An aquifer in which the groundwater contains less than 10,000 mg/1 total dissolved solids; or

(iii) An aquifer designated as such by the Administrator or a State.

(96) "Underground Non-Drinking Water Source" means an underground aquifer which is not a UDWS.

(97) "Vapor Recovery System" means a vapor gathering system capable of collecting vapors and discharged gases and a vapor processing system capable of processing such vapors and gases so as to prevent emission of contaminants to the atmosphere.

(98) "Volatile Waste" means waste with a true vapor pressure of greater than 78 mm Hg at 25° C.

(99) "Water Table" means the upper surface of the zone of saturation in groundwaters in which the hydrostatic pressure is equal to atmospheric pressure.

(100) "Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and under normal circumstances do or would support, a prevalence of vegetation typically adapted for life in saturated or seasonally saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river outflows, mudflats, and natural ponds.

(101) "Zone of Incorporation" means the depth to which the soil on a landfarm is plowed or tilled to receive waste.

§ 250.42 Human health and environmental standards.

§ 250.42-1 Groundwater human health and environmental standard.

All facilities shall be located, designed, constructed, and operated in such a manner as to prevent:

(a) Endangerment of an Underground Drinking Water Source beyond the facility property boundary, or

(b) Endangerment of an aquifer which is designated as a sole or principal source aquifer according to Section 1424(e) of the Safe Drinking Water Act of 1974 (Pub. L. 93-523, 88 Stat. 1661, 1678, 42 U.S.C. 300f, 300h-3(e)).

§ 250.42-2 Surface water human health and environmental standard.

All facilities shall be located, designed, constructed, and operated in such a manner as to prevent any surface or sub-surface discharge from the facility into navigable waters from causing a violation of Water Quality Standards promulgated or approved under Section 303 of the Clean Water Act, or a violation of the controls on the discharge of oil or hazardous substances under Section 311 of the Clean Water Act.

§ 250.42-3 Air human health and environmental standard.

All facilities shall be located, designed, constructed, and operated in such a manner as to prevent air emissions from such facilities from causing a violation of standards or regulations promulgated pursuant to Sections 110, 111, and 112 of the Clean Air Act.

§ 250.43 General facility standards.

(a) All facilities with point source discharges to navigable waters, including discharges from leachate collection systems and/or surface water run-off collection systems, shall comply with all applicable regulations promulgated under the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217). Additionally, facilities with discharges to municipal sewer systems shall meet applicable Clean Water Act pretreatment standards and have the approval of the municipal treatment system authority for that discharge.

(b) Diversion structures to divert all surface water run-off from the active portions of a facility for the 24-hour, 25-year storm shall be constructed, properly maintained and operated.

NOTE.—Owners/operators do not need to construct such diversion structures if they can demonstrate, at the time a permit is issued under Subpart E, that surface water run-off will not enter the facility and come into contact with the hazardous waste.

(c) Surface water run-off up to the quantity anticipated from a 24-hour, 25-year storm from active portions of a facility shall be collected and confined to a point source before discharge or treatment, as may be required by regulations promulgated under the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217).

NOTE.—Owners/operators do not have to collect and confine surface water run-off from active portions of a facility if they can demonstrate that alternative non-point source control procedures will provide the same or greater degree of protection from surface water or groundwater pollution.

(d) Owners/operators shall not allow open burning of hazardous waste.

NOTE.—Open burning of hazardous waste may be permitted provided that the owner/operator can demonstrate that alternative treatment and disposal methods, including recycling or salvaging of materials, have been evaluated and determined to be technically or economically infeasible, or that the transport, treatment, and disposal of such waste poses a greater risk to human health or the environment than open burning.

(e) Any person who generates or removes a hazardous waste from a facility shall comply with the requirements of Subpart B.

(f) All owners/operators shall obtain a detailed chemical and physical analysis of each hazardous waste handled at the facility at the time of initiating management of the hazardous waste. This analysis shall identify the hazardous characteristics of the waste which must be known to enable the owner/operator to comply with the requirements of this Subpart, or with the conditions of a permit issued under the provisions of Subpart E.

NOTE.—The chemical and physical analysis may be limited based upon the method of treatment, storage, and/or disposal, and upon existing available evidence regarding the waste's composition.

(g) The detailed analysis of each waste stream shall be obtained or repeated as necessary by the owner/operator. (For example, a minimal analysis (pursuant to paragraph (h) below) of the waste might indicate a change in the waste stream characteristics, or the owner/operator might become aware of a modification in the manufacturing process generating the waste). The detailed waste sampling frequency shall be no less than annually.

(h) All owners/operators shall sample each truckload or other shipment or batch of hazardous waste, designated for treatment, storage, or disposal at the facility. Each sample, at a minimum, shall be analyzed for the following properties:

(i) Physical appearance, such as color and physical state (e.g., liquid, solid, semi-solid)

(ii) Specific gravity

(iii) pH

(iv) Vapor pressure, if applicable.

NOTE.—In the case of on-site facilities, less frequent sampling and analysis may be allowed if the owner/operator can demonstrate that no loss in control over facility operations will occur.

(i) Owners/operators shall close, in accordance with the requirements of § 250.43-7, all portions of a facility which does not comply with the applicable requirements of this Subpart.

(j) All owners/operators shall comply with applicable requirements of State Water Quality Management Plans approved by the Administrator under Section 208 of the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217).

(k) Non-point source discharges from facilities into navigable waters shall not cause or contribute to the violation of water quality standards promulgated or approved under Section 303 of the Clean Water Act (pub. L. 92-500, as amended by Pub. L. 95-217).

§ 250.43-1 General site selection.

(a) Facilities shall not be located in an active fault zone.

(b) In accordance with Executive Order 11988, "Floodplain Management", a facility shall not be located in a "regulatory floodway" as adopted by communities participating in the National Flood Insurance Program (NFIP) managed by the Federal Insurance Administration (FIA) of the U.S. Department of Housing and Urban Development. In cases where regulatory floodways have not been designated by the FIA, the owner/operator shall obtain an analysis, using FIA-approved methods, to determine whether the facility is located within a non-regulatory floodway (i.e., a floodway which is currently not regulated by the FIA). A facility shall not be located in an area determined by the analysis to be a regulatory floodway.

(c) In accordance with Executive Order 11988, "Floodplain Management", a facility shall not be located in a "coastal high hazard area" as defined on a Flood Insurance Rate Map (FIRM) by the FIA. In cases where a coastal high hazard area has not been designated by the FIA, the facility owner/operator shall obtain an analysis, using FIA-approved methods, to determine whether the facility is located within a coastal high hazard area. A facility shall not be located in an area determined by the analysis to be a coastal high hazard area.

NOTE.—A facility may be located in a coastal high hazard area if it can be demonstrated that the facility is designed, constructed, operated and maintained so that the facility will not be inundated by high velocity waters, including but not limited to hurricane wave wash or tsunamis, designated on Flood Insurance Maps as zone VI-30.

(d) In accordance with Executive Order 11988, "Floodplain Management", a facility shall not be located in a 500-year floodplain.

NOTE.—A facility may be located in a 500-year floodplain if it can be demonstrated, at the time a permit is issued pursuant to Subpart E, that the facility is designed, constructed, operated, and maintained so that it will not be inundated by a 500-year flood.

(e) In accordance with Executive Order 11990, "Protection of Wetlands", a facility shall not be located in a wetland.

NOTE.—A facility may be located in wetlands if:

(1) The owner/operator obtains a National Pollutant Discharge Elimination System permit under Section 402 of the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217, 33 U.S.C. 1251 et seq.), and,

(2) In the case where dredging or filling of the wetland is directly associated with the facility, the owner/operator obtains a permit issued under authority of Section 404 of the Clean Water Act (Pub. L. 92-500, as amended by Pub. L. 95-217, 33 U.S.C. 1251 et seq.).

(f) A facility shall not be located so as to be likely to jeopardize the continued existence of Endangered and Threatened Species as listed pursuant to the Endangered Species Act of 1973 (16 U.S.C., 1530 et seq.) in 50 CFR; nor result in the destriction or adverse modification of their Critical Habitat as contained in 50 CFR Part 17, Subpart F: Critical Hibitat, 1760 et seq.

NOTE.—A facility may be located in a Critical Habitat area if, after consultation with the Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, it can be demonstrated that, at the time a permit is issued pursuant to Subpart E, the treatment, storage, and/or disposal operations carried out by the facility will not jeopardize the continued existence of Endangered and Threatened Species located within the Critical Habitat areas listed in 50 CFR Part 17.

(g) A facility shall not be located in the recharge zone of a sole source aquifer designated pursuant to Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523).

NOTE.—A facility may be located in the recharge zone of a sole source aquifer if it can be demonstrated, at the time a permit is issued pursuant to Subpart E, that the facility is located, designed, constructed, operated, maintained, and monitored to prevent endangerment of the sole source aquifer.

(h) Active portions of a facility shall be located a minimum of 60 meters (200 feet) from the property line of the facility.

NOTE.—Facility owners/operators may locate active portions of their facilities closer than 60 meters (200 feet) from their property line if it can be demonstrated that unexpected releases or discharges of hazard-

ous waste resulting from fires, explosions, spills, and underground leaks can be controlled before they cross the facility property boundary.

§ 250.43-2 Security.

(a) A facility shall have a 2 meter (6 foot) fence completely surrounding the active portion of the facility capable of preventing the unknowing and/or unauthorized entry of persons and domestic livestock.

NOTE.—A facility does not have to have a 2 meter (6 foot) fence surrounding the active portion of the facility if it can be demonstrated, at the time a permit is issued pursuant to Subpart E, that the active portion of the facility is surrounded by a natural or artificial barrier capable of preventing the unknowing and/or unauthorized entry of persons and domestic livestock.

(b) Ingress through each gate or other access on to the active portion of the facility shall be controlled by an attendant, or a mechanical or an electromechanical device, whenever the facility is in operation (e.g., security personnel, key cards, or television monitors). Each gate or other access shall be secured to prevent ingress whenever the facility is not in operation.

(c) A sign, in the English language and in any other predominant language of the area surrounding the facility (e.g., facilities in States bordering Mexico and Canada shall have signs posted in Spanish and French, respectively), having the following legend—WARNING—Unauthorized Personnel Keep Out—shall be posted at each access to the active portions of the facility. The sign shall consist of block letters not less than four (4) inches in height. The letters shall be of a color offering high contrast with the background color of the sign.

NOTE.—A facility may deviate from the specified four (4) inch block letters and legend of the sign provided that it can be demonstrated that an alternative legible and clearly visible sign, warning against unauthorized entry, is posted at each access point to the active portion(s) of a facility, or it can be demonstrated that such precautionary measures are not needed because of the particular operation of and the waste handled at the facility.

§ 250.43-3 Contingency plan and emergency procedures.

(a) Contingency plan: (1) The owner/operator shall develop a contingency plan for each facility so as to prevent or minimize human health or environmental damage in the event of a discharge or release of hazardous waste. The provisions of the plan shall, as a minimum, follow the provisions of the Section 311 Spill Prevention, Control, and Countermeasures Plan (SPCC) of the Clean Water Act. The provisions of the plan shall be implemented immediately in the event of a discharge or release of hazardous waste from the facility.

(2) A copy of the contingency plan shall be filed with the Regional Administrator and with all local police departments, fire departments, hospitals and emergency response teams who may be called upon to provide emergency services. Where a permit is issued by EPA under Subpart E, the contingency plan shall be submitted to the Regional Administrator as part of the permit application and shall become a condition of any permit issued. Amendments to the plan due to changes in the facility design, construction, operation, or maintenance which materially increase the potential for discharges of hazardous waste shall be reported immediately, in writing, to the aforementioned parties having copies of the plan. The plan shall be revised in cases of changed circumstances, changed regulations, and failure of the plan to be adequate in an emergency.

(3) The plan shall describe arrangements made with local police departments, fire departments, hospitals, and emergency response teams to coordinate emergency services. These arrangements shall include:

(i) Familiarization of police, fire departments, and emergency response teams with layout of and waste handled at the facility, and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility and possible evacuation routes; and

(ii) Where necessary, agreements designating primary emergency authority to one police and one fire department jurisdiction in the event that more than one might respond to the emergency, and agreements with any others to provide support to the primary emergency authority.

NOTE.—Arrangements need not be made with local police agencies, fire departments, hospitals, and emergency response teams if the owner/operator can demonstrate that hazards do not exist at the facility which necessitate the services of the above mentioned organizations.

(4) At all times when the facility is in operation, there shall be at least one person present with the responsibility of coordinating all emergency response measures. This facility emergency coordinator shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations activities at the facility, the location and characteristics of waste handled, the location of manifests within the facility, and the facility layout. (The emergency coordinator's responsibilities are more fully spelled out in § 250.43-3(c).)

(5) The names, addresses, and phone numbers (office and home) of all persons qualified to act as facility emergency coordinators under paragraph (a)(4) shall be listed in the contingency plan.

(6) The plan shall include a list, physical description, and description of the capabilities of all emergency equipment at the facility, including fire extinguishing systems, spill control equipment, alarms (internal and external), and decontamination equipment.

(7) The plan shall include an evacuation plan for facility personnel and shall outline evacuation routes, signal(s) to be used to begin evacuation, and alternate evacuation routes if the primary routes potentially can be blocked by discharges of hazardous waste and fires.

(8) The plan shall include an outline of a program for familiarizing employees with emergency procedures, emergency equipment, and emergency systems, to include the following:

(i) Alarm signal, shutdown of operations, evacuation, and drills on these procedures.

(ii) Key parameters for incinerator automatic waste feed cut-off as prescribed in § 250.45-1(b)(4); and

(iii) Procedures for repair and replacement of facility monitoring equipment.

(b) *Preparedness and prevention.*

(1) Facilities shall be designed, operated, and constructed so that the likelihood of a discharge, fire, or explosion harmful to human health or the environment is minimized.

(2) All facilities subject to EPA's oil and hazardous substances pollution prevention regulations shall have, as a minimum, a valid SPCC Plan as required by regulations issued pursuant to Section 311 of the Clean Water Act (CWA).

(3) All facilities shall be equipped with the following: (i) An alarm, a telephone (immediately available at the scene of operations), a hand-held two-way radio, or similar device capable of summoning external emergency assistance (i.e., local police departments, fire departments, and emergency response teams).

NOTE.—An alarm, telephone, or two-way radio is not needed if the owner/operator can demonstrate that hazards at the facility requiring external emergency assistance do not exist.

(ii) An internal communications system capable of providing immediate emergency instruction (voice or signal) to facility employees.

(4) At any time that hazardous waste is being poured, mixed, spread, or otherwise handled, all employees involved in the operation shall have immediate access to an internal or external alarm or emergency communication device, either directly or through visual or voice contact with another employee. If at any time

during operation of the facility there is a sole employee on the premises, he shall have immediate access to an alarm, telephone (immediately available at the scene of operation), handheld two-way radio, or similar device capable of summoning external emergency assistance.

(5) A facility shall have the following:

(i) Portable fire extinguishers, fire control equipment, spill control equipment, and decontamination equipment;

(ii) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems; and

(iii) Special extinguishing equipment, such as that utilizing foam inert gas, or dry chemical.

NOTE.—Fire extinguishing equipment, fire control equipment is not needed if the owner/operator can demonstrate that hazards at the facility which necessitate the need for such equipment do not exist.

(6) All facility fire protection equipment, spill control equipment, and decontamination equipment shall be tested, inspected, and maintained in satisfactory operating condition to serve its purpose in time of emergency.

(7) Aisle space shall be maintained for unobstructed movement of personnel, and maintained so that fire protection equipment, spill control equipment, and decontamination equipment can be brought to bear on any area of facility operation in time of emergency.

NOTE.—Aisle space need not be maintained for unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment if the owner/operator can demonstrate that the aisle space is not necessary for the movement of personnel and it is not necessary to bring in fire protection equipment, spill control equipment, and decontamination equipment.

(8) Precautions shall be taken to prevent accidental ignition of ignitable materials. Sources of ignition, including but not limited to open flames; lightning; smoking; cutting and welding; hot surfaces; frictional heat; static, electrical, and mechanical sparks, spontaneous ignition, including heat-producing chemical reactions; and radiant heat, shall be eliminated or ignitable materials protected from such sources of ignition.

(9) While ignitable or reactive waste is being handled, smoking shall not be permitted and no one near the waste shall possess an open flame. Smoking and open flame shall be prohibited at the facility except in designated localities. "No Smoking" signs shall be conspicuously posted where hazard from ignitable or reactive waste is normally present.

(c) *Response and recovery.* (1) In the event that a facility has a discharge or release of hazardous waste, a fire, or an explosion which has the potential for damaging human health or the environment, the facility's emergency coordinator shall telephone the United States Coast Guard National Response Center's twenty-four (24) hour toll free number, 800-424-8802, or the Government official designated in the applicable regional contingency plan pursuant to 40 CFR 1510 as the on-scene coordinator for that geographic area, to report such an incident immediately after discovering it and adhere to the requirements of Section 250.37 in Subpart C for reporting.

(2) Where applicable, the facility's emergency coordinator shall activate internal facility alarms or communication systems to notify all personnel of an imminent or actual emergency situation.

(3) The facility's emergency coordinator shall notify appropriate agencies with designated response roles immediately if an emergency at the facility presents a potential threat to local populated areas, or if their assistance is necessary.

(4) The facility's emergency coordinator shall notify appropriate local authorities immediately if his assessment indicates that evacuation of local areas may be advisable. The emergency coordinator shall be prepared to assist authorities in making the final determination as to whether evacuation is necessary.

(5) In the event of a discharge, the facility's emergency coordinator shall identify the character, exact source, volume, and extent of the discharged materials by review of facility records and manifests, and if necessary, by chemical analysis.

(6) The facility's emergency coordinator shall assess possible hazards to local communities associated with a discharge. This assessment shall include consideration of indirect effects, such as toxic, irritating, or asphyxiating gases, hazardous surface run-off due to water or chemical agents used to control fire, and heat-induced explosions.

(7) The facility's emergency coordinator, in cooperation with appropriate Federal, State, and local officials, shall determine what actions should be taken to mitigate damage or injury to the community and its residents. This determination shall indicate whether:

(i) Local communities may have been exposed to a hazardous substance; and

(ii) Evacuation of local populated areas should be initiated because of imminent danger (i.e., from toxic combustion products, ignitable or explosive vapors, threatened explosions, etc.).

(8) The facility's emergency coordinator shall take all reasonable measures necessary to ensure that fires and explosions do not re-occur and do not spread to other hazardous waste at the facility. These shall include, where applicable, cessation of processes and operations, collection and containment of discharged waste, removal or isolation of containers, etc.

(9) The facility's emergency coordinator shall provide for treatment, storage, or disposal or recovered waste, contaminated soil, or material resulting from an accident at the facility. The recovered waste, contaminated soil, or contaminated material shall be analyzed to determine whether it is a hazardous waste, or assumed to be a hazardous waste.

(10) The facility's emergency coordinator shall ensure that no waste which may be incompatible with the released material is accepted for treatment, storage, or disposal at the facility until clean-up procedures are completed, emergency equipment restored to pre-accident condition, and the affected area is declared safe by EPA, State, or local officials.

(11) Where applicable, the facility's emergency coordinator shall, subsequent to shut-down of operations in response to a discharge, fire, or explosion, monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment.

(12) The facility's emergency coordinator shall ensure that all emergency equipment specified in the plan, including vehicles, pumps, and temporary storage containers, are cleaned and restored to pre-accident condition before operations are resumed.

(13) The facility's emergency coordinator shall record the time, date, and nature of the emergency, and convey a preliminary report with this and any other pertinent information on the emergency to the Regional Administrator, as required in § 250.43-5(c)(1) of this Subpart.

§ 250.43-4 Training.

(a) Within six (6) months after the effective date of these regulations, or after the date of employment, whichever is later, personnel at new and existing facilities shall have attended and successfully completed a course of instruction or shall have deomonstrated a sufficient degree of competence in hazardous waste management procedures relevant to the position in which they are employed.

(b) Owners/operatores of facilities shall:

(1) Maintain the following records and make them available to the Regional Administrator upon request:

(i) A list of the job titles of all positions at the facility related to hazardous waste management;

(ii) A written job description for each position listed under paragraph (b)(1)(i) which shall include the requisite skill, education, responsibilities, and duties related to each position;

(iii) A written description of the type and quantity of introductory and continuing training that will be administered to each person filling a position listed under paragraph (b)(1)(i);

(iv) Records that document that the training required under paragraph (a) has been administered to facility personnel;

(2) Have their personnel trained in contingency procedures as prescribed in the facility's contingency plan required under § 250.43-3, and

(3) Have their personnel take part in an annual review and update of their initial training in contingency procedures and other hazardous waste management procedures relevant to those operations at which they are employed.

§ 250.43-5 Manifest system, recordkeeping, and reporting.

(a) *Manifest system.* An owner/operator of a facility which receives hazardous waste accompanied by a manifest or a delivery document shall:

(1) Provide at least one (1) copy of the manifest or delivery document, after it has been signed and dated by an authorized representative of the facility, to the transporter as certification of receipt of the shipment covered by the manifest or delivery document.

(2) Forward, within thirty (30) days, the original copy of the manifest or delivery document, after it has been signed and dated by an authorized representative of the facility, to the generator as certification of receipt of the shipment covered by the manifest or delivery document.

(3) Acknowledge each individual shipment received; when a single manifest is used for multiple shipments as described in § 250.22(f) of Subpart B, by initialling each shipment, and then complying with paragraph (a)(2).

(4) Indicate, in the comments section of the manifest or delivery document, discrepancies, such as differences between the type and/or quantity of hazardous waste designated on the manifest or delivery document, and the type and/or quantity of hazardous waste actually received. The owner/operator shall notify the Regional Administrator immediately when such discrepancies are discovered by forwarding a copy of the manifest or delivery document to the Regional Administrator.

(b) *Recordkeeping.* (1) An owner/operator of a facility shall keep an operating log. This log shall, at all reasonable times, be open for inspection by any duly designated employee or agent of EPA.

(2) The following information shall be recorded promptly, as it becomes available, and maintained in the operating log until closure of the facility:

(i) A record of each hazardous waste treated, stored, or disposed of at the facility to include the following:

(A) A description of each hazardous waste by its U.S. Department of Transportation (DOT) proper shipping name (40 CFR 172), or by the U.S. Environmental Protection Agency (EPA) name (as listed in § 250.14 of Subpart A), if the DOT proper shipping name is not applicable. However, if the DOT proper shipping name "NOT OTHERWISE SPECIFIED" (NOS) is used, the EPA name must also be designated on records after the DOT proper shipping name NOS;

(B) The DOT hazard class of each waste (as identified in 49 CFR 172), or the EPA characteristic(s) or property (as identified or listed in §§ 250.13 or 250.14 of Subpart A) if the DOT hazard class is not applicable. However, if the DOT hazard class "OTHER REGULATED MATERIALS" (ORM) is used, the EPA characteristics or property (as identified or listed in §§ 250.13 or 250.14 of Subpart A) must also be designated on records after the DOT hazard class ORM;

(C) The quantity (in units of volume or weight of pounds (P), tons (T), gallons (G), or cubic yards (CY)) of each hazardous waste treated, stored, or disposed; the method of treatment, storage, and disposal used for each hazardous waste; and the dates of treatment, storage, and disposal of each hazardous waste.

(ii) Locations, with respect to permanently surveyed benchmarks, where each type of waste is stored or disposed. The location of wastes in landfills shall be recorded as specified in § 250.45-2(b)(3) and in surface impoundments as specified in § 250.45-3(d)(3).

(iii) Waste analyses, as specified in § 250.43 (f), (g), and (h);

(iv) Monitoring data, as required in § 250.43-8;

(v) Summary reports and records of all incidents requiring initiation of a contingency plan, or resulting in human health or environmental damage;

(iv) Records or results of visual inspections as required by § 250.43-6(b).

(3) Records required under paragraphs (b)(2) (i) and (ii) above specifying the location and types of disposed wastes shall be turned over to the Regional Administrator upon closure of the facility.

(4) Records of operating conditions (temperature, pressure, residue time, feed rate, etc.) as required in § 250.45 shall be maintained for a period of three (3) years.

(5) Training records required under § 250.43-4(b)(1) (i)-(iii) shall be maintained until closure of the facility. Training records required under § 250.43-4(b)(1)(iv) shall be retained for a period of three (3) years; but employee training records may accompany personnel transferred within the same company.

(6) An owner/operator of a facility accepting deliveries of hazardous waste from off-site sources for treatment, storage, or disposal shall retain for a period of three (3) years a copy of each manifest or delivery document as certified by the generator, transporter, and owner/operator of the facility.

(c) *Reporting.* (1) An owner/operator of a facility shall comply with the requirements under § 250.43-3(c)(1) in reporting incidents such as fires, explosions, and discharges or releases of hazardous materials into the environment which have the potential for damaging human health or the environment.

(2) An owner/operator of a facility shall report to the Regional Administrator monitoring data as required in § 250.43-8(c)(4) and (d)(1).

(3) An owner/operator of a facility shall notify the Regional Administrator prior to cessation of treatment, storage, and/or disposal operations, or prior to final facility closure as specified in § 250.43-7.

(4) Owners/operators of facilities which treat, store, or dispose of hazardous waste on the site of waste generation shall comply with the reporting requirements of § 250.23(d) and (e) of Subpart B.

(5) An owner/operator of a facility which receives hazardous waste for treatment, storage, or disposal shall:

(i) Prepare an annual report summarizing the information from all manifests or delivery documents for shipments of hazardous waste certified as received during the reporting year;

(ii) Send the annual report within four (4) weeks after the closing date of the reporting year to the Regional Administrator;

(iii) Include in the annual report the following information (see Figure 1 for the report form);

(A) The identification code, name, and address of the facility;

(B) The closing date of the reporting year;

(C) The identification code of each hazardous waste generator from which a hazardous waste was received during the reporting year; for international shipments, the name and address of the generator shall be designated;

(D) The name and common code as they appear on the manifest under "shipping description" of each hazard-

ous waste which was received from each hazardous waste generator;

(E) The quantity of each hazardous waste received from each generator;

(F) The units of volume or weight of each quantity of hazardous waste in pounds (P), tons (T), gallons (G), or cubic yards (CY);

(G) The method of treatment, storage, or disposal for each hazardous waste; and

(H) A certification which reads: "I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." An authorized representative of the owner/operator of the facility shall sign and date the certification.

(6) An owner/operator of a facility which receives one or more deliveries of hazardous waste which is not accompanied by a manifest or delivery document, except where a manifest or delivery document is not required because of the generator exemptions in § 250.29 of Subpart B, shall submit a quarterly report of all such shipments of hazardous waste to the Regional Administrator. The quarterly report shall include the following information (see Figure 1 for the report form):

(i) The identification code, name, and address of the facility;

The closing date of the reporting quarter;

(iii) The word "unmanifested" under the column entitled Manifest Document Number on the report form;

(iv) The name and address of the generator, if known, or the transporter;

(v) The name and common code of the hazardous waste (under "shipping description"), by its Department of Transportation (DOT) proper shipping name (49 CFR 172), or by the U.S. Environmental Protection Agency (EPA) name (as listed in § 250.14 of Subpart A) if the DOT proper shipping name is not applicable. However, if the DOT proper shipping name "NOT OTHERWISE SPECIFIED" (NOS) is used, the EPA name and common code (as listed in § 250.14 of Subpart A) must also be designated on the manifest after the DOT proper shipping name NOS;

(vi) The quantity of each hazardous waste received;

(vii) The units of volume or weight of each quantity of hazardous waste in pounds (P), tons (T), gallons (G), or cubic yards (CY);

(viii) A certification which reads: "I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment," and shall certify the information on the report by having an authorized representative of the owner/operator of the facility sign and date the certification; and

(ix) A brief explanation of why the shipment was unmanifested, if known, in the comments section of the report form.

§ 250.43-6 Visual inspections.

(a) An owner/operator of a facility, at least once each day, shall visually inspect the following:

(1) Storage areas for rust, corrosion, cracks in storage devices, missing or improper labels, and spills;

(2) Dikes for possible damage or structural weakening and drainage systems for possible stoppage;

(3) Operating and monitoring equipment and readings to ensure normal operation and readings;

(4) Emergency response equipment to ensure that it meets the requirements specified in § 250.43-4 (1)(4);

(5) Fences or barriers surrounding the facility for possible damage;

(6) Vegetation on or around the facility for possible damage; and

(7) The active portion of the facility for fugitive air emissions.

NOTE.—Visual inspections for certain aspects of facility operations may be conducted less frequently than daily if the facility owner/operator can demonstrate that lesser requirements would still provide adequate protection of human health and the environment.

(b) The observations made in each visual inspections shall be recorded in the facility's daily operating log.

§ 250.43-7 Closure and post-closure.

(a) In addition to complying with the requirements of this Section, an owner/operator of a facility shall also comply with the applicable Financial Requirements in Section 250.43-9.

(b) An owner/operator of a facility from which hazardous waste will not be removed and will remain in the facility after closure (e.g., a landfill) shall record in the deed of the property on which the facility is located a stipulation that use of the property by the owner/operator or any future owner of the property after closure shall be conducted in a manner to prevent disturbance of the integrity of the final cover, the liner or the monitoring systems of the facility.

(c) The owner/operator of a facility shall submit a closure plan to the Regional Administrator prior to beginning treatment, storage and/or disposal operations or at the time of and as part of the application for a permit pursuant to Subpart E. The closure plan shall include, but not be limited to:

(1) A description of how the facility shall be closed.

(2) A description of possible uses of the land after closure.

(3) The anticipated time until close-out, the estimated time(s) required for closure and any anticipated partial closures.

(d) An owner/operator of a facility other than a landfill shall notify the Regional Administrator:

(1) Of intent to close-out the facility at least 15 days before close-out; and

(2) Of completion of closure at least 90 days before closure.

(e) An owner/operator of a landfill facility shall notify the Regional Administrator:

(1) Of intent to partially close the facility (i.e., close a portion of the facility) at least 15 days before partial closure;

(2) Of intent to close-out the facility at least 15 days before close-out; and

(3) Of completion of closure at least 180 days before closure.

(f) Within 90 days after close-out, all disposal operations shall be completed and all hazardous waste shall be removed from storage and treatment operations and disposed of in accordance with requirements in Subparts B, C, and D.

(g) Closure shall be completed within 3 years after close-out.

(h) At completion of closure, all equipment used in the operation shall be properly disposed of or decontaminated by removal of all hazardous waste and residues.

(i) At completion of closure, all facilities shall be secured so that humans or animal life cannot come into contact with hazardous waste, and so that discharges of waste harmful to human health or the environment will not occur.

(j) At completion of closure, all required equipment shall be provided and arrangements shall be made to continue post-closure monitoring as required in paragraph (m)(1)(i) at landfills, and other facilities where hazardous waste has not been removed as part of closure.

(k) At completion of closure, and again upon completion of post-closure care (in the case of a landfill and other facilities where hazardous waste is not removed as part of closure), the owner/operator shall submit to the Regional Administrator certification by the owner/operator and certification by a registered professional engineer that the facility has been closed in accordance with the requirements of this Subpart.

(l) Within 180 days after completion of closure, the owner/operator of a landfill or other facility, where haz-

ardous waste is not removed as part of closure, shall file with the local land authority and the Regional Administrator, a survey plat, certified by a registered professional land surveyor, indicating the type and location of hazardous waste disposed of in the facility.

(m) An owner/operator of a landfill or other facility where hazardous waste is not removed as part of closure shall provide post-closure care for a period of at least 20 years from the date of closure.

NOTE.—The owner or operator may request that, at the discretion of the Regional Administrator, a determination be made of whether some or all post-closure requirements may be discontinued earlier than 20 years after closure. The facility owner or operator shall bring forth evidence showing why post-closure care need not continue, i.e., no leaks have been detected, advanced technology was used, alternate disposal techniques were employed, etc.

(n) Post-closure care shall consist of at least the following:

(1) Monitoring and reporting of in accordance with the requirements of § 250.43-8(c) (2, 3 and 4) and (d) (1 and 2).

(2) Maintenance of facility security and waste containment devices.

(o) If the owner/operator of a facility transfers the ownership or operation of the facility during the 20-year post-closure care period, the new owner/operator shall comply with the requirements of this Section.

§ 250.43-8 Groundwater and leachate monitoring.

An owner/operator of a landfill or surface impoundment facility shall install, maintain and operate a Groundwater Monitoring System and a Leachate Monitoring System as specified in this Section and shall comply with the Sampling and Analysis and the Recordkeeping and Reporting requirements of this Section.

(a) *Groundwater monitoring system.* (1) A Groundwater Monitoring System shall consist of a minimum of four (4) monitoring wells meeting the following specifications:

(i) At least one well shall be located in an area hydraulically upgradient from the active portion of the facility so as to yield samples representative of the background quality of the groundwater which flows under the facility.

(ii) A minimum of three (3) monitoring wells shall be installed hydraulically downgradient of the active portion of the facility and shall be sunk to different depths in order to detect any leachate which has migrated into groundwater(s) underlying the facility property. Each well shall be constructed to draw samples from the depths where the facility owner/operator can demonstrate that contamination is most likely to occur.

(iii) At least one of the three (3) wells specified in (ii) shall be located immediately adjacent to the active portion of the facility. The other wells shall be located within the property line of the facility to provide the greatest opportunity for interception of any leachate that migrates into groundwater(s) underlying the facility.

(2) All monitoring wells shall be cased, and the annular space shall be backfilled with an impermeable material in order to prevent surface water from entering the well bore and interaquifer water exchange.

NOTE.—A Groundwater Monitoring System shall not be required or a lesser degree of groundwater monitoring may be utilized, if the owner/operator can demonstrate, at the time a permit is issued under Subpart E, that the geologic and hydrologic conditions underlying the facility indicate no potential for discharge to groundwater. Wells may be sunk to draw samples at a single depth if it can be demonstrated by the facility owner/operator that it is the depth where contamination is likely to occur.

(b) *Leachate monitoring system.* (1) A Leachate Monitoring System shall be installed within the zone of aeration underlying the facility without drilling through the bottom and side liners or soil barriers of the landfill or surface impoundment and shall be designed to collect samples in the zone of aeration between the bottom of the liner or soil barrier of the landfill or surface impoundment and the top of the water table.

NOTE.—A Leachate Monitoring System shall not be required if the owner/operator can demonstrate that an alternative leachate monitoring technique will detect leaks as effectively as the system prescribed in this paragraph. A Leachate Detection and Removal System installed below the liner or soil barrier of landfills pursuant to § 250.45-2(b)(12) and a Leachate Detection System installed below the liner or soil barrier of surface impoundments pursuant to § 250.45-3(c)(3) shall be considered an acceptable substitute for a Leachate Monitoring System.

(c) *Sampling and analysis.* (1) The background level of the quality of both the groundwater and the water in the zone of aeration underlying the facility shall be established by conducting the comprehensive analysis specified in paragraph (c)(6) on samples collected from the Groundwater Monitoring and Leachate Monitoring Systems on a monthly basis for at least one year. For a new facility, comprehensive analysis of monthly samples shall begin at least 3 months prior to the treatment, storage or disposal of any hazardous waste at the facility.

NOTE.—Samples withdrawn from a Leachate Monitoring System during the background monitoring schedule may be analyzed for representative characteristics of the comprehensive analysis if an adequate volume of sample cannot be collected to analyze for all of the characteristics specified in the comprehensive analysis.

(2) After the background level has been established pursuant to paragraph (c)(1), samples shall be taken from the Groundwater Monitoring System at least once a year and analyzed pursuant to the requirements of paragraph (c)(6) and, in addition, samples shall be taken from the Groundwater Monitoring System on the following frequency and analyzed pursuant to the requirements of paragraph (c)(5):

(i) Semi-annually, of the groundwater flow rate ranges between 25 and 50 m/year (82 and 164 ft/year) or

(ii) Quarterly, if the groundwater flow rate is greater than 50 m/year (164 ft/year).

(3) After the background level has been established pursuant to paragraph (c)(1), samples shall be taken from the Leachate Monitoring System at least once a year and analyzed in accordance with the requirements of paragraph (c)(6) and, in addition, samples shall be taken from the Leachate Monitoring System at least once each quarter and analyzed in accordance with the requirements of paragraph (c)(5).

NOTE.—This requirement is waived if the owner/operator can demonstrate that the quantity of any samples that can be obtained from the Leachate Monitoring System is insufficient for conducting the required analyses.

(4) If after the background levels are established pursuant to paragraph (c)(1), the analyses of samples taken pursuant to paragraph (c)(2) or (c)(3) shows that the quality of the groundwater or the water in the zone of aeration significantly differs, as determined by the Student's t, single-tailed test at the 95 percent confidence level, from the background quality of these waters, the owner/operator shall:

(i) Notify the Regional Administrator within 7 days after such a finding;

(ii) Determine, if possible, the cause of the difference in quality (e.g., the result of a spill, a design failure, an improper operating procedure); and

(iii) Determine the extent of groundwater contamination or the potential for groundwater contamination and discontinue operation of the facility until the Regional Administrator determines what actions are to be taken.

(5) A minimum analysis shall quantify the following characteristics of the sample:

(i) Specific conductivity, mho/cm at 25°C;

(i) pH;

(iii) Concentration of chloride, mg/liter;

(iv) Concentration of total dissolved solids, mg/liter;

(v) Concentration of dissolved organic carbon, mg/liter; and

(vi) The concentrations of the principal hazardous constituents, or indicators thereof, found in the largest quantity in the hazardous waste disposed of in the facility, mg/liter.

(6) A comprehensive analysis shall quantify the following characteristics of the sample:

(i) Those characteristics listed in paragraph (5); and

(ii) The concentrations of the contaminants and the levels of the properties listed in Appendix II, except radioactivity levels if the facility does not treat, store, or dispose of waste containing radioactive substances.

(iii) Concentration of beryllium, mg/liter.

(iv) Concentration of nickel, mg/liter.

(v) Concentration of cyanide, mg/liter.

(vi) Concentration of phenolic compounds (as phenol) mg/liter.

(vii) Presence of organic constituents as determined by a scanning by gas chromatography.

NOTE.—After the background level has been established, pursuant to paragraph (c)(1), the comprehensive analysis may be reduced to eliminate the analysis of characteristics that would not result from waste treated, stored or disposed of at the facility.

(d) *Recordkeeping and reporting.* (1) An owner/operator of a facility shall forward to the Regional Administrator at the end of each reporting quarter two copies of the monitoring data developed pursuant to the requirements of paragraphs (c)(2) and (c)(3) during the reporting quarter.

(2) An owner/operator of a facility shall be required to retain, for a minimum of 3 years, all records of monitoring and analytical activities and data, including all original strip chart recordings and instrumentation, calibration, and maintenance records.

§ 250.43-9 Financial requirements.

(a) *Continuity of operation.* (1) *Requirements for facility closure.* (i) *Cost estimation.* An owner/operator of a facility shall file as a part of his application for a permit for the facility an estimate of the costs of closing the facility after its capacity is reached or operations have otherwise terminated, in accordance with the requirements of Section 250.43-7. The Regional Administrator will evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with his evaluation.

(ii) *Financial assurance for facility closure.* An owner/operator of a facility shall establish a secured closure trust fund designated, "in trust for the closure of the facility." A bank or other financial institution approved by the Regional Administrator shall act as the trustee of the closure trust fund. The trust instrument shall provide (1) that disbursement is permissible only upon written approval of the Regional Administrator, and (2) whenever, on the basis of any information that the owner or operator is in violation of any of the closure requirements for the facility, that the Regional Administrator shall have the right to use part or all of the closure trust fund to carry out the closure requirements. The trustee shall release these funds upon receiving a copy of a properly served Notice of Violation for one or more closure violations pursuant to § 22.36 (c) and (d) of the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties or Suspension of Permits (43 FR 34729 et. seq.). An owner/operator of a facility shall deposit into the closure trust fund, as a condition of receiving a permit, a cash deposit equal to the cost estimate for closure, multiplied by the appropriate present value factor from Table I. If site life exceeds 20 years, the present value factor can be determined by using the following formula:

$$PVF = \left(\frac{1}{1.02}\right)^{SL}$$

where:

PVF=present value factor
SL=site life in years

TABLE I

Site Life in Years	Present Value Factor
1	.980
2	.961
3	.942
4	.924
5	.906
6	.888
7	.871
8	.853
9	.837
10	.820
11	.804
12	.788
13	.773
14	.758
15	.743
16	.728
17	.714
18	.700
19	.686
20	.673

(iii) *Reimbursement for closure costs.* When an owner or operator has ceased operations at the facility and has completed closure of the site, as required under § 250.43-7, he may apply to the Regional Administrator for return of the principal and interest in the closure trust fund. Upon determination that closure has been satisfactorily accomplished, the Regional Administrator shall release all funds accumulated in the closure trust fund.

(2) *Requirements for post-closure monitoring and maintenance.* (i) *Cost estimate.* An owner/operator of a landfill or other facility where hazardous waste is not removed as part of closure shall file with the Regional Administrator as part of his application for a permit, an estimate of the annual cost of post-closure monitoring and routine maintenance at the site in accordance with the closure regulations in § 250.43-7. The Regional Administrator shall evaluate the cost estimate, and, after such modification as may be necessary in light of his evaluation, shall give notice of acceptance of the cost estimate. This cost estimate, which will be referred to as the annual post-closure operating cost, will then be used to determine the annual cash payments during the life of the facility into a post-closure monitoring and maintenance trust fund to be used for monitoring and maintenance (as required under Section 250.43-7 of this subpart) for a period of twenty years after facility closure.

(ii) *Financial assurance for post-closure monitoring and maintenance.* An owner/operator of a landfill or other facility where hazardous waste is not removed as part of closure, shall establish a post-closure monitoring and maintenance trust fund designated, "in trust for the post-closure monitoring and maintenance of the facility." A bank or other financial institution approved by the Regional Administrator shall act as trustee of the trust fund. The trust instrument shall provide that whenever, on the basis of any information, the Regional Administrator determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the Regional Administrator shall have the right to use part of all of the fund to carry out the post-closure monitoring and maintenance for the facility. The trustee shall release these funds upon receiving a copy of a properly served Notice of Violation for one or more post-closure monitoring and maintenance violations pursuant to §§ 22.36

(c) and (d) of the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties or the Revocation or Suspension of Permits (43 FR 34729 et. seq.). The amount of the annual cash payment shall be calculated by multiplying the annual post-closure operating costs determined under § 250.43-9(a)(2)(i) by 16.35, and dividing that product by the sum of Annuity factor from Table 2 appropriate to the period of payment.

TABLE 2

Period of Payment	Sum of Annuity Factor
1	1.000
2	2.020
3	3.060
4	4.122
5	5.204
6	6.308
7	7.434
8	8.583
9	9.755
10	10.950
11	12.169
12	13.412
13	14.680
14	15.974
15	17.293
16	18.639
17	20.012
18	21,513
19	22,841
20	24.297

(iii) *Reimbursements for post-closure costs.* One year after closure and annually, thereafter, for a period of twenty years, an owner/operator, who has carried out all necessary post-closure maintenance and monitoring requirements specified in § 250.43-7, may, upon applications to the Regional Administrator, be reimburse out of the post-closure monitoring and maintenance trust fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan and/or are justified, the Regional Administrator may release the funds. Any funds remaining in the trust at the end of the twentieth year will likewise be released to the owner/operator.

(3) *Access and default.* Whenever on the basis of any information the Regional Administrator determines that an owner/operator of a facility is in violation of any of the requirements for closure and/or for post-closure monitoring and maintenance in § 250.43-7, the Regional administrator, his officers, employees and agents, shall have the right to enter upon the facility and carry out the closure and/or the post-closure monitoring and maintenance requirements. The Regional Administrator may use part of all of the post-closure monitoring trust fund and maintenance to carry out these requirements and shall obtain such funds by applying to the trustee.

(b) *Financial responsibility.* (1) *Financial responsibility required of owners or operators during site operation.* (i) *Amount of finiancial responsibility.* An owner or operator of a hazardous waste treatment, storage, or disposal facility shall have and shall maintain financial responsibility for sudden and accidental occurrences in the ount of $5 million per occurrence, exclusive of legal defense costs, for claims arising out of injury to persons or property from the release of escape of hazardous waste into the envrironment from each such facility. Additionally, an owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, shall have and shall maintain financial responsibility for nonsudden and accidental occurrences in the amount of $5 million per occurrence with a $10 million annual aggregate for claims arising out of injury to persons or property from the gradual or steady state release or escape of hazardous waste to the environment from such facility, or group of facilities.

(ii) *Establishment of financial responsibility.* Financial responsibility may be established by any one or a combination of the following:

(A) Evidence of liability insurance.

(B) Self insurance.

(C) Other evidence of financial responsibility. Evidence of financial responsibililty acceptable to the Regional Administrator must be maintained during the operation of the facility. The level of self insurance shall not exceed 10 percent of equity.

(2) *Establishement of post-closure financial responsibility for hazardous waste disposal facilities.* [Reserved]

(c) *Transfer of ownership during post-closure.* If the owner/operator of a facility transfers the ownership or operation of the facility during the 20-year post-closure care period, the funds remaining in the post-closure monitoring and maintenance trust fund shall remain in that trust fund for the remainder of the post-closure care period. Any reimbursement of these funds as provided in § 250.43-9 (a)(2)(iii) shall be made to the new owner/operator only if he notifies the Regional Administrator that he agrees to assume full compliance with the post-closure monitoring and maintenance requirement to § 250.43-7.

§ 250.44 Standards for storage.

(a) An owner/operator of a storage facility as defined in § 250.41, shall store the hazardous waste in either a storage tank or a storage container and shall comply with the requirements of this Section.

(b) Storage of hazardous waste shall be conducted in such a manner that no discharge of hazardous waste occurs.

(c) An owner/operator of a storage facility shall visually inspect the facility daily in accordance with the requirements of § 250.43-6 for the purpose of detecting any potential discharge of hazardous waste.

(d) An owner/operator of a storage facility may be required by the Regional Administrator to comply with all or part of the groundwater and leachate monitoring requirements of § 250.43-8, if the Regional Administrator determines that there is a potential for discharge of the hazardous material.

(e) Each storage area shall have a continuous base which is impervious to the material to be stored, and shall be designed and constructed so that any surface water run-off or spills can be contained until the waste can be removed.

(f) A hazardous waste which the Regional Administrator determines could cause the Air Human Health and Environmental Standard (§ 250.42-3) to be exceeded if it were held open to the environment, particularly with regard to volatility and toxicity, shall be stored in a storage tank(s) or a storage container(s) until the hazardous waste is disposed of, treated or incinerated in accordance with the requirements of this Subpart.

(g) Storage tanks and containers shall be of sturdy and leak-proof construction in accordance with the Occupational Safety and Health Administration's regulations for storage of flammable and combustible liquids (29 CFR Part 1910, Subpart H, § 1910.106).

(h) Storage tanks and containers shall be constructed of materials which are compatible with the hazardous waste to be contained or shall be protected by a liner compatible with the hazardous waste to be contained so that the ability of the storage tank or container to contain the waste is not impaired.

(i) A hazardous waste shall not be contained in an unwashed storage tank or container that previously held an incompatible material (see Appendix I).

(j) The identity and location of all stored hazardous waste shall be known (e.g., via labeling and recordkeeping) throughout the entire storage period.

§ 250.44-1 Storage tanks.

(a) Storage tanks which contain volatile waste shall not be vented directly to the atmosphere if they have a storage capacity in excess of 19,000 liters (5,000 gallons).

(b) All storage tanks above ground shall have a spill confinement structure(s) (e.g., dike or trench), with

a capacity equal to the entire contents of the largest storage tank, plus sufficient freeboard to allow for the containment of precipitation resulting from a 24-hour, 25-year storm.

(c) Diking requirements and operating procedures for storage tanks shall be in accordance with EPA's oil or hazardous substances pollution prevention regulations (40 CFR Part 112, Subchapter D) issued pursuant to Section 311 of the Clean Water Act.

§ 250.44-2 Containers.

(a) If a container is not in good condition or if the contents of a storage container begin to leak, the hazardous waste in the container shall be recontainerized in a storage container(s) in good condition.

(b) A storage container holding hazardous waste shall not be opened, handled or stored in a manner which may rupture the container or cause it to leak.

(c) A storage facility which stores hazardous waste in storage containers shall have a spill confinement structure(s) (e.g., dike or trench), with a capacity equal to 10 percent of the containerized waste, plus sufficient freeboard to allow for containment of precipitation resulting from a 24-hour, 25-year storm.

(d) Storage containers holding hazardous wastes which are incompatible (see Appendix I) shall be separated from each other or protected from each other in order to prevent the wastes from mixing, should the containers break or leak.

(e) Empty combustible storage containers (e.g., fibrous and paper containers) which previously contained hazardous waste shall be:

(1) Incinerated in a facility which complies with the requirements of § 250.45-1, or

(2) Disposed in a landfill which complies with the requirements of § 250.45-2.

(f) Empty non-combustible storage containers (e.g., metal and glass containers), which previously contained hazardous waste, shall be:

(1) Cleaned by removing hazardous waste residuals at a permitted facility, and

(i) Transported to a drum reconditioner; or

(ii) Transported to a metal or glass recovery facility as scrap for resource recovery; or

(2) Transported to a permitted drum reconditioner, with appropriate manifest; or

(3) Reused with the same type of waste previously contained, or with another compatible waste provided such reuse is lawful under currently applicable U.S. DOT regulations, including those set forth in 49 CFR 173.28.

(g) Paper bags contaminated with hazardous waste shall be stored in closed secondary containers.

(h) All containers received at hazardous waste facilities shall be in compliance with § 250.25 (containers) of Subpart B.

§ 250.45 Standards for treatment/disposal.

(a) Where practical, disposal of hazardous waste shall be avoided and alternatives such as destruction, treatment to render the waste non-hazardous, or treatment for purposes of resource recovery and reuse shall be employed.

(b) All facilities which dispose of discrete radioactive wastes shall be licensed by the U.S. Nuclear Regulatory Commission, or an Agreement State.

(c) An owner/operator of a facility shall not treat or dispose of hazardous waste in a landfill, surface impoundment, basin, or landfarm if the waste has any one of the following characteristics:

(i) Ignitable waste, as defined in § 250.13(a), Subpart A;

(ii) Reactive waste, as defined in § 250.13(c), Subpart A;

(iii) Contains chemical groups which are incompatible with wastes in the facility with which they may become mixed (see Appendix I); or

(iv) Volatile waste.

NOTE.—A landfill, surface impoundment, basin, or landfarm facility may be used to treat or dispose of ignitable, reactive, volatile, or incompatible waste provided that the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that such treatment or disposal will not: (1) contribute any airborne contaminant to the atmosphere such that concentrations above the source have the potential: (i) to exceed permissible exposure levels for that airborne contaminant promulgated in 29 CFR 1910.1000 (see Appendix III) pursuant to the Occupational Safety and Health Act of 1970, or (ii) to contribute two or more listed airborne contaminants in a manner which causes the sum of the following expression to exceed unity:

$$E_m = \frac{C_1}{L_1} + \frac{C_2}{L_2} + \cdots \frac{C_n}{L_n}$$

Where:

E_m is the equivalent exposure of a mixture of airborne contaminants, C is the concentration of a particular contaminant, L is the exposure limit for that contaminant (29 CFR 1910.1000, Table Z-1, Z-2, Z-3), and (2) damage the structural integrity of the landfill, surface impoundment, or basin, or affect the attenuation capacity of a landfarm, through heat generation, fires, or explosive reactions.

§ 250.45-1 Incineration.

(a) An owner/operator of an incinerator shall comply with the requirements of this Section when burning hazardous waste.

(b) *Trial burns.* (1) The owner/operator shall conduct a trial burn for each hazardous waste which is significantly different in physical and chemical characteristics from any previously demonstrated under equivalent conditions. The trial burn shall include as a minimum the following determinations:

(i) An analysis of the hazardous waste for concentrations of halogens and principal hazardous components;

(ii) An analysis of the ash residues and scrubber effluent for the principal hazardous components;

(iii) An analysis of the exhaust gas for the concentrations of the principal hazardous components, hydrogen halides, CO, CO_2, O_2, and total particulates;

(iv) An identification of sources of fugitive emissions and their means of control;

(v) A measurement of combustion temperature and computation of residence time;

(vi) A computation of combustion efficiency and destruction efficiency;

(vii) A computation of scrubber efficiency in removing halogens;

(2) The results from each trial burn shall be submitted to the Regional Administrator.

(c) *Monitoring.* The owner/operator shall monitor and record the following in each trial burn and each operational burn:

(1) Combustion temperature;

(2) Carbon monoxide and oxygen concentrations in the exhaust gas on a continuous basis, and

(3) The rate of hazardous waste, fuel, and excess air fed to the combustion system at regular intervals of no longer than 15 minutes.

(d) *Combustion criteria.* (1) The incinerator shall operate at greater than 1000° C combustion temperature, greater than 2 seconds retention time, and greater than 2 percent excess oxygen during incineration of hazardous waste, unless the waste is hazardous because it contains halogenated aromatic hydrocarbons, in which case the incinerator shall operate at greater than 1200° C combustion temperature, greater than two seconds retention time, and greater than 3 percent

excess oxygen during incineration of the hazardous waste.

(2) The incinerator shall be operated at a combustion efficiency equal to or greater than 99.9 percent, as defined in the following equation:

$$CE = \frac{C_{CO_2}}{C_{CO_2} + C_{CO}} \times 100$$

Where:

CE=combustion efficiency
C_{CO_2}=concentration of CO_2 in exhaust gas
C_{CO}=concentration of CO in exhaust gas

Incinerators that burn waste that is hazardous only because it is listed in § 250.14(b)(1) are exempt from this required.

NOTE TO (b) (1) AND (2).—Incinerators may operate at other conditions of temperature, retention time, and combusion efficiency if the facility owner/operator can demonstrate that an equivalent degree of combustion will be provided under alternate combustion criteria to the conditions prescribed above.

(3) The incinerator shall be operated with a functioning device to cut off automatically waste feed to the incinerator when significant changes occur in flame combustion temperature, excess air, or scrubber water pressure.

(e) *Destruction and emission control criteria.* (1) The incinerator shall be designed, constructed, and operated to maintain a destruction efficiency of 99.99 percent as defined in the following equation:

$$DE = \left(\frac{W_{in} - W_{out}}{W_{in}}\right) \times 100$$

Where:

DE=destruction efficiency
W_{in}=mass feed rate of principal toxic components of waste going into the incinerator (g/min)
W_{out}=mass emissions rate of principal toxic components in waste in the incinerator combusion zone (g/min).

Incinerators that burn waste that is hazardous only because it is listed in § 250.14(b)(1) are exempt from this requirement.

(2) An incinerator used to thermally degrade hazardous waste containing more than 0.5 percent halogens shall be equipped with emission control equipment capable of removing 99 percent of the halogens from the exhaust gases.

(3) The incinerator shall be operated in a manner that assures that emissions of particulate matter do not exceed 270 milligrams per dry standard cubic meter (0.12 grains per dry standard cubic foot) at zero excess air. Compliance with this requirement may be achieved by having particulate emissions which, when corrected to 12 percent CO_2 by the formula below, are less than 180 milligrams per standard cubic meter (0.08 grains per dry standard cubic foot).

$$PE_c = PE_m \times \frac{C_s}{C_m \times 1.5}$$

Where:

Pe_c=corrected particulate emissions, mg/m^3 (gr/dscf)
PE_m=measured particulate emissions, mg/m^3 (gr/dscf)
C_s=stoichiometric CO_2 concentration, ppm
C_m=measured CO_2 concentration, ppm

(4) The incinerator shall be designed, constructed, and operated so that fugitive emissions of unburned hazardous waste and combustion products are controlled.

§ 250.45-2 Landfills.

(a) *Site Selection.*

(1) A landfill shall be located, designed, constructed, and operated to prevent direct contact between the landfill and navigable water.

(2) A landfill shall be located, designed, and constructed so that the bottom of its liner system or natural in-place soil barrier is at least 1.5 meters (5 feet) above the historical high water table.

NOTE.—The bottom of any liner system or natural in-place soil barrier may be located less that 1.5 meters (5 feet) above the historical high water table, provided the owner/operator can demonstrate, to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that no direct contact will occur between the landfill and the water table and a leachate monitoring system as required by § 250.43-8 can be adequately installed and maintained in the lesser space.

(3) A landfill shall be at least 150 meters (500 feet) from any functioning public or private water supply or livestock water supply.

NOTE.—A landfill may be less than 150 meters (500 feet) from any functioning public or private water supply or livestock water supply, provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that:

(i) No direct contact will occur between the landfill and any functioning public or private water supply or livestock water supply;

(ii) No mixing of the landfill leach- ate (including groundwater or surface water contaminated with leachate) with the public or private water supply or livestock water supply will occur; and

(iii) A groundwater monitoring system as required by § 250.43-8 has been installed and is being adequately maintained.

(b) *Construction and operation.* (1) A landfill shall be located, designed, constructed, and operated to minimize erosion, landslides, and slumping.

(2) A landfill shall be located, designed, constructed, and operated so that its liner system or natural in-place soil barrier is compatible with all of the waste to be landfilled.

(3) The exact location of each hazardous waste and the dimensions of each cell with respect to permanently surveyed bench marks shall be recorded. The contents of each cell shall also be recorded. These records shall be handled as specified in § 250.43-5(b).

(4) Waste, containerized or non-containerized, that is incompatible (see Appendix I) shall be disposed of in separate landfill cells.

(5) Each container of liquid hazardous waste shall be surrounded by an amount of sorbent inert material capable of absorbing all of the liquid contents of the container.

(6) The following hazardous waste shall not be disposed in a landfill:

(i) Ignitable waste, as defined in § 250.13(a) of Subpart A;

(ii) Reactive waste, as defined in § 250.13(c) of Subpart A;

(iii) Volatile waste;

NOTE.—See Note in § 250.45(c).

(iv) Bulk liquids, semi-solids, and sludges.

NOTE.—Bulk liquids, semi-solids, and sludges may be disposed of at a landfill provided such waste is pretreated and/or stabilized (e.g., chemically fixed, evaporated, mixed with dry inert absorbant), or treated and/or stabilized in the landfill (e.g., mixed with municipal refuse at acceptable ratios) to reduce its liquid content or increase its solid content so that a non-flowing consistency is achieved to eliminate the presence of free liquids prior to final disposal in a landfill.

(7) Diversion structures (e.g., dikes, drainage ditches) shall be constructed such that surface water runoff will be prevented from entering the landfill.

NOTE.—Diversion structures may not be necessary provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to

Subpart E, that the landfill facility is located so that the local topography will prevent surface water runoff from entering the facility.

(8) Surface water which has been in contact with the active portions of a landfill shall be collected and treated or disposed of as a hazardous waste in accordance with requirements in this Subpart unless it is analyzed and found not to be hazardous waste as identified or listed in Subpart A or it is collected and discharged into a navigable water in compliance with a NPDES permit issued under the Clean Water Act.

(9) Where gases are generated within the landfill, a gas collection and control system shall be installed to control the vertical and horizontal escape of gases from the landfill.

NOTE.—Gas collection and control systems shall not be required provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that gases will not be generated in the landfill or that gases generated will not be in violation of the air contaminant limits specified in the Note associated with § 250.45(c) and will not create a flammable or explosive atmosphere.

(10) A minimum of 15 centimeters (6 inches) of cover material shall be applied daily on active portions of a landfill. Active portions which will not have additional waste placed on them for at least one week shall be covered with 30 centimeters (12 inches) of cover material.

NOTE.—An owner/operator may use covers of different thicknesses and/or apply them at different frequencies if he can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that the possibility of fire or explosion or the harboring, feeding, and breeding of land burrowing animals and vectors will be controlled to an equivalent degree.

(11) In areas where evaporation exceeds precipitation by 20 inches or more and where natural geologic conditions allow, a landfill shall have a natural in-place soil barrier on the entire bottom and sides of the landfill. This barrier shall be at least 3 meters (10 feet) in thickness and consist of natural in-place soil which has a permeability of less than or equal to 1×10^{-7} cm/sec. and meets the requirements of § 250.45(b)(14).

NOTE.—A natural in-place soil barrier using natural in-place soils of different thicknesses and permeabilities may be used, provided the barrier has a thickness greater than or equal to 1.5 meters (5 feet), and provided that the owner/operator of the landfill can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that it will provide equivalent containment of leachate.

(12) An owner/operator of a landfill using the design in paragraph (b)(11) or any similar design which does not have a leachate collection system shall demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that liquids will not accumulate in the landfill to the extent that they may be discharged to the surface or to groundwater.

(13) In areas where climatic and natural geologic conditions do not allow meeting the requirements of paragraph (b)(11), a landfill shall have either one of the following liner systems covering the entire bottom and sides of the landfill:

(i) *Design I.* The liner system shall have a slope of at least 1 percent at all points and be connected at all low points to one or more leachate collection sumps, (which meet the specifications in paragraph (b)(17)), so that leachate formed in the landfill will flow by gravity into the leachate collection sump(s) from which the leachate can be removed and treated or disposed of as specified herein. The liner system shall consist of:

(A) A soil liner which is at least 1.5 meters (5 feet) in thickness and composed of natural in-place soil or emplaced soil which has a permeability less than or equal to 1×10^{-7} cm/sec. and meets the requirements of paragraph (b)(14); and

(B) A leachate collection and removal system overlying the soil liner which is at least 30 centimeters (12 inches) in thickness and composed of permeable soil capable of permitting leachate to move rapidly through the system and into the leachate collection sump(s).

(ii) *Design II.* The liner system shall have a slope of at least 1 percent at all points and be connected at all low points to one or more leachate collection sumps (which meet the specifications of paragraph (b)(17)), so that leachate formed in the landfill will flow by gravity into the leachate collection sump(s) from which the leachate can be removed and treated or disposed of as specified herein. The landfill liner system shall consist of:

(A) A leachate detection and removal system, placed on the natural base of the landfill, which shall consist of a minimum of 15 centimeters (6 inches) of permeable soil capable of permitting leachate to move rapidly through the system and into the leachate collection sumps;

(B) A membrane liner system overlying the leachate detection and removal system composed of a 15 centimeter (6 inch) layer of clean permeable sand or soil overlaid with a synthetic membrane liner which meets the specifications in paragraph (b)(17) and which is overlaid with a 15 centimeter (6 inch) layer of clean permeable sand or soil;

(C) A soil liner overlying the membrane liner system which is at least 1 meter (3 feet) in thickness and composed of soil which has a permeability less than or equal to 1×10^{-7} cm/sec. and meets the requirements of paragraph (b)(14); and

(D) A leachate collection and removal system overlying the soil liner which is at least 30 centimeters (12 inches) in thickness and composed of permeable soil capable of permitting leachate to move rapidly through the system and into the leachate collection sumps.

NOTE.—A landfill may use a different liner system than the two described above provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that the alternate liner system includes a liner and a leachate collection and removal system that provides equivalent or greater leachate containment, collection, and removal.

(14) The soils used in a soil liner or natural inplace soil barrier shall meet the following minimum criteria:

(i) Be classified under the Unified Soil Classification System CL, CH, SC and OH (ASTM Standard D2487-69),

(ii) Allow greater than 30 percent passage through a no. 200 sieve (ASTM Test D1140),

(iii) Have a liquid limit equal to or greater than 30 units (ASTM Test D423),

(iv) Have plasticity greater than or equal to 15 units (ASTM Test D424),

(v) Have a pH of 7.0 or higher (see Appendix IV), and

(vi) Have a permeability not adversely affected by anticipated waste.

NOTE.—Soil not meeting the above criteria may be used provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that such soil will provide equivalent or greater structural stability and waste containment and attenuation, and will not be adversely affected by the anticipated waste.

(15) A synthetic membrane liner shall meet the following minimum criteria:

(i) Be of adequate strength and thickness to insure mechanical integrity and have a minimum thickness of 20 mils;

(ii) Be compatible with the waste to be landfilled;

(iii) Be resistant to attack from soil bacteria and fungus;

(iv) Have ample weather resistance to withstand the stress of extreme heat, freezing, and thawing;

(v) Have adequate tensile strength to elongate sufficiently and withstand the stress of installation and/or use of machinery and equipment;

(vi) Be of uniform thickness, free from thin spots, cracks, tears, blisters, and foreign particles;

(vii) Be placed on a stable base; and

(viii) Have a permeability less than or equal to 1×10^{-12} cm/sec or its equivalent.

(16) A landfill overlying an underground drinking water source shall have a groundwater monitoring system and a leachate monitoring system as specified in § 250.43-8.

(17) A leachate collection sump (as required in the liner systems specified in paragraph (b)(13)) shall be designed and constructed:

(i) Of materials both compatible with and impermeable to the leachate formed in the landfill;

(ii) So that the sump is accessible for removal of leachate if the sump pump becomes inoperative and/or the stand pipe for removal of leachate becomes damaged; and

(iii) With a volume equal to or greater than three-months expected volume of leachate but no less than 1,000 gallons.

(18) The owner/operator shall remove leachate from a leachate collection sump as frequently as necessary to maintain gravity flow in the leachate collection and removal system and shall check the leachate collection sump at least monthly to assure compliance with this requirement.

(19) Landfill liner systems and natural in-place soil barriers shall not be placed over earth materials exhibiting a permeability of greater than 1×10^{-4} cm/sec.

(c) *Closure.* (1) At closure, the owner/operator of a landfill shall place a final cover over the landfill. This final cover shall consist of at least 15 centimeters (6 inches) of soil with a permeability less than or equal to 1×10^{-7} cm/sec which meets the criteria of § 250.45-2(b)(14), underlying 45 centimeters (18 inches) of soil capable of supporting indigenous vegetation. The top 15 centimeters (6 inches) of this cover shall be topsoil.

NOTE.—A final cover using different thicknesses and permeabilities may be used provided the owner/operator can demonstrate to the Regional Administrator that it will provide equivalent control of infiltration of water, equivalent control of sublimation or evaporation of harmful pollutants into the air, and equivalent erosion control. The owner/operator must also demonstrate that the final cover will support indigenous vegetation.

(2) Where trees or other deep-rooted vegetation are to be planted on the completed landfill, the final cover shall consist of the 15 centimeter (6 inch) soil layer specified in paragraph (c)(1) underlying at least 1 meter (3 feet) of soil capable of supporting the deep-rooted vegetation and indigenous vegetation.

NOTE.—The upper layer soil thickness for deep-rooted vegetation may be less than 1 meter (3 feet) provided the owner/operator can demonstrate to the Regional Administrator that the roots of the vegetation will not penetrate the 6-inch clay cover.

(3) The final grade of the final cover shall not exceed 33 percent. Where final grades exceed 10 percent, horizontal terraces shall be constructed. Terraces shall be of sufficient width and height to withstand a 24-hour, 25-year storm. A terrace shall be placed at every 10 feet of rise in elevation when the slope is less than 20 percent and at every 20 feet or rise in elevation when the slope is greater than 20 percent.

NOTE.—The final grade may be of different design and slope provided the owner/operator can demonstrate to the Regional Administrator that water will not pool on the final cover and that erosion will be minimized.

(d) *Post-closure care.* (1) During the post-closure period, which shall continue at the landfill for a period of at least 20 years (see § 250.43-7), the owner-operator of the landfill:

(i) Shall maintain the soil integrity, slope, and vegetative cover of the final cover and all diversion and drainage structures;

(ii) Shall maintain the groundwater and leachate monitoring systems and collect and analyze samples from these systems and collect and analyze samples from these systems in the manner and frequency specified in § 250.43-8;

(iii) Shall maintain surveyed bench marks;

(iv) Shall maintain and monitor the gas collection and control system where such a system is installed to control the vertical and horizontal escape of gases; and

(v) Shall restrict access to the landfill as appropriate for its post-closure use.

NOTE.—The owner or operator of a landfill may request that certain post-closure requirements be discontinued earlier than 20 years after closure. The facility owner or operator shall submit information to the Regional Administrator to indicate that such post-closure care need not continue; (e.g., no leaks have been detected, technology has advanced, alternate disposal techniques are to be employed.) The Regional Administrator shall have the discretion to allow discontinuance of one or more of these post-closure requirements.

(2) No buildings intended for habitation shall be constructed over a landfill where radioactive waste as listed in Subpart A has been disposed.

§ 250.45-3 Surface impoundments.

(a) *Site selection.* (1) A surface impoundment shall be located, designed, constructed, and operated to prevent direct contact between the surface impoundment and navigable water.

(2) A surface impoundment shall be located, designed, and constructed so that the bottom of its liner system or natural in-place soil barrier is at least 1.5 meters (5 feet) above the historical high water table.

NOTE.—The bottom of any liner system or natural in-place soil barrier may be located less than 1.5 meters (5 feet) above the historical high water table provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that no direct contact will occur between the surface impoundment and the water table, and a leachate monitoring system as required in § 250.43-8 can be adequately installed and maintained in the lesser space.

(3) A surface impoundment shall be located at least 150 meters (500 feet) from any functioning public or private water supply or livestock water supply.

NOTE.—A surface impoundment may be located less than 150 meters (500 feet) from any functioning public or private water supply or livestock water supply provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that:

(i) No direct contact will occur between the surface impoundment and any functioning public or private water supply or livestock water supply;

(ii) No mixing of the leachate (including groundwater or surface water contaminated with leachate) with the public or private water supply or livestock water supply will occur; and

(iii) A groundwater monitoring system as required by § 250.43-8 has been installed and is being adequately maintained.

(4) A surface impoundment shall be located, designed, constructed, and operated to minimize landslides, slumping, and erosion.

(b) *Hazardous waste suitable for surface impoundments.* (1) A surface impoundment shall not be used to contain hazardous waste which is:

(i) Detrimental to any material being used as a barrier to the waste movement from the surface impoundment,

(ii) Ignitable waste, as defined in § 250.13(a) of Subpart A,

(iii) Reactive waste, as defined in § 250.13(c) of Subpart A, or

(iv) Volatile waste.

NOTE.—(Relative to ii, iii, and iv) see Note associated with § 250.45(c).

(2) Hazardous waste which is incompatible (see Appendix I) shall not be emplaced together in a surface impoundment.

(3) All hazardous waste shall be tested, prior to placement in a surface impoundment, for compatibility with the intended liner materials to determine whether it will have any detrimental effect (e.g., cause cracks, dissolution, decrease mechanical strength, or increase permeability) on the soils or lining materials used to prevent leakage from the surface impoundment.

(c) *Design and construction.* (1) A surface impoundment shall be de-

signed and constructed so as to be capable of preventing discharges or releases to the groundwater or navigable water.

(2) Where natural geologic conditions allow, a surface impoundment shall have a natural in-place soil barrier on the entire bottom and sides of the impoundment. This barrier shall be at least 3 meters (10 feet) in thickness and composed of natural in-place soil which meets the specifications of paragraph (c)(4).

NOTE.—An owner/operator of a surface impoundment may use a natural in-place soil barrier of different thicknesses and different specifications if the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that equivalent or greater waste containment can be achieved. However, under no circumstances shall the thickness of the natural in-place soil barrier be less than 1.5 m (5 feet), or its permeability be greater than 10^{-7} cm/sec.

(3) Where geologic conditions do not allow use of the design in paragraph (c)(2), a surface impoundment shall have a liner system covering the entire bottom and sides of the impoundment. This liner system shall consist of top liner, a bottom liner and a leachate detection system which meet the following specifications:

(i) The top liner shall consist of emplaced soil at least 30 centimeters (12 inches) in thickness which meets the criteria in paragraph (c)(4), or an artificial liner which meets the criteria in paragraph (c)(5).

(ii) The bottom liner shall consist of natural in-place soil or emplaced soil which meets the criteria in paragraph (c)(4) and is at least 1.5 meters (5 feet) in thickness, or an artificial liner which meets the criteria in (c)(5).

(iii) The leachate detection system shall be a gravity flow drainage system installed between the top and bottom liners and shall be capable of detecting any leachate that passes through the top liner. Provisions shall be made for pumping out any leachate that passes through the top liner and for removal of noxious gases that occur in the system.

NOTE.—An owner/operator may use a different design if he can demonstrate that an equivalent or greater degree of waste containment is achieved. The Regional Administrator shall take into account the length of time the surface impoundment has been in existence, projected facility life, and artificial liner, natural in-place soil, or emplaced soil permeability and thickness when arriving at a decision regarding whether an equivalent degree of containment exists. In the case of existing facilities, the facility owner/operator may conduct leachate (zone of aeration) monitoring to determine whether any significant increase in the background levels of chemical species has occurred. If no significant increase is observed, the design shall be considered to provide the same or greater degree of performance.

(4) Soils used for surface impoundment liners or natural in-place soil barriers shall:

(i) Be classified under the Unified Soil Classification Systems as CL, CH, SC, or OH, (ASTM Standard D2487-69);

(ii) Allow more than 30 percent passage through a No. 200 sieve (ASTM Test D1140);

(iii) Have a liquid limit equal to or greater than 30 (ASTM Test D423);

(iv) Have a plasticity index equal to or greater than 15 (ASTM Test D424);

(v) Have a pH of 7.0 or higher (See Appendix IV);

(vi) Have a permeability equal to or less than 1×10^{-7} cm/sec. (ASTM Test D2434); and

(vii) Have a permeability not adversely affected by the waste to be placed in the impoundment.

NOTE.—Soil not meeting the above criteria may be used provided that the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that such soil will provide equivalent or greater structural stability and waste containment properties and will not be adversely affected by the waste to be placed in the impoundment.

(5) Artificial liners for surface impoundments (e.g., concrete, plastic) shall:

(i) Be of sufficient strength to insure mechanical integrity;

(ii) Have a minimum thickness of 30 mils;

(iii) Be compatible with the waste to be placed in the impoundment;

(iv) Have a permeability less than or equal to 1×10^{-7} cm/sec.;

(v) Have an expected service life at least 25 percent longer than the expected time of facility usage;

(vi) Be placed on a stable base;

(vii) Satisfactorily resist attack from ozone, ultraviolet rays, soil bacteria, and fungus;

(viii) Have ample weather resistance to withstand the stress of freezing and thawing;

(ix) Have adequate tensile strength to elongate sufficiently and withstand the stress of installation and/or the use of machinery or equipment;

(x) Resist laceration, abrasion and puncture from any matter that may be contained in the fluids it will hold;

(xi) Be of uniform thickness, free of thin spots, cracks, tears, blisters, and foreign particles; and

(xii) Be easily repaired.

(6) To prevent their rupture, all artificial liners in a surface impoundment where mechanical equipment is used for operation (e.g., sludge dredging and collecting) shall have a protective cover of selected clean earth material, not less than 45 centimeters (18 inches) thick, placed directly on top of the liner.

(7) A surface impoundment shall have a groundwater monitoring system and a leachate monitoring system that meet the specifications in § 250.43-8.

(8) All surface impoundment dikes shall be designed and constructed in a manner that will prevent discharge or release of waste from the facility, both horizontally and vertically.

(9) All earthen dikes at the facility shall be constructed of clay-rich soil with a permeability less than or equal to 1×10^{-7} cm/sec.

(10) All earthen dikes shall have an outside protective cover (e.g., grass, shale, rock) to minimize erosion by wind and water.

(11) Those surface impoundments which are intended to be closed without removing the hazardous waste shall meet the landfill requirements under Section 250.45-2.

(d) *Operation and maintenance.* (1) A surface impoundment shall be operated and maintained so that discharges or releases to groundwater and navigable water do not occur.

(2) The freeboard maintained in a surface impoundment shall be capable of containing rainfall from a 24-hour, 25-year storm but shall be no less than 60 centimeters (2 feet).

(3) Records shall be kept of the contents and location of each surface impoundment. These records shall be maintained as specified in § 250.43-5(b).

(4) The integrity of the natural in-place soil barrier or the liner system installed in a surface impoundment shall be maintained until closure of the impoundment. The liner system or natural in-place soil barrier shall be repaired immediately upon detection of any failure (e.g., liner puncture).

(5) Surface impoundment dikes shall be visually inspected daily, as specified under Section 250.43-6, for the purpose of detecting and correcting any deterioration. Any maintenance or corrective action necessary to restore the dike to its original condition shall be accomplished expeditiously.

(6) Any system provided for detecting the failure of a liner system or natural in-place soil barrier shall be visually inspected daily, as specified in § 250.43-6, to insure that it is operating properly for the purpose intended.

(e) *Closure and post-closure.* (1) Upon final close-out, all hazardous waste and hazardous waste residuals shall be removed from the surface impoundment, if the impoundment does not meet the landfill requirements under § 250.45-2, and disposed of as hazardous waste pursuant to the requirements of this Part.

(2) Upon final close-out of a surface impoundment which meets the criteria for landfills under § 250.45-2, all haz-

ardous waste and hazardous waste residuals shall be:

(i) Removed and disposed as hazardous waste pursuant to the requirements of this Part, or

(ii) Treated in the impoundment pursuant to the note following § 250.45-2(b) (6) (iv), and then the impoundment shall be closed according to the closure requirements for landfills under § 250.45-2(c).

(3) Emptied surface impoundments shall be filled with an inert fill material and seeded with a suitable grass or ground cover crop, or converted to some other acceptable use that meets the requirement under § 250.43-7.

(4) Those surface impoundments which were closed as landfills shall meet all post-closure requirements for landfills under § 250.45-2(d).

§ 250.45-4 Basins.

(a) A basin shall be constructed of impermeable materials of sufficient strength and thickness to ensure mechanical integrity and to prevent the discharge of waste to navigable waters or groundwater.

(b) A basin shall not be used to contain hazardous waste which is:

(1) Detrimental to the basin's construction materials;

(2) Ignitable waste, as defined in § 250.13(a) of Subpart A;

(3) Reactive waste, as defined in § 250.13(c) of Subpart A; or

(4) Volatile waste.

NOTE.—With respect to (b) (2, 3 and 4), see Note associated with § 250.45(c).

(c) Hazardous waste which is incompatible (see Appendix I) shall not be placed together in a basin.

(d) A hazardous waste shall be tested prior to placement in a basin to determine whether it will have any detrimental effect (e.g., cause dissolution or corrosion, increase permeability, decrease mechanical strength) on materials used for construction of the basin.

(e) The materials used for construction of basins shall be compatible with the hazardous waste and treatment chemicals to be used under expected operating conditions (i.e., temperature, pressure) or shall be protected by a liner compatible with the hazardous waste and treatment chemicals to be used under expected operating conditions.

(f) A basin shall be monitored or visually inspected daily in accordance with the requirements under § 250.43-6 for leaks, corrosion, cracks, or other damages. Any damage detected shall be repaired immediately.

(g) A basin shall have a groundwater monitoring system meeting the specifications of § 250.43-8.

NOTE.—A basin does not need a groundwater monitoring system if the facility owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that any leaking can be detected by visual inspection or other means.

(h) At final closure, all hazardous waste and hazardous waste residues shall have been removed from a basin and disposed of as hazardous waste pursuant to the requirements of Subparts B, C, and D.

250.45-5 Landfarms.

(a) *Hazardous waste not amenable to landfarming.* The following hazardous waste shall not be landfarmed:

(1) Ignitable waste, as defined in § 250.13(a) of Subpart A;

(2) Reactive waste, as defined in § 250.13(c) of Subpart A;

(3) Volatile waste;

(4) Waste which is incompatible when mixed (see Appendix I).

NOTE.—See Note associated with § 250.45(c).

(b) *General requirements.* (1) A landfarm shall be located, designed, constructed, and operated to prevent direct contact between the treated area and navigable water.

(2) A landfarm shall be located, designed, constructed, and operated to minimize erosion, landslides, and slumping in the treated area.

(3) A landfarm shall be located, designed, constructed and operated so that the treated area is at least 1.5 meters (5 feet) above the historical high water table.

NOTE.—The treated area may be located less than 1.5 meters (5 feet) above the historical high water table if the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that no direct contact will occur between the treated area and the water table.

(4) The treated area of a landfarm shall be at least 150 meters (500 feet) from any functioning public or private water supply or livestock water supply.

NOTE.—The treated area of a landfarm may be less than 150 meters (500 feet) from any functioning public or private water supply or livestock water supply, provided the facility owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that:

(i) No direct contact will occur between the treated area of the landfarm and any functioning public or private water supply or livestock water supply;

(ii) No migration of hazardous constituents from the soil in the treated area of the landfil to any public or private water supply or livestock water supply will occur; and

(iii) A soil monitoring system as specified in § 250.45-5(e) has been installed and is being adequately maintained.

(5) A landfarm shall be located on an area that has fine grained soils (i.e., more than half the soil particles are less than 73 microns in size which are of one of the following types, as defined by the Unified Soil Classification System (ASTM Standard D 2487-69): OH—organic clays of medium to high plasticity; CH—inorganic clays of high plasticity, fat clays; MH—inorganic silts, micaceous or diatomaceous fine sandy or silty soils, elastic silts; CL—inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays; OL—organic silts and organic silt-clays of low plasticity.

NOTE.—A landfarm may be located on an area with soil types other than those specified above provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that the alternative soil types will prevent hazardous constituents from vertically migrating a distance that exceeds three times the depth of the zone of incorporation or 30 centimeters (12 inches), whichever is greater.

(c) *Site preparation.* (1) Surface slopes of a landfarm shall be less than 5 percent, to minimize erosion in the treated area by waste or surface runoff, but greater than zero percent to prevent the waste or water from ponding or standing for periods that will cause the treated area to become anaerobic.

NOTE.—Surface slopes of the landfarm may be greater than 5 percent provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that such slopes will not result in erosion caused by waste or surface run-off in the treated area.

(2) Caves, wells (other than active monitoring wells), and other direct connections to the subsurface environment within the treated area of a landfarm, or within 30 meters (100 feet) thereof, shall be sealed.

(3) Soil pH in the zone of incorporation shall be equal to or greater than 6.5 (see Appendix IV).

NOTE.—Soil pH in the zone of incorporation may be less than 6.5 provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that hazardous constitutents, especially heavy metals, will not migrate vertically a distance that exceeds three times the depth of the zone of incorporation or 30 centimeters (12 inches), whichever is greater.

(d) *Waste application and incorporation.* (1) Waste application and incorporation practices shall prevent the zone of incorporation from becoming anaerobic.

(2) Waste shall not be applied to the soil when it is saturated with water.

NOTE.—Waste may be applied to the soil when it is saturated with water provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that the soil-waste mixture will remain aerobic and that hazardous constituents, especially heavy metals, will not migrate vertically a distance

that exceeds three times the depth of the zone of incorporation or 30 centimeters (12 inches), whichever is greater.

(3) Waste shall not be applied to the soil when the soil temperature is less than or equal to 0° C.

(4) The pH of the soil-waste mixture in the zone of incorporation shall be equal to or greater than 6.5 and maintained until the time of facility closure.

NOTE.—The pH of the soil-waste mixture in the zone of incorporation may be less than 6.5 provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that hazardous constituents, especially heavy metals, will not vertically migrate a distance that exceeds three times the depth of the zone of incorporation or 30 centimeters (12 inches), whichever is greater.

(5) Supplemental nitrogen and phosphorous added to the soil of the treated area, for the purpose of increasing the rate of waste biodegradation, shall not exceed the rates of application recommended for agricultural purposes by the United States Department of Agricultural or Agricultural Extension Service.

(e) *Soil monitoring.* (1) Background soil conditions shall be determined by taking one soil core per acre in the area to be treated. The depth of the soil core shall be three times the depth of the zone of incorporation or 30 centimeters (12 inches), whichever is greater. The bottom one-third of the soil core shall be quantitatively analyzed for those constituents known or expected to be in the waste which make it hazardous. At new facilities, soil cores shall be taken and analyzed prior to beginning operation. At existing facilities, background soil cores shall be taken and analyzed within six months after the effective date of these regulations.

(2) Soil conditions in the treated area of a landfarm shall be determined by taking one soil core per acre, semi-annually. The depth of the soil core shall be three times the depth of the zone of incorporation or 30 centimeters (12 inches), whichever is greater. The bottom one-third of the soil core shall be quantitatively analyzed for the constituents in the waste which make it hazardous.

NOTE.—Soil monitoring may be conducted by taking less than one soil core per acre and/or by monitoring less frequently than semi-annually, provided the owner/operator can demonstrate to the Regional Administrator, at the time a permit is issued pursuant to Subpart E, that hazardous constituents, especially heavy metals, will be detected before vertically migrating a distance that exceeds three times the depth of the zone of incorporation or 30 centimeters (12 inches), whichever is greater.

(3) If soil monitoring shows that the concentration of a hazardous constituent in the bottom one-third of the soil core has significantly exceeded the background levels established in accordance with paragraph (e)(1), the owner/operator shall: (i) Notify the Regional Administrator within seven days;

(ii) Determine, by soil monitoring, the areal extent of vertical contaminant migration in the soil; and

(iii) Discontinue all landfarming in the contaminated area, as determined in (ii), until corrective measures can be taken.

(f) *Growth of food-chain crops.* Food-chain crops shall not be grown on the treated area of a landfarm.

(g) *Closure.* (1) A landfarm shall be designed and operated so that, by the time of closure, the soil of the treated area(s):

(i) Is returned to its pre-existing condition, as established in paragraph (e)(1) if the facility began operation after promulgation of this requirement (i.e., a new facility).

(ii) Is returned to equivalent pre-existing condition, as determined by soil analysis of similar local soils that have not had hazardous waste applied to them, if the facility began operation prior to the promulgation of this requirement (i.e., an existing facility). Soil analysis of similar local soils shall not be required at existing facilities if background soil data are available and those data establish background conditions for the treated area(s).

(2) Soil of the treated area(s) of a new or existing facility that does not comply with paragraph (g)(1)(i) or (ii), respectively, shall be analyzed to determine if it meets the characteristics of a hazardous waste as defined in Subpart A. In the event the soil is determined to be a hazardous waste, it shall be removed and managed as a hazardous waste in accordance with all applicable requirements of this Part.

NOTE.—The soil at a landfarm, if determined to be a hazardous waste, need not be removed provided the owner/operator can demonstrate to the Regional Administrator that, because of its special design and/or because of its location, the landfarm provides long term integrity and environmental protection equivalent to a landfill as specified in § 250.45-2. In the event of such a showing, the owner/operator shall comply with the applicable closure and post-closure provisions of § 250.43-7 and 250.45-2(c and d).

§ 250.45-6 Chemical, physical, and biological treatment facilities.

(a) The materials used in construction of the treatment facility shall be compatible, under expected operating conditions (e.g., temperature, pressure), with the hazardous waste and any treatment chemicals or reagents used in the treatment process.

(b) The hazardous waste shall be analyzed, as appropriate, prior to selection of a treatment technique to determine:

(1) The proper treatment technique, the proper feed rates of treatment chemicals or reagents, and the proper operating conditions (e.g., temperature, pressure, flow rate);

(2) If the waste or treatment chemicals or reagents will have any detrimental effect (e.g., cause corrosion, dissolution, saltings or scalings) on the materials used for construction;

(3) If the waste contains any components or contaminants which may interfere with the intended treatment process (e.g., biological treatment, solidification, adsorption processes) or decreases the effectiveness of the treatment;

(4) If the waste contains components or contaminants which may cause the uncontrolled release of toxic gases or fumes (e.g., H_2S, HCN) during the intended treatment;

(5) If the waste contains components or contaminants which may form highly toxic components with the treatment chemicals or reagents (e.g., halogenated hydrocarbons) during the intended treatment.

NOTE.—The analyses of hazardous waste may be omitted provided the owner/operator can demonstrate to the Regional Administrator that the information provided in the manifest is adequate to make the determinations required in paragraph (b), or the facility owner/operator has sufficient information documenting that the subject hazardous waste is similar to a hazardous waste which has been previously treated at the facility where the same treatment conditions and the same treatment chemicals or reagents were used.

(c) Trial tests (bench scale, pilot plant scale, or other appropriate tests) shall be performed for each hazardous waste which is new or significantly different from hazardous waste previously treated to determine treatment technique and operating conditions, and to evaluate the effectiveness of the treatment process and consequences of the proposed treatment.

(d) All treatment chemicals or reagents used in a treatment process shall be stored in such a manner as to minimize the potential for spills, fires, explosions, or uncontrolled discharges or releases.

(e) All uncovered reaction vessels shall be sized to provide no less than 60 centimeters (2 feet) freeboard to prevent splashing or spillage of hazardous waste during the treatment (e.g., neutralization, precipitation).

(f) A facility shall have the capacity to receive emergency transfer of reactor contents, or shall have emergency storage capacity to be used in the event of an equipment breakdown or malfunction.

(g) A facility which continuously feeds hazardous waste into the treatment process shall be equipped with an automatic waste food cutoff or a by-pass system which is activated when a malfunction in the treatment process occurs.

(h) Upon final closure, all hazardous waste and hazardous waste residuals shall be removed from the facility, and treated or disposed of as hazardous waste pursuant to the requirements of this Part.

(i) All residuals or by-products from a treatment process (e.g., sludges, spent resins) shall be analyzed to determine whether they are hazardous waste within the meaning of Subpart A, or assumed to be a hazardous waste.

NOTE.—Analyses of treatment residuals or by-products may be omitted provided the owner/operator can demonstrate that the subject residuals and/or by-products are similar to those previously produced at the facility.

§ 250.46 Special waste standards.

Owners and operators of facilities that treat, store, or dispose of any of the special waste covered in this Section shall comply with the respective requirements specified in this Section and shall not have to comply with the other requirements of this Subpart or Subparts B and C with respect to a special waste.

§ 250.46-1 Cement kiln dust waste.

The treatment, storage, and disposal of cement kiln dust waste determined to be a hazardous waste under § 250.13 of Subpart A are subject to the requirements of the following Sections of this Subpart:

250.43(f) (General Facility Standards—waste analysis);
250.43-1 (General Site Selection—for new sources only);
250.43-2 (Security);
250.43-5(a), (b)(1), (b)(2)(i), (b)(6-7), and (c) (Manifest System, Recordkeeping, and Reporting);
250.43-6 (Visual Inspections);
250.43-7(k), (l), and (m) (Closure and Post-Closure); and
250.43-8(a) and applicable requirements of (c) and (d) which relate to groundwater monitoring, (Groundwater and Leachate Monitoring—for groundwater monitoring only).

§ 250.46-2 Utility waste.

(a) The treatment, storage, and disposal of flue-gas desulfurization waste, bottom ash waste and fly ash waste, which is generated by a steam power plant solely from the use of fossil fuels, and which is determined to be a hazardous waste under § 250.13 of Subpart A, are subject to the requirements of the following Sections of this Subpart:

250.43(f)(h) (General Facility Standards—waste analysis);
250.43-1 (General Site Selection—for new sources only);
250.43-2 (Security);
250.43-5(a), (b)(1), (b)(2)(i), (b)(6-7), and (c) (Manifest System, Recordkeeping, and Reporting);
250.43-6 (Visual Inspections);
250.43-7(k), (l) and (m) (Closure and Post Closure);
250.43-8(a) and applicable requirements of (c) and (d) which relate to groundwater monitoring, (Groundwater and Leachate Monitoring—for groundwater monitoring only)

§ 250.46-3 Phosphate rock mining, beneficiation, and processing waste.

(a) The treatment, storage, and disposal of hazardous waste listed in this paragraph (and which is listed as hazardous waste in § 250.14 of Subpart A) are subject to the requirements specified in paragraphs (b) and (c).

(1) Over burden, slimes (phosphoric clays) and tailings from phosphate rock mining;

(2) Waste gypsum from phosphoric acid production; and

(3) Slag and fluid bed prills from elemental phosphorus production.

(b) The requirements of the following Sections of this Subpart are applicable to waste listed under paragraph (a):

250.43(f) (General Facility Standards—waste analysis);
250.43-1 (General Site Site Selection—for new sources only);
250.43-2 (Security);
250.43-5(a), (b)(1), (b)(2)(i), (b)(6-7), and (c) (Manifest System, Recordkeeping, and Reporting);
250.43-6 (Visual Inspections);
250.43-7 (k), (l), and (m) (Closure and Post-Closure); and
250.43-8(a), and applicable requirements of (c) and (d) which relate to groundwater monitoring, (Groundwater and Leachate Monitoring—for groundwater monitoring only).

(c) Additionally, the following requirements are applicable to waste listed under paragraph (a):

(1) Location of waste deposits shall be recorded on reference maps which shall be maintained through the operating and post-closure periods.

(2) Land reclaimed by filling with waste listed in paragraph (a) shall be used for residential development only where provisions have been made to prevent alpha radiation exposure from Radon 222 inhalation from exceeding background levels by 0.03 Working Level Units and gamma radiation from exceeding background levels by 5 micro Roentgens/hour. The possible need for special construction methods for structures on such reclaimed land shall be identified to any future land owner(s) by recording a stipulation in the deed of the reclaimed land.

(3) Building products manufactured from waste listed in paragraph (a) shall not be used if such products cause alpha radiation exposure from Radon 222 inhalation to exceed background levels by 0.03 Working Level Units or cause gamma radiation to exceed background levels by 5 micro Roentgens/hour. Purchasers of waste and of products manufactured from waste shall be advised of this requirement by the seller.

(4) Analysis required under § 250.43-8(c)(5) shall also include determination of Radium concentration in picocuries/gram.

(5) Analysis required under § 250.43-8(c)(6) shall also include the following:

(i) Radium, picocuries/gram
(ii) Phosphate, mg/liter
(iii) Fluoride, mg/liter

§ 250.46-4 Uranium mining waste.

(a) The treatment, storage, and disposal of overburden and waste rock resulting from uranium mining (which is hazardous waste listed in § 250.14 of Subpart A) are subject to the requirements of the following Sections of this Subpart and to the additional requirements in paragraph (b):

250.43(f) (General Facility Standards—waste analysis);
250.43-1 (General Site Selection—for new sources only);
250.43-2 (Security);
250.43-5(a), (b)(1), (b)(2)(i), (b)(6-7), and (c) (Manifest System, Recordkeeping, and Reporting);
250.43-6 (Visual Inspections);
250.43-7(b), (k), (l), and (m) (Closure and Post-Closure); and
250.43-8(a), applicable requirements of (c) and (d) which relate to groundwater monitoring, (Groundwater and Leachate Monitoring—for groundwater monitoring only).

(b) Additionally, the following requirements are applicable to waste identified under paragraph (a):

(1) Location of waste deposits shall be recorded on reference maps which shall be maintained throughout the operating and post-closure periods.

(2) Land reclaimed by filling with waste identified in paragraph (a) shall be used for residential development only where provisions have been made to prevent alpha radiation exposure from Radon 222 inhalation from exceeding background levels by 0.03 Working Level Units, and gamma radiation from exceeding background levels by 5 micro Roentgens per hour. The possible need for special construction methods for structures on such reclaimed land shall be identified to any future land owner(s) by recording a stipulation in the deed of the reclaimed land.

(3) Building products manufactured from waste identified in paragraph (a) shall not be used if the products cause alpha radiation exposure from Radon 222 inhalation to exceed background levels by 0.03 Working Level Units or

gamma radiation to exceed background levels by 5 micro Roentgens per hour. Purchasers of waste and of products manufactured from waste shall be advised of this requirement by the seller.

(4) Analysis required under § 250.43-8(c)(5) shall also include determination of Radium concentration in picocuries/gram.

(5) Analysis required under § 250.43-8(c)(6) shall also include the following:

(i) Radium, picocuries/gram
(ii) Thorium, picocuries/gram
(iii) Processing reagents, mg/gr.
(iv) Molybdenum, mg/gr.

(6) As part of closure of subject disposal facilities, the site shall be reclaimed so as to support plant life indigenous to the surrounding area and shall be revegetated with such plant life.

NOTE.—Other plant life may be substituted if the substitute species provide an equivalent degree of stability to the soil.

§ 250.46-5 Other mining waste.

The treatment, storage, and disposal of discarded material from the extraction, beneficiation, and processing of ores and minerals, except phosphate rock and uranium ores (which are covered under §§ 250.46-3 and 250.46-4), which are determined to be hazardous waste under § 250.13 of Subpart A are subject to the requirements of the following Sections of this Subpart:

250.43(f) (General Facility Standards—waste analysis);
250.43-1 (General Site Selection—for new sources only);
250.43-2 (Security);
250.43-5(a), (b)(1), (b)(2)(i), (b)(6-7), and (c) (Manifest System, Recordkeeping, and Reporting);
250.43-6 (Visual Inspections);
250.43-7(k), (l), and (m) (Closure and Post-Closure);
250.43-8(a) and applicable requirements of (c) and (d) which relate to groundwater monitoring, (Groundwater and Leachate Monitoring—for groundwater monitoring only).

§ 250.46-6 Gas and oil drilling muds and oil production brines.

The treatment, storage, and disposal of oil and gas drilling muds and oil production brines which are determined to be hazardous waste under § 250.13 of Subpart A are subject to the requirements of the following Sections of this Subpart:

250.43(f) (General Facility Standards—waste analysis);
250.43-1 (General Site Selection—for new sources only);
250.43-2 (Security);
250.43-5(a), (b)(1), (b)(2)(i), (b)(6-7), and (c) (Manifest System, Recordkeeping, and Reporting);
250.43-6 (Visual Inspections); and
250.43-7(k), (l), and (m) (Closure and Post-Closure).

Figure 1

FORM APPROVED
OMB NO.

TSDF (TREATMENT, STORAGE OR DISPOSAL FACILITIES) REPORT

IDENTIFICATION

NAME

ADDRESS

TSDF IDENTIFICATION CODE

CLOSING DATE

WASTE INFORMATION

GENERATOR I.D. CODE	MANIFEST DOCUMENT NUMBER	SHIPPING DESCRIPTION	QUANTITY	UNIT OF MEASURE

DRAFT

COMMENTS

CERTIFICATION

"I have personally examined and am familiar with the information submitted in this certification, and I hereby certify under penalty of law that this information is true, accurate, and complete. I am aware that there are significant penalities for submitting false information, including the possibility of fine and imprisonment."

SIGNATURE _____ DATE _____

EPA Form 8700-13 (4-78)

[6560-01-M]

APPENDIX I

INCOMPATIBLE WASTE

Many wastes, when mixed with others at a hazardous waste facility, can potentially produce adverse human health and environmental effects through means such as the following: (1) heat generation, (2) violent reaction, (3) release of toxic fumes and gases as a result of mixing, (4) release of toxic substances in case of fire or explosion, (5) fire or explosion, and (6) generation of flammable or toxic gases.

Below is a summary list of potentially incompatible waste materials or components and the adverse consequences resulting from mixing of waste in one group with waste in another group.

The mixing of a Group A waste with a Group B waste may have the potential consequence as noted.

Group 1-A	*Group 1-B*
Acetylene sludge	Acid sludge
Alkaline caustic liquids	Acid and water
Alkaline cleaner	Battery acid
Alkaline corrosive liquids	Chemical cleaners
Alkaline corrosive battery fluid	Electrolyte, acid
Caustic wastewater	Etching acid liquid or solvent
Lime sludge and other corrosive alkalies	Liquid cleaning compounds
Lime wastewater	Pickling liquor and other corrosive acids
Lime and water	Spent acid
Spent caustic	Spent mixed acid
	Spent sulfuric acid

Potential consequences: Heat generation, violent reaction.

Group 2-A	*Group 2-B*
Asbestos waste, and other toxic wastes	Cleaning solvents
Beryllium wastes	Data processing liquid
Unrinsed pesticide containers	Obsolete explosives
Waste pesticides	Petroleum waste
	Refinery waste
	Retrograde explosives
	Solvents
	Waste oil and other flammable and explosive wastes

Potential consequences: Release of toxic substances in case of fire or explosion.

Group 3-A	*Group 3-B*
Aluminum	Any waste in Group 1-A or 1-B
Beryllium	
Calcium	
Lithium	
Magnesium	
Potassium	
Sodium	
Zinc powder and other reactive metals and metal hydrides	

Potential consequences: Fire or explosion; generation of flammable hydrogen gas.

Group 4-A	*Group 4-B*
Alcohols	Any concentrated waste in Groups 1-A or 1-B
Water	Calcium
	Lithium
	Metal hydrides
	Potassium
	Sodium
	SO_2Cl_2, $SOCl_2$, PCl_5, CH_3SiCl_3, and other water-reactive wastes

Potential consequences: Fire, explosion, or heat generation; generation of flammable or toxic gases.

Group 5-A	*Group 5-B*
Alcohols	Concentrated Group 1-A or 1-B wastes
Aldehydes	Group 3-A wastes
Halogenated hydrocarbons	
Nitrated hydrocarbons and other reactive organic compounds and solvents	
Unsaturated hydrocarbons	

Potential consequences: Fire, explosion or violent reaction.

Group 6-A	*Group 6-B*
Spent cyanide and sulfide solutions	Group 1-B wastes

Potential consequences: Generation of toxic hydrogen cyanide or hydrogen sulfide gas.

Group 7-A	*Group 7-B*
Chlorates and other strong oxidizers	Acetic acid and other organic acids
Chlorine	Concentrated mineral acids
Chlorites	Group 2-B wastes
Chromic acid	Group 3-A wastes
Hypochlorites	Group 5-A wastes and other flammable and combustible wastes.
Nitrates	
Nitric acid, fuming	
Perchlorates	
Permanganates	
Peroxides	

Potential consequences: Fire, explosion, or violent reaction.

Source: "Law, Regulations and Guidelines for Handling of Hazardous Waste". California Department of Health, February 1975.

APPENDIX II—EPA INTERIM PRIMARY AND PROPOSED SECONDARY DRINKING WATER STANDARDS

Parameter	Maximum Level
A. Interim primary	(mg/l)
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium (VI)	0.05
Flouride	1.4–2.4
Lead	0.05
Mercury	0.002
Nitrate (as N)	10
Selenium	0.01
Silver	0.05
Endrin	0.002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.01
2,4,5-TP Silvez	0.01
Radium	5 pCi/1
Gross Alpha	15 pCi/1
Gross Beta	4 millirem/yr
Turbidity	1/TU
Coliform Bacteria	1/100 ml
B. Secondary	(mg/l)
Chloride	250
Copper	1
Foaming Agents	0.5
Hydrogen Sulfide	0.05
Iron	0.3
Manganese	0.05
Sulfate	250
TDS	500
Zinc	5
Color	15 Color Units
Corrosivity	Non-corrosive
Odor	3 Threshold Odor Number
pH	6.5–8.5

APPENDIX III—PERMISSIBLE EXPOSURE LEVELS FOR AIRBONE CONTAMINANTS (29 CFR 1910.1000)

Permissible exposure levels for specified airborne contaminants are given in Tables Z–1 and Z–2 below. Permissible exposure levels for mineral dusts are given in Table Z–3 below. These values are taken from Occupational Safety and Health Administration regulations (29 CFR 1910.1000).

TABLE Z–1

Substance	p.p.m.[a]	mg./M³[b]
Acetaldehyde	200	360
Acetic acid	10	25
Acetic anhydride	5	20
Acetone	1,000	2,400
Acetonitrile	40	70
Acetylene dichloride, see 1, 2-Dichloroethylene		
Acetylene tetrabromide	1	14
Acrolein	0.1	0.25
Acrylamide—Skin		0.3
Acrylonitrile—Skin	20	45
Aldrin—Skin		0.25
Allyl alcohol—Skin	2	5
Allyl chloride	1	3
C Allyl glycidyl ether (AGE)	10	45
Allyl propyl disulfide	2	12
2-Aminoethanol, see Ethanolamine		
2-Aminopyridine	0.5	2

TABLE Z–1—Continued

Substance	p.p.m.[a]	mg./M³[b]
Ammonia	50	35
Ammonium sulfamate (Ammate)		15
n-Amyl acetate	100	525
sec-Amyl acetate	125	650
Aniline—Skin	5	19
Anisidine (o, p-isomers)—Skin		0.5
Antimony and compounds (as Sb)		0.5
ANTU (alpha naphthyl thiourea)		0.3
Arsenic and compounds (as As)		0.5
Arsine	0.05	0.2
Azinphos-methyl—Skin		0.2
Barium (soluble compounds)		0.5
p-Benzoquinone, see Quinone		
Benzoyl peroxide		5
Benzyl chloride	1	5
Biphenyl, see Diphenyl		
Bisphenol A, see Diglycidyl ether		
Boron oxide		15
C Boron trifluoride	1	3
Bromine	0.1	0.7
Bromoform—Skin	0.5	5
Butadiene (1, 3-butadiene)	1,000	2,200
Butanethiol, see Butyl mercaptan		
2-Butanone	200	590
2-Butoxy ethanol (Butyl Cellosolve)—Skin	50	240
Butyl acetate (n-butyl acetate)	150	710
sec-Butyl acetate	200	950
tert-Butyl acetate	200	950
Butyl alcohol	100	300
sec-Butyl alcohol	150	450
tert-Butyl alcohol	100	300
C Butylamine—Skin	5	15
C tert-Butyl chromate (as CrO_3)—Skin		0.1
n-Butyl glycidyl ether (BGE)	50	270
*Butyl mercaptan	10	35
p-tert-Butyltoluene	10	60
Calcium arsenate		1
Calcium oxide		5
**Camphor	2	
Carbaryl (Sevin)		5
Carbon black		3.5
Carbon dioxide	5,000	9,000
Carbon monoxide	50	55
Chlordane—Skin		0.5
Chlorinated camphene—Skin		0.5
Chlorinated diphenyl oxide		0.5
*Chlorine	1	3
Chlorine dioxide	0.1	0.3
C Chlorine trifluoride	0.1	0.4
C Chloroacetaldehyde	1	3
α-Chloroacetophenone (phenacylchloride)	0.05	0.3
Chlorobenzene (monochlorobenzene)	75	350
o-Chlorobenzylidene malononitrile (OCBM)	0.05	0.04
Chlorobromomethane	200	1,050
2-Chloro-1,3-butadiene, see Chloroprene		
Chlorodiphenyl (42 percent Chlorine)—Skin		1
Chlorodiphenyl (54 percent Chlorine)—Skin		0.5
1-Chloro,2,3-epoxypropane, see Epichlorhydrin		
2-Chloroethanol, see Ethylene chlorohydrin		
Chloroethylene, see Vinyl chloride		
C Chloroform (trichloromethane)	50	240
1-Chloro-1-nitropropane	20	100

TABLE Z–1—Continued

Substance	p.p.m.[a]	mg./M³[b]
Chloropicrin	0.1	0.7
Chloroprene (2-chloro-1,3-butadiene)—Skin	25	90
Chromium, sol. chromic, chromous salts as Cr		0.5
Metal and insol. salts		1
Coal tar pitch volatiles (benzene soluble fraction) anthracene, BaP, phenanthrene, acridine, chrysene, pyrene		0.2
Cobalt, metal fume and dust		0.1
Copper fume		0.1
Dusts and Mists		1
Cotton dust (raw)		1
Crag herbicide		15
Cresol (all isomers)—Skin	5	22
Crotonaldehyde	2	6
Cumene—Skin	50	245
Cyanide (as CN)—Skin		5
Cyclohexane	300	1,050
Cyclohexanol	50	200
Cyclohexanone	50	200
Cyclohexene	300	1,015
Cyclopentadiene	75	200
2, 4-D		10
DDT—Skin		1
DDVP, see Dichlorvos		
Decaborane—Skin	0.05	0.3
Demeton —Skin		0.1
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	50	240
1,2-diaminoethane, see Ethylenediamine		
Diazomethane	0.2	0.4
Diborane	0.1	0.1
Dibutylphthalate		5
C o-Dichlorobenzene	50	300
p-Dichlorobenzene	75	450
Dichlorodifluoromethane	1,000	4,950
1,3-Dichloro-5,5-dimethyl hydantoin		0.2
1,1-Dichloroethane	100	400
1,2-Dichloroethylene	200	790
C Dichloroethyl ether—Skin	15	90
Dichloromethane, see Methylenechloride		
Dichloromonofluoromethane	1,000	4,200
C 1,1-Dichloro-1-nitroethane	10	60
1,2-Dichloropropane, see Propylenedichloride		
Dichlorotetrafluoroethane	1,000	7,000
Dichlorvos (DDVP)—Skin		1
Dieldrin—Skin		0.25
Diethylamine	25	75
Diethylamino ethanol—Skin	10	50
Diethylether, see Ethyl ether		
Difluorodibromomethane	100	860
C Diglycidyl ether (DGE)	0.5	2.8
Dihydroxybenzene, see Hydroquinone		
Diisobutyl ketone	50	290
Diisopropylamine—Skin	5	20
Dimethoxymethane, see Methylal		
Dimethyl acetamide—Skin	10	35
Dimethylamine	10	18
Dimethylaminobenzene, see Xylidene		
Dimethylaniline (N-dimethyl-aniline)—Skin	5	25
Dimethylbenzene, see Xylene		
Dimethyl 1,2-dibromo-2,2-dichloroethyl phosphate, (Dibrom)		3
Dimethylformamide—Skin	10	30
2,6-Dimethylheptanone, see Diisobutyl ketone		
1,1-Dimethylhydrazine—Skin	0.5	1
Dimethylphthalate		5
Dimethylsulfate—Skin	1	5

TABLE Z-1—Continued

Substance	p.p.m.[a]	mg./M³[b]
Dinitrobenzene (all isomers)—Skin		1
Dinitro-o-cresol—Skin		0.2
Dinitrotoluene—Skin		1.5
Dioxane (Diethylene dioxide)—Skin	100	360
Diphenyl	0.2	1
Diphenylmethane diisocyanate (see Methylene bisphenyl isocyante (MDI)		
Dipropylene glycol methyl ether—Skin	100	600
Di-sec, octyl phthalate (Di-2-ethylhexylphthalate)		5
Endrin—Skin		0.1
Epichlorhydrin—Skin	5	19
EPN—Skin		0.5
1,2-Epoxypropane, see Propyleneoxide		
2,3-Epoxy-1-propanol, see Glycidol		
Ethanethiol, see Ethylmercaptan		
Ethanolamine	3	6
2-Ethoxyethanol—Skin	200	740
2-Ethoxyethylacetate (Cellosolve acetate)—Skin	100	540
Ethyl acetate	400	1,400
Ethyl acrylate—Skin	25	100
Ethyl alcohol (ethanol)	1,000	1,900
Ethylamine	10	18
Ethyl sec-amyl ketone (5-methyl-3-heptanone)	25	130
Ethyl benzene	100	435
Ethyl bromide	200	890
Ethyl butyl ketone (3-Heptanone)	50	230
Ethyl chloride	1,000	2,600
Ethyl ether	400	1,200
Ethyl formate	100	300
C Ethyl mercaptan	10	25
Ethyl silicate	100	850
Ethylene chlorohydrin—Skin	5	16
Ethylenediamine	10	25
Ethylene dibromide, see 1,2-Dibromoethane		
Ethylene dichloride, see 1,2-Dichloroethane		
C Ethylene glycol dinitrate and/or Nitroglycerin—Skin	[d]0.2	1
Ethylene glycol monomethyl ether acetate, see Methyl cellosolve acetate		
Ethylene imine—Skin	0.5	1
Ethylene oxide	50	90
Ethylidine chloride, see 1,1-Dichloroethane		
N-Ethylmorpholine—Skin	20	94
Ferbam		15
Ferrovanadium dust		1
Fluoride (as F)		2.5
Fluorine	0.1	0.2
Fluorotrichloromethane	1,000	5,600
Formic acid	5	9
Furfural—Skin	5	20
Furfuryl alcohol	50	200
Glycidol (2,3-Epoxy-1-propanol)	50	150
Glycol monoethyl ether, see 2-Ethoxyethanol		
Guthion , see Azinphosmethyl		
Hafnium		0.5
Haptachlor—Skin		0.5
Haptane (n-haptane)	500	2,000
Hexachloroethane—Skin	1	10
Hexachloronaphthalene—Skin		0.2
Hexane (n-hexane)	500	1,800
2-Hexanone	100	410
Hexone (Methyl isobutyl ketone)	100	410
sec-Hexyl acetate	50	300
Hydrazine—Skin	1	1.3
Hydrogen bromide	3	10
C Hydrogen chloride	5	7
Hydrogen cyanide—Skin	10	11
Hydrogen peroxide (90%)	1	1.4

TABLE Z-1—Continued

Substance	p.p.m.[a]	mg./M³[b]
Hydrogen selenide	0.05	0.2
Hydroquinone		2
C Iodine	0.1	1
Iron oxide fume		10
Isoamyl acetate	100	525
Isoamyl alcohol	100	360
Isobutyl acetate	150	700
Isobutyl alcohol	100	300
Isophorone	25	140
Isopropyl acetate	250	950
Isopropyl alcohol	400	980
Isopropylamine	5	12
Isopropylether	500	2,100
Isopropyl glycidyl ether (IGE)	50	240
Ketene	0.5	0.9
Lead arsenate		0.15
Lindane—Skin		0.5
Lithium hydride		0.025
L.P.G. (liquified petroleum gas)	1,000	1,800
Magnesium oxide fume		15
Malthion—Skin		15
Maleic anhydride	0.25	1
C Manganese		5
Mesityl oxide	25	100
Methanethiol, see Methyl mercaptan		
Methoxychlor		15
2-Methoxyethanol, see Methyl cellosolve		
Methyl acetate	200	610
Methyl acetylene (propyne)	1,000	1,650
Methyl acetylene-propadiene mixture (Mapp)	1,000	1,800
Methyl acrylate—Skin	10	35
Methylal (dimethoxymethane)	1,000	3,100
Methyl alcohol (methanol)	200	260
Methylamine	10	12
Methyl amyl alcohol, see Methyl isobutyl carbinol		
Methyl (n-amyl) ketone (2-Heptanone)	100	465
C Methyl bromide—Skin	20	80
Methyl butyl ketone, see 2-Hexanone		
Methyl cellosolve—Skin	25	80
Methyl cellosolve acetate—Skin	25	120
Methyl chloroform	350	1,900
Methylcyclohexane	500	2,000
Methylcyclohexanol	100	470
0-Methylclohexanone—Skin	100	460
Methyl ethyl ketone (MEK), see 2-Butanone		
Methyl formate	100	250
Methyl iodide—Skin	5	28
Methyl isobutyl carbinol—Skin	25	100
Methyl isobutyl ketone, see Hexone		
Methyl isocyanate—Skin	0.02	0.05
C Methyl mercaptan	10	20
Methyl methacrylate	100	410
Methyl propyl ketone, see 2-Pentanone		
C a Methyl styrene	100	480
C Methylene bisphenyl isocyanate (MDI)	0.02	0.2
Molybdenum:		
Soluble compounds		5
Insoluble compounds		15
Monomethyl aniline—Skin	2	9
C Monomethyl hydrazine—Skin	0.2	0.35
Morpholine—Skin	20	70
Naphtha (Coaltar)	100	400
Naphthalene	10	50
Nickel carbonyl	0.001	0.007
Nickel, metal and soluble cmpds, as NI		1
Nicotine—Skin		0.5
Nitric acid	2	5
Nitric oxide	25	30
p-Nitroaniline—Skin	1	6
Nitrobenzene—Skin	1	5
p-Nitrochlorobenzene—Skin		1

TABLE Z-1—Continued

Substance	p.p.m.[a]	mg./M³[b]
Nitroethane	100	310
Nitrogen dioxide	5	9
Nitrogen trifluoride	10	29
Nitroglycerin—Skin	0.2	2
Nitromethane	100	250
1-Ntropropane	25	90
2-Nitropropane	25	90
Nitrotoluene—Skin	5	30
Nitrotrichloromethane, see Chloropicrin		
Octachloronaphthalene—Skin		0.1
*Octane	500	2,350
*Oil mist, mineral		5
Osmium tetroxide		0.002
Oxalic acid		1
Oxygen difluoride	0.05	0.1
Ozone	0.1	0.2
Paraquat—Skin		0.5
Parathion—Skin		0.11
Pentaborane	0.005	0.01
Pentachloronaphthalene—Skin		0.5
Pentachlorophenol—Skin		0.5
*Pentane	1,000	2,950
2-Pentanone	200	700
Perchloromethyl mercaptan	0.1	0.8
Perchloryl fluoride	3	13.5
Petroleum distillates (naphtha)	500	2,000
Phenol—Skin	5	19
p-Phenylene diamine—Skin		0.1
Phenyl ether (vapor)	1	7
Phenyl ether-biphenyl mixture (vapor)	1	7
Phenylethylene, see Styrene		
Phenyl glycidyl ether (PGE)	10	60
Phenylhydrazine—Skin	5	22
Phosdrin (Mevinphos)—Skin		0.1
Phosgene (carbonyl chloride)	0.1	0.4
Phosphine	0.3	0.4
Phosphoric acid		1
Phosphorus (yellow)		0.1
Phosphorus pentachloride		1
Phosphorus pentasulfide		1
Phoshorus trichloride	0.5	3
Phthalic anhydride	2	12
Picric acid—Skin		0.1
Pival (2-Pivalyl-1,3-indandione)		0.1
Platinum (Soluble Salts) as Pt		0.002
Propargyl alcohol—Skin	1	
Propane	1,000	1,800
n-Propyl acetate	200	840
Propyl alcohol	200	500
n-Propyl nitrate	25	110
Propylene dichloride	75	350
Propylene imine—Skin	2	5
Propylene oxide	100	240
Propyne, see Methylacetylene		
Pyrethrum		5
Pyridine	5	15
Quinone	0.1	0.4
RDX—Skin		1.5
Rhodium, Metal fume and dusts, as Rh		0.1
Soluble salts		0.001
Ronnel		10
Rotenone (commercial)		5
Selenium compounds (as Se)		0.2
Selenium hexafluoride	0.05	0.4
Silver, metal and soluble compounds		0.01
Sodium fluoroacetate (1080)—Skin		0.05
Sodium hydroxide		2
Stibine	0.1	0.5
*Stoddard solvent	500	2,950
Strychnine		0.15
Sulfur dioxide	5	13
Sulfur hexafluoride	1,000	6,000
Sulfuric acid		1
Sulfur monochloride	1	6
Sulfur pentafluoride	0.025	0.25
Sulfuryl fluoride	5	20
Systox, see Demeton		
2,4,5T		10
Tantalum		5

TABLE Z-1—Continued

Substance	p.p.m.[a]	mg./M³ [b]
TEDP—Skin		0.2
Tellurium		0.1
Tellurium hexafluoride	0.02	0.2
TEPP—Skin		0.05
C Terphenyls	1	9
1,1,1,2-Tetrachloro-2,2-difluoroethane	500	4,170
1,1,2,2-Tetrachloro-1,2-difluoroethane	500	4,170
1,1,2,2-Tetrachloroethane—Skin	5	35
Tetrachloroethylene, see Perchloroethylene		
Tetrachloromethane, see Carbon tetrachloride		
Tetrachloronaphthalene—Skin		2
Tetraethyl lead (as Pb)—Skin.		0.075
Tetrahydrofuran	200	590
Tetramethyl lead (as Pb)—Skin		0.07
Tetramethyl succinonitrile—Skin	0.5	3
Tetranitromethane	1	8
Tetryl (2,4,6-trinitrophenylmethylnitramine)—Skin		1.5
Thallium (soluble compounds)—Skin as Tl		0.1
Thiram		5
Tin (inorganic cmpds, except oxides		2
Tin (organic cmpds)		0.1
C Toluene-2,4-diisocyanate	0.02	0.14
o-Toluidine—Skin	5	22
Toxaphene, see Chlorinated camphene		
Tributyl phosphate		5
1,1,1-Trichloroethane see Methyl chloroform		
1,1,2-Trichloroethane—Skin	10	45
Titaniumdioxide		15
Trichloromethane, see Chloroform		
Trichloronaphthalene—Skin		5
1,2,3-Trichloropropane	50	300
1,1,2-Trichloro 1,2,2-trifluoroethane	1,000	7,600
Triethylamine	25	100
Trifluoromonobromomethane	1,000	6,100
2,4,6-Trinitrophenol, see Picric acid		
2,4,6-Trinitrophenylmethylnitramine, see Tetryl		
Trinitrotoluene—Skin		1.5
Triorthocresyl phosphate		0.1
Triphenyl phosphate		3
Turpentine	100	560
Uranium (soluble compounds)		0.05
Uranium (insoluble compounds)		0.25
C Vanadium:		
V_2O_5 dust		0.5
V_2O_5 fume		0.1
Vinyl benzene, see Styrene		
Vinylcyanide, see Acrylonitrile		
Vinyl toluene	100	480
Warfarin		0.1
Xylene (xylol)	100	435
Xylidine—Skin	5	25
Yttrium		1
Zinc chloride fume		1
Zinc oxide fume		5
Zirconium compounds (as Zr)		5

*1970 Addition.

[a] Parts of vapor or gas per million parts of contaminated air by volume at 25° C. and 760 mm. Hg pressure.

[b] Approximate milligrams of particulate per cubic meter of air.

TABLE Z-2

Material	8-hour time weighted average	Acceptable ceiling concentration	Acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift.	
			Concentration	Maximum duration
Benzene (Z37.4-1969)	10 p.p.m	25 p.p.m	50 p.p.m	10 minutes.
Beryllium and beryllium compounds (Z37.29-1970).	2 μg./M³	5 μg./M³	25 μg./M³	30 minutes.
Cadmium fume (Z37.5-1970)	0.1 mg./M³	3 mg./M³		
Cadmium dust (Z37.5-1970)	0.2 mg./M³	0.6 mg./M³		
Carbon disulfide (Z37.3-1968)	20 p.p.m	30 p.p.m	100 p.p.m	Do.
Carbon tetrachloride (Z37.17-1967)	10 p.p.m	25 p.p.m	200 p.p.m	5 minutes in any 4 hours.
Ethylene dibromide (Z37.31-1970)	20 p.p.m	30 p.p.m	50 p.p.m	5 minutes.
Ethylene dichloride (Z37.21-1969)	50 p.p.m	100 p.p.m	200 p.p.m	5 minutes in any 3 hours.
Formaldehyde (Z37.16-1967)	3 p.p.m	5 p.p.m	10 p.p.m	30 minutes.
Hydrogen fluoride (Z37.28-1969)	do			
Fluoride as dust (Z37.28-1969)	2.5 mg./M³			
Lead and its inorganic compounds (Z37.11-1969).	0.2 mg./M³			
Methyl chloride (Z37.18-1969)	100 p.p.m	200 p.p.m	300 p.p.m	5 minutes in any 3 hours.
Methylene Chloride (Z37.3-1969)	500 p.p.m	1,000 p.p.m	2,000 p.p.m	5 minutes in any 2 hours.
Organo (alkyl) mercury (Z37.30-1969).	0.01 mg./M³	0.04 mg./M³		
Styrene (Z37.15-1969)	100 p.p.m	200 p.p.m	600 p.p.m	5 minutes in any 3 hours.
Trichloroethylene (Z37.19-1967)	do	do	300 p.p.m	5 minutes in any 2 hours.
Tetrachloroethylene (Z37.22-1967)	do	do	do	5 minutes in any 3 hours.
Toluene (Z37.12-1967)	200 p.p.m	300 p.p.m	500 p.p.m	10 minutes.
Hydrogen sulfide (Z37.2-1966)		20 p.p.m	50 p.p.m	10 minutes once only if no other measureable exposure occurs.
Mercury (Z37.8-1971)		1 mg./10M³		
Chromic acid and chromates (Z37.7-1971).		do [3]		

TABLE Z-3—MINERAL DUSTS

Substance	Mppcf[a]	Mg/M³
Silica:		
Crystalline:		
Quartz (respirable)	250 [f]	10mg/M³ [m]
	%SiO_2+5	%SiO_2+2
Quartz (total dust)		30mg/M³
		%S_iO_2+2
Cristobalite: Use ½ the value calculated from the count or mass formulae for quartz.		
Tridymite: Use ½ the value calculated from the formulae for quartz.		
Amorphous, including natural diatomaceous earth	20	80mg/M³
		%SiO_2
Silicates (less than 1% crystalline silica):		
Mica	20	
Soapstone	20	
Talc (non-asbestos-form)	20[n]	
Talc (fibrous). Use asbestos limit		
Tremolite (see talc, fibrous)		
Portland cement	50	
Graphite (natural)	15	
Coal dust (respirable fraction less than 5% SiO_2)		2.4mg/M³
		or
For more than 5% SiO_2		10mg/M³
		5SiO_2+2
Inert or Nuisance Dust:		
Respirable fraction	15	5mg/M³
Total dust	50	15mg/M³

NOTE: Conversion factors—mppcf×35.3=million particles per cubic meter=particles per c.c.

[a] Millions of particles per cubic foot of air, based on impinger samples counted by light-field technics.

[f] The percentage of crystalline silica in the formula is the amount determined from air-borne samples, except in those instances in which other methods have been shown to be applicable.

[l] As determined by the membrane filter method at 430× phase contrast magnification.

[m] Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

[n] Containing 1% quartz; if >1% quartz, use quartz limit.

APPENDIX IV—METHODS FOR DETERMINING SOIL pH

A. Method For Soil pH in Water (For Non-Calcareous Soils)

To 20 g. of soil in a 50-ml. beaker, add 20 ml. of distilled water, and stir the suspension several times during the next 30 minutes. Let the soil suspension stand for about 1 hour to allow most of the suspended clay to settle out from the suspension. Adjust the position of the electrodes in the claimps of the electrode holder so that, upon lowering the electrodes into the beaker, the glass electrode will be immersed well into the partly settled suspension, and the calomel electrode will be immersed just deep enough into the clear supernatant solution to establish a good electrical contact through the ground-glass joint or the fiber-capillary hole. Then insert the electrodes into the partly settled suspension as indicated above, measure the pH, and report the results as "soil pH measured in water."

B. Method For Soil pH in 0.01M $CaCl_2$ Solution (For Calcareous Soils)

Reagents

1. Stock calcium chloride solution ($CaCl_2$) 3.6M: Dissolve 1,059 g. of $CaCl_2.2H_2O$ in distilled water in a 2-liter volumetric flask. Cool the solution, dilute it to volume with distilled water, and mix it well. Dilute 20 ml. of this solution to 1 liter with distilled water in a volumetric flask, and standardize it by titrating a 25 ml. aliquot of the diluted solution with standard 0.1N $AgNO_3$, using 1 ml. of 5% K_2CrO_4 as the indicator.

2. Calcium chloride ($CaCl_2$) 0.01M: Dilute 50 ml. of stock 3.6M $CaCl_2$ to 18 liters with distilled water. If the pH of this solution is not between 5 and 6.5, adjust the pH by addition of a little $Ca(OH)_2$ or HCl. As a check on the preparation of this solution, measure its electrical conductivity. The specific conductivity should be 2.32 ± 0.08 mmho. per cm. at 25°C.

Procedure

To 10 g. of soil in a 50 ml. beaker, add 20 ml. of 0.01M $CaCl_2$ solution, and stir the suspension several times during the next 30 minutes. Let the soil suspension stand for about 30 minutes to allow most of the suspended clay to settle out from the suspension. Adjust the position of the electrodes in the clamps of the electrode holder so that, upon lowering the electrodes into the beaker, the glass electrode will be immersed well into the partly settled suspension and the calomel electrode will be immersed just deep enough into the clear supernatant solution to establish a good electrical contact through the groundglass joint or the fiber-capillary hole. Then insert the electrodes into the partly settled suspension as indicated above, measure the pH, and report the results as "soil pH measured in 0.01M $CaCl_2$."

SOURCE: "Methods of Soil Analysis", Part II, Chemical and Microbiological Properties. C. A. Black, Ed. (American Society of Agronomy), 1965.

Subpart E—Permits for Treatment, Storage, or Disposal of Hazardous Waste

AUTHORITY: Sec. 3005 Pub. L. 94-580, 90 Stat. 2808 (42 USC 6925).

§ 250.50 Reference.

Regulations developed pursuant to Section 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 USC 6925), concerning permits for treatment, storage, and disposal of hazardous waste are being integrated with similar permit regulations under the Clean Water Act and the Safe Drinking Water Act, and will be proposed under Title 40, CFR, Parts 122, 124, and 128.

Subpart F—Guidelines for Authorized State Hazardous Waste Programs

AUTHORITY: Sec. 3006, Pub. L. 94-580, 90 Stat. 2809 (42 USC 6926).

§ 250.60 Reference.

Guidelines developed pursuant to Section 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 USC 6926), concerning authorized State hazardous waste programs are being integrated with similar State authorization regulations under the Clean Water Act and the Safe Drinking Water Act, and will be proposed under Title 40, CFR, Parts 122 and 123.

[FR Doc. 78-34903 Filed 12-15-78; 8:45 am]

[6560.01-M]

[40 CFR Part 250]

[FRL 1014-7]

IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Advance Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This Notice solicits data, information, case studies, and operating experience relevant to the expansion of the characteristics for identifying hazardous waste pursuant to Section 3001 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976. This Notice should be reviewed in the context of the Proposed Rulemaking for Section 3001 (Subpart A, 40 CFR Part 250) appearing in this same issue of the FEDERAL REGISTER.

DATES: Comments received on or before July 1, 1979 will be of primary importance in further development of these regulations. All comments will be available for public inspection by contacting the Docket Section at the address below.

ADDRESSEES: Comments to: John P. Lehman, Director, Hazardous Waste Management Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attn: Section 3001 ANPR. Official record for this rulemaking is available at: Docket Section, Rm 2111D, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Alan S. Corson (202) 755-9187.

SUPPLEMENTAL INFORMATION: This Notice begins a second phase of data gathering and information development that commenced with an Advance Notice of Proposed Rulemaking (ANPR) (May 2, 1977, 42 FR 22332-22334). The culmination of this first ANPR was a set of rulemaking proposals pursuant to Sections 3001, 3002, and 3004 of the Act (appearing in today's issue of the FEDERAL REGISTER) and proposals pursuant to Section 3006 (February 1, 1978, 43 FR 4942-4955), and Section 3003 (April 28, 1978, 43 FR 18506-18512).

This ANPR focuses on the need to expand the data and information available to the Agency to further develop EPA's actions under Section 3001, beyond the proposal which appears in today's FEDERAL REGISTER (40 CFR Part 250; Subpart A). Specifically, this ANPR solicits data, information, case studies, and operating experience which could lead to the addition of further characteristics for identification of hazardous waste. The attributes of waste under consideration for designation as additional characteristics include radioactivity, genetic activity, bioaccumulation, and additional aspects of toxicity which would include toxicity to aquatic organisms, toxicity to terrestrial plants, and toxicity to humans resulting from chronic exposure to organic chemicals.

The implications of the Agency designating characteristics in addition to those cited in the proposed rulemaking elsewhere in today's FEDERAL REGISTER are potentially significant. Any person responding to this ANPR should review and evaluate the preamble to the above-mentioned proposed rule to fully appreciate these implications.

The additional characteristics and tests are described in paragraphs (a) and (b). Comments are specifically invited on the following questions.

1. Should the Agency add additional characteristics to those proposed in today's FEDERAL REGISTER? Are the at-

tributes which are candidates (items (a) and (b)) necessary and sufficient for this purpose?

2. How well do the suggested properties measure the characteristic in question? What alternative properties would be more effective and why?

3. How well do the suggested tests measure the property in question both qualitatively and quantitatively? and

4. What are the economic implications of using tests as determinants of whether or not a given waste is hazardous, including costs of testing and availability of testing facilities and personnel?

Dated: December 11, 1978.

DOUGLAS M. COSTLE,
Administrator.

(a) *Radioactivity.* A solid waste is a hazardous waste if it is not source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, and if a representative sample of the waste has either of the following properties:

(1) The average radium-226 concentration exceeds 5 picocuries per gram for solid wastes or 50 picocuries (radium-226 and radium-228 combined) per liter for liquid wastes; as determined by either of the methods cited in Appendix I; or

(2) The total radium-226 activity equals or exceeds 10 microcuries for any single discrete source.

(b) *Toxicity.* A solid waste is a hazardous waste if the extract obtained from applying the Extraction Procedure (see Section 250.13(d)(2) in Subpart A, 40 CFR Part 250) to a representative sample of the waste has any of the following properties, according to the tests specified in Appendices II-VI.

(1) Either contains more than one mg/liter of any compound on the Controlled Substances List in Appendix II or gives a positive response in any one of the tests for mutagenic activity, described in Appendix III.

A total of three assays would be conducted, one chosen from Group I, one from Group II, and one from those listed in Group III.

GROUP I—DETECTION OF GENE MUTATIONS

A. Point mutation in bacteria.

GROUP II—DETECTION OF GENE MUTATIONS

A. Mammalian somatic cells in culture.
B. Fungal microorganisms.

GROUP III—DETECTING EFFECTS ON DNA REPAIR OR RECOMBINATION AS AN INDICATION OF GENETIC DAMAGE

A. DNA repair in bacteria (including differential killing of repair-defective strains).
B. Unscheduled DNA synthesis in human diploid cells.
C. Sister-chromatid exchange in mammalian cells.
D. Mitotic recombination and/or gene conversion in yeast.

A result shall be considered positive for the mutagenic activity assays if a reproducible increase is observed in the effect being measured over negative control.

(2) Gives a positive result in the Bioaccumulation Potential Test defined in Appendix IV.

(3) Exceeds any of the applicable thresholds when evaluated according to paragraph (a) or (b) of this section.

(a) Analytic threshold.

A. Has a concentration of a substance for which an EPA National Interim Primary Drinking Water Standard has been established, which is greater than or equal to 10 times that standard.

B. Contains any organic substance which has a calculated human LD50 of less than 800 mg/kg, at a concentration in mg/l greater than or equal to 0.35 times its LD50 expressed in units of mg/kg. For the purposes of these regulations, metallic salts of organic acids containing 3 or fewer carbon atoms are considered not to be organic substances.

PROCEDURE FOR CALCULATING HUMAN LD50 VALUE

The LD50 value to be used will be that for oral exposure to rats. Where a value for the rat is not available, mouse oral LD50 data may be employed. Where an appropriate LD50 value for the rat or mouse is listed in the NIOSH *Registry of Toxic Effects of Chemical Substances* ("Registry"), this value may be used without validation. If other values are used, they must be supported by specific and verified laboratory reports. The appropriate conversion factors to use in calculating LD50's are

Rat $\times .16 =$ human
Mouse $\times .066 =$ human

Example: Tetraethylenepentamine

Listed oral rat LD50 is 3990 mg/kg, calculated human LD50 is $3990 \times 0.16 = 638$ mg/kg; $638 \times 0.35 = 223$ mg/l.

Thus, if the EP extract contains more than 223 mg/l of tetraethylenepentamine the waste is hazardous.

(b) Bioassay threshold.

A. Interferes with reproduction and/or growth as determined by the daphnia magna assay in Appendix V.

B. Interferes with plant growth in any one of the terrestrial plant assays in Appendix VI. All of the assays specified would be required.

APPENDIX I—RADIOACTIVE WASTE MEASUREMENTS

Radium-226 concentration can be determined by either of the following methods referenced in Part 300 of *Standard Methods for the Examination of Water and Wastewater*, 13th ed. APHA, AWWA, WPCF, New York (1970).

1. Precipitation method

2. Radon Emanation Technique Radium-226 concentration in liquid sources can be determined by the method referenced in *Interim Radiochemical Methodology for Drinking Water* (EPA-600/4-75-008 (Revised)). Additional Information Concerning Sample Preparation

1. *Radioassay Procedures for Environmental Samples* U.S. Department of Health, Education & Welfare, Public Health Service, Rockville, MD. (1967)

2. *Method for Determination of Radium-226 in Solid Waste Samples* available from USEPA Office of Solid Waste.

APPENDIX II—CONTROLLED SUBSTANCE LIST

NOTE.—Compounds and classes which have been reported to be either mutagenic, carcinogenic, or teratogenic an which would not give a positive indication of activity using the prescribed tests. Where a class of compounds is listed, inclusion on this list does not mean that all members of the class have been shown to be either mutagenic, carcinogenic, or teratogenic. Demonstration that specific class members contained in the waste have not been shown to be either mutagenic, carcinogenic, or teratogenic, will be sufficient for a demonstration of nonhazard by reason of mutagenic activity (M).

Aloperidin
Amantadine
4-Aminoantipyrin acetamide
Aminopterin
3-Amino-1,2,4-triazole
6-Azauridine
Azo dyes
Benzene
Bisulfan
Carbon tetrachloride
Chloroquine
Chlorambucil
Cobalt salts
Colchicine
Coumarin Derivatives
Cycasin
Cyclophosophamide
Dextroamphetamine sulfate
Diazepam (Valium)
Diethylstilbesterol
Dimethylaminoazobenzene
Dimethylnitrosamine
Diphenylhydantoin
Ethionine
Grisefulvin
1-Hydroxysafrole
Maleic Hydrazide
Methotrexate
Methylthiouracil
Mytomycin-C
d-Penicillamine
Phenylalanine
Phorbol esters
Quinine
Resperine
p-Rosanilin
Safrole
Serotonin
Streptomycin
Testosterone
Thioacetamide thiourea
Trimethadione
d-Tubocurarine

APPENDIX III—MUTAGENIC ACTIVITY DETECTION

GROUP I—DETECTION OF GENE MUTATIONS

a. *Point Mutations in Bacteria.*

1. *Positive Controls.* All assays must be run with a concurrent positive control. Positive control compounds or mixtures shall be selected to demonstrate both the sensitivity of the indicator organism and the functioning of the metabolic activation system.

2. *Negative controls.* A solvent negative control shall be included.

3. *Choice of Organisms.* The bacteria used shall include strains capable of detecting base pair substitutions (both transitions and transversions) and frame-shift mutations. The known spectrum of chemical mutagens capable of being detected by the strains shall be considered when selecting the strains. The strains shall also be highly sensitive to a wide range of chemical mutagens. They may include strains whose cell wall, DNA repair, or other capabilities have been altered to increase sensitivity (Ames, 1975; McCann *et al.*, 1975). Although sensitive bacterial assays for forward mutations at specific loci or over some portion of the entire genome may also be appropriate, at the present time the most sensitive and best-characterized bacteria for mutagenicity testing are those capable of indicating reverse mutations at specific loci.

4. *Methodology.*—(i) *General.* The test shall be performed in all respects in a manner known to give positive results for a wide range of chemical mutagens at low concentrations. Tests must be run with and without metabolic activation. The sensitivity and reproducibility of the metabolic activation systems and strains used shall be evaluated both by reference to past work with the method and by the concurrent use of positive controls.

(ii) *Plate assays.* In general, the EP extract should be tested by plate incorporation assays at various concentrations. Test conditions should minimize the possible effects due to extraneous nutrients, contamination by other bacteria, and high levels of spontaneous mutants.

(iii) *Liquid suspension assays.* A few chemicals (e.g., diethylnitrosamine and demethylnitrosamine) will give positive results only in tests in which the test substance, the bacteria, and the metabolic activation system are incubated together in liquid prior to plating, but not in a plate incorporation assay (Bartsch *et al.*, 1976). Thus, tests shall be conducted in liquid suspension as well as on agar plates.

(iv) *Doses.* The highest test dose which does not result in excessive cell death shall be used.

GROUP II—DETECTION OF GENE MUTATIONS

a. *Mammalian Somatic Cells in Culture.*

1. *Choice of cell systems.* A number of tests in mammalian somatic cells in culture are available in which specific locus effects may be detected in response to chemical exposure (Shapiro *et al.*, 1972; Chu, 1971). The cell line used shall have demonstrated sensitivity of chemical induction of specific-locus mutations by a variety of chemicals. The line shall be chosen for ease of cultivation, freedom from biological contaminants such as mycoplasmas, high and reproducible cloning efficiencies, definition of genetic detection, loci, and relative karyotypic stability. The inherent capabilities of the test cells for metabolic activation of promutagens to active mutagens shall also be considered, as well as the use of metabolic activation systems similar to those used with microorganisms.

2. *Methodology.*—(i) *General.* The test shall be performed in all respects in a manner known to give positive results for a wide range of chemical mutagens. The sensitivity of the system, metabolic activation capability, and its reproducibility must be evaluated by reference to past work and by the concurrent use of positive controls. Culture conditions which may affect the detection of mutations and give falsely high or low figures for reasons other than chemical induction shall be avoided. Definition of detected genetic loci studies and verifiction that the obseved phenotypic changes are indeed genetic alterations should be presented.

b. *Mutation in Fungi.*

1. *Controls.* All considerations discussed under Group I, a. are applicable.

2. *Choice of Organisms.* The fungi used shall include strains capable of detecting base pair substitutions (both transitions and transversions) and frame-shift mutations. More inclusive assay systems, such as those designed to detect recessive lethals, are also acceptable. The known spectrum of chemical mutagens capable of being detected by the strains shall be considered when selecting the strains. The strains shall also be highly sensitive to a wide range of chemical mutagens. Strains altered in DNA repair or other capabilities with the intent to increase sensitivity may be used, subsequent to validation. Either forward or reverse mutation assays may be applied.

3. *Methodology*—(i) *General.* All considerations discussed under Group I a, 4, (i) are applicable. *Care should be taken to investigate* stage sensitivity, i.e., replicating vesus non-replicating cells as well as possible requirement for post-treatment growth.

(ii) *Plate Assays.* While spot tests and plate incorporation assays are useful for preliminary testing, they shall not be considered conclusive.

GROUP III—DETECTING EFFECTS ON DNA REPAIR OR RECOMBINATION AS AN INDICATION OF GENETIC DAMAGE

a. *DNA Repair in Bacteria.*

1. *Controls.* All considerations discussed under Group I are applicable.

2. *General.* (i) When the DNA of a cell is damaged by a chemical mutagen, the cell will utilize its DNA repair enzymes in an attempt to correct the damage. Cells which have reduced capability of repairing DNA may be more susceptible to the action of chemical mutagens, as detected by increased cell death rates. For suspension tests using DNA repair-deficient bacteria, the positive control should be similar in toxicity to the test mixture.

(ii) The DNA repair test in bacteria determines if the test substance is more toxic to DNA repair-deficient cells than it is to DNA repair-competent cells. Such differential toxicity is taken as an indication that the chemical interacts with the DNA of the exposed cells to produce increased levels of genetic damage.

3. *Choice of Organisms.* Two bacterial strains, with no known genetic differences other than DNA repair capability, shall be used. The strains selected shall be known to be capable of indicating the activity of a wide range of chemical mutagens. The spectrum of chemical mutagens and chemical mixtures capable of being detected by the strains and procedures used shall be reported.

4. *Methodology*—(i) *Plate test.* The EP extract should be tested by spotting a quantity on an agar plate which has had a lawn of the indicator organisms spread over it. After a suitable incubation period, the zone of inhibition around the spot shall be measured for each strain and compared for the DNA repair-competent and DNA repair-deficient strains. If no discrete zone of inhibition is seen with either strain, then the results of the tests are not meaningful.

(ii) *Liquid suspension test.* The liquid suspension test shall also be performed by comparing the rates at which given concentrations of the test substances will kill each of the two indicator strains when incubated in liquid suspension. Conditions should be adjusted so that significant killing of the DNA repair-competent strain occurs, if this is possible. Methodology is discussed in Kelly *et al.* (1976).

(iii) *Doses.* The dose level of test substances used in the plate or suspension test shall be adjusted so that significant toxicity to the DNA repair-competent strain is measured. In the plate test, this means that a zone of inhibition must be visible; in the suspension test, significant loss of cell viability must be measured. This may not be possible if the test substance is not toxic to the bacteria or if, in the plate test, it does not dissolve in and diffuse through the agar. The same dose must be used in exposing the DNA repair-competent and repair-deficient strains.

b. *Unscheduled DNA Synthesis in Human Diploid Cells.*

1. *General.* DNA damage induced by chemical treatment of a cell can be measured as an increase in unscheduled DNA synthesis which is an indication of increased DNA repair. Unrepaired or mis-repaired alterations may result in gene mutations or in breaks or exchanges which can lead to deletion and/or duplication of larger gene sequences or to translocations which may affect gene function by position effects (Stich, 1970; Stoltz *et al.*, 1974).

2. *Methodology*—(i) *General.* Primary or established cell cultures with normal repair function shall be used. Standardized human cell strains from repositories are recommended. Controls should be performed to detect changes in scheduled DNA synthesis at appropriate sections in the experimental design. The media conditions shall be optimal for measuring repair synthesis.

(ii) *Dose.* At least five dose levels shall be used and the time in the cycle of cynchronour or non-proliferating cells at which exposure takes place shall be given. The maximum compound dose shall induce toxicity, and the dosing period with the test substance shall not be less than sixty minutes.

c. *Sister Chromatid Exchange in Mammalian Cells with and without Metabolic Activation.*

1. *Controls.* All considerations discussed under Group I a. are applicable.

2. *General.* Cytological techniques are available to evaluate the genetic damage induced by chemicals. In the past few years a technique has been developed for identifying sister chromatid exchanges much more simply and efficiently than by the autoradiographic method. The method utilizes the fact that a fluorescent stain Hoechst 33258 binds to thymidine-containing DNA but not, or far less efficiently, to BrdUrd-substituted DNA. This means that the order of fluorescence would be brightest for DNA unreplicated in BrdUrd, intermediate for DNA

after one round of replication in BrdUrd, and least for DNA following two rounds of replication in BrdUrd. Thus a sister chromatid exchange can be seen as a switch of fluorescence pattern at the point of exchange. Perry and Wolff (Nature 251, 156-158 (1974)) combined Hoechst staining with Giemsa staining such that the brightly fluorescing regions stain darkly with Giemsa, and the dully fluorescent regions hardly stain at all.

3. *Choice of Organisms.* Chromosomal preparations of human peripheral blood leukocytes or Chinese hamster ovary cells shall be used.

4. *Methodology*—(i) *General.* The test method must be capable of detecting sister chromatid exchanges. Procedures reported by Perry and Wolff (Nature 251, 156-158 (1974)) and Moorhead, *et al.* (Exp. cell Res. 20, 613-616 (1960)) are recommended. Metabolic activation with rat liver S-9 mix should be incorporated whenever it is appropriate.

(ii) *Doses.* Test substances shall be tested to the highest dose where toxicity does not interfere with the test procedure.

d. *Mitotic Recombination and/or Gene Conversion in Yeast.*

1. *Controls.* All considerations discussed under Group I are applicable.

2. *General.* One can effectively study the chromosomes of eukaryotic microorganisms by employing classical genetic methodologies which depend upon the behavior and interaction of specific markers spaced judiciously within the genome. These methods have been developed over several decades and have been applied in recent years to the study of induced genetic damage (Zimmerman, 1971, 1973, 1975; Brusick and Andrews, 1974).

3. *Choice of Organisms.* Diploid strains of yeasts that detect mitotic crossing-over and/or mitotic gene conversion shall be used. Additionally, as appropriate strains are developed, monitoring for induced non-disjunction and other effects may be possible. Mitotic crossing-over shall be detected in a strain of organism in which it is possible, by genetic means, to determine with reasonable certainty that reciprocal exchange of genetic information has occurred.

Strains employed for genetic testing shall be of proven sensitivity to a wide range of mutagens.

4. *Methodology*—(i) *General.* In general, wastes shall be tested in liquid suspension tests.

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Appendix IV—Bioaccumulation Potential Test

(a) General

Reverse-phase liquid chromatography is a separation process in which chemicals are injected onto a column of fine particles coated with a nonpolar (water insoluble) oil and then eluted along the column with a polar solvent such as water or methanol. Recent developments in this field have produced a permanently bonded reverse-phase column in which long-chain hydrocarbon groups are chemically bonded to the column packing material which leads to a more reproducible separation. The chemicals injected are moved along the column by partitioning between the mobile water phase and the stationary hydrocarbon phase. Mixtures of chemicals can be eluted in order of their hydrophobicity, with water soluble chemicals eluted first and the oil soluble chemicals last in proportion to their hydrocarbon/water partition coefficient. Calibration of the instrument using compounds of known octanol/water partition coefficient allows this procedure to be used to determine whether an unknown mixture contains compounds with octanol/water partition coefficients above a designated level.

Specific correlations exist between octanol/water partition coefficients and bioconcentration in fish. This test thus offers a rapid, inexpensive method of identifying those mixtures which contain compounds which pose a potential bio-accumulative hazard.

Compounds with log P 3.5, but which readily biodegrade would not be expected to persist in the environment long enough for accumulation to occur. Thus a degradation option has been included in order to exempt these substances from the hazardous waste control system.

(b) Chromatography conditions

A liquid chromatograph equipped with a high pressure stopflow injector and a 254 nm ultraviolet detector with an 8 ul cell volume and 1 cm path length is employed. The column is a Varian Preparative Micropak C-H (Catalog number 07-000181-00), or its equivalent, consisting of a 250 mm X 8 mm (i.d.) stainless steel cylinder filled with 10 micron lichrosorb to which octadecylsilane is permanently bonded.

The column is operated at ambient temperature. The solvent consists of a mixture of water and methanol (15:85, v/v) which is pumped through the column at 2.0 ml/minute.

(c) Retention volume calibration

Chemicals are dissolved in a mixture of acetone and cyclohexane (3:1, v/v). For preparing the calibration curve the quantity of individual chemicals in the solution is adjusted to give a chromatographic peak of at least 25 percent of the recorder scale. Acetone produces a large peak at approximately 2.6 minutes.

Six chemicals for which Log P has been reported are used to calibrate the elution time in units of Log P. The calibration mixture is summarized in Table 1 and includes benzene, bromobenzene, biphenyl, bibenzyl, p,p'-DDE, and 2,4,5,2',5'-pentachlorobiphenyl.

(d) Sensitivity calibration

The mixture is chromatographed and a calibration curve prepared daily to eliminate small differences due to flow rate or temperature and to follow the retention properties of the column during prolonged use. The calibration is made by plotting Log P vs the logarithm of the absolute retention time (log RT). Figure 1 is an example of such a calibration curve.

(e) Test procedure

(1) Prepare a calibration curve as described above.

(2) Calculate the geometric mean of the instrumental response to the chemicals listed in Table 1 with the exception of the acetone. This value, expressed in ug/25% full scale deflection, is designated the Instrumental Sensitivity (IS).

(3) Extract X liters of the Extraction Procedure extract to be tested, using dichloromethane, and concentrate the extract to a quantity suitable for injection onto the column. The quantity X is determined by the instrumental sensitivity and is given by the relationship: X in liters =IS in micrograms.

(4) Analyze the extract using the now calibrated chromatograph. A positive response is defined as an instrumental response greater than or equal to 25 percent full scale detector response in the region of Log P greater than or equal to 3.5.

(5) If a positive response is indicated in step (4), then subject a sample of the waste to a biodegradation assay and then retest. If a positive response with the degraded waste is not obtained, then the waste is not considered to be hazardous by reason of bioaccumulativeness.

TABLE I—*Partition Coefficients for Chemicals Used for Calibration*

	Log P
Acetone	0.55
Benzene	2.13
Bromobenzene	2.99
Biphenyl	3.76
Bibenzyl	4.81
p,p'-DDE	5.69
2,4,5,2',5'-Pentachlorobiphenyl	6.11

APPENDIX V—DAPHNIA MAGNA REPRODUCTION ASSAY

(A) METHOD

(1) Tests are run at only one dilution of the neutralized extract.

(2) First instar *D. magna*, 12 hours ±12 hours old are utilized.

(3) One *D. magna* is placed in 50 ml of extract solution in a 100 ml glass beaker with a watch glass.

(4) Temperature is maintained at 20.0 ± 0.5°C in an environmental chamber under 12-hour light/dark lighting regime.

(5) Dilution water is either filtered spring or well water (pH 7.8; alkalinity, 119 mg/l; hardness, 140 mg/l).

(6) All tests are run with ten replicates, and a set of ten controls. Test organisms are transferred to freshly prepared test solution in clear beakers and fed two ml of prepared food every Monday, Wednesday, and Friday, and the number of young in each beaker are counted.

(7) Test duration is 28 days or until all animals have died, whichever comes first.

(B) HANDLING

(1) Organisms should be handled as little as possible.

(2) Smooth glass tubes with rubber bulbs should be used for transferring daphnids.

(3) Food should be added to freshly prepared test solution in 100 ml beakers before animals are transferred.

(C) FOOD

(1) Food mixture of 1 mg/ml per animal used.

(2) 1 mg/ml preparation:

(i) Enough Ralston Purina Micro-Mixed Trout Chow is ground and then mixed at high speed with distilled water in a blender to produce 10 mg/ml concentration.

(ii) The mixture is then screened to remove unground particles, and refrigerated.

(iii) The mixture is diluted with distilled water to 1 mg/ml when needed.

(D) RESULTS

Comment is specifically requested concerning what biological measures to use in defining a significant change in growth or reproduction. Currently under study are the following indicators:

1. Average survival time during test period (days).
2. Average age at first brood release (days).
3. Average number of broods of young per adult.
4. Average number of young produced per adult.
5. Average number of young per brood.

APPENDIX VI—TERRESTRIAL PLANT ASSAYS

(A) SEED GERMINATION BIOASSAY PROTOCOL

(1) Seeds (radish, *Raphanus sativus* 'Early Scarlet Globe') sieved to reduce germination and growth variability. Mesh size: 2.36 mm, 2.00 mm, 1.70 mm (U.S.A. standard testing sieves). One size category used per bioassay.

(2) 100 ml extract solution diluted 1:10 put in chamber (Figure 2), blotter paper placed upright to absorb solution.

(3) 150 radish seeds placed in position; saturated paper laid over them and gently pressed until impression seen.

(4) Second Plexiglas sheet positioned so seeds and blotter paper sandwiched between; Plexiglas taped securely on sides and top (see Figure 2).

(5) Unit then put in germination chamber.

(6) Environmental chamber (temperature 25° C, no illumination) houses germination chamber for 48 hrs.

(7) Length of hypocotyl measure after incubation.

(8) Standard T-test used to compare dosed seeds to control.

(B) SEEDLING GROWTH STUDY PROTOCOLS

(1) Seedling growth studies are run using wheat (*Triticum aestivum*) and soybean (*Glycine max*).

(2) The seeds are soaked for approximately 3 hours in deionized water.

(3) 200 ml of soluble plant food with trace elements (1 tblsp per gal water) is added to approximately one liter of sand (acid-washed quartz sand to pass 60 mesh sieve, leached by triple rinse in distilled water) in which the seeds are planted, 25 soybean and 50 wheat seeds per container.

(4) When the seeds have sprouted (about 72 hrs) the extract diluted 1:10 is added in droplets. Constant pressure is applied via compressed air tank to test solution in a plastic bottle. Solution is forced through tygon tubing to a polyethylene nozzle (inverted buchner funnel). The volume is regulated with a screw clamp adjusted to a flow rate of 6 ml/sec. This design is simple and disposable or acid washable in order to assure ready availability of component parts which are easily cleaned between test runs.

(5) Seedlings are exposed daily to a dose sufficient to restore loss by evapotranspiration.

(6) At the end of 2 weeks of exposure plants are harvested and the following parameters are measure:

(i) Root biomass.

(ii) Shoot biomass.

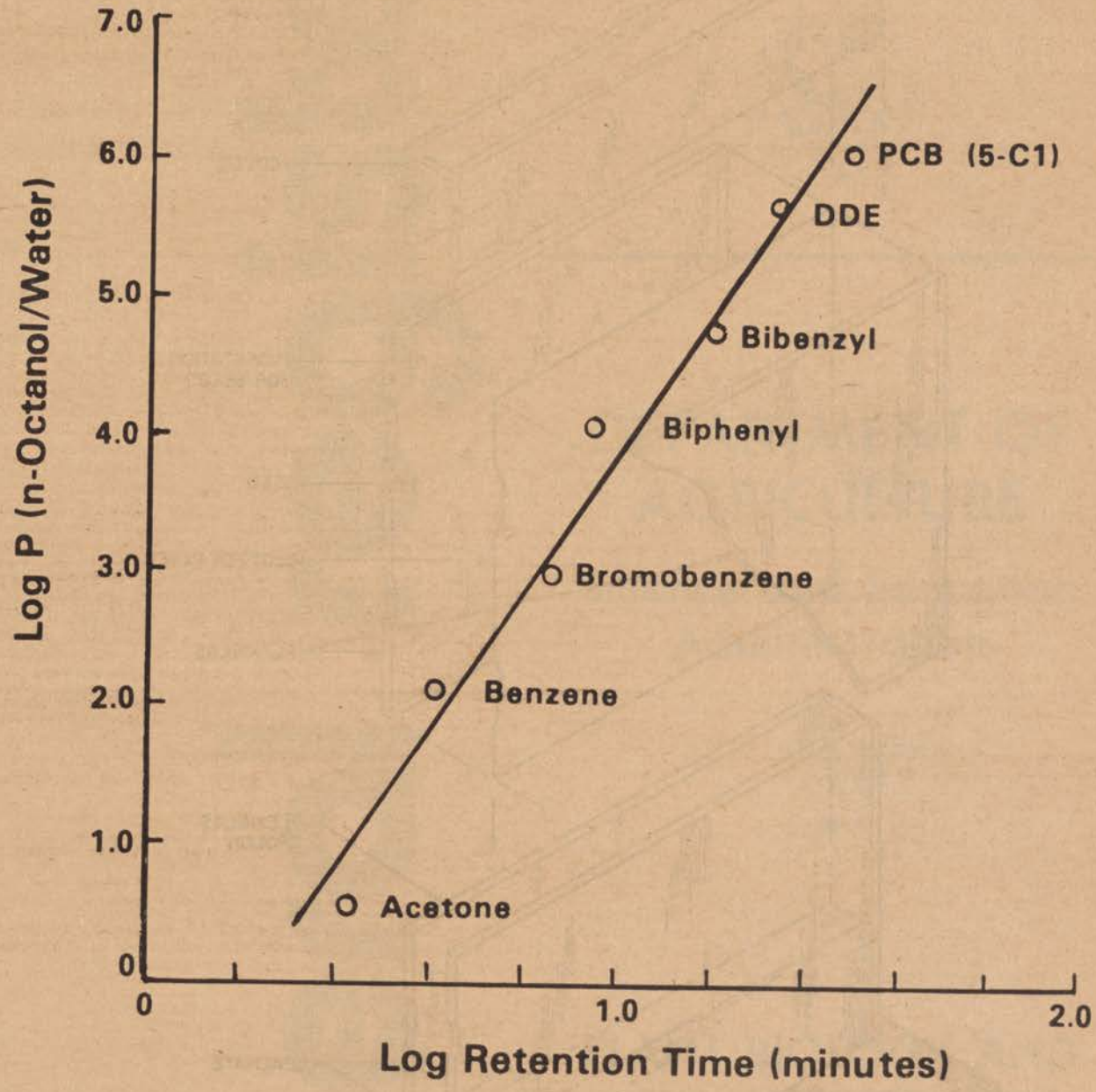
(iii) Gross pathology (i.e., necrosis, chlorosis).

(C) RESULTS

Comments are specifically requested concerning the significance of these indicators as measures of damage.

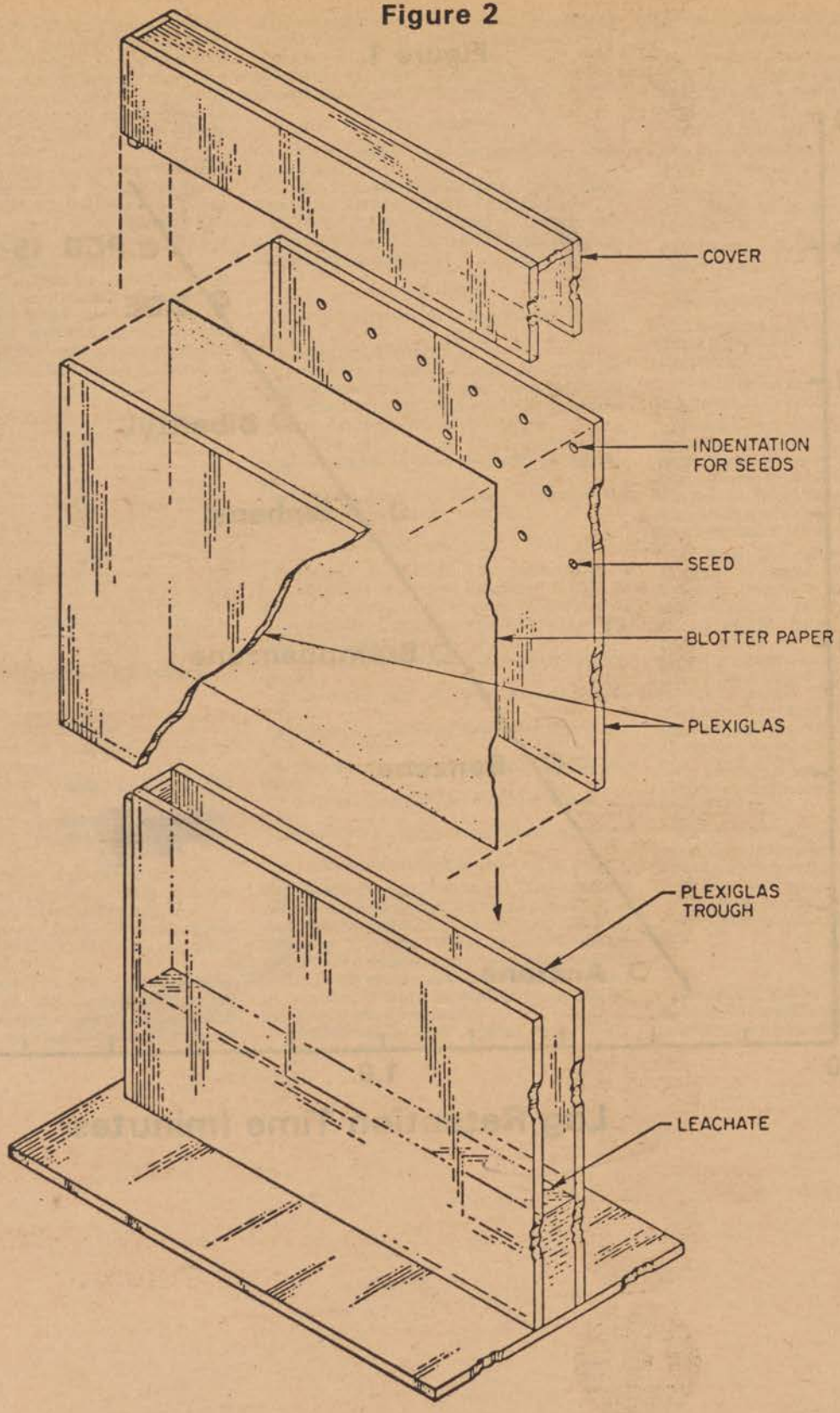
[65601-01-C]

Figure 1



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Figure 2



[FR Doc. 78-34904 Filed 12-15-78; 8:45 am]

federal register

MONDAY, DECEMBER 18, 1978
PART V



DEPARTMENT OF AGRICULTURE

Science and Education Administration

■

PLANT BIOLOGY AND HUMAN NUTRITION

Competitive Research Grants for Basic Research

[3410-22-M]

DEPARTMENT OF AGRICULTURE

Science and Education Administration

PLANT BIOLOGY AND HUMAN NUTRITION

Competitive Research Grants for Basic Research

Notice is hereby given that pursuant to the authority contained in section 2 of the Act of August 4, 1965, Pub. L. 89-106, as amended by section 1414(b) of Pub. L. 95-113, the Science and Education Administration (SEA) through its Competitive Research Grants Office (CRGO) will award competitive grants for mission-oriented basic research in four areas of plant biology (biological nitrogen fixation, biological stress on plants, photosynthesis, and genetic mechanisms of crop improvement) and in two areas of human nutrition (nutrient requirements and social-behavioral factors affecting food preferences and buying habits). Proposals may be submitted through their parent organizations by scientists associated with State Agricultural Experiment Stations, colleges and universities, other public or private research organizations, or Federal agencies.

A total of $15 million is available for such grants during Fiscal Year 1979. Of that amount $5 million (less administrative expenses) is available for human nutrition and $10 million (less administrative expenses) is available for plant sciences.

The CRGO Staff is located in Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209 (opposite the Rosslyn Station of the Metrorail Blue Line).

Proposals submitted for consideration for FY 1979 funding should be postmarked by the following dates:

Friday, January 19, 1979, for proposals in Social-Behavioral Factors Affecting Food Preferences and Buying Habits; Biological Stress on Plants; and Biological Nitrogen Fixation.

Friday, February 16, 1979, for proposals in Genetic Mechanisms for Crop Improvement; Human Requirements for Nutrients; and Photosynthesis.

Proposals will be reviewed by a scientist serving as a CRGO Program Manager, by *ad hoc* reviewers, and by an assembled panel of scientists who constitute a spectrum of expertise for the Program to which the proposal is assigned. The Guide to Proposal Preparation for these competitive grants consists of three parts:

I. Types of research to be supported in fiscal year 1979
II. Proposal submission
III. Proposal review and evaluation

This Notice incorporates suggestions from various agencies of the U.S. Department of Agriculture (USDA), from liaison representatives of other Federal agencies and prospective performing organizations, and from *ad hoc* groups on plant sciences and on human nutrition.

An approved final Impact Analysis Statement is available from Joe L. Key, Head, Competitive Research Grants Office, Suite 103, Rosslyn Commonwealth Building, 1300 Wilson Boulevard, Arlington, Virginia 22209. This Notice has not been determined significant under USDA criteria implementing Executive Order 12044. It has been determined that because of the need to implement this program so that research relating to plant production can be initiated in the Spring of 1979 compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest and, in accordance with E.O. 12044, that it is not possible to publish this notice in proposed form and allow 60 days for public comment.

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: December 12, 1978.

ANSON R. BERTRAND,
Director of
Science and Education.

GUIDE TO PROPOSAL PREPARATION

I. TYPES OF RESEARCH TO BE SUPPORTED

The Science and Education Administration (SEA) will award research grants for periods not to exceed five years, on a competitive basis, to support basic research underlying the mission of the USDA. Basic research grants will be considered in selected areas of plant biology and in certain areas of human nutrition, which have been considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing, in the long run, to applied research and development vitally needed on important food and nutrition problems. This grants program results from the recognition that new innovative approaches and enhanced levels of funding are needed as we seek ways to increase food production and improve human nutrition.

Consideration will be given to research proposals which address fundamental questions in the six areas noted below and which are consistent with the long-range missions of USDA. While a basic guideline for each of the six programs is provided to assist members of the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is vitally needed, the guidelines are not meant to provide boundaries or to detract from the creativity of potential investigators. Accordingly, it is hoped that innovative projects in the so-called "high-risk" category as well as those which may have a higher payoff potential will be submitted.

The following guidelines are thus provided as a base from which proposals may be developed.

A. *Plant Biology.*

1. *Biological Nitrogen Fixation.* The most commonly limiting nutrient for plant growth is nitrogen. Also nitrogen fertilizer represents a significant energy input in cropping. Thus, the enhancement of biological nitrogen fixation capacity in plant-soil microbial associations is of major importance. Research aimed at understanding nitrogen fixing mechanisms in both symbiotic and free living organisms is of high priority.

In general, the objectives of this program include building a foundation of basic information concerning nitrogen fixation as it relates to enhancing the process in currently known systems and in providing a base for developing new nitrogen fixing associations, by genetic transfer or other means, for crop species not now possessing such capability.

Examples of research areas encompassed in this program include: (a) structure and mechanism of action of nitrogenase; the regulation of nitrogenase activity and synthesis; the relationship between nitrogenase and hydrogenase activities in nitrogen fixing organisms; (b) energetics of the nitrogen fixation process including competitive processes within the plant; (c) infection by *Rhizobium* and conditions for effective nodulation; bases of the recognition process between symbiotic organisms; factors controlling symbiont specificity; (d) identification of additional organisms capable of nitrogen fixation and quantitation of their contribution; and (e) transfer and utilization of the fixed nitrogen; relation between the fixation process and the processes of assimilation.

Emphasis in program priorities will be on innovative approaches which may contribute to a thorough understanding of biological nitrogen fixation encompassing biochemistry, cellular and developmental biology, genetics and genetic manipulation, and other relevant life science disciplines.

2. *Photosynthesis.* There are many indications that crop productivity may be increased through basic research leading to increased photosynthetic efficiency of crop plants. In order to increase our knowledge of the photosynthetic and associated carbon metabolism processes which could assist in reaching that objective, expansion of research is needed, but not exclusively, in three major sub-areas: (a) the

identification of aspects of photosynthesis which limit the conversion of solar energy into stable chemical products which include such areas as the mechanisms of energy capture and conversion, structure and regulation of the photosynthetic apparatus, CO_2 fixation, photorespiration and dark respiration; (b) the relation of plant development to photosynthesis including the development of photosynthetic competence, translocation and partition of photosynthetic products and attendant energetic considerations, and design of whole leaf and whole plant structures best suited for photosynthetic productivity; and (c) the design of new methods of genetic and cellular manipulation to improve photosynthetic efficiency in plants to include studies of the chloroplast genome, of nuclear genes regulating photosynthesis, and the application of a wide spectrum of techniques that may be used as screening procedures for use in acquiring improved yield. Other research designed to generate new information in areas that relate to photosynthesis and its accompanying processes in the context of the objectives of the program may also be considered a part of this area.

3. *Genetic Mechanisms for Crop Improvement.* The major aim of this program is to encourage cellular and molecular research directed to the development of genetically superior varieties of agricultural crops. The approaches should be aimed at obtaining novel genetic combinations or gene modifications difficult or impossible to achieve using conventional techniques of plant breeding. This research program thus will emphasize the following: (a) cell culture studies including the regeneration of plants from single cells, cell/protoplast fusion, mutagenesis, and incorporation of foreign DNA, chromosome, or organelle; (b) development of effective cellular and molecular methods for identification of plant characteristics or genes which are significant targets for genetic manipulation; (c) development of methods for producing, selecting, and transferring desired genetic traits; and (d) acquisition of basic information on plant gene expression to facilitate application to plant improvement. These guidelines are not meant to exclude other innovative or unique genetic approaches to crop improvement.

4. *Biological Stress on Plants.* Plants are exposed to many stresses that may adversely affect their productivity and usefulness to man. This grants program will support research on stresses on plants arising from their interactions with other plants or with other biological agents such as insects, nematodes, and microorganisms. The aim of the program is to enhance our understanding of how such interactions generate stresses in plants and how these stresses damage plants. The ultimate goal of the research is to reduce losses in plant productivity from damage caused by biologically generated stresses. The program will emphasize studies on (a) how stressful interations are established between plants and other biological agents, (b) how such interactions are influenced by environmental and other factors inherent to the interacting organisms, (c) how the interactions reduce plant productivity and usefulness to man, (d) how plants react to stresses generated by such interactions, and (e) how damage from such interactions may be reduced or eliminated. The interactions may be studied at any number of levels; i.e., population, organismal, cellular and molecular; and by various approaches including genetics, molecular biology, and biochemistry. This would not exclude studies on plants apart from their interacting partners, or on biological agents apart from their target plants and their interrelations with other organisms in their environment. However, such studies should provide information that will help explain the capabilities of the plant and other organisms for participating in the interactions. A key to the research supported by this program will be the identification of new approaches to reduction of plant stress caused by biological agents, approaches that will be both effective and compatible with social and environmental concerns.

B. *Human Nutrition.* Proposals are invited in the following two subject matter areas. Support will not be provided for clinical research nor for demonstration and action projects.

1. *Human Requirements for Nutrients.* Research in this program is intended to contribute to the improvement of human nutritional status by increasing our understanding of requirements for nutrients in relation to different patterns of food intake. The objective is to support basic, creative research that will help to fill gaps in the knowledge about nutrient requirements, bioavailability, the interrelationships of nutrients, and the nutritional value of foods that are consumed in the U.S. as these relate to requirements. Special attention will be given to requirements for trace constitutents. Innovative approaches designed to improve methods of research and investigation that will increase the reliability and validity of research results will be given special consideration.

Proposals dealing with processing techniques should be cleary oriented towards determination of human nutrient requirements. Proposals which concern utilization or production of a food commodity should emphasize the relationship to specific human nutrient requirements. It is especially important that proposals emphasize innovative (creative), fundamental (basic) research.

2. *Social-Behavioral Factors Affecting Food Preferences and Buying Habits.* Research in this area should focus on the basic behavioral factors which relate to food preferences and habits with emphasis on identifying and analyzing the demographic, cultural, social, institutional and economic variables, and conditions determining consumer behavior. Development of methodology for identifying and measuring such behavioral relations and their interactions will be basic to significant progress in this area of research.

II. PROPOSAL SUBMISSION

A. *Proposal Purpose.* The purpose of a proposal is to persuade the reviewing peer scientists and the CRGO staff that the proposed project is feasible and sufficiently meritorious to warrant support under the criteria enumerated in Part III B. It should be clear, concise, technically correct, and relevant to the competitive grants program. The qualifications of the investigator, the institution facilities, and the level of funding to be devoted to the proposed project should be clearly delineated.

B. *Who May Submit Proposals.* Proposals for support under the competitive grants program may be submitted through their parent organizations by qualified scientists associated with the Federal government, all colleges and universities, State Agricultural Experiment Stations, and the private sector. Proposals from scientists at non-U.S. organizations will not be considered for support. Only in special situations, where it can be demonstrated that a proposed project will contribute directly to breakthroughs in the food and agricultural sciences, will proposals from unaffiliated scientists be given favorable consideration.

C. *Where and When to Submit Research Proposals.* Research proposals must be submitted by the time limits set below to:

Competitive Research Grants Office, Science and Education Administration, USDA, Rosslyn Commonwealth Building, Room, 103, 1300 Wilson Boulevard, Arlington, Virginia 22209.

Proposals will be reviewed by peer panels (as described in Part III) which will assemble on specific dates. In order to be considered for funding during Fiscal Year 1979, the proposals must be post marked by the following dates:

Friday, January 19, 1979. Behavioral Factors Affecting Food Choice-Food Habits; Biological Stress on Plants; and Biological Nitrogen Fixation.

Friday, February 16, 1979. Genetic Mechanisms for Crop Improvement; Human Requirements for Nutrients; and Photosynthesis.

If copies of the proposal are mailed in more than one package, the number of packages should be marked on the outside of each. Proposals must be sent prepaid, not collect. The acknowledgment of receipt of the proposal will contain a proposal number, and identify the cognizant CRGO program. Later inquiries, addenda, revised budgets, etc., should be addressed to the cognizant program office and be identified with the CRGO proposal number.

D. *Considerations in Submitting Proposals.* A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. Among these are the following:

1. Research which has an actual and/or potential impact on the environment;

2. Research at a registered historic or cultural property;

3. Research involving the use of *in vitro* generated recombinant DNA; and

4. Research involving the use of human subjects, hazardous materials, or laboratory animals.

The proposal should address each relevant item and provide information on the status of any special permissions, clearances, or provisions. Further, before submitting a proposal, THE ENDORSING AUTHORIZED ORGANIZATIONAL REPRESENTATIVE SHOULD ENSURE THAT:

1. The proposed project is consistent with the policies and goals of the submitting organization;

2. The organization can make available the necessary facilities, general and special purpose equipment, and services for the conduct of the project;

3. The organization can make available the necessary personnel for the amounts of time estimated to be required;

4. The organization has legal authority to accept grants and the requisite policies, procedures, and personnel to meet the standards shown in Appendix VI;

5. The total costs estimated to be required for the conduct of the project are fair and reasonable and there is a plan for meeting such costs either from grant funds or from some other source; and

6. The costs which SEA is being asked to support are allowable and the treatment of direct and indirect costs in the proposal budget is consistent with applicable Federal cost principles and with the policies of the submitting organization.

IF NOT PREVIOUSLY DONE, THE SUBMITTING ORGANIZATION MUST ALSO SEPARATELY FURNISH TO THE GRANTS OFFICER OF CRGO THE ORGANIZATIONAL INFORMATION AND ASSURANCES CONTAINED IN APPENDIX VI.

E. *What to submit.* The research proposal should be prepared on standard sized paper (no larger than 8½" x 11"), with pages numbered at the bottom, and printed only on one side of each sheet. TWENTY COPIES OF THE PROPOSAL, INCLUDING AN ORIGINAL WITH ALL REQUIRED SIGNATURES, are required for review by peer scientists and the CRGO staff.

Complete proposals, arranged in a standard sequence, are required to expedite review and evaluation. An administrative check should be made prior to mailing, to ensure that the items on the following checklist are included in the sequence indicated. Each item is discussed in detail in the following sections.

Checklist of complete proposal contents. APPENDIX FORMATS SHOULD BE DUPLICATED FOR USE IN PROPOSAL.

1. Title Page (Appendix I)
2. Proposal Source Document (Appendix II, ORIGINAL ONLY)
3. Special Considerations, Assurances, Certification (Appendix III)
4. Project Summary (1-2 pages)
5. Project Description (15 page MAXIMUM)
6. References for Project Description
7. Vitae and Publication Lists
8. Budget (Appendix IV) and Budget Justification
9. Current and Pending Support (Appendix V)
10. Appendices to Project Description (if any)
11. Appendix VI (if not previously submitted by the performing organization, 1 copy)

1. *Title Page. Format*—Appendix I is the format for the title page. Copies of Appendix I must be used. An original title page with all relevant signatures must be included with the original proposal. All copies of the proposal should also have a title page.

The SEA competitive research grant programs are intended to stimulate and support basic research in the plant sciences and human nutrition. Such research is national in scope, is not designed to meet the needs or address the problems of a particular State, area, or locality, does not include demonstration or pilot research projects which might have an important impact on local communities or areas, and does not involve capital construction. They are not grants-in-aid to States or political subdivisions or other organizations for which Reports of Federal Actions are required under the provisions of Treasury Circular 1082. Therefore, SEA does not require the use of Standard Form (SF 424) as prescribed by attachment M to Office of Management and Budget (OMB) Circular A-110 for use in programs covered by Part I, attachment A, to OMB Circular A-95.

Title of Proposal.—The title (80 characters maximum) will be used for the USDA Current Information Retrieval System (CRIS), for information to Congress and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used. Other items of the title page are self-explanatory.

2. *Proposal Source Document; only one copy required (Appendix II).*

THE PROPOSAL SOURCE DOCUMENT IS AN ESSENTIAL PART OF THE PROPOSAL. It provides the CRGO staff with data for compiling information requested by Government agencies, the Congress, and the grantee community. The items are self-explanatory for the most part.

Please note the following: (a) the Performing Organization is the Organization of the PI where the work will be done, and it may be the same or different from the organization which receives the grant; and (b) the authorized organizational representative should be the same as the one given on the Title Page.

3. *Special Considerations, assurances, Certification, and Acceptance (Appendix III).*

Research Involving Special Consideration.—Section II, D summarizes research situations which require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the Proposal Source Document should so indicate. Since some types of research targeted for SEA support have a high probability of involving either recombinant DNA or human subjects, special instructions follow.

Recombinant DNA.—Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (See "NIH Guide for Grants and Contracts," Vol. 6, No. 19, Oct. 17, 1977, and subsequent revisions). A Memorandum of Understanding and Agreement and approval by the local Biohazards Safety Committee, must be provided before a grant can be awarded.

Human Subjects.—Safeguarding the rights and welfare of human subjects used in research supported by SEA grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Public Law 93-348, as implemented by Part 46, Subtitle A of

Title 45 of the Code of Federal Regulations, as amended (45 CFR part 46).

If the project involves human subjects at risk, the grantee must furnish SEA with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization, and that the grantee is in compliance with Department of Health, Education and Welfare (DHEW) policies, as amended, regarding the use of human subjects. Required documents should follow this page.

4. *Project Summary.*

Immediately following the certification should be a Project Summary, about a page or two in length, to focus on: overall objectives and project goals; relevance and significance of the project; and experimental methods and approaches.

The Project Summary is *not* intended for publication, so should be couched in language which will be meaningful to others in the field of science.

5. *Project Description.*

a. *Introduction.*—State overall objective(s) and long-term goal(s) of the proposed research. Review the most significant previous work, including your own, and describe the current status of research in this field. Document with references.

b. *Rationale and Significance.*—Present concisely the rationale behind the proposed research and list specific objectives for the total period of requested support. Show how these objectives relate to potential long-range improvements in food production or human nutrition. What is the potential importance of the proposed research? Discuss any novel ideas or contributions which the project offers.

c. *Experimental Plan.*—State clearly your hypotheses or the questions you will ask and give details of the research plan. Include a description of the experiments or other work proposed; the methods and techniques to be employed and their feasibility; the kinds of results expected; and the means by which the data will be analyzed or interpreted. Include, if appropriate, a discussion of pitfalls that might be encountered, and limitations of the procedures proposed. Insofar as possible, describe the principal experiments or observations in the sequence in which it is planned to carry them out, and indicate, if possible, a tentative schedule of the main steps of the investigations within the project period requested.

d. *Facilities and Equipment.*—Describe the facilities available for this project, including laboratories. Point out any procedures, situations, or materials that may be hazardous to personnel and the precautions to be exercised. List major items of instrumentation and those major items of nonexpendable equipment needed to complete the work.

e. *Collaborative Arrangements.*—If the proposed project requires collaboration with other research organizations, describe the collaboration and provide evidence to assure the reviewers that the organizations involved agree. If separate written assurances are to be included, they should be placed after the References to the Project Description. Indicate specifically whether or not such collaborative arrangements might have the potential for any conflict of interest. Projects involving collaboration should indicate which organization is to receive the grant since only one submitting organization can be the recipient of a grant for each proposal. Subcontract arrangements of research work should be indicated under i of the budget.

6. *References to Project Description.* These references should follow an accepted journal format.

7. *Vitae and Publications List(s) of PI(s).* Vitae of the principal investigator, senior associates, and other professional personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support.

Provide for each person a chronological list of the most representative publications during the preceding 5 years including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as these usually appear in journals.

8. *Budget.* A detailed budget is required for each year of the proposed project. COPIES OF APPENDIX IV MUST BE USED. Funds may be requested under any of the categories listed so long as the item is necessary to conduct the research. Section 2 of Public Law 89-106, as amended by Section 1414(b) of Public Law 95-113, states that these competitive grants shall be awarded without regard to matching funds by the recipient(s) of such grants. Instructions follow for the items to be inserted in the format illustrated in Appendix IV. Use a separate page for each year. Remarks and justifications should be included on separate pages following the budget.

a. *Salaries and Wages.*—Salaries of the principal investigator and other personnel associated directly with the research should constitute appropriate direct costs in proportion to their effort devoted to the research. Charges by academic institutions for work performed by faculty members during the summer months or other periods outside the base salary period are to be at a monthly rate not in excess of that which would be applicable under the base salary and to other provisions of section J.7 to the cost principles for educational institutions (Federal Management Circular, FMC, 73-8). Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for consulting or other time in addition to a regular full-time salary covering the same general period of employment.

The submitting organization may request that senior personnel salary data not be released to persons outside the government. In this case, the item for senior personnel salaries in the formal proposal may be expressed as a single figure and the work-months represented by that amount omitted. If this option is exercised, however, senior personnel salaries and man-months must be itemized in a separate statement, two copies of which should accompany the proposal. This statement must include all of the information requested in Appendix IV for each person involved. The detailed information will not be forwarded to reviewers and will be held privileged to the extent permitted by law.

For research associates and other professional personnel, each position must be listed, with the number of full-time equivalent work-months and rate of pay (hourly, monthly or annually) indicated. For other personnel (graduate students, technical, clerical, etc.) only the total number of persons and total amount of salaries per year in each category are required. Salaries requested must be consistent with the regular practices of the institution.

b. *Fringe Benefits.*—If the usual accounting practices of the performing organization provide that the organizational contributions to employee "benefits" (social security, retirement, etc.) be treated as direct costs, grant funds may be requested to defray such expenses as a direct cost.

c. *Total Salaries and Benefits.*

d. *Nonexpendable Equipment.*—Nonexpendable equipment is defined as an item of property which has an acquisition cost of $300 or more, an expected service life of 1 year or more, and does not lose its identity when joined or made a part of another piece of equipment. Organizations performing research with the support of a SEA grant are expected to have appropriate facilities, suitably furnished and equipped. Only under very unusual circumstances may grant funds be requested for office equipment and furnishings, air conditioning, automatic data processing equipment (ADPE), or other "general purpose" equipment which is usable for other than research purposes. This type of equip-

ment requires special justification and arrangement with CRGO.

Items of needed scientific equipment or instrumentation should be individually listed by description and estimated cost and adequately justified. Allowable items ordinarily will be limited to scientific equipment and apparatus which is not already available for the conduct of the work.

If purchase or lease of expensive, special-purpose equipment having a unit acquisition cost exceeding $10,000 is planned, the proposal must contain a certification that the equipment (a) is essential and not reasonably available or accessible to the proposed project, and (b) will be subject to reasonable inventory controls, maintenance procedures, and organizational policies designed to enhance multiple or shared use on other projects if such use will not interfere with the project for which the equipment is being acquired. Title to any nonexpendable equipment authorized to be procured under a grant will be determined prior to the award of a grant.

e. *Materials and Supplies.*—The types of expendable materials and supplies required should be indicated in general terms with estimated costs. Where substantial funds are requested, there should be a more detailed breakdown.

f. *Travel.*—The type and extent of travel and its relationship to the research should be briefly specified. Funds may be requested for field work or for travel to scientific meetings.

Travel in Canada, Puerto Rico, the United States or its possessions is considered domestic travel. All other travel is considered foreign. If foreign travel is planned in connection with the research, the proposal should include relevant information (including countries to be visited) and justification. Travel and subsistence should be in accordance with organization policy.

Irrespective of the organization policy, allowances for air fair will not normally exceed round trip jet economy air accommodations. Persons traveling under Federal grants must travel by U.S. flag carriers, if available, unless:

1. The traveler, while enroute has to wait 6 hours or more and no U.S. carrier is available during this period, and

2. The flight by a U.S. carrier takes 12 or more hours longer than a foreign carrier.

Air freight must also be under U.S. flag carriers.

g. *Publication costs.*—Costs of preparing and publishing the results of research conducted under the grant, including cost of reports, reprints, page charges or other journal costs, and necessary illustrations may be included.

h. *Computer (ADPE) Costs.*—The cost of computer services, including computer based retrieval of scientific and technical information may be requested. A justification based on the established computer service rates at the proposing institution should be provided. Reasonable costs of leasing automatic data processing equipment may be requested, if justified.

i. *All Other Direct Costs.*—Other anticipated direct costs not included above should be itemized. Examples are: space rental at research establishments away from the performing organization, minor alterations, and service charges. Reference books and periodicals may be charged to the grant only if they are related specifically to the research project. Proposed subawards should be disclosed in the proposal so that the grant instrument may contain prior approval, if appropriate. None of the research effort under a SEA grant may be contracted or transferred to another organization without prior CRGO approval.

Consultant services should be included in this section. Grantees normally are expected to utilize the service of their own staff to the maximum extent in managing and performing the activities supported by grants. Where it is necessary for a grantee to contract for the services of persons who are not its officials or employees, it is expected to do so in accordance with written organizational standards which provide for consideration of the factors outlined in the applicable Federal cost principles.

If the need for consultant services is anticipated, the proposal narrative should provide appropriate rationale and the Proposal Budget should estimate the amount of funds which may be required for this purpose. To the extent possible, consultant rates should show separate amounts for actual services and each of the components of the rate.

j. *Total Direct Costs.*

k. *Indirect Costs.*—The indirect cost rate(s) negotiated by the grantee organization with the cognizant Federal negotiating agency must be used in computing indirect costs for a research proposal. Determination of the appropriate indirect cost rate(s) is dependent upon a combination of factors including but not limited to physical location of the work. The proposed official responsible for Federal business relations should review this part of the proposal to see that it properly describes any particular factors which may have a bearing upon the indirect cost rate(s) applicable to the project. Normally, the rate in effect on the date the proposal is recommended for award by the CRGO Program Manager will be used.

If an organization has no established indirect cost rate it should consult the Grants Officer, CRGO, who will establish liaison with the cognizant Federal negotiating agency for developing an acceptable indirect cost rate for the grantee.

l. *Total Direct and Indirect Costs (j. plus k.).*

m. *Less Residual Funds.*—Unused and uncommitted funds remaining at expiration of current CRGO grant.

n. *Total Amount of this Request.*

9. *Current and Pending Support (Appendix V).* The proposal must list all current public or private research support, in addition to the proposed project, to which the principal investigator and other senior personnel have committed a portion of their time, whether or not salary for the person involved is included in the budgets of the various projects. The proposal must also provide analogous information for all proposed research which is being considered by, or which will be submitted in the near future to, other possible sponsors including other USDA programs.

USE COPIES OF APPENDIX V

If the project submitted for support has previously been funded from a source other than USDA, the items of information requested in the foregoing paragraph should be furnished for the immediately preceding funding period. This information will help the USDA analyze shifts in research support. Concurrent submission of a proposal to other organizations will not prejudice its review by CRGO.

10. *Appendices to Project Description.* Each project description is expected by the members of review committees and the staff to be complete in itself. Distribution of additional material, other than for the records, is limited to the principal reviewers. In those instances where appendix material is necessary (as for example: photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 6 copies or sets, identified by title of the research project and name of the principal investigator, should accompany the proposal.

III. PROPOSAL REVIEW AND EVALUATION

A. *Proposal Review.* Research proposals received by CRGO will be acknowledged and assigned to the appropriate program for scientific evaluation. One copy will be furnished to the grants office for preliminary review of conformance with USDA policies.

All proposals will be carefully reviewed by a scientist serving as a CRGO Program Manager and by additional scientists who are experts in the particular field represented by the

proposal. Program Managers will also obtain comments from assembled peer panels of scientists before recommending proposals for funding.

B. *Criteria for Selection of Projects.* The following criteria or factors are considered in the evaluation of research proposals:

1. The scientific merit of the proposal, including the suitability and feasibility of the approaches and methodology.

2. The probability that the research will contribute to important discoveries or significant breakthroughs in food production or human nutrition, in relation to the mission of this program.

3. The qualifications of the principal investigator and other senior personnel, such as training, demonstrated awareness of previous and alternative approaches to the problem, and performance record and/or potential for future accomplishment.

4. The probable adequacy of available or obtainable facilities, equipment, instrumentation, and technical support.

C. *Revisions to Proposals During Review Process.* Prior to recommending whether or not SEA should support a particular project, the Program Manager may engage in discussions with the proposing Principal Investigator. Should such discussions result in proposed changes which exceed 10 percent of the proposed grant amount or $10,000, whichever is less, a revised proposal budget using copies of Appendix IV signed by both the proposing Principal Investigator and by the authorized organizational representative, must be submitted in an original and two copies to the cognizant CRGO Program Manager for incorporation into the proposal file.

Should such discussions result in changes in the basic objectives or scope of the project as originally proposed, an appropriate proposal modification, signed and endorsed as above, must be submitted to the CRGO Program Manager.

D. *Grant Awards.* The institutions submitting proposals judged most meritorious under the criteria in III B above will be awarded grants for periods not to exceed five years, within the limitations of available funds. In order to provide optimum freedom for scientific inquiry, grants will be awarded under terms and conditions (now being developed) which are as minimal and flexible as possible, consistent with the need to ensure that Federal funds are wisely spent for the intended purposes. Post award administrative requirements will be consistent with those contained in OMB Circular A-110.

Appendix I (Page 1 of 2)

Research Proposal Submitted to

Competitive Research Grants Office

Science and Education Administration

USDA

For Consideration by _____
(Name of Program; e.g., Photosynthesis)

Title _____
(80 characters or less including spaces and punctuation, see instructions)

Proposed amount _____ Proposed Effective date _____ Proposed Duration months _____

_____ Principal Investigator(PI) Name

_____ Submitting Institution

Address of Principal Investigator:

_____
_____
_____
_____

Address of Submitting Institution:

_____
_____
_____
_____

_____ Name co-principal investigator

_____ Name co-principal investigator

If principal or co-principal investigator(s) have participated in previous SEA grants involving similar subject matter give previous CRGO Grant No. _____

Make grant to _____
(Legal Name of Institution or Organization to which Grant should be made)

Internal Revenue Service Number _____; Congressional District Number _____

(Page 2 of 2)

Endorsements:

	Principal Investigator	Authorized Organizational Representative
Name	_____	_____
Title	_____	_____
Phone No.	_____	_____
Date	_____	_____
Signature	_____	_____

Other, if required by submitting organization:

Name	_____	_____
Title	_____	_____
Phone No.	_____	_____
Date	_____	_____
Signature	_____	_____

PROPOSAL SOURCE DOCUMENT

Principal Investigator(s) (PI) Names

First Middle Last

PI #1_____ _____ _____

PI #2_____ _____ _____

PI #3_____ _____ _____

_____
Proposal No. (CRGO use)

_____
Program (CRGO use)

PI #1_____ _____ _____ _____ _____
City State 2-letter abbr. ZIP code Department or street address (35 characters)

PI #1_____ _____ _____ _____
Phone + area code Duration of proposal in months Total requested (Direct & indirect) Institute or subdivision of performing organization (35 characters)

PI #1_____
Name of performing organization (35 Characters)

Authorized Organizational Representative

_____ _____ _____ _____
(CRGO use) First name Middle name Last name

_____ _____
Phone + area code Department or Organizational Unit

_____ _____ _____
City State (2-letter abbr.) ZIP code

_____ _____ _____
(CRGO use) Date received (CRGO use) Grantee Organization (35 characters)

_____
Title of Proposal (maximum 80 Characters)

PROGRAM CODE (Information to be supplied by principal investigator.)

A. Is this proposal a renewal (request to support additional research objective) of an existing SEA grant or a new proposal to the USDA Competitive Grants Office? 1.___ New 2.___ Renewal

B. In which area of the competitive grants program do you want this proposal considered? Select one program only. (CRGO may direct it to another area if appropriate.)

1.___ Biological Stress on Plants
2.___ Genetic Mechanisms of Crop Improvement
3.___ Nitrogen Fixation
4.___ Photosynthesis
5.___ Human Requirements for Nutritients
6.___ Behavioral Factors Affecting Food Choice and Buying Habits

PROPOSAL CODE

A. Which of the following best describes the performing organization of the first principal investigator? Check one choice only.

1.___ USDA/SEA Laboratory
2.___ Other Federal Research Laboratory
3.___ State Agricultural Experiment Station (SAES)
4.___ Land Grant University, 1862
5.___ Land Grant University, 1890 or Tuskegee Institute
6.___ Public University or College (Non-land grant)
7.___ Private University or College
8.___ Private Profit Making Organization
9.___ Private Non-Profit Organization
0.___ State or Local Organization

B. Has the first principal investigator completed the most advanced degree within the last 5 years?

1.___ Yes 2.___ No

C. Will the work in this proposal deal with recombinant DNA or with human subjects?

1.___ Neither 2.___ DNA 3.___ Human Subjects

D. Congressional District of the grantee organization____.

SUPPORT CODE

A. Will this proposal be sent to another granting agency? If so, indicate.

1.___ None 4.___ NIH

2.___ Other USDA units 5.___ Other (describe)

3.___ NSF

Special Considerations

Check appropriate statements. Supply additional information when necessary.

___ "This project does not involve human subjects."

___ "This project involves human subjects. It was approved by the Institutional Review Board on (date)_____, (is scheduled for review by the Institutional Review Board on (date)_____)." See DHEW regulations regarding the use of human subjects, appearing in Title 45, Code of Federal Regulations, Part 46, Subtitle A.

___ "This project does not involve recombinant DNA research."

___ "This project involves recombinant DNA research. It was approved by the institutional Committee on (date)_____. (Supply apropriate documents as required by "NIH Guide for Grants and Contracts," Vol. 6, No. 19, October 17, 1977, or subsequent revisions thereto) "

BUDGET

Appendix IV (Page 1 of 2)

Organization and Address _____

Principal Investigator(s) _____

	Duration Proposed	CRGO Use Only

A. Salaries and Wages	CRGO Funded Work Months			Funds	Funds
CRGO	Cal.	Acad.	Summer	Requested	Granted by
1. No. of Senior Personnel				by Proposer	(If Different)
a. (Co)-PI(s)				$	$
b. Senior Associates				$	$
2. Other Personnel (Non-Faculty)					
a. Research Associates-Postdoc.				$	$
b. Other Professionals				$	$
c. Graduate Students				$	$
d. Pre-Baccalaureate Students				$	$
e. Secretarial-Clerical				$	$
f. Technical, Shop, and Other				$	$
TOTAL SALARIES AND WAGES				$	$
B. Fringe Benefits (if charged as Direct Costs)				$	$
C. Total Salaries, Wages, and Fringe Benefits (A+B)				$	$
D. Nonexpendible Equipment (List Items and Dollar Amounts for Each Item)					
Total Nonexpendible Equipment				$	$
E. Materials and Supplies					
Total Materials and Supplies				$	$

Appendix IV(Page 2 of 2)

F. Travel 1. Domestic (Including Canada)	$	$
2. Foreign (List Destination & Amount for ea. Trip)	$	$
G. Publicaton Costs/Page Charges	$	$
H. Computer (ADPE) Costs	$	$
I. All Other Direct Costs (List items and dollar amounts. Details of subcontracts, including work statements and budget, should be explained in full in proposal.)	$	$
J. Total Direct Costs (C through I)	$	$
K. Indirect Costs (Specify rate(s) and base(s) for on/off campus activity. Where both are involved, identify itemized costs included in on/off campus bases in remarks) Total Indirect Costs	$	$
L. Total Direct and Indirect Costs (J plus K)	$	$
M. Less Residual Funds (If for further support of current project)	$	$
N. Total Amount of this Request (L Minus M)	$	$

Remarks: Use extra sheet if necessary

Note: Signatures Required Only for Revised Budget. This is Revision No.

Signature of Principal Investigator	Date of Signature	Typed or Printed Name and Title
Signature of Authorized Organizational Representative	Date of Signature	Typed or Printed Name and Title

Appendix V (Page 1 of 2)

Current and Pending Support

Names		Agency	Total Annual Rate	Period Covered	% of Effort Committed	Title
PI: _____						
Current	a.					
	b.					
	c.					
Pending	a.					
	b.					
	c.					
Co-PI: _____						
Current	a.					
	b.					
	c.					
Pending	a.					
	b.					
	c.					
Other: _____						
Current	a.					
	b.					
	c.					
Pending	a.					
	b.					
	c.					
Comments (if any)						

ORGANIZATIONAL INFORMATION AND ASSURANCES

A. *Prospective Grantee Organizational Information.*

The following information is to be submitted:

a. Organization Affiliations. Describe relationship of the organization to a parent organization or to subsidiaries or other affiliates. If the organization is a successor in interest to a predecessor or if changes in organization affiliation are anticipated, describe briefly.

b. Statement of Purposes and Powers. Enclose an official or published statement of the major purposes of the organization and certify as required in C, below, as to the powers which have been granted to it to enter into contractual relationships and/or to accept grants (e.g., articles of incorporation, terms of reference, or by-laws):

1. Chief Executive;

2. Authorized Organizational Representative; and

3. Business Officer.

c. Affiliations of Key Officials. If the organization is other than a college or university or a State or local government, indicate whether or not each official listed in (c) above is affiliated with any Federal, State, or local agency or with any college or university. If so, describe such affiliation.

d. Whether or not the organization currently is a grantee or contractor of any component of the U.S. Department of Helath, Education, and Welfare. (Note: This information will assist in implementing certain interagency procedures for which DHEW is the lead agency.)

e. If other than a college or university or a State or local government, also submit the following:

1. A certified statement of financial conditions (usually by CPA) covering at least the preceding 2 years; and

Bank or other references.

B. *Required Certifications.*

SEA requires that a prospective grantee organization submit a certification substantially as follows, signed by the Chief Executive Officer or authorized organizational representative:

a. I certify that (name of institution or organization) has legal authority to accept grants as evidenced by the attached (describe document), and the requisite policies, procedures, and personnel to ensure stewardship of Federal funds and management of Federally supported projects, specifically including standards for financial management, procurement, and property management, which meet those described in Attachments F, N, and O to OMB Circular A-110. (Note: in the event this is not the case, list exceptions and provide a realistic estimate of when such standards might be met.)

b. Each proposal to the SEA Competitive Research Grants Office will be consistent with the policies and goals of proposed grantee and will be submitted in accordance with its procedures and pursuant to appropriate authority.

c. In the event that a grant is awarded as a result of any such proposal, I agree that proposed grantee organization will:

1. Make available the necessary facilities, equipment, services, and personnel to conduct the project substantially as outlined in the proposal or such modifications thereof as may be mutually agreed;

2. Conduct such project oversight as may be appropriate, manage the Federal funding with probity and prudence, and comply with all the terms and conditions of the grant; and

3. Comply with all applicable laws and regulations.

NOT REQUIRED IF PREVIOUSLY SUBMITTED TO CRGO

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF AGRICULTURE REGULATIONS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (AS AMENDED)

Legal name of proposed grantee _____ (hereinafter called the "Applicant") HEREBY AGREES THAT it will comply with Title VI of the Civil Rights Act of 1964, as amended, and all requirements imposed by or pursuant to the Regulations of the Department of Agriculture, 7 CFR Part 15, Subpart A, issued pursuant thereto, to the end that, in accordance with Title VI of that Act and the regulations, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department of Agriculture; and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant by the Department, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Applicant recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant.

Dated: _____

_____

Authorized Organizational Representative.

_____

_____

(Grantee's Mailing Address)

[FR Doc. 78-35091 Filed 12-15-78; 8:45 am]

federal register

MONDAY, DECEMBER 18, 1978
PART VI



OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET DEFERRALS

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

BUDGET DEFERRALS

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report two new deferrals totalling $663.8 million and a revision to one previously transmitted deferral increasing the amount deferred by $.2 million in budget authority. These items involve the foreign military credit sales program and programs in the Departments of Commerce and the Interior.

The details of the deferrals are contained in the attached report.

Jimmy Carter

THE WHITE HOUSE,
December 12, 1978.

[3110-01-C]

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Funds Appropriated to the President:	
	International Security Assistance	
D79-45	Foreign military credit sales.....	651,000
	Department of Commerce:	
	National Oceanic and Atmospheric Administration	
D79-5A	Construction.....	10,032
	Department of the Interior:	
	Bureau of Land Management	
D79-46	Oregon and California grant lands.....	12,811
	Total, deferrals.....	673,843

* *

SUMMARY OF SPECIAL MESSAGES
FOR 1979
(in thousands of dollars)

	Rescissions	Deferrals
Fourth special message:		
New items.....	---	663,811
Changes to amounts previously submitted...	---	202
Effect of fourth special message.....	---	664,013
Previous special messages.....	75	2,202,509
Total amount proposed in special messages...	75	2,866,522 1/
	(in one rescission)	(in 46 deferrals)

1/ This amount represents budget authority except for $3,971,000 in two Treasury Department deferrals of outlays only (D79-25A and D79-41).

Deferral No: D79-45

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President	New budget authority (P.L. 95-481) $ 654,500,000
Bureau International Security Assistance	Other budgetary resources ____
Appropriation title & symbol Foreign Military Credit Sales, 1979 1/ 1191082	Total budgetary resources 654,500,000
	Amount to be deferred: Part of year $ 651,000,000 Entire year ____
OMB identification code: 11-1082-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☒ Annual ☐ Multiple-year ____ (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

JUSTIFICATION

Pursuant to the Arms Export Control Act, the President is authorized to sell or finance by credit or guaranties defense articles and defense services to friendly countries to facilitate the common defense. The Foreign Assistance and Related Programs Appropriations Act, 1979 (Public Law 95-481) appropriated $654,500,000 for fiscal year 1979 to enable the President to carry out these authorities. Under section 2 of the Arms Export Control Act, the Secretary of State, under the direction of the President, is responsible for continuous supervision and general direction of sales made under the Act, including determining whether there shall be a sale to a country and the amount thereof. Executive Order 11958 of January 18, 1977, delegated certain of the President's functions under the Arms Export Control Act to the Secretaries of State and Defense. Executive Order 11958 further requires the Secretary of State to obtain the prior concurrence of the Secretaries of Defense and the Treasury, respectively, regarding standards and criteria for credit and guaranty transactions that are based upon national security and financial policies.

1/ This account was the subject of a similar deferral during FY 1978.

As in prior years, funds provided for these purposes have been deferred pending approval of specific loans to eligible countries by the Departments of State, Defense and the Treasury. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States.

ESTIMATED EFFECT

This deferral will have no programmatic or budgetary impact and is not restrictive in nature.

OUTLAY EFFECT

There is no outlay effect of this deferral because funds will be released as loans are approved.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D79-5 transmitted to the Congress on October 2, 1978, and printed as House Document No. 95-392.

This revision to a deferral of National Oceanic and Atmospheric Administration construction funds increases the amount previously reported as deferred from $9,830,000 to $10,031,887. This increase of $201,887 is attributable to an adjustment in unobligated balances brought forward on October 1, 1978. The adjustment was necessary because the actual amount of unobligated balances brought forward was $201,887 higher than had been originally estimated.

Deferral No: D79-5A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. ____): $ ____
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 13,101,887*
Appropriation title & symbol: Construction 13X1452	Total budgetary resources: 13,101,887*
	Amount to be deferred: Part of year: $ 10,031,487*
	Entire year: ____
OMB identification code: 13-1452-0-1-306	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☒ Other Civil Action C-77-914M
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: *The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, provided funds for continuing the construction of the National Oceanic and Atmospheric Administration's (NOAA) Western Regional Center in Seattle, Washington. A temporary injunction was issued by the U.S. District Court for the Western District of Washington halting preliminary construction activities on the project, because of deficiencies in the accompanying Environmental Impact Statement (EIS). NOAA has since issued a supplemental EIS in response to the court judgement, and expects to ask for a lifting of the injunction in January, 1979. Funds totalling $10 million are deferred pending resolution of these environmental and legal problems.

Estimated Effect: The Court action, and the resulting deferral of funds, will temporarily delay the start of construction on this project.

Outlay Effect: This temporary delay in construction will have the effect of shifting $800,000 in outlays from FY 1979 to FY 1980.

*Revised from previous report.

Deferral No: D79-46

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Interior	New budget authority (P.L. 95-465): $55,000,000 1/
Bureau: Bureau of Land Management	Other budgetary resources: 17,930,000
Appropriation title & symbol: Oregon and California Grant Lands 2/ 14X5136	Total budgetary resources: 72,930,000
	Amount to be deferred: Part of year: $ ____
	Entire year: 12,811,000
OMB identification code: 14-5136-0-2-302	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☐ Appropriation ☐ Contract authority ☒ Other Appropriated Receipts

Justification: The Interior and Related Agencies Appropriation Act of 1979 includes an indefinite no-year appropriation equivalent to 25 percent of timber sale receipts from revested Oregon and California Railroad grant lands. The appropriated receipts provide for management, development, and protection of Federal Oregon and California grant lands including the construction and maintenance of roads. Because the appropriation is based on receipts collected in the same fiscal period and the receipts are based on the timber harvested, the total amount which will be available for obligation can only be estimated. Not only may actual receipts vary from estimates, but receipts for the last two months of the fiscal period are not known in time to make programmatic adjustments to offset a possible shortfall between estimated and actual amounts. Deferral is planned to cushion fluctuating receipt levels. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

Receipts for FY 1978 were $172,579,472 with an unobligated balance of $17,930,000 carried forward in FY 1979. New budget authority available in 1979 under terms of the appropriation is estimated to equal $55,000,000. Total resources for this program equal $72,930,000. The FY 1979 obligation program is $60,119,000 resulting in a deferral of $12,811,000.

Estimated Effects: There will be no programmatic impact from this deferral in FY 1979.

Outlay Effect: There is no outlay effect resulting from this deferral.

1/ Estimated. The appropriation is for "an amount equivalent to 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands."

2/ This account was the subject of a similar deferral during FY 1978.

[FR Doc. 78-35118 Filed 12-15-78; 8:45 am]

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