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Friday
April 6, 1979

Highlights

NOTE—The Reader Aids section appears at the end of this issue.

20625 **Employee-Management Relations in The Foreign Service** Executive order

20676 **Eyeglass and Sunglass Lenses** HEW/FDA provides for alternatives to "drop ball" test for impact-resistant lenses; effective 5–7–79

20629 **Rural Rental Housing Projects** USDA/FmHA amends rules to permit financing of new or rehabilitation construction of structures located in downtown areas of rural communities that have established comprehensive strategies for redevelopment or revitalization; effective 4–6–79

20777 **Fuel and Fuel Additives** EPA waives prohibitions and limitations of sections of Clean Air Act to grant marketability of Gasohol

20735 **Plastic Containers for Petroleum Products** Commerce intends to withdraw voluntary standards; comments by 5–7–79

20634 **Civil Rights Requirements** Commerce/EDA revises rules relating to EDA grant and loan programs; effective 4–6–79

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20695 **Medicaid Services Reimbursement** HEW/HCFA requires agencies to give sixty days public notice of proposed changes in the Statewide method or level of reimbursement; effective 11-12-79

20652 **Social Security Benefits** HEW/SSA provides more flexible procedures for recovery of overpayment of benefits by removing time limits on when the adjustment is to be completed; effective 4-6-79

20632, 20709 **Financial Protection Requirements** NRC increases the level of the primary layer of financial protection required of certain idemnified licensees to cover public liability claims resulting from a nuclear incident; and proposes a standard master policy form for maintaining necessary secondary financial protection (2 documents)

20627 **Nutrition Education and Training Program** USDA/FNS apportions funds among States as directed by Child Nutrition Act of 1966; effective 4-6-79

20646 **Per Capita Income Estimates** Commerce/Census establishes standard procedures for Bureau of the Census, States, and units of local government for challenging estimates; effective 4-6-79

20940 **Construction Safety and Health Standards** Labor/OSHA publishes corrections to republication of standards; (Part III of this issue)

20681 **Gifts to the Air Force** DOD/Air Force revises rules, on gifts to the Air Force, by simplifying language; effective 11-13-78

20796 **Human Drugs** HEW/FDA announces availability of six clinical guidelines on investigation of drugs in humans

20716 **International Banking Facilities** FRS extends comment period on consideration of proposal to allow deposits of specially designated facilities be exempt from reserve requirements and interest rate restrictions; comments by 5-18-79

20859 **Sunshine Act Meetings**

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20940 **Part III, Labor/OSHA**

20962 **Part IV, FEMA**

20966 **Part V, HEW/FDA**

20994 **Part VI, HUD**

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Presidential Documents

Title 3

The President

Executive Order 12128 of April 4, 1979

Employee-Management Relations in the Foreign Service

By the authority vested in me as President by the Constitution and statutes of the United States of America, in order to permit a representative of the Federal Labor Relations Authority to participate in labor-relations decisions affecting Foreign Service employees, it is hereby ordered as follows:

1-101. Section 5(a) of Executive Order No. 11636 is amended to read as follows:

"(a) There is hereby established, as a Committee of the Board, an Employee-Management Relations Commission composed of three senior level representatives, one designated by each of the following: the Secretary of Labor, the Director of the Office of Management and Budget, and the Federal Labor Relations Authority. The representative designated by the Federal Labor Relations Authority shall be the Chairman of the Commission.".

1-102. In Section 2-101(b) of Executive Order No. 12107, the reference to Executive Order No. 11636 is deleted.

1-103. Section 2(a) of Executive Order No. 11636 is amended to read as follows:

"(b) "Foreign affairs agency" means the Department of State, the International Communication Agency, the Agency for International Development, and their successor agencies.".

Jimmy Carter

THE WHITE HOUSE,
April 4, 1979.

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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 227

Apportionment of Funds for Nutrition Education and Training

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This appendix sets forth the apportionment of funds for the Nutrition Education and Training Program among the States as directed by Section 19 of the Child Nutrition Act of 1966, as amended. These funds will provide for nutrition education and training in the States.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION: Audrey Maretzki, Director, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Section 19(j) of the Child Nutrition Act of 1966, as amended, requires that grants to the States must be based on a rate of 50 cents for each child enrolled in the schools or institutions within the State, except that no State will receive an amount less than $75,000 per year. Enrollment data used for this purpose must be the latest available as certified by the Office of Education of the Department of Health, Education, and Welfare.

The Food and Nutrition Service (FNS) obtained certified data on enrollment from the Office of Education of the Department of Health, Education, and Welfare in the following categories: public and private schools, and nonresidential child care institutions. The figures for these categories are enumerated under "Schools" and "Nonresidential Child Care Institutions" in this Appendix. The Office of Education was unable to provide certified enrollment data on public and nonprofit private residential child care institutions. Enrollment data for public and nonprofit private residential child care institutions were taken from the enrollment data presented in the "Annual Report of Meal Service in Schools" submitted by State agencies to FNS on Form 47 (10–78). These are set out under the category "Residential Child Care Institutions" in the Appendix. Since FNS now has a reporting mechanism (Form FNS–47) for obtaining enrollment data for the category of residential child care institutions from the State agencies, and has received enrollment data for nonresidential child care institutions from the Department of Health, Education, and Welfare, last year's procedure to permit State agencies to submit additional enrollment data will not be followed.

Section 19(j)(2) authorizes grants to states in an amount equal to the higher of "(A) 50 cents for each child enrolled in schools or in institutions within each State, or (B) $75,000 for each State. Section 19(j)(3) states that enrollment data used for purposes of determining each state's grant shall be enrollment data certified by the Department of Health, Education, and Welfare. The Department of HEW does not certify data concerning nonprofit private residential child care institutions. Section 19 authorizes grants on the basis of all children enrolled in schools and institutions. School, as defined by Section 15 of the Child Nutrition Act of 1966 means "any licensed nonprofit private residential child care institution". Institutions, for purposes of all child nutrition programs includes nonprofit residential institutions.

It appears that Congress intended grants to states to be determined on the basis of all children attending institutions and schools in the state. Because no HEW certified data exists for nonprofit private institutions, another data source was developed. Unless this data is used, states will not receive Nutrition Education grants in direct relation to the number of children attending institutions in the state. Therefore, the Department has collected data for residential child care institutions from its own reporting forms and has used this data in determining the apportionment of funds. We believe this action effectuates Congress' intent with respect to the apportionment of Nutrition Education funds.

The total grant to a State will be reduced proportionately, as provided in § 227.5(a) of the regulations, if the State educational agency is prohibited by law from administering the Program in nonprofit private schools or institutions. Funds withheld for this purpose will be used by FNS for the administration of the Program in such nonprofit private schools or institutions.

Pursuant to Section 19(j) of the Child Nutrition Act of 1966, as amended, (42 U.S.C. 1788) funds available for the fiscal year, ending September 30, 1979 are apportioned among the States as follows:

(Sec. 15, Pub. L. 95–166, 91 Stat. 1340 (42 U.S.C. 1788))

State	Public schools [1]	Private schools [2]	Residential child care institutions [3]	Nonresidential child care institutions [4]	Total [5]
Connecticut	$308,195	$49,450	$1,619	$3,672	$362,936
Maine	122,884	8,400	497	1,039	132,820
Massachusetts	582,267	87,800	3,465	5,876	679,408
New Hampshire	87,309	10,250	426	1,450	99,435
Rhode Island	83,315	16,150	390	956	100,811
Vermont	51,467	4,900	318	744	75,000
Delaware	59,000	9,350	137	1,721	75,000
District of Columbia	59,938	9,650	575	3,156	75,000
Maryland	418,456	66,800	1,660	6,725	493,641
New Jersey	710,674	150,400	5,049	11,034	887,157
New York	1,614,774	352,800	18,075	25,533	2,011,182
Pennsylvania	1,064,437	233,950	11,597	9,394	1,319,378
Puerto Rico	344,296	47,250			391,546
Virginia	541,092	44,900	8,017	7,796	601,805
Virgin Islands	12,786	3,150	15		75,000
West Virginia	200,685	6,350	6,613	1,097	214,745
Alabama	380,940	28,200	1,146	13,628	423,914
Florida	767,785	73,800	2,719	24,506	868,810
Georgia	544,813	35,600	3,575	19,024	603,012

State	Public schools [1]	Private schools [2]	Residential child care institutions [3]	Nonresidential child care institutions [4]	Total [5]
Kentucky	$348,500	$35,700	$4,734	$4,692	$393,626
Mississippi	251,013	33,150	695	15,632	300,490
North Carolina	590,916	28,400	3,921	25,339	648,576
South Carolina	310,362	24,700	1,613	8,427	345,102
Tennessee	439,212	22,350	1,681	10,082	473,325
Illinois	1,090,162	206,200	6,865	20,520	1,323,747
Indiana	571,861	51,350	3,616	6,783	633,610
Michigan	1,018,038	110,050	3,943	10,043	1,142,074
Minnesota	418,210	50,100	1,600	4,028	473,938
Ohio	1,090,990	142,050	7,499	13,833	1,254,372
Wisconsin	458,932	94,700	2,469	6,599	562,700
Arkansas	229,389	10,400	495	5,721	246,005
Louisiana	419,500	82,950	1,993	8,104	512,547
New Mexico	140,948	7,000	344	3,385	151,677
Oklahoma	297,234	5,100	2,462	10,100	314,896
Texas	1,421,421	67,650	5,462	50,023	1,544,556
Colorado	280,904	20,300	1,205	5,653	308,062
Iowa	294,380	33,350	4,116	3,380	335,226
Kansas	223,063	16,400	425	1,364	241,252
Missouri	465,616	70,600	1,634	8,367	546,217
Montana	84,366	4,400	97	890	89,753
Nebraska	153,104	22,650	484	2,179	178,417
North Dakota	62,543	6,200	398	493	75,000
South Dakota	71,815	7,400	344	502	80,061
Utah	158,666	1,950	695	1,703	163,024
Wyoming	46,161	1,550	98	639	75,000
Alaska	45,172	950	398	504	75,000
American Samoa	4,646	1,000			75,000
Arizona	256,909	28,100	849	6,054	291,912
California	2,144,585	218,900	35,799	56,937	2,456,221
Guam	14,285	2,550			75,000
Hawaii	86,178	17,150	2,382	4,307	110,017
Idaho	100,717	2,400	153	1,105	104,375
Nevada	71,722	2,800	608	2,111	77,241
Oregon	236,640	12,050	1,104	4,760	254,554
Trust Territory	17,038	2,114			75,000
Washington	388,232	22,250	2,749	7,267	420,498
Northern Marianas	2,741	243			75,000
Total	22,260,690	2,706,307	168,823	448,877	25,983,671

[1] Sources: (1) U.S. Department of Health, Education, and Welfare, Education Division, NCES, *Statistics of Public Schools, Fall 1977*, prepublication data, Table 5 for States and areas, except (2) Northern Marianas and Trust Territories, 1975–76 data from Department of Interior, adjusted to include pre-school; Puerto Rico and Guam, Fall 1976 data.

[2] U.S. Department of Health, Education, and Welfare, Education Division, (NCES), Digest of Education Statistics, 1976, table 46, p. 47, Northern Marianas and Trust Territories 1975–76 data from Department of Interior, adjusted to include pre-school.

[3] U.S. Department of Agriculture, Food and Nutrition Service, Annual Report of Meal Service in Schools (Form FNS–47), October 1978.

[4] U.S. Department of Health, Education, and Welfare, *Day Care Centers in the U.S.; A National Profile 1976–77*, Volume 3 of the Final Report of the National Day Care Study, Table 63.

[5] A portion of these funds will be withheld from the States' allocations for use by FNS in administering the Program in nonprofit private schools or institutions.

Note.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: April 2, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79–10531 Filed 4–5–79; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period April 8–14, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: April 8, 1979.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, (202) 447–6393.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on April 3, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is considered good.

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

§ 910.493 Lemon Regulation 193.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period April 8, 1979, through April 14, 1979, is established at 240,000 cartons.

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

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

Dated: April 5, 1979.

Charles R. Brader,

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

[Lemon Reg. 193]

[FR Doc. 79–10962 Filed 4–5–79; 11:33 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911, 915

Limes Grown in Florida; Avocados Grown in South Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revokes requirements that Florida lime and avocado handlers file information relating to the destination of shipments of limes and avocados by market region.

EFFECTIVE DATE: April 9, 1979.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* This final rule is issued under Marketing Order Nos. 911 and 915, each as amended (7 CFR Part 911; 43 FR 39319), and (7 CFR Part 915; 43 FR 39321), regulating the handling of limes and avocados grown in Florida. These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon recommendations and information submitted by the Florida Lime Administrative Committee, and the Avocado Administrative Committee, and other available information. It is hereby found that the revocation of § 911.150 *Reports,* and of paragraph (d) in § 915.150 *Reports,* effective under Subpart-Rules and Regulations (§§ 911.110 et. seq.) and (§§ 915.110 et. seq.), is in accordance with the provisions of these marketing orders, and will tend to effectuate the declared policy of the act. These committees reported that information already submitted by handlers on the destination by market region for lime and avocado shipments, used to determine the distribution patterns of these fruits for market development projects, is sufficient. Therefore, they recommended that handlers be relieved of this filing requirement. This action has not been determined significant under the USDA criteria for implementing Executive Order 12044.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this action is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on this matter at an open meeting. It is necessary to effectuate the declared purposes of the act to make these actions effective as specified and no purpose would be served by delaying this revocation beyond April 9, 1979.

Accordingly, in 7 CFR Part 911, "§ 911.150 *Reports*" is hereby revoked, and in 7 CFR Part 915, § 915.150 *Reports,* "paragraph (d)" is hereby revoked.

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

Dated: March 30,1979, to become effective April 9, 1979.

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

[FR Doc. 79-10779 Filed 4-5-79; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration hereby amends Appendix A—REA Bulletins to provide for the issuance of a supplement to REA Bulletin 408-1, "Telephone Borrowers' Financial and Statistical Reports." The revision announces annual reporting requirements for the financial and statistical reports, REA Form 479, except when REA requests more frequent reports. This replaces the previous semi-annual reporting requirement. This change results from the REA recognition of increasing borrower maturity which permits less detailed controls.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Frank H. Norris, Chief, Loans and Management Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1334, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-05252.

SUPPLEMENTARY INFORMATION: The action involves a substantial reduction of burden on REA telephone borrowers; therefore, notice and public procedure thereon was determined to be unnecessary.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data, or arguments to the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, attention: Telephone Operations and Standards Division. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, the supplement to REA Bulletin 408-1 shall remain in effect, thus permitting the public business to proceed more expeditiously.

An impact analysis for this revision has been prepared and is available for public inspection.

Dated: March 29, 1979.

Joseph Vellone,
Acting Administrator.

[FR Doc. 79-10566 Filed 4-5-79; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1822

Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule With Comments Requested.

SUMMARY: This rule amends Farmers Home Administration (FmHA) regulations to permit FmHA to finance new construction or the rehabilitation of structures into rural rental housing (RRH) projects when those structures are located in downtown areas of rural communities that have established a comprehensive strategy for the redevelopment/revitalization of their downtown business area. Presently, FmHA regulations permit new construction or rehabilitation under the RRH program only when the structures are located in residential areas of rural communities. The intended effect of this action is to enable FmHA to assist in the rural development effort of communities that have identified the need to redevelop, renovate, or revitalize their downtown business areas as well as assisting rural communities in their residential areas.

EFFECTIVE DATE: April 6, 1979. However, comments must be received on or before June 5, 1979.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of

Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn E. Voigt, Acting Director, Rural Rental Housing Loan Division, telephone (202) 447-7207.

SUPPLEMENTARY INFORMATION: This rule amends various sections of Subpart D of Part 1822, Chapter XVIII, Title 7 in the Code of Federal Regulations. This action is taken to enable FmHA, under specified conditions, to finance new construction or the purchase and rehabilitation of existing structures into RRH projects when those projects are located in the downtown business areas of rural communities. Presently FmHA is able to finance such proposals only when the structures to be created or rehabilitated are located in residential areas. Consistent with FmHA's mission of rural development, this action will permit FmHA to assist in those rural communities that have established a comprehensive strategy for meeting their community development and housing needs, when that strategy includes the redevelopment, rehabilitation, restoration, or revitalization of the downtown business area and its structures.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published effective immediately, but with comments requested. This determination has been made by Mr. Gordon Cavanaugh, Administrator. This action is being taken to permit new construction or the purchase and rehabilitation of existing structures, under specific conditions, in downtown locations of rural communities, and at the same time permit public participation in the rulemaking process. Any delay in implementing this amendment would be contrary to the public interest because the construction or rehabilitation of structures into much needed rental housing, and the well planned rural development efforts of rural communities, would be unnecessarily delayed. Comments made pursuant to this notice will be considered in the development of the final rule.

Accordingly, §§ 1822.85 and 1822.88 of Subpart D, Part 1822, Chapter XVIII, Title 7 are amended as follows:

1. Section 1822.85, paragraphs (b) (1), (2) and (3) are revised and paragraphs (b)(2) (i), (ii), and (iii), (b)(4), (b)(5), (b)(5) (i), (ii), (iii), (iv), and (v), (b)(6), (b)(6) (i), (ii), (iii) and (iv) are added and read as follows:

§ 1822.85 Loan purposes.

* * * * *

(b) * * *

(1) The structure to be rehabilitated must be physically and structurally sound enough to afford maximum safety (including fire safety) to the eventual residents of the structure after rehabilitation.

(2) Rehabilitation must be planned and accomplished so that the resulting housing will:

(i) Substantially meet the HUD Minimum Property Standards (MPS) requirements for new construction.

(ii) Create a suitable and appealing living environment, and be substantially equivalent to new construction in quality, livability, design, and all other respects.

(iii) Have a total development cost equal to or less than that of new construction in the same area.

(3) Complete plans and specifications for rehabilitation will be provided for review and approval. The plans, specifications, and other pertinent documents must be in sufficient detail to leave no question as to the work to be performed or the materials to be used.

(4) The rehabilitated project must generally meet the provisions of § 1822.88(a) of this Subpart.

(5) When the downtown location of a rehabilitation project dictates such, a portion of the structure (such as part of the ground floor and basement) could be designated for commercial use on a lease basis. RRH loan funds, however, cannot be used to finance *any* cost associated with that commercial space. In order to determine the correct RRH loan amount for the residential development of such a structure, the following guidelines will apply:

(i) The applicant must supply a complete cost breakdown for purchasing and rehabilitating the entire structure into its joint residential/commercial use.

(ii) From the complete cost breakdown, the costs that can be easily and appropriately identified as being part of the commercial portion of the structure should be isolated as such, and likewise the costs easily and appropriately identified with the residential portion should be isolated.

(iii) The costs which cannot be easily and appropriately isolated (such as the cost associated with repair and renovation of a boiler, the value of the structure "as is," and certain mechanical or electrical components that will benefit both the commercial and residential occupants) should be prorated between the two uses based upon the square footage floor space used in each of the two uses.

(iv) For the purposes of the loan limitations set forth in § 1822.86(a) (1) or (2), the term "development cost" shall mean the development costs associated with or prorated to the residential use of the strucuture, and the term "security value" shall mean the security value of the project exclusive of the value contributed to the land and structure(s) by the commercial space. The capitalization approach to value is one means by which FmHA may establish the value contributed by the commercial space.

(v) The applicant must rely on other sources of financing for all costs associated with or prorated to the commercial space, given the FmHA security requirements of § 1822.89 of this Subpart.

(6) The applicant may not lease any commercial space which may be permitted in a structure in accordance with subparagraph (5) of this section without the prior written consent of the FmHA District Director. The advice of OGC will be obtained prior to loan closing as to any modifications needed in the mortgage, loan agreement, or loan resolution to enforce this requirement. In addition, the FmHA District Director may not consent to any lease unless:

(i) The lease contains a provision by which the lessee agrees to vacate the premises should FmHA withdraw its consent to the lease.

(ii) The proposed use of the leased space has a symbiotic and mutually supportive relationship to the needs of the residential tenants and the use of the residential portion of the structure as rental housing.

(iii) The terms of the lease and the proposed use of the leased space do not jeopardize the interests of the tenants of the project or the continued use of the residential portion of the structure for the purposes for which the loan is made.

(iv) The lease has been reviewed by OGC and found to be legally sufficient and in compliance with the requirements of this Subpart.

* * * * *

2. Section 1822.88(a)(3) is amended by deleting the words "and location" in lines 1 and 2. Section 1822.88(a)(5) is deleted in its entirety and the present paragraphs § 1822.88(a) (6) through (8) are renumbered to § 1822.88(a) (5) through (7) respectively without changes.

3. In § 1822.88, paragraphs (q) (1) and (2) are revised and paragraphs (q)(2) (i), and (ii), (q)(3), (q)(4), (q)(4) (i), (ii), (q)(4)(ii) (A), (B), and (C), (q)(4) (iii), (iv), (v) and (vi) are added and read as follows:

§ 1822.88 Special conditions.

* * * * *

(q) *Location of Housing.*

(1) The location of the housing project should expand the supply of decent, safe, and sanitary housing for low- and moderate-income, senior citizens, and handicapped persons in a nondiscriminatory way outside areas of concentration of economically disadvantaged or minority residents. The location should promote a greater choice of housing opportunities and avoid undue concentration of eligible tenants in areas containing a high proportion of low-income persons, and should further fair housing.

(2) Project locations should promote an equal opportunity for the inclusion of all groups regardless of race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (mentally handicapped must possess the capacity to enter into a legal contract), thereby opening up nonsegregated housing opportunities for minorities and helping overcome the effects of any past discrimination. To the extent possible, the location of an RRH project should provide housing opportunities for minorities outside areas of minority concentration and areas which are already substantially racially mixed. An area of minority concentration is any part of a community adjacent to or within the confines of a greater area such as a place, town, village, or city in which the majority of the residents are minority. If the proposed location is in an area of minority concentration, it will not be accepted unless:

(i) Comparable housing opportunities exist outside the minority area for minorities in the income range to be served by the project; or

(ii) The applicant provides written documentation which adequately demonstrates that there are no other acceptable sites available outside the area of minority concentration, and housing on the proposed site is necessary to meet an overriding housing need in the market area.

(3) Except as otherwise permitted by subparagraph (4) of this section, housing projects must be located in residential areas as part of established rural communities where essential public facilities (such as schools, hospitals, and generally central water and sewer systems) and services (such as shopping, medical services, and pharmaceutical services) are readily available in close and convenient proximity to the site. Public facilities and services must be adequate to support the needs of the tenants and the housing project.

(4) FmHA will consider financing new construction or the purchase and rehabilitation of existing structures located in the downtown business areas of those rural communities that have established a comprehensive strategy for meeting their community development and housing needs, and that strategy includes the redevelopment, rehabilitation, restoration, or revitalization of the downtown business area. The proposed project site must be located within the downtown business redevelopment/revitalization area, and the following conditions must be met:

(i) Essential public facilities (such as schools, hospitals, and generally central water and sewer systems) and services (such as shopping, medical services, and pharmaceutical services) must be readily available in close and convenient proximity to the site, and they must be adequate to support the needs of the tenants and the housing project.

(ii) The community must have an official short-term community development and housing plan which sets forth its comprehensive strategy for meeting identified community development and housing needs, particularly the needs of eliminating or preventing economic decay, slums, or blight; the needs of benefiting the lower income population; or other community development needs having a particular urgency. The strategy should include a community-wide component which describes the development strategy of the governing body, the major objectives the governing body seeks to accomplish, the priorities it has established, the factors taken into account in selecting areas for treatment, and the anticipated public and private sources of funds necessary to conduct the treatment of each area selected. In addition, the plan should contain the following component strategies:

(A) Neighborhood revitalization: The strategy for alleviating physical deterioration, for maintaining viable neighborhoods, and for stimulating investment to upgrade neighborhoods affected by blight and deterioration.

(B) Housing: The community-wide strategy to improve housing conditions and to meet the housing assistance needs that have been identified. Reference to any current HUD approved Housing Assistance Plan would be helpful as part of this component strategy.

(C) Economic development: The strategy for attracting private investment in the business community and for solving the critical problems which may be the result of a stagnating or declining tax base, or from population outmigration.

(iii) Evidence must be presented from the local governing body verifying that the community has adopted, through resolution or other official act, the community development and housing plan referenced in subparagraph (q) (4) (ii) of this section. A copy of the adopted plan should be made available to FmHA. While it is not necessary that the downtown redevelopment/revitalization area be formally designated as an urban renewal or other similar area, evidence supporting a local determination that the downtown business area meets the criteria established in the community development and housing plan must be maintained in the locality's records. Documentation received from the local governing body must also identify the site or structure involved in the applicant's RRH proposal as part of or essential to the downtown redevelopment/revitalization area.

(iv) Evidence must be made available to FmHA verifying the intended commitment of public and private resources which will be available for completing the other integrally related redevelopment/revitalization activities being undertaken in the downtown business area together with the applicant's proposed RRH project.

(v) If the structure to be built or rehabilitated is more than two-stories, the housing must be designated and designed for occupancy only by senior citizens and handicapped persons.

(vi) Prior review and concurrence must be received from the FmHA National Office before the FmHA State Director or District Director authorizes the applicant to develop a complete application. All of the information requested in § 1822.88 (q) (4) must be provided by the applicant before National Office review.

* * * * *

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044. A copy of the Impact Statement prepared according to these criteria is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250.

This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Authorities: (42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: March 30, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FmHA Instruction 444.5]

[FR Doc. 79–10561 Filed 4–5–79; 8:45 am]
BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

Financial Protection Requirements and Indemnity Agreements; Miscellaneous Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final Rule.

SUMMARY: The provisions of Section 170 of the Atomic Energy Act of 1954, as amended, require production and utilization facility licensees to have and maintain financial protection to cover public liability claims resulting from a nuclear incident.

The Nuclear Regulatory Commission is amending its regulations to increase the level of the primary layer of financial protection required of certain indemnified licensees. The Commission is amending its regulations at the present time to coincide, as statutorily required, with the increase in the level of the primary layer of insurance provided by private nuclear liability insurance pools.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Ira Dinitz, Antitrust and Indemnity Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555. (Phone: 301–492–8336).

SUPPLEMENTARY INFORMATION: The provisions of Section 170 of the Atomic Energy Act of 1954, as amended, (the Act) require production and utilization facility licensees to have and maintain financial protection to cover public liability claims resulting from a nuclear incident. Section 170 of the Act, requires the Nuclear Regulatory Commission to indemnify the licensee and other persons indemnified, up to the statutory limitation on liability, against public liability claims in excess of the amount of financial protection required. Subsection 170b. of the Act requires that for facilities designed for producing substantial amounts of electricity and having a rated capacity of 100 electrical megawatts or more, the amount of financial protection [1] required shall be the maximum amount available from private sources. For other licensees, the Commission may require lesser amounts of financial protection. Primary financial protection may be in the form of private insurance, private contractual indemnities, self-insurance or other proof of financial responsibility, or combination of such measures.

The insurers who provide the nuclear liability insurance, American Nuclear Insurers (ANI) and Mutual Atomic Energy Liability Underwriters (MAELU), have advised the Commission that effective January 9, 1979, the maximum amount of primary nuclear energy liability insurance available was increased from $140 million to $160 million. Pursuant to the provisions of subsection 170b. of the Act, the amount of primary financial protection required for facilities having a rated capacity of 100 electrical megawatts or more will be increased to $160 million, effective May 1, 1979. In addition, in compliance with 10 CFR Part 140, those persons licensed to possess plutonium in the amount of 5 kilograms or more and persons licensed to process plutonium in the amount of 1 kilogram or more for use in plutonium processing and fuel fabrication plants will also be required to provide financial protection in the amount of $160 million.

Since the amendments set out below conform the Commission's regulations to a statutory requirement, the Commission has found that good cause exists for omitting a value/impact analysis, public notice of proposed rule making and public procedure thereon as unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Part 140, Code of Federal Regulations, are published as a document subject to codification.

[1] The Act does not by its precise language require maintenance of a "primary" (i.e., nuclear liability insurance) layer and a "secondary" (i.e., retrospective premium) layer of financial protection but merely considers the combination of these two layers as "financial protection." However, 10 CFR Part 140, of the Commission's regulations that implement the Act, distinguishes between the primary and secondary layers of financial protection. The amendments in this rule relate solely to increases in the primary layer of financial protection.

§ 140.11 [Amended]

1. Section 140.11(a)(4) is amended by deleting "$140,000,000" and substituting therefor "$160,000,000."

§ 140.13a [Amended]

2. Section 140.13a(a) is amended by deleting the term "$140,000,000" and substituting therefor "$160,000,000."

§ 140.91 [Amended]

3. In § 140.91, Appendix A, Condition 4 is amended by revising the footnote to read as follows: "For policies issued by Nuclear Energy Liability-Property Insurance Association the amount will be "$124,000,000"; for policies issued by Mutual Atomic Energy Liability Underwriters, the amount will be "$36,000,000."

4. In § 140.91, Appendix A, paragraph III of the "Optional Amendatory Endorsement" is amended by revising the footnote to read as follows:

"For policies issued by Nuclear Energy Liability-Property Insurance Association the amount will be "$124,000,000"; for policies issued by Mutual Atomic Energy Liability Underwriters the amount will be "$36,000,000."

§ 140.92 [Amended]

5. Section 140.92, Appendix B, Article II, paragraph 8(a), is amended by deleting the amount "$108,500,000" wherever it appears and substituting therefor "$124,000,000."

6. Section 140.92, Appendix B, Article II, paragraph 8(b), is amended by deleting the amount "$31,500,000" wherever it appears and substituting therefor "$36,000,000."

7. Section 140.92, Appendix B, Article II, paragraph 8(c), is amended by changing the amount "$140,000,000" to "$160,000,000."

8. Section 140.92, Appendix B, Article III, paragraph 4(b)(2), is amended by changing "$140,000,000" to "$160,000,000."

§ 140.93 [Amended]

9. Section 140.93, Appendix C, Article II, paragraph 8, is amended by changing "$140,000,000" to "$160,000,000."

10. Section 140.93, Appendix C, Article III, paragraph 4(b)(2), is amended by changing "$140,000,000" to "$160,000,000."

§ 140.94 [Amended]

11. Section 140.94, Appendix D, Article II, paragraph 6, is amended by changing "$140,000,000" to "$160,000,000."

§ 140.95 [Amended]

12. Section 140.95, Appendix E, Article III, paragraph 4(b)(2), is amended by changing "$140,000,000" to "$160,000,000."

§ 140.107 [Amended]

13. Section 140.107, Appendix G, Article II, paragraph 6(a), is amended by deleting the amount "$108,500,000" wherever it appears and substituting therefor "$124,000,000."

14. Section 140.107, Appendix G, Article II, paragraph 6(b), is amended by deleting the amount "$31,500,000" wherever it appears and substituting therefor "$36,000,000."

15. Section 140.107, Appendix G, Article III, paragraph 6(c), is amended by changing the amount "$140,000,000" to "$160,000,000."

16. Section 140.107, Appendix G, Article III, paragraph 4(b), is amended by changing the amount "$140,000,000" to "$160,000,000."

§ 140.108 [Amended]

17. Section 140.108, Appendix G, Article II, paragraph 6, is amended by changing the amount "$140,000,000" to "$160,000,000."

18. Section 140.108, Appendix H, Article III, paragraph 4(b), is amended by changing the amount "$140,000,000" to "$160,000,000."

EFFECTIVE DATE: The foregoing amendments become effective on May 1, 1979.

(Secs. 161, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 170, Pub. L. 85–256, 71 Stat. 576, Pub. L. 94–197, 89 Stat. 1111 (42 U.S.C. 2210); Sec. 201, Pub. L. 93–438, as amended, 88 Stat.1242, 89 Stat. 415 (42 U.S.C. 5841))

Dated at Washington, D.C., this 2nd day of April 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79–10853 Filed 4–5–79; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 307 and 327

Assumption and Assessment of Deposit Liabilities of Insured Banks; Voluntary Termination of Insurance Status

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation has decided to revise and amend §§ 307.3 and 327.2(b)(3) of its regulations to: (1) implement Sections 304 and 310 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRIRCA) which pertain to the assumption and assessment of deposit liabilities of insured banks, and (2) correct an inaccurate reference.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry L. Langley, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, telephone (202) 389–4237.

SUPPLEMENTARY INFORMATION: Section 304 of FIRIRCA amends Section 8(q) of the Federal Deposit Insurance Act (FDI Act) to provide that whenever the deposit liabilities of an insured bank are assumed by another insured bank, whether by merger, consolidation, or other statutory assumption, or by contract: (1) the insured status of the bank whose deposits are assumed shall terminate on the date the Corporation receives satisfactory evidence of the assumption; (2) the separate insurance of all insured deposits so assumed shall terminate six months after the date the assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period; and (3) the continuing bank shall give notice of the assumption to the depositors of the bank whose deposits are assumed within 30 days after the assumption takes effect. Section 307.3 has been revised to implement these provisions and to correct an incorrect citation by changing the reference "§ 304.3 (s) and (t)" in Section 307.3(b) to "§ 304.3 (u) and (v)".

Section 310 of FIRIRCA amends Section 7 of the FDI Act to exclude deposits accumulated for the repayment of personal loans from the definition of deposits for insurance assessment purposes. Section 327.2(b)(3) of FDIC's regulations has been amended to aline its definition of the term "deposit" for assessment purposes with that of Section 310 of FIRIRCA.

Since the changes are procedural in nature or necessitated by statutory amendment, the Board of Directors of the Federal Deposit Insurance Corporation has determined, under Section 302.6 of its rules and regulations (12 CFR § 302.6), that notice of, and public participation in, this rulemaking is unnecessary and that good cause exists for the waiver of the 30-day deferral of the effective date for the changes.

Accordingly, 12 CFR 307.3 and 327.2 subparagraph (b) are changed as follows:

PART 307—VOLUNTARY TERMINATION OF INSURANCE STATUS

1. 12 CFR 307.3 is revised to read:

§ 307.3 Steps to be taken and records to be furnished the Corporation where deposits are assumed by another insured bank.

(a) Whenever the deposit liabilities of an insured bank are assumed by another insured bank, whether by merger, consolidation, or other statutory assumption, or by contract, the continuing bank shall give notice of the assumption to the depositors of the bank whose deposits are assumed within 30 days after the assumption takes effect.[9] Such notice shall be (1) mailed to each depositor at the depositor's last address of record as shown upon the books of the bank, (2) published in not less than two issues of a local newspaper of general circulation, and (3) in form substantially as follows:

(Date) ————————

Notice to Depositors:

Please be advised that the deposit liabilities shown on the books of (Name of Assumed Bank) ———— (City or town) ———— (State) ——— as of close of business on ———, 19— have been assumed by the undersigned bank. The insured status of (Name of assumed bank) will terminate at the time provided in section 8(q) of the Federal Deposit Insurance Act. The separate insurance of its deposits will therefore terminate at the end of six months from the above date or, in the case of a time deposit, the earliest maturity date after the six-month period.

You are advised that the undersigned bank is an insured bank and that your deposits will continue to be insured by the Federal Deposit Insurance Corporation in the manner and to the extent provided in said Act.

(Name of Bank) ————————

(Address) ————————

There may be included in such notice any additional information or advice the bank may deem desirable.

[9] The notice requirement does not apply to "phantom" bank mergers as defined in footnote 2a of Section 303.11(a)(9).

The bank shall furnish to the Corporation an affidavit of mailing and an affidavit of publication of the notice to depositors. The affidavit of mailing should be in the form prescribed in § 307.1(b)(1).

(b) In the case of a purchase and assumption transaction, the liquidating bank shall file a final certified statement, as provided for in § 304.3 (u) and (v), and shall pay to the Corporation the normal assessment thereon.[10] If the deposits of the liquidating bank are assumed by a newly insured bank, the liquidating bank is not required to file certified statements or pay any assessment upon the deposits so assumed, after the semi-annual period in which the assumption takes effect. The continuing bank shall maintain a separate record identifying those time deposits which mature more than six months after the date the assumption takes effect.

(c) Satisfactory evidence of an assumption shall consist of a certified copy of a resolution from the continuing bank indicating: (1) the date the assumption was consummated, and (2) that pursuant to terms of the assumption agreement, it has undertaken to assume the deposit liabilities of the bank whose deposits were assumed. The resolution shall be submitted to the Corporation within 30 days of the date the assumption takes effect.

(d) In the case of a purchase and assumption transaction, the liquidating bank shall furnish to the Corporation the information called for in section 307.1(b)(6).

(Sec. 9, Pub. Law 797, 64 Stat. 881 (12 U.S.C. § 1819))

PART 327—ASSESSMENTS

2. 12 CFR 327.2(b) is amended by deleting and reserving subparagraph (3) and adding a new paragraph after subparagraph (4) to read:

§ 327.2 Classification of deposits.

* * * * *

(b) * * *

(3) [Reserved]

(4) * * *

Deposits accumulated for the payment of personal loans, which represent actual loan payments received by the bank from borrowers and are accumulated in hypothecated deposit accounts for payment of the loans at maturity, shall not be reported as deposits on the report of condition. These amounts are to be deducted from the loans for which these deposits have been accumulated and assigned or pledged to effectuate repayment. Time and savings deposits that are pledged as collateral to secure loans are not deposits accumulated for the payment of personal loans and are to be reported as deposits.

* * * * *

(Sec. 9, Pub. Law 797, 64 Stat. 881 (12 U.S.C. § 1819))

By Order of the Board of Directors, April 2, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Acting Executive Secretary.

[FR Doc. 79-10899 Filed 4-5-79; 8:45 am]

BILLING CODE 6714-01-M

[10] See § 327.2 of this Chapter.

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 311

Civil Rights Requirements on EDA Assisted Projects

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final Rule.

SUMMARY: These regulations implement the various executive branch directives and regulations affecting Part 311 which pertains to the civil rights requirements on EDA assisted projects. The main elements of the subject have been organized in a simpler and more understandable set of general requirements. An elaboration of these requirements is contained in a separate document entitled "Civil Rights Guidelines".

EFFECTIVE DATE: April 6, 1979.

ADDRESS: Comments may be sent to: Office of Civil Rights, U.S. Department of Commerce, Economic Development Administration, Room 7025, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: David E. Lasky, Director, Office of Civil Rights, 202-377-5575.

SUPPLEMENTARY INFORMATION: Because this rule relates to EDA grant and loan programs, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. § 553). However, in the spirit of the public policy set forth in that Act, interested persons may submit written suggestions regarding this amendment to the above address.

Inasmuch as no substantial discretion is available to EDA with regard to the substantive and procedural contents of civil rights regulations (and the Guidelines) because of the underlying regulations and directives issued by other Federal agencies, EDA has determined that this document does not constitute a significant regulation under Executive Order No. 12044.

Accordingly, 13 CFR Part 311 is amended to read as follows:

PART 311—CIVIL RIGHTS REQUIREMENTS ON EDA ASSISTED PROJECTS

Sec.
311.1 Introduction.
311.2 EDA Guidelines.
311.3 Requirements for Applicants, Grantees, Borrowers, and "Other Parties".
311.4 Public Planning Organizations.

Authority: Sec. 602, Pub. L. 88-352, 78 Stat. 252 (42 U.S.C. 2000d-1); 28 CFR Part 42; 15 CFR part 8; 41 CFR Part 60.

§ 311.1 Introduction.

(a)(1) Section 601 of Title VI of the Civil Rights Act of 1964 provides that,

"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 subjected to discrimination under any program or activity receiving Federal financial assistance."

(2) The Department of Commerce has provided regulations at 15 C.F.R. Part 8, in accordance with this provision.

(3) In addition, EDA in its programs enforces provisions, similar to § 601, forbidding discrimination on the ground of sex (42 U.S.C. § 3123) and handicap (26 U.S.C. § 794).

(b) In order to enforce the above nondiscrimination provisions, EDA imposes certain requirements, described below, on applicants, grantees, borrowers, and certain beneficiaries of its programs which are called "other parties." Title 15 CFR § 8.3 defines "Other parties" as those who enjoy "direct or substantial participation in any program such as a contractor, subcontractor, provider of employment, or user of facilities or services provided under any program." While construction contractors and subcontractors are technically "other parties" under the Title VI jurisdiction of EDA, these regulations do not apply to them since civil rights review, monitoring, and enforcement for them are, under Executive Order 11246, the responsibilities of the Department of Labor.

(c) Failure of a grantee, borrower, or "other party" to comply with requirements of this Part may result in sanctions or other legal action.

§ 311.2 EDA Guidelines.

(a) EDA has written *Civil Rights Guidelines* that elaborate the requirements listed below for applicants, grantees, borrowers, and "other parties" other than those involved in construction contracting. The *Guidelines* also describe EDA's policy and procedures for complaint processing, compliance reviews, and enforcement.

(b) These *Guidelines* are given to all applicants and to those "other parties" subject to § 311.3(c)(2) below. They are also available upon request from any of the Regional Offices whose addresses are provided in § 301.31.

§ 311.3 Requirements for Applicants, Grantees, Borrowers, and "Other Parties".

(a) Applicants for EDA financial assistance must submit for approval:

(1) An assurance that they will comply with the Department of Commerce and EDA regulations designed to prevent discrimination;

(2) Information on their civil rights status and involvement in charges of discrimination;

(3) Information about the distribution of project service benefits, when appropriate;

(4) Employment information; and

(5) An Affirmative Action Plan, if they will create or save 50 or more permanent jobs as the result of EDA assistance.

(b) Grantees and borrowers of EDA financial assistance must:

(1) Disseminate project civil rights information to the public;

(2) Retain employment records;

(3) Submit compliance reports, if they will create or save 15 or more permanent jobs as a result of EDA assistance;

(4) Allow on-site compliance reviews and provide access to information if necessary to ascertain compliance; and

(5) If they received assistance for construction or improvement to real property: obtain from each lessee, buyer or other transferee of the real property (such as industrial park space) an assurance or covenant, as applicable, that it will comply with EDA civil rights requirements.

(c) "Other Parties". (1) All "other parties" on EDA-assisted projects must, if necessary to ascertain compliance, submit to on-site compliance reviews and provide access to information.

(2) In addition, certain "other parties" must comply with the requirements for applicants stated above in § 311.3(a) (1), (2), (4), and (5) and the requirements for grantees in § 311.3(b) (1), (2), and (3). These "other parties" are those who create or save 15 or more permanent jobs as the result of EDA assistance; and *either*

(i) Are specifically cited in the application for funds as a project beneficiary; *or*

(ii) Locate or are located in an assisted industrial park before EDA has made its final disbursement for the park.

§ 311.4 Public planning organizations.

(a) Minorities must be represented on the governing boards and executive committees of public planning organizations receiving EDA assistance. Specific numerical requirements are stated in the *Guidelines*. Planning organization are required to provide minorities with the opportunity to select their own representatives.

(b) Each planning organization must develop a written Affirmative Action Plan for its employees.

Authority: Sec. 602, Pub. L. 88–352, 78 Stat. 252 (42 U.S.C. 2000d–1); 28 CFR Part 42; 15 CFR Part 8; 41 CFR Part 60.

Dated: March 28, 1979.

Robert Hall,

Assistant Secretary for Economic Development.

[FR Doc. 79–10624 Filed 4–5–79; 8:45 am]

BILLING CODE 3510–24–M

CIVIL AERONAUTICS BOARD

14 CFR Part 205

Inauguration and Temporary Suspension of Scheduled Route Service Authorized by Certificates or Public Convenience and Necessity Revocation of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., April 2, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Revocation of Part.

SUMMARY: The Board is revoking Part 205 of its Economic Regulations, which has been superseded by interim rules issued today as new Part 323 of the Board's Procedural Regulations.

DATES: Adopted: April 2, 1979. Effective: April 9, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673–5444.

SUPPLEMENTARY INFORMATION: For the reasons explained in PR–200, also issued today, Part 205 of the Board's Economic Regulations has been superseded by a new Part 323, adopted as an interim rule with request for comments.

The new interim rules implement recent amendments to the Federal Aviation Act. They are effective immediately for the reasons given in PR–200. Since Part 323 supersedes Part 205, and since Part 323 is effective immediately, it is impractical and not in the public interest to delay revocation of Part 205. For good cause shown, the Board finds that notice and public procedure are unnecessary, and this rule may be effective immediately.

PART 205—[REVOKED]

Accordingly, the Civil Aeronautics Board revokes and reserves 14 CFR Part 205, *Inauguration and Temporary Suspension of Scheduled Route Service Authorized by Certificates of Public Convenience and Necessity.*

(Secs. 204, 401 of the Federal Aviation Act, as amended, 72 Stat. 743, 92 Stat. 1710; (49 U.S.C. 1324, 1371).)

By the Ciil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[Reg. ER–1112, Amdt. 8]

[FR Doc. 79–10720 Filed 4–5–79; 8:45 am]

BILLING CODE 6320–01–M

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14 CFR Part 323

Terminations, Suspensions, and Reductions of Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., April 2, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Interim rule.

SUMMARY: The CAB is adopting rules to govern notices of terminations, suspensions, and reductions of air transportation by air carriers, and to govern objections asking the Board to prohibit those terminations, suspensions or reductions that appear to affect essential air transportation. This rule, implementing a provision of the Airline Deregulation Act of 1978, is being issued on an interim basis with comments requested by PDR 65 also issued today.

DATES: Adopted: April 2, 1979. Effective: April 9, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673–5442.

SUPPLEMENTARY INFORMATION: The Airline Deregulation Act of 1978, Pub. L. 95–504, became effective on October 24, 1978. The Deregulation Act changed procedures for terminations, suspensions, and reductions of service

by certificated carriers and added new provisions to guarantee essential service to all communities. Before the Deregulation Act, certificated carriers were required to obtain specific Board approval before terminating or suspending service to any point listed on their section 401 certificates. Under the Deregulation Act, which favors freer competition and reduced government influence in business decisions, the requirement of pre-termination approval has been eliminated and replaced with a notice requirement.

The provisions of the Deregulation Act that guarantee minimum essential service to all communities require similar procedures in cases where any reduction of service, including termination or suspension, might deprive the community of its essential service. When either certificated or uncertificate (usually commuter) carriers reduce service so that a point receives less than the essential level of service established by the Board, the Board must stop the intended termination, suspension, or reduction until replacement service can be found. If the intended change appears to affect essential air service, the public may file objections and ask the Board to prohibit the termination, suspension, or reduction until a level of essential service has been determined.

The interim rule establishes an integrated set of procedures for terminations, suspensions, or reductions of service. The interim rule does not deal comprehensively with the Board's powers to determine and maintain essential service.

Within the context of domestic air transportation, the interim rule applies only to passenger air service. Section 401(j)(1) requires certificated carriers to provide notice of termination or suspension of "all air transportation" to a point, raising the question whether Congress intended to require notice for terminations or suspensions of cargo air transportation. As explained below, we have tentatively concluded that section 401(j)(1) should be interpreted narrowly within the scope of the essential air transportation provisions of the Act. Section 419(f) defines essential air transportation as applying only to "air transportation of persons." In addition, it would have been incongruous for Congress to impose a notice requirement for cargo service terminations after substantially deregulating the domestic cargo industry by Public Law 95–163. Cargo carriers may need to enter and leave cargo markets quickly to compete effectively, and a notice requirement would impede quick exit. Therefore, we interpret section 401(j)(1) not to apply to terminations, suspensions, or reductions of cargo service, and the fact that a carrier may continue cargo service to a point does not relieve it of the duty to file notice of discontinuance of all its passenger service to the point.

Section 401(j)(2) raises a similar interpretive question, since it refers to terminations and suspensions of "nonstop or single-plane air transportation" on a particular route, without limiting its scope to passengers. Because nonstop and single-plane service are significant to consumers only in passenger operations, we conclude that Congress did not intend this section to apply to cargo service. Thus, we interpret both sections 401(j)(1) and (2) not to apply to cargo service.

Although the Act does not require notice for curtailment of cargo service either internationally or domestically, a notice requirement would be valuable for discontinuances of cargo service in international air transportation. The Board needs notice of cargo terminations in international markets, where entry is more restricted than in domestic markets, to allow time to consider applications by other carriers to replace the terminating carrier. The Board may also alert domestic communities to potential loss of service, enabling them to search on their own for replacements or prepare for the change. Therefore, under our general rulemaking powers we are, in § 323.3(a)(5), requiring 60-day notice of discontinuance by any carrier of certificated cargo service to a foreign point. We specifically request comments on whether a notice requirement for cargo service terminations and suspensions should be retained.

Because of the peculiar circumstances prevailing in Alaskan air transportation, the interim rule includes special provisions for Alaskan operations.

Requirements for Certificated Carriers—Section 401(j)

Section 323.3(a)(1) of the interim rule requires that any air carrier certificated under section 401 provide notice of a termination or suspension of service to any United States point listed on its certificate, regardless of whether the discontinuance would affect essential service to the point.

Section 323.3(a)(2) of the interim rule requires that certificated carriers provide notice of a reduction in service that would deprive a point of essential service. Essential service is determined by the Board for certain communities in the United States served by one or no certificated carrier.

Sections 323.3(a)(3) and (4) of the interim rule require notice if a certificated carrier reduces service so that a point for which the level of essential service has not been determined receives less than a certain fixed number of flights per week. In Alaska, the figure is two round-trip flights per week, or the average number of weekly flights during 1976, whichever is greater, unless otherwise specified in an agreement between the Board and the State of Alaska. In the rest of the United States, the figure is two round-trip flights per day, five days per week. (A carrier intending to reduce service in a community that already receives less than two round-trip flights per day, five days per week is, of course, included in the requirement.) This fixed level of flights is intended as a "presumptive" level of essential service until the Board determines a specific level. The presumptive level corresponds to the minimum levels for essential service prescribed by Congress in Section 419(f), with one exception. The exception is for points in the United States except Alaska. Section 419(f) sets a minimum level of *either* two round trips five days per week or the level of service for calendar year 1977, whichever is less. Our presumptive level excludes the 1977 level of service, to allow a broader range of notice than the absolute minimum. The presumptive level is not an indication of the level of service that will actually be required for any point.

Only flights to an "air traffic hub," as listed in "Airport Activity Statistics of Certificated Route Carriers," published jointly by the Civil Aeronautics Board and the Department of Transportation, count in satisfying the fixed minimum number of flights. There are approximately 160 hubs, which account for more than 95 per cent of all enplanements. The Board has tentatively decided that service between small communities and non-hubs alone will not provide enough connections to insure adequate service, and that service to at least one hub city will be needed to provide enough links to major transportation routes. In Alaska, where there are only three hubs, service to any point served by a certificated carrier counts in satisfying the minimum number of flights. The Board welcomes alternative suggestions.

In some instances, a certificated carrier holds more than one section 401 certificate, with the same point listed on both certificates. A literal reading of section 401(j)(1) might suggest that a certificated carrier must provide notice whenever it discontinues service to a point under one of its certificates, even

if it continues it under another. We interpret section 401(j)(1) to mean, however, and § 323.3(a)(1) provides, that notice is required only where a certificated carrier discontinues its passenger service to a point under *all* the section 401 certificates that it holds. Since the subject of section 401(j)(1) is service by a carrier to a point, and not service by a carrier under a particular certificate, our interpretation seems more sensible and closer to Congress's intent.

Pan American has asked in Docket 34184 whether notice is required for termination or suspension of all service to a point outside the United States. It has filed a petition for a declaratory order asking the Board to interpret section 401(j)(1) not to apply to foreign points. Pan American argued that the 90-day notice requirement of section 401(j)(1) would serve no useful purpose if applied to curtailments of service to foreign points, and that it was intended only as one of the essential air service provisions of the Deregulation Act, which do not apply to foreign points.

Pan American offered a textual analysis to show that the word "point" in section 401(j)(1) was intended to mean "eligible point," as defined in section 419 (relating to essential air service). Paragraph (j)(1)(A) requires notice of terminations or suspension of all air transportation which [a certificated carrier] is providing to *a point* under such certificate. Paragraph (j)(1)(B) requires notice of reductions of air transportation "below that which the Board has determined to be essential air transportation for *such point.*" Apparently, "such point" refers to "point" as used in paragraph (A). Since paragraph (B) can never apply to foreign points (the Board determines essential service only for points in the United States—i.e., eligible points), and since "such point" apparently means the same as "point" in paragraph (A), paragraph (A) must also not apply to foreign points. In addition, section 401(j)(1) requires that notice be given to "the Board, any community affected, and the State agency of the State in which such community is located," indicating that only points within a State were intended as subjects of paragraph (j)(1).

Congress did not clearly state the scope and purpose of section 401(j)(1) in the Deregulation Act or the legislative history. Similarities in language between section 401(j)(1) and section 419(a)(3), such as the identical 90-day notice period, the identical list of persons to be notified, and the reference to essential air transportation in section 401(j)(1)(B), indicate that section 401(j)(1) is closely linked to the essential service provisions of the Act, and was not meant to apply to foreign points. Therefore, we conclude that section 401(j)(1) should be interpreted not to apply to discontinuances of service to foreign points.

Section 401(j)(2) of the Act and § 323.3(b)(1) of the interim rule require that any certificated carrier provide 60 days' notice of a termination or suspension of either *nonstop* or *single-plane* service between any two points in either foreign or domestic air transportation if it is the only certificated carrier providing such service. Notice is required for a discontinuance of nonstop or single-plane service in one direction if the existing service is operated in both directions.

We are adopting under our general rulemaking powers a notice requirement that enlarges the statutory section 401(j)(2) requirement somewhat. Under § 323.3(b)(1)(iii), a certificated carrier must give 60 days' notice whenever it discontinues its single-plane service between a domestic or overseas point and a foreign point, regardless of whether it is the last certificated carrier providing such service in the market. Our reasons relate to both consumer and foreign aviation policy. For purposes of this rule, "change of guage" service will be considered to be single-plane because it, like a true single-plane operation, is provided for in most of our bilateral agreements with other countries. We will require notice of the termination of nonstop service only if it is the last such service provided by any certificated carrier, as required by section 401(j)(2).

Before the Deregulation Act, the Board received effective advance notice of virtually all foreign market terminations, because a carrier was required to apply for prior Board approval before it could suspend or abandon service at a foreign point. Such approval is no longer necessary under amended 401 (j), having been replaced by a notice requirement. Domestically, advance notice will be given whenever any one carrier terminates *all* of its services *at a point* (401(j)(1)) or when it terminates *the last* nonstop or single-plane service *in a market* (401(j)(2)). The combination of (j)(1) and (j)(2) should ensure that no significant domestic service is terminated without prior notice to the Board and the public. Since we interpret 401(j)(1) not to apply to foreign points, however (although 401(j)(2) does), notice in the case of service terminations in foreign air transportation is substantially less extensive than in the domestic area. Under the terms of 401(j), as we interpret it, a carrier could terminate all of its services at a foreign point without any prior notice to the Board and the public as long as any other U.S. carrier provides single-plane or nonstop service in the markets involved, even though the service and foreign policy impacts in important international markets would be substantial. A similar lack of notice in the domestic area is unlikely, given the juxtaposed notice requirements of 401(j)(1) and 401(j)(2).

We believe that lack of notice in international operations is highly undesirable from both the foreign relations and consumer perspective. Our international aviation policy is to expand competitive opportunities to the greatest extent possible because of the consumer benefits that competition brings. Yet, entry in foreign markets is too often restricted, either by explicit agreements now in effect or by anticompetitive practices of other countries. Effectuation of our policy requires, among other things, that available route opportunities not be wasted. In entry-restricted markets, in particular, we must be in a position to ensure that scarce resources—*i.e.*, route rights—are exploited to their fullest, without substantial service disruptions if possible. Absent adequate advance notice, limited designation rights could lie dormant. While the incumbent carrier might not be able or willing to provide competitive services, others could, to the benefit of the public. The interim advance notice requirement we find necessary here will make it more possible for us to provide for substitute service quickly as we did, for example, by Orders 78–10–106, 78–10–132 and 78–11–156, authorizing services by other carriers to various points in place of Pan American's suspended operations.

We do not think that the notice requirement and concomitant reduction in carriers' operational flexibility will be unduly burdensome. In many instances, notice will be necessary in any event because of the statutory requirements of § 401(j)(2). Where it is not, we simply ask that carriersdivulge their international service plans to the Board and the public somewhat sooner than they might otherwise be inclined to do. In this regard, we note that carriers would ordinarily provide such notice to a private party, the *Official Airline Guide* (OAG), in advance, as well as to foreign governments, which typically require advance schedule filings. Of course the rule is interim only, and we are open to a showing that our concern for the adequacy of advance notice of

service terminations in the international area is unwarranted, or should be redirected.

There is some overlap among the different situations for which notice is required of certificated carriers. There are three basic situations: (1) The carrier completely terminates or suspends service to a point, regardless of whether it affects essential service; (2) the carrier reduces service (without completely terminating or suspending it) in a way that affects essential service to a point; or (3) the carrier terminates or suspends nonstop or single-plane service between two points. The same termination or suspension may fall into both the first and third, or the second and third, categories. For instance, the termination or reduction of service by a carrier to point A may also terminate the only nonstop service between points A and B.

Thus, in many cases, termination or suspension of service to one point may simultaneously terminate or suspend nonstop or single-plane service between that point and another point. In those cases, carriers may file one comprehensive notice to cover the discontinuance as a whole, and avoid duplicative filings. This will also help the Board to review discontinuance more quickly for its effect on essential air transportation. Carriers should make sure, however, that their comprehensive filings contain all the information for each affected point required by § 323.4 and are served on all the persons specified by § 323.7.

A termination or suspension of nonstop or single-plane service may also constitute a reduction affecting essential service, depending on how the Board defines essential service for the affected points. Again, duplicative filing or service is not required, but carriers should be careful to consider all the different possible notice requirements for any termination or suspension.

Exemptions from 401(j)(2)

Allegheny Airlines has petitioned in docket 34286 the Board for clarification of section 401(j)(2), the notice requirement for termination or suspension of certificated nonstop or single-plane service between two points. The petition, in effect, requests that (1) service provided less than five times a week be exempted from the notice requirement, (2) service including three or more intermediate stops be exempted, and (3) the provision be interpreted not to apply to the situation where nonstop service is to be discontinued and another certificated carrier provides single-plane service in the market. Allegheny contends that notice in these cases would not serve Congress purpose. Northwest Airlines has filed an answer in support of Allegheny's petition.

The first proposed exemption is designed to exclude "equipment balancing flights" from the notice requirement. Equipment balancing flights are described as flights operating from point A to point B for the sole purpose of putting a plane in position to provide service from point B, and not for the purpose of serving the A–B market. Allegheny considers these flights insignificant for the purposes of the notice requirement.

The Board agrees with Allegheny that infrequently operated flights are, as a practical matter, insignificant in terms of passenger usability. However, we think that service operated less than four *days* per week, instead of five *times* per week as Allegheny proposed, is a better measure for an exemption based on infrequency of service. By enacting section 401(j)(2), Congress intended to insure that communities receive notice of loss of important service in any market. Service operated less than four days per week tends to be of limited importance from the consumer's point of view. Requiring notice for discontinuances of those flights would not serve Congress purpose, and it would impose an unnecessary burden on the carriers and the Board. Therefore, we find that an exemption from the 60-day notice requirement for such service is in the public interest. This exemption is stated in § 323.8(a)(1). To discourage a carrier from evading the notice requirement by first reducing service to less than four flights per week, and then eliminating service altogether, the exemption applies only when the infrequent service has been in operation for at least 90 days. Also, the exemption applies only to air transportation within the 48 contiguous States and the District of Columbia, since even infrequent service to other points is likely to be important. We will review this exemption when we consider the comments, so we specifically ask the public to address this issue.

Allegheny's second request is designed to exclude flights contributing little or no effective service between the origin and destination points. Most passengers would prefer connecting service with one or two stops to single-plane service with three or more stops between their origin and destination. Therefore, single-plane service with three or more intermediate stops is not likely to be important to a market.

We find that an exemption for such service is in the public interest, since the cost and inconvenience of filing notice in these situations outweighs the possible value of the notice. Section 323.8(a)(2) of the rule grants Allegheny's request for an exemption from the notice requirement for discontinuance of single-plane service involving three or more intermediate stops. The exemption applies only if the three-stop-or-more service has been operated regularly for at least 90 days. It applies only to air transportation within the 48 contiguous States and the District of Columbia, since multi-stop service to more remote points may be important enough to warrant notice.

Allegheny's third suggestion involves an interpretation of section 401(j)(2) rather than an exemption. Section 401(j)(2) says:

> (2) If (a section 401 carrier) proposes to terminate or suspend nonstop or single-plane air transportation between two points * * *, and such air carrier is the only air carrier certificated pursuant to such section 401 providing nonstop or single-plane air transportation between such points (such carrier shall give 60 days' notice to the Board and affected communities).

It is not clear from the text of the statute or the legislative history whether Congress intended to require a notice of discontinuance of the last certificated *nonstop* service between two points where another certificated carrier still provides single-plane service between the points. Allegheny argued that "nonstop or single-plane air transportation" should be viewed as a unitary concept, designed to prevent a market from losing important (that is, at least single-plane) service without notice. Under this view, notice of a discontinuance of nonstop service is unnecessary if the market still receives single-plane service. On the other hand, Congress may have regarded nonstop service as important in itself, regardless of the availability of single-plane service in the market. Under this alternate view, carriers should provide notice when they discontinue *either* the last certificated nonstop service or the last certificated single-plane service in a market.

Allegheny is concerned about the following situation: Certificated carrier X provides nonstop service in a market and certificated carrier Y provides single-plane service (with one or two stops) in the same market. They are the only two certificated carriers in that market. If carrier X must file notice to discontinue its nonstop service, carrier Y will be able to leave the market anytime in the next 60 days (the

advance notice period required from X) without filing notice. Y will not have to file notice as long as X provides nonstop service, because nonstop service is necessarily single-plane service, and therefore Y will not be the only certificated carrier providing single-plane service in the market. If Y leaves, X may be required by the Board to continue serving the market in order to maintain essential air service.

The Board rejects Allegheny's third suggestion. We interpret section 401(j)(2) of the Act to require notice whenever either nonstop or single-plane certificated service is discontinued. In the Deregulation Act, Congress sought to encourage nonstop service between cities. The unused authority provisions of section 401(d)(5) are an example of such encouragement. We conclude that Congress intended in section 401(j)(2) to give cities some notice before they lost nonstop service, so that they could try to obtain replacement service. In fact, the Committee Report accompanying the House of Representatives airline deregulation bill (H.R. 12611), from which the "nonstop or single-plane air transportation" terminology came, expressed concern that "a carrier could eliminate nonstop service in an important market without giving any notice to the cities involved" as a reason for an almost identical notice requirement. (H.R. Rep. No. 95–1211, 95th Cong., 2nd Sess. 17 (1978).) Moreover, the interpretation urged by Allegheny would render the term "nonstop" redundant in section 401(j)(2). The situation described by Allegheny would not result in any unfairness, since under this rule service that is the subject of a notice is considered discontinued while the notice is pending. Thus, in the example given above, once carrier X has given notice, carrier Y cannot rely on X's service in determining its notice obligations.

Braniff Airways and Delta Airlines filed answers to Allegheny's petition in which they supported Allegheny's requests and suggested new exemptions to section 401(j)(2). Braniff asked the Board to exempt carriers from the notice requirement whenever the carrier that is eliminating service provides on-line connecting service at least twice a day in the market. Braniff claimed that this exemption is necessary to scheduling efficiency for carriers, like Braniff, with hub-and-spoke route structures. According to Braniff, a hub-and-spoke arrangement changes frequently, and it functions efficiently because it can supply a wide choice of on-line connections between most city-pairs. Requiring notice every time single-plane service is eliminated in a market would, says Braniff, not only delay needed scheduling changes, but also serve little public interest where at least two on-line connections are available from the same carrier in that market. Delta supported Braniff's request with the added restriction that the on-line connections involve only one stop.

We are not persuaded that either on-line or interline connections are an adequate substitute for single-plane service from the viewpoint of most travelers. Congress intended that the public have notice of the elimination of important service in a market, specified as nonstop or single-plane service. It is not clear that the purpose of Congress is better served by a different concept of important service. We therefore reject Braniff's and Delta's requests.

Delta suggests in its answer that the Board carry Allegheny's second request even further, and exempt carriers from section 401(j)(2) for discontinuances of single-plane service involving *two* or more stops. Delta argues that very few passengers use flights with two or more stops to reach their destinations. According to Delta, one-stop connecting service is usually more convenient than two-stop single-plane service. The Board cannot evaluate Delta's argument without time for further study. We cannot quickly ascertain how many passengers use flights with two or more stops to reach their destinations, or how often one-stop connecting service is available as an alternative. Therefore, this interim rule grants the exemption only for single-plane flights involving three or more stops. We specifically request comments on the advisability of extending the exemption to single-plane flights with two or more stops, and we will reconsider the question when we review this rule.

On its own initiative, the Board is granting an exemption from the 60-day notice requirement in § 323.3(b) for discontinuance of certificated nonstop or single-plane service that is being operated in one direction only. Some carriers provide service between two points that is nonstop or single-plane in only one direction, usually for reasons unrelated to selling that service to the public. We have tentatively concluded that such service is insignificant in terms of passenger usability, and that a notice requirement for discontinuance of such service would place an unnecessary burden on carriers, so that an exemption is in the public interest. It should be noted that nonstop service is also considered single-plane service, so that a carrier providing nonstop service in one direction between two points and one-stop single-plane service in the other direction may not totally discontinue service in either direction without notice. However, the carrier could reduce its nonstop service to one-or-more-stop single-plane service without filing notice. The exemption is stated in § 323.8(a)(3), and is restricted to service provided within the 48 contiguous States and the District of Columbia. As indicated in § 323.3(b)(2), no exemption is being given for a change from two-directional to one-directional service. However, it may be that on occasion one-directional service is significant to passengers, and we will reconsider the exemption when we review the comments. We specifically invite comments on our tentative determination that this is not significant service.

The exemptions granted in § 323.8 apply only to the 60-day notice requirements, for ending the last service between two points, of section 401(j)(2) of the Act and § 323.3(b) of this rule. A carrier exempted from such a 60-day notice will still have to file a 90-day notice under section 401(j)(1) and § 323.3(a) if it is ending all of its service to a single point. Also, discontinuances that affect essential air service must be noticed in all cases.

There have been several recent instances of flight cancellations, both domestically and internationally, because of fuel shortages. In at least one case,[1] a carrier has attempted to suspend service in several markets without complying with the notice requirements of section 401(j) of the Act. Neither the Act nor the Board dictates how carriers should allocate fuel. In fact, by the recently-enacted Deregulation Act Congress intended carriers to have great flexibility to adjust schedules to deal with fuel problems, provided only that they comply with the notice requirements of section 401(j) (1) and (2). These two provisions serve important public purposes. Notice information is published in the local press and therefore highlights schedule changes, allowing the traveling public to plan trips on the basis of available options. Notices alert airport operators, who must allocate facilities and make other adjustments for changing service patterns. They allow communities to plan for changes in service, informing them of their options so that they can seek replacement service from alternative carriers. And they allow the Board to fulfill its statutory responsibility of assuring essential service on a continuous basis. Congress

[1] See Order 79–3–105.

included specific provisions to assure that essential service would be provided to all communities not just most of the time, but all of the time, and designed the notice provisions for that purpose. The activities of individuals, airport operators, communities, and the Board in analyzing shifting flight patterns and searching for replacements cannot be done instantly, and the notice period was intended to provide time for these considerations.

Therefore, carriers must observe the requirements of section 401(j) when curtailing service for fuel shortages. The public has just as great a need for advance notice of discontinuance of important service, and the Board has just as great a duty to protect the public interest and guarantee essential service, when the cause of flight cancellation is the lack of fuel as it does in the case of a business judgment that the flight is unprofitable. The Board will closely scrutinize applications for exemption from the notice requirements to ascertain whether the shortage can reasonably be dealt with by curtailing other service that is not subject to the notice requirements. In cases where shortages are foreseeable and can be planned for, we expect that fuel problems can be dealt with by making adjustments in markets where no notice is required. Although the Board will consider on their individual merits exemption requests for pressing fuel problems, we have decided that a blanket exemption from the general statutory notice requirement should not be granted.

The Board will not be unreasonable in allowing carriers to deal with sudden fuel problems. Unforeseeable spot shortages or other emergency situations may justify cancellations of individual flights under § 323.14, but that provision may not be used to evade the regular notice requirements for substantial discontinuance or reduction of service in this rule. The Board will want to learn of curtailments of a group of flights, or curtailments lasting more than a few days, to ascertain whether the perceived problem is so serious and unavoidable as to warrant exemption from the notice requirements of the Act.

The Board will also not allow evasion of the notice requirements by the maintenance of nominal but ineffective service. Where a carrier has been serving a market 7 days a week on a regular basis, a sudden drop in service to one flight a week is tantamount to discontinuance. We have granted an exemption from section 401(j)(2) for service offered less than four days a week. Underlying this exemption is the judgment that such service is of minor significance in terms of passenger usability. Therefore, a reduction from four-or-more-days-a-week service to less-than-four-days-a-week service may be effectively a discontinuance. We recognize that service standards may be less in foreign air transportation. While we are not here determining a general level of effective service to be applied in all cases, we want to make clear that a substantial cut in existing service may be regarded as a discontinuance, even if some service remains.

Uncertificated Carriers—Sections 419(a)(3) and 401(b)(7)

Before the Deregulation Act, uncertificated carriers were not required to file notice of changes in their service to any point. The Deregulation Act imposes such a requirement to help the Board and affected communities and State government agencies monitor the level of air transportation provided to small communities. Under the Act the Board must, within a variable time prescribed in the Act, establish a level of essential air transportation for "eligible points" in the United States. Eligible points include any point that was listed on a section 401 certificate on October 24, 1978, any point deleted from a section 401 certificate between 1968 and 1978 that the Board names as an eligible point, and points in Alaska and Hawaii named by the Board.

Section 323.3(c)(1) requires uncertificated carriers to file notice whenever an intended termination, suspension, or reduction of service will deprive an eligible point of essential air transportation. Terminations, suspensions, or reductions that will not affect essential transportation require no notice from uncertificated carriers. Sections 323.3(c) (2) and (3) require uncertificated carriers, like certificated carriers, to provide notice when they reduce service below a certain fixed level to an eligible point for which the level of essential service has not been determined.

Special Provisions for Filing Notices

If one carrier files a notice of termination of service, that service will be considered terminated for purposes of deciding the duties of other carriers serving the same point or market. (§ 323.3(d)) That is, if carrier A files a notice, and carrier B then decides to change its service to the same point, or in a market involving that point, B will not be able to count the service that A intends to discontinue in figuring its own notice obligations. This will prevent competing carriers from taking advantage of the first carrier to file notice by quickly stopping or reducing service before the first carrier's notice period expires. To take a specific example, if essential service to a point has been determined to be fifteen round-trip flights per week, carriers A and B both provide ten round-trip flights per week to the point, and A decides that it wants to reduce service to four round-trip flights per week, it must file a notice, since it will be reducing service below the essential level. If the protective provision were not in effect, and A's ten round trips were considered to be in operation during the notice period, carrier B would be able to reduce its service from ten to five round trips per week without filing notice. Then A, which was the first to file notice, would have to keep all of its ten flights in operation in order to satisfy the point's essential air needs, while B would have cut its service in half without even filing notice.

Sections 323.3(e) and 323.3(f) deal with the unusual situations where a certificated carrier has already been granted authority to suspend service under provisions of the Federal Aviation Act before it was amended by the Deregulation Act. Such suspensions were usually granted for a definite period of time, and they involved an application process different from the notice procedures prescribed in this rule. Section 323.3(e) deals with carriers who have suspended service under the prior grant and who wish to continue the suspension past the date on which the grant expires. Those carriers must file a notice under this part, just as if they were providing the service that they are authorized to suspend. The notice, of course, must be filed 60 or 90 days before their existing suspension authority expires, as the case may be.

Section 323.3(f) deals with carriers who have been granted suspension authority but have not suspended service. These carriers must file a notice before terminating or suspending that service. In other words, the adoption of this rule vitiates any existing unused suspension authority.

Filing Times

Filing times for notices are set forth in § 323.5 of the interim rule. Certificated carriers must file a 90-day notice in every case except: (1) Termination or suspension of cargo service at a foreign point, (2) termination or suspension of passenger service in a foreign market, and (3) termination or suspension of the last certificated nonstop or single-plane service in a market, if that service does not affect essential air transportation. In

the latter cases, only a 60-day notice must be filed.

Uncertificated carriers must file a 90-day notice if they are receiving subsidy and a 30-day notice if they are not receiving subsidy. In either case, they must file notice only when their intended changes would affect essential air transportation.

Form and Content of Notices

The notices required under the interim rule are intended to require the least amount of information necessary to identify the carrier, decribe the changes intended, alert the Board to whether essential air transportation will have to be determined for the affected point in the future, allow affected persons to decide whether essential air transportation is threatened in their community, and inform affected persons when they must request Board action to stop the change. Since notices of termination, suspension, and reduction will frequently be required, they should not require extensive preparation. The Board specifically requests comments on how the notice requirements in the interim rule might be changed without defeating their essential function.

Section 323.4 of the interim rule requires the following information:

(1) Identification (name, address, and telephone number of the carrier and an officer responsible for providing information);

(2) Statement whether the carrier is certificated or uncertificated;

(3) Name of each air carrier, certificated or uncertificated, serving the point (to alert the Board and the affected community to whether a determination of essential air transportation must be made after the intended change, and also to identify the remaining carriers serving the point for the benefit of the communities in obtaining replacements);

(4) Description of the service to be terminated, suspended, or reduced;

(5) Brief discussion of whether or not the intended change will affect essential air transportation;

(6) Date when objections to the proposed change must be filed;

(7) Proof of service, including addresses of persons served.

Sections 323.6 requires each notice to comply with the usual formal specifications for documents filed with the Board. Each notice must also be titled to indicate the points involved, and to indicate whether it is a 30-, 60-, or 90-day notice and whether it involves a termination, a suspension, or a reduction of service. An original and nineteen copies of each 90- and 30-day notice, and 60-day notices for cargo service to foreign points, must be filed with the CAB's Docket Section. An original and four copies of each 60-day notice (except those for international cargo service) must be filed with the CAB's Schedules and Route Information Unit.

Objections to Notices and Requests for Board Action

Under the Act, the Board has power to prohibit termination, suspension, or reduction of air transportation only where essential service to an eligible point is threatened. Where a notice has been filed and essential service appears to be affected, any person may object and request the Board to prohibit the intended reduction or discontinuance. Sections 323.9, 323.10, 323.11, and 323.12 of the interim rule govern the form, content, and time for filing of objections and answers to objections.

The Board has decided that the person filing an objection should be required to present data on the question whether essential air transportation is endangered. Therefore, objections must suggest a reasonable level of essential air transportation, and contain facts and discussion supporting that suggestion. So that other interested persons may evaluate the suggestion, objections must also contain basic schedule, route, and aircraft information on all other air transportation to the affected point. Finally, the objections must request specific Board action, that is, whether the Board should prohibit all intended reductions by the carrier, or just some of them. Answers may contain the same sort of information.

Objections must be filed within 20 days after the filing of a 90-day notice, within 12 days after a 30-day notice, and within 15 days after a 60-day notice. An answer must be filed within 7 business days after the filing of the objection to which it responds. No person has a right to an oral hearing, although the Board may institute additional proceedings if circumstances warrant. If time and circumstances require, the Board's staff may have to communicate informally with interested persons in order to fully ascertain the facts. In accordance with a recent amendment to our rules of conduct in Board proceedings (PR–192, 44 FR 4655, January 23, 1979, amending 14 CFR Part 300), the Board's staff will make public brief written summaries of all informal communications in any contested situation. Late-filed objections or answers may be accepted, upon motion, for good cause shown. Extensions of the filing time may be granted when the initial notice is filed earlier than required.

This rule will allow objections to be filed even if the Board has determined the essential level of service for a point and a termination or suspension does not reduce service below that level. The Board must make essential service determinations for more than 500 points, and it is impossible to monitor the essential needs of each of those points from day to day. Some discontinuances may in fact deprive a point of important service, even though the existing Board determination of essential service is satisified. Communities should have an opportunity to ask for reevaluation of an essential service determination after a notice has been filed, just as they would at any other time. The Board's obligation to review and adjust its determinations of essential service allows it to change an essential service determination after a notice has been filed.

Section 323.13 provides that the Board will dispose of objections by order. If no objection has been filed within the time allowed, the Board may take action on its own initiative to prevent the intended reduction. The Board will issue an order containing the same information as an ordinary objection, and allow the same opportunity to answer. The Board will review all 90- and 30-day notices for their effect on essential service, even if no one files an objection to the notice. If the Board decides that essential service is not endangered, it will issue a notice or a final order that it will take no action. Normally, the Board will not review 60-day notices for their effect on essential service, unless a person files an objection to the notice. However, the Board expects carriers filing 60-day notices to make a good faith effort to identify any potentially significant or controversial effects of their discontinuance on the air service to the affected points.

Service of Documents

The Act provides that notice of terminations, suspensions, or reductions shall be given to the Board, communities affected, and corresponding State agencies.

A copy must be served upon the chief executive of the city or other unit of local government at any domestic point where service is reduced below the essential level (including the minimum number of flights specified in this rule when the Board has not established the essential level) or discontinued. Since a "point" could serve many communities, the city or other unit of local government to be served is determined by the place listed in the carrier's certificate. Some points, such as those deleted from certificates between 1968 and 1978 and

later named as eligible points by the Board, may be eligible points without being currently listed on a certificate. In that case, the point to be served is the place formerly listed on a certificate. That is, if a point is an eligible point because it was listed on a section 401 certificate on October 24, 1978, the place listed on the certificate is the community that must be served. If a point is an eligible point because it was deleted from a section 401 certificate, between 1968 and 1978 and then named as an eligible point by the Board, the deleted place is the community to be served. If the eligible point is in Alaska or Hawaii and has never been listed on a section 401 certificate, the community to be served is the most populous municipality at the point. The Board has tentatively decided that service on the major community at a point—i.e., the one named in the relevant certificate—will provide enough notice to all surrounding communities. At hyphenated points, of course, more than one community must be served. The Board specifically requests comments on alternative service requirements to assure that affected communities receive adequate notice to protect their interests, without imposing an undue burden on carriers filing notice.

The State agency having jurisdiction over air transportation to any domestic community served must be served. If there is no such agency, the chief executive of the State must be served instead. Also, the Civil Aeronautics Board Field Office for the region in which the community is located must be served.

When notice is required for discontinuance of service to a foreign point, the U.S. Secretary of State must be served. Service on foreign communities or governments is not required, as we assume that the notice requirements of the Act are only intended for the benefit of communities in the United States.

The interim rule requires service on the airport manager of U.S. airports at which service will be discontinued or reduced, and on the Postmaster General of the United States if the carrier is authorized to carry mail. Although these persons are not required to be served under the Act, it seems that they should be informed as soon as possible of any intended discontinuance or reduction of service. If the intended termination or suspension only affects nonstop or single-plane service, the carrier need not serve the Postmaster General unless the carrier has, in fact, carried mail on the route during the previous 12 months.

Finally, notices of discontinuance or reduction to a point must be served on each air carrier providing scheduled service to the point. However, such service is not required if the affected point is an FAA-designated hub. For discontinuances in a market, service of the notice is required on each carrier providing scheduled air transportation between the two points. This will give carriers in the affected market the earliest possible notice of the intended changes, so that they can make plans to replace the discontinued flights if they wish.

Objections and answers must be served on the same persons on whom the initial notice was served. Objections must also be served on the carrier filing the initial notice, and answers must be served on the carrier and on the objector.

Part 205 Revocation

A separate issuance, adopted simultaneously with the interim rule, revokes Part 205 of the Board's Economic Regulations, governing temporary suspensions and postponements if inauguration of service for certificated route carriers. Part 205 contains application procedures for certificated carriers that wish temporarily to suspend or postpone service to a point. Before the Deregulation Act, terminations or suspensions of service by certificated carriers ordinarily required prior Board approval. Short-term and involuntary suspensions were handled under Part 205. Since the notice provisions of the Deregulation Act have superseded the approval process, the application procedure of Part 205 is no longer necessary. Carriers may simply file the required notice and suspend service at the end of the notice period, without first obtaining Board approval.

There is no need to retain the application procedure in Part 205 for postponements of inauguration of service. Under the Board's present policies, mandatory inauguration of service will be rare in the future, and if some situations arise requiring Board approval for postponement, they can be handled through the exemption process.

The substance of § 205.8 and § 205.12, granting temporary suspension authority for interruptions of service beyond the carrier's control, has been included in § 323.14 and § 323.15 of the proposed rule.

Environmental and Energy Considerations

This rulemaking establishes notice and objection procedures for intended terminations, suspensions, and reductions of service. It does not substantively determine the circumstances in which service may be reduced. This regulation is therefore entirely procedural, and we tentatively conclude that it is not a major federal action within the meaning of section 102(2)(C) of the National Environment Policy Act or a major regulatory action under the Energy Policy and Conservation Act.

Effectiveness

The sections of the Act requiring notices and authorizing the other documents governed by this interim rule became effective on October 24, 1978. The Board has already received many notices of intended terminations, suspensions, and reductions. A uniform set of procedures, available to all, for the preparation and evaluation of notices, objections, and answers is essential to expeditious handling by the Board and fair treatment to the public. Therefore, for good cause shown, the Board finds that notice and public procedure are unnecessary and contrary to the public interest, and that the interim rule should be made effective immediately. However, by a notice also issued today, the Board is soliciting public comments on the interim rule. The Board will then reconsider the interim rule in light of the comments.

Federal Reports Act

The interim rule requires persons who file notices, objections, and answers to provide the Board with certain information. The content requirements for notices, objections, and answers, found in § 323.4, § 323.9, and § 323.11, are adopted, effective immediately, subject to review by the General Accounting Office (GAO) under 44 U.S.C. 3512. GAO will conduct a clearance review to ensure that a minimal burden is imposed upon persons filing documents under this rule, and that the rule is otherwise consistent with the Federal Reports Act. The Board will publish a notice of GAO's decision when it is received.

Accordingly, the Civil Aeronautics Board adds a new Part 323 to its Procedural Regulations (14 CFR Part 323), to read as follows:

PART 323—TERMINATIONS, SUSPENSIONS, AND REDUCTIONS OF SERVICE

Sec.
323.1 Applicability.
323.2 Definitions.
323.3 Who shall file notices.
323.4 Contents of notices.

Sec.
323.5 Time for filing notices.
323.6 General requirements for notices.
323.7 Service of notices.
323.8 Exemptions from 60-day notice for minor service.
323.9 Objections to notices.
323.10 Time for filing objections.
323.11 Answers to objections.
323.12 General requirements for objections and answers.
323.13 Board actions.
323.14 Temporary suspension authority for involuntary interruption of service.
323.15 Report to be filed after strikes.

Authority: Secs. 204, 401, 416, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1710, 1731, 1732; (49 U.S.C. 1324, 1371, 1386, 1389).

§ 323.1 Applicability.

This part applies to certificated air carriers who terminate or suspend service to a point, or in a market, and to all air carriers who terminate, suspend, or reduce service below the level of essential air transportation under section 419 of the Act.

§ 323.2 Definitions.

As used in this part:

"Act" means the Federal Aviation Act of 1958, as amended.

"Certificated carrier" means a direct air carrier holding a certificate of public convenience and necessity issued by the Board under section 401 of the Act, authorizing scheduled route service between designated points.

"Eligible point" means—

(a) Any point in the United States to which any certificated carrier was authorized under its section 401 certificate to provide service on October 24, 1978, whether or not such service was actually provided;

(b) Any point in the United States that was deleted from a section 401 certificate between July 1, 1968 and October 24, 1978, inclusive, and that the Board designates as an eligible point under the Act; or

(c) Any other point in Alaska or Hawaii that the Board designates as an eligible point under the Act.

"Essential air transportation" means the level of air transportation determined by the Board for any eligible point under sections 419(a)(2) or 419(b)(4) of the Act.

"FAA-designated hub" means any airport serving a small, medium, or large air traffic hub listed in the joint Civil Aeronautics Board—Department of Transportation publication, "Airport Activity Statistics of Certificated Route Carriers."

"United States" includes the several States, the District of Columbia, and the several territories and possessions of the United States. "State" includes any of the individual entities comprising the United States.

§ 323.3 Who shall file notices.

(a) *Terminations, suspensions, or reductions by certificated carriers.* The notice described in § 323.4(a) shall be filed by any certificated carrier that intends to:

(1) Terminate or suspend all passenger air transportation that it is providing to any point in the United States;

(2) Reduce passenger air transportation so that any eligible point receives less than the level of essential air transportation determined by the Board;

(3) Reduce passenger air transportation to any eligible point for which the Board has not determined the level of essential air transportation, other than a point in Alaska, so that there is no FAA-designated hub from which the point receives at least two round trip flights per day, 5 days per week;

(4) Reduce passenger air transportation to any eligible point in Alaska for which the Board has not determined the level of essential air transportation so that the service between that point and every other point served by a certificated carrier is either—

(i) Less than two round trip flights per week, or

(ii) Less than the average weekly number of round trip flights actually provided during calendar year 1976, or

(iii) Less than the number of flights specified under an agreement between the Board and the State of Alaska; or

(5) Terminate or suspend all cargo air transportation that it is providing to a point not in the United States.

(b) *Nonstop or single-plane service by certificated carriers.* (1) Except as provided in § 323.8, the notice described in § 323.4(b) shall be filed by any certificated carrier that intends to terminate or suspend:

(i) Nonstop passenger air transportation between any two points in the United States, or between a U.S. point and a foreign point, if it is the only certificated carrier providing nonstop air transportation between the two points;

(ii) Single-plane passenger air transportation between any two points in the United States, if it is the only certificated carrier providing either nonstop or single-plane air transportation between the two points; or

(iii) Single-plane passenger air transportation between a point in the United States and a point not in the United States.

(2) Termination or suspension of nonstop or single-plane air transportation in one direction that is currently being provided in both directions shall be considered a termination or suspension of such air transportation between the two points for the purposes of this paragraph.

(c) *Uncertificated carriers.* The notice described in § 323.4(a) shall be filed by any uncertificated carrier that intends to terminate, suspend, or reduce:

(1) Air transportation so that any eligible point receives less than the level of essential air transportation determined by the Board;

(2) Passenger air transportation to any eligible point for which the Board has not determined the level of essential air transportation, other than a point in Alaska, so that there is no FAA-designated hub from which the point receives at least two round trip flights per day, 5 days per week; or

(3) Passenger air transportation to any eligible point in Alaska for which the Board has not determined the level of essential air transportation, so that the service between that point and every other point served by a certificated carrier is either—

(i) Less than two round trip flights per week, or

(ii) Less than the average number of weekly round trip flights actually provided during calendar year 1976, or

(iii) Less than the number of flights specified under an agreement between the Board and the State of Alaska.

(d) For the purposes of this section, in ascertaining the level of air transportation being provided to a point or between two points, air transportation that has been the subject of a notice filed under this section shall be considered not in operation for the duration of the notice period.

(e) If a certificated carrier was, before October 24, 1978, granted authority to suspend air transportation, and that authority ends on a stated date, the carrier shall comply with the requirements of this part before continuing the suspension beyond that date.

(f) If a certificated carrier was, before October 24, 1978, granted authority to terminate or suspend air transportation, but has not suspended service, the carrier shall comply with the requirements of this part before terminating or suspending service.

§ 323.4 Contents of notices.

(a) The notice required under §§ 323.3(a) and 323.3(c) shall contain:

(1) Identification of the carrier, including address and telephone number.

(2) Statement whether the carrier is a certificated carrier or an uncertificated carrier.

(3) Names of all other air carriers serving the point at the time of filing.

(4) Description of the service to be terminated, suspended, or reduced, including:

(i) Schedule changes,

(ii) Aircraft type used,

(iii) Route changes, and a statement of which routes, if any, will be left without nonstop or single-plane service from a certificated carrier by the intended change, and

(iv) Date of intended termination, suspension, or reduction of service.

(5) A statement whether the Board has determined the level of essential air transportation for the point, and

(i) If the Board has made such a determination, a statement whether the intended termination, suspension, or reduction will reduce air transportation to the point below the essential level; or

(ii) If the Board has not made such a determination, and the point is an eligible point, a statement whether the intended termination, suspension, or reduction reasonably appears to deprive the point of essential air transportation, and an explanation.

(6) If the point is an eligible point, the calendar date when objections are due under § 323.10.

(7) Proof of service upon all persons specified in § 323.7(a). The proof of service shall include names and addresses of all persons served.

(b) The notice required under § 323.3(b) shall contain, for each of the directly affected points, the information specified in paragraph (a) of this section.

(c) The Board may require any carrier filing notice to supply additional information.

§ 323.5 Time for filing notices.

(a) A notice required by § 323.3 (a) or (c) shall be filed at least—

(1) 90 days before the intended termination, suspension, or reduction, if it is filed by a certificated carrier and it does not involve service to a foreign point, or if it is filed by an uncertificated carrier receiving compensation under section 419 of the Act for service to the point;

(2) 60 days before the intended termination, suspension, or reduction, if it is filed by a certificated carrier and it involves service to a foreign point; or

(3) 30 days before the intended termination, suspension, or reduction, if it is filed by an uncertificated carrier not receiving compensation under section 419 of the Act for service to the point.

(b) A notice required by § 323.3(b) shall be filed at least 60 days before the intended termination or suspension.

§ 323.6 General requirements for notices.

(a) Each notice filed under this part shall, unless otherwise specified, conform to the procedural rules of general applicability in Subpart A of section 302 of this chapter.

(b) Each notice filed under this part shall be titled to indicate the point(s) involved, and to indicate whether it is a 30-, 60-, or 90-day notice and whether it involves a termination, a suspension, or a reduction of air transportation.

(c) An original and four copies of each notice required under § 323.3(b) shall be filed with Chief, Schedules and Route Information, Civil Aeronautics Board, Room 709, Washington, D.C. 20428, instead of with Docket Section.

§ 323.7 Service of notices.

(a) A copy of each notice required by §§ 323.3(a) and 323.3(c) shall be served personally or by registered or certified mail upon the following:

(1) For a point in the United States, the chief executive of the principal city or other unit of local government at the affected point. The principal city is the one named, or previously named, in the section 401 certificate by virtue of which the point qualifies as an eligible point. For points in Alaska or Hawaii that are named by the Board as eligible points without having been listed on a section 401 certificate, the principal city is the most populous municipality at the point.

(2) For a point not in the United States, the U.S. Secretary of State (marked for the attention of Chief, Aviation Division).

(3) The State agency with jurisdiction over transportation by air in the State containing any community required to be served under paragraph (a)(1) of this section.

(4) The manager of, or other individual with direct supervision over and responsibility for, the airport at any community required to be served under paragraph (a)(1) of this section.

(5) The Postmaster General (marked for the attention of the Assistant General Counsel, Transportation), if the carrier filing the notice is authorized to transport United States mail to or from any community required to be served under paragraph (a)(1) of this section.

(6) Each air carrier providing scheduled service to the affected point, unless the point is an FAA-designated hub located in any State except Alaska.

(7) The Civil Aeronautics Board Field Office for the region in which the affected point is located.

(8) Any other person designated by the Board.

(b) A copy of each notice required by § 323.3(b) shall, for each of the directly affected points, be served personally or by registered or certificated mail upon the following:

(1) For a point in the United States, the chief executive of the principal city of other unit or local government at the affected point;

(2) For a point not in the United States, the U.S. Secretary of State (marked for the attention of Chief, Aviation Division);

(3) The manager of, or other individual with direct supervision over and responsibility for, the airport at any community required to be served under paragraph (b)(1) of this section;

(4) The Postmaster General, if the carrier has, in fact, transported mail between the points in the 12-month period prior to the filing of the notice;

(5) Each air carrier providing scheduled air transportation between the points;

(6) The Civil Aeronautics Board Field Office for the regions in which the points are located; and

(7) Any other person designated by the Board.

§ 323.8 Exemption from 60-day notice for minor service.

(a) All certificated carriers are hereby exempted from complying with the requirements of section 401(j)(2) of the Act and § 323.3(b) for terminations or suspensions of nonstop or single-plane air transportation between any two points within the 48 contiguous States and the District of Columbia, if the service to be discontinued—

(1) Has been operated less than 4 days per week for the preceding 90 days;

(2) Has been operated with three or more intermediate stops for the preceding 90 days; or

(3) Is being operated in one direction only between the two points.

(b) This exemption does not relieve a carrier from complying with section 401(j)(1) of the Act and § 323.3(a) for any termination, suspension, or reduction of service to a point.

§ 323.9 Objections to notices.

(a) Any person may file an objection requesting the Board to prohibit any termination, suspension, or reduction of air transportation to an eligible point that is the subject of a notice filed under this part.

(b) Objections shall contain:

(1) Identification of the objector, including address and telephone number.

(2) A statement of the Board action requested.

(3) The schedules, routes, carriers, and aircraft types for all air transportation to the affected point other than that proposed to be terminated, suspended, or reduced.

(4) A suggested reasonable level of essential air transportation to the affected point.

(5) Facts to support the suggested level of essential air transportation (*e.g.*, traffic and enplanement data, other market studies, facts descriptive of the point's isolation or dependence on air transportation).

(6) A justification of the suggested level of essential air transportation.

(7) Proof of service on the carrier filing the notice objected to, on all persons on whom the notice was filed, and on any other person designated by the Board. The proof of service shall include the names and addresses of all persons served.

§ 323.10 Time for filing objections.

(a) Objections shall be filed not later than—

(1) 12 days from the date of filing of a 30-day notice;

(2) 15 days from the date of filing of a 60-day notice; or

(3) 20 days from the date of filing of a 90-day notice.

(b) The Board may accept late-filed objections, upon motion, for good cause shown.

(c) Whenever a notice has been filed earlier than required under § 323.5, the Board may extend the time for filing an objection to that notice.

§ 323.11 Answers to objections.

(a) Any person may file an answer to an objection filed under this part.

(b) An answer must be filed not later than 7 business days after the filing of the objection to which it responds. Late-filed answers may be allowed, and extensions of filing time granted, by the Board for the same reasons as for objections.

(c) An answer may contain the same type of facts and discussion permitted for objections under this part, and must contain:

(1) Proof of service on the objector, on all persons on whom the objection was required to be served, and on any other person designated by the Board. The proof of service shall include the names and addresses of all persons served.

(2) Identification of the answering party, including address and telephone number.

§ 323.12 General requirements for objections and answers.

(a) Each objection and answer filed under this part shall, unless otherwise specified, conform to the procedural rules of general applicability in Subpart A of Part 302 of this chapter.

(b) Each objection shall be titled "Objection to Termination, Suspension, or Reduction of Air Service," and shall identify the notice to which it responds. Each answer shall be titled "Answer to Objection to Termination, Suspension, or Reduction of Air Service," and shall identify the objection to which it responds.

(c) An original and four copies of objections and answers in response to notices under § 323.3(b) shall be filed with Associate Director, Subsidy Policy and Programs, Room 907, 1825 Connecticut Avenue, N.W., Civil Aeronautics Board, Washington, D.C. 20428, instead of with Docket Section.

§ 323.13 Board actions.

(a) If an objection has been filed under this part, the Board will dispose of the objection by order.

(b) If no objection has been filed within the time allowed by § 323.10(a), the Board may—

(1) By order prohibit a termination, suspension, or reduction that reasonably appears to deprive any eligible point of essential air transportation;

(2) Issue a notice or a final order that it will take no action on a notice filed under § 323.3; or

(3) Take no action.

§ 323.14 Temporary suspension authority for involuntary interruption of service.

(a) Any air carrier may temporarily suspend service without filing a notice under § 323.3 for any interruption of service that the carrier cannot reasonably be expected to foresee or control, such as rules, standards, or other action, or inaction, of the Administrator of the Federal Aviation Agency or of a foreign government, emergency measures, strikes, weather conditions, construction work on airports, or disasters. However, the provisions of this paragraph shall apply to interruptions due to airport inadequacies only if the carrier is unable to serve the point through any airport convenient to the point with the type of equipment last regularly used to serve the point.

(b) In the case of an interruption of service caused by a strike, the carrier shall give immediate notice of the interruption to the Board.

(c) If service to a point is interrupted for more than 3 consecutive days for reasons beyond the carrier's control other than a strike, the holder shall give notice to the Board within 3 days following the date of first interruption, setting forth the date of first interruption and a full statement of the reasons for the interruption.

(d) When the interrupted service is in foreign air transportation only, the notice required by paragraph (b) or (c) of this section shall be marked for the attention of the Director, Bureau of International Aviation. Otherwise, the notice shall be marked for the attention of the Director, Bureau of Pricing and Domestic Aviation.

§ 323.15 Report to be filed after strikes.

(a) Within 15 days following resumption of service after a strike, an air carrier shall file a report with the Board containing a list of all flights that were canceled, the date they were canceled, and the date service was resumed.

(b) When the service is in foreign air transportation only, the report shall be marked for the attention of the Director, Bureau of International Aviation. Otherwise, the report shall be marked for the attention of the Director, Bureau of Pricing and Domestic Aviation.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Reg. PR-200, Docket 35197]

[FR Doc. 79-10718 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 385

Delegations and Review of Action Under Delegation; Nonhearing Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., April 2, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: In ER-1112 and PR-200, issued today, the Board revoked Part 205 of its Economic Regulations (14 CFR part 205), and adopted part 323 of its procedural Regulations (14 CFR Part 323). This rule amends delegations of authority to the Director, Bureau of Pricing and Domestic Aviation and the Director, Bureau of International Aviation, eliminating previous authority for Part 205 decisions and replacing it with authority for Part 323 decisions.

DATES:

Adopted: April 2, 1979.

Effective: April 9, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5444.

SUPPLEMENTARY INFORMATION: For the reasons given in PR-200, also issued today, the Board has revoked Part 205 of its Economic Regulations and adopted Part 323 of its Procedural Regulations.

Part 205 governed postponements of inauguration of service and temporary suspension of service by certificated air carriers. The Director, Bureau of Pricing and Domestic Aviation and the Director, Bureau of International Aviation were delegated authority in § 385.13(n) and § 385.26(i), respectively, to approve or disapprove applications, and to modify, condition, or terminate orders made under Part 205. As explained in PR-200, Part 323 supersedes Part 205. This rule amends the delegations of authority cited above to allow the two bureau directors to: (1) Require additional information for notices of terminations, suspensions, or reductions of authority filed under Part 323, (2) require service of any document filed under Part 323 on any person, (3) accept late-filed documents under Part 323, except for notices, and (4) extend the time for filing responsive documents when the notice has been filed earlier than required under Part 323.

Since this rule is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that there is good cause not to require notice and public procedures, and the amendment should be effective immediately.

Accordingly, the Civil Aeronautics Board amends §§ 385.13 and 385.26 of 14 CFR part 385, *Delegations and Review of Action under Delegation; Nonhearing Matters,* to read as follows:

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

* * * * *

§ 385.13 Delegation to the Director, Bureau of Pricing and Domestic Aviation.

The Board hereby delegates to the Director, Bureau of Pricing and Domestic Aviation, the authority to:

* * * * *

(n) With respect to procedures for terminations, suspensions, or reductions of service under Part 323 of this chapter:

(1) Require any person filing a notice, objection, or answer to supply additional information;

(2) Require service of a notice, objection, or answer upon any person;

(3) Accept late-filed objections or answers, upon motion, for good cause shown; and

(4) Extend the time for filing objections or answers, when the initial notice has been filed earlier than required under § 323.5.

* * * * *

§ 385.26 Delegation to the Director, Bureau of International Aviation.

The Board delegates to the Director, Bureau of International Aviation, the authority to:

* * * * *

(i) With respect to procedures for termination, suspensions, or reductions of service under Part 323 of this chapter:

(1) Require any person filing a notice, objection, or answer to supply additional information;

(2) Require service of a notice, objection, or answer upon any person;

(3) Accept late-filed objections or answers upon motion for good cause shown; and

(4) Extend the time for filing objections or answers, when the initial notice has been filed earlier than required under § 323.5.

* * * * *

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1324). Reorganization Plan No. 3 of 1961, 75 Stat. 837, (5 U.S.C. Appendix).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[Reg. OR-150, Amdt. 83]

[FR Doc. 79-10721 Filed 4-5-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 90

Challenge Procedures for Certain Population and Per Capita Income Estimates

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This action establishes standard procedures to be followed by the Bureau of the Census and States or units of local governments in the event that the latter wishes to challenge certain population and per capita income estimates prepared by the Bureau of the Census. This regulation adopts and formalizes the existing informal review process and extends to States and units of local governments the right to a formal hearing.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Daniel B. Levine, Associate Director for Demographic Fields, Bureau of the Census, Washington, D.C. 20233, 301-763-5167.

SUPPLEMENTARY INFORMATION: On October 31, 1978, a Notice of Proposed Rule Making was published in the **Federal Register** (43 FR 50696) which (1) stipulated that an informal challenge be filed no more than 180 days after the beginning of the General Revenue Sharing entitlement period for which the estimates are issued, (2) required a locality to complete an informal review jointly with the Census Bureau before a formal hearing is allowed, (3) specified the appointment of a qualified hearing officer during the formal challenge stage to receive both written and oral evidence under oath, (4) provided for a hearing, and (5) provided for a final decision by the Director of the Census Bureau.

A total of 18 letters of comment was received in response to the proposed rule, all in support of the proposal, and 15 with at least one suggested change. Four letters originated with municipalities, two with county governments, seven with multi-county regional planning agencies, three with State agencies, and one each from a federal agency and a national association.

Discussion of Major Comments

Time Restriction on Census Bureau

The most frequent objection to the proposed rule (expressed by five responses) was the lack of a time restriction placed upon the Bureau of the Census within which to (1) appoint a hearing officer, (2) designate a hearing date, and (3) make a final ruling. It was argued that constraints must be placed both upon the challenging government and the Bureau of the Census with respect to filing dates and upon subsequent proceedings in order to assure completion of formal challenges in a timely fashion. Accordingly, a new section 90.17 has been added limiting the time within which the challenging government and the Bureau of the Census must take these steps. In order to better accommodate the timing of the informal and formal review stages, and to distinguish the review covered here from the Office of Revenue Sharing data improvement program, the reference date for the start of the informal challenge period in section 90.5 also was

revised. Section 90.3(d) is deleted, as the definition of entitlement period is no longer pertinent.

Involvement of Regional Councils

Four responses suggested the intervention of agencies other than the Census Bureau and the affected area government. It was contended that county, multi-county, and State groups should be able to submit challenges in behalf of local areas and be included in the challenge process as representatives of sub-area governments within their boundaries. However, the scope and timing of the estimates, review, appeal, and hearings program will not permit the compromised timing and complex communications that should be expected when a variety of agencies is involved in the figures for a single community. In addition, it is felt that assurance must be received directly by the Bureau that the local government does, in fact, desire to challenge the estimates. Nonetheless, assistance from other sources is encouraged. As a result, it is provided that the challenging place may designate another agent to represent it, in addition to it own officials, attorneys, or consultants. However, the affected community must initiate the challenge and must assign representation by another agency in writing.

Location of Hearings

The location of the hearings was also questioned in three responses. It was felt that hearings should be held locally to ease the burden on challenging areas. Locally conducted hearings are provided for at the discretion of the hearing officer in the final rule; it is felt that a requirement for all formal hearings to be conducted in local communities or in regional centers would be a significant staff burden and would result in delays and increased costs. It should be noted that the option for local visits by the Bureau staff is a part of the existing informal review process and will continue.

Guidelines, Training, and Financial Assistance

One comment suggested that the Bureau provide guidelines on how to prosecute a challenge, another that the Bureau specify within these rules the types of data it believes are necessary to show that an estimate is erroneous. The Bureau notes that it has issued a publication which was distributed to all 39,000 States and units of local government, namely; *The Review Guide* which contains this information and thus, it need not be included herein.

Advice is also available through an agency in many States which has been designated to work with the Census Bureau in the Federal-State Cooperative Progam for Local Population Estimates. These agencies serve as data resource and review groups for the Bureau and assist localities in evaluating the local area estimates, as well as formulating approaches to challenges, where appropriate.

One comment suggested the Bureau provide training and two comments suggested the Bureau provide financial assistance particularly in those cases where the challenge is successful. The Bureau has neither the legal authority nor the funds to provide any financial aid. It is felt that training is not necessary due to the availability of the aforementioned publication and courses providing instruction on estimating methods.

Other

Other issues noted only once in the responses to the proposed formal appeals rule include the suggested coverage of all Bureau of the Census figures, the designation of the hearing officer, and the extension of the appeals to include estimating methodology. Census figures and survey results rely upon procedures and are affected by concerns that vary significantly from the factors underlying the independent estimates covered by this ruling. Individual rulings would be required to accommodate operations that are of such a diverse character. It is implied, however, that the background data and auxiliary information applying to the period since the last updated estimate will be subject to the provisions of the ruling.

The suggested revisions to the designation process for the hearing officer and to the methodology appeals were not adopted here since the designation provisions conform to the standard practice followed in Federal hearings, and the National Academy of Sciences has been commissioned to perform an independent evaluation of methodology.

Manuel D. Plotkin,

Director, Bureau of the Census.

March 30, 1979.

Based on the foregoing, a new Part 90 is added to read as follows:

PART 90—PROCEDURE FOR CHALLENGING CERTAIN POPULATION AND INCOME ESTIMATES

Sec.
90.1 Scope and applicability.
90.2 Policy of the Bureau of the Census.
90.3 Definitions.
90.4 General.
90.5 When an informal challenge may be filed.
90.6 Where to file challenge.
90.7 Evidence required.
90.8 Review of challenge.
90.9 When formal procedure may be invoked.
90.10 Form of formal challenge and time limit for filing.
90.11 Appointment of hearing officer.
90.12 Qualifications of hearing officer.
90.13 Offer of hearing.
90.14 Hearing.
90.15 Decision by Director.
90.16 Notification of adjustment.
90.17 Timing for hearing and decision.
90.18 Representation.

Authority: 13 U.S.C. 4.

§ 90.1 Scope and applicability.

These rules prescribe the administrative procedure available to States and units of local government to challenge the current estimates of population or per capita income developed by the Bureau of the Census.

§ 90.2 Policy of the Bureau of the Census.

It is the policy of the Bureau of the Census to provide the most accurate population and per capita income estimates possible given the constraints of time, money, and available statistical techniques. It is also the policy of the Bureau to provide States and units of local government the opportunity to challenge these estimates and to present probative evidence relating to the accuracy of the estimates.

§ 90.3 Definitions.

As used in this part (except where the context clearly indicates otherwise) the following definitions shall apply:

(a) "Bureau" means the Bureau of the Census, Department of Commerce.

(b) "Challenge" means, in accordance with this part, the process of objecting to or calling into question the Bureau's population or per capita income estimates of a State or unit of local government by that State or unit of local government. A demand for adjustment to the General Revenue Sharing Act, Pub. L. 92–512, Section 102(b), as amended (31 U.S.C. 1222(b)) does not constitute a challenge within the meaning of this Part.

(c) "Director" means Director of the Bureau of the Census, or an individual designated by the Director to perform under this part.

(d) "Estimate" means a statistically derived intercensal population or per capita income figure prepared to update earlier census figures.

(e) "State" includes the District of Columbia.

(f) "Unit of local government" means the government of a county, municipality, township, place, or other minor civil division, which is a unit of general government below the State.

§ 90.4 General.

This part provides a procedure for a State or unit of local government to challenge the population or per capita income estimates of the Bureau. The Bureau shall receive these challenges and attempt to resolve them informally with the locality. If the challenge is not resolved informally, the challenging State or unit of local government may then, at its option, proceed formally.

§ 90.5 When an informal challenge may be filed.

An informal challenge to the population or per capita income estimates may be filed any time up to 180 days after the release of the estimates by the Bureau of the Census. Individual mailings of the figures to each local government and simultaneous publication of release notification in the **Federal Register** shall constitute release. A challenge to an estimate may also be filed any time up to 180 days from the date the Bureau, on its own initiative, revises that estimate. If, however, a State or unit of local government has sufficiently meritorious reason for not filing in a timely manner, the Bureau has the discretion to accept the challenge.

§ 90.6 Where to file challenge.

A challenge must be prepared in writing by the unit of government and is to be filed with the Chief, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Washington, D.C. 20233.

§ 90.7 Evidence required.

The challenging State or unit of local government shall provide whatever evidence it has relative to the challenge at the time the challenge is filed. The Bureau may request further evidence.

§ 90.8 Review of challenge.

The Chief, Population Division, Bureau of the Census, or the Chief's designee shall review the challenge and the evidence supporting the challenge and shall attempt to resolve the challenge.

§ 90.9 When formal procedure may be invoked.

In the event the Chief, Population Division, is unable to resolve the challenge to the satisfaction of the challenging State or unit of local government, the challenging State or unit of local government shall be informed in writing of the reasons for the outcome and of its right to proceed formally.

§ 90.10 Form of formal challenge and time limit for filing.

The formal challenge shall be in writing and may be mailed or hand delivered to the Director, Bureau of the Census, Washington, D.C. 20233. The formal challenge shall include a list indicating the material submitted to the Chief, Population Division, during the informal stage, and shall include any additional relevant material it chooses to submit. The formal challenge shall be filed within 30 days of the date the State or unit of local government receives notification by certified mail (return receipt requested) of its right to proceed formally. If, however, a State or unit of local government has a sufficiently meritorious reason for not filing in a timely manner, the Bureau has the discretion to accept the formal challenge.

§ 90.11 Appointment of hearing officer.

Upon receipt of a formal challenge filed in accordance with this part, the Director will appoint a hearing officer to receive written and oral evidence.

§ 90.12 Qualifications of hearing officer.

The hearing officer, a person not involved in the preparation of the estimates being challenged, shall be appointed by the Director from a roster of employees of the Bureau of the Census who have been approved in advance by the Assistant Secretary for Administration, Department of Commerce.

§ 90.13 Offer of hearing.

The hearing officer shall receive the formal challenge and shall notify the State or unit of local government in writing of (a) its right to a hearing prior to the development of a recommended decision for the consideration of the Director; and (b) its right to the development of a recommended decision for the consideration of the Director without a hearing. If the State or unit of local government requests that a hearing be conducted, the hearing officer shall establish the date, time, and meeting place for the hearing, in accordance with § 19.14a.

§ 90.14 Hearing.

(a) The hearing shall be conducted by the same hearing officer who collected the documentary evidence, if possible, and shall be held at Bureau of the Census headquarters in Suitland, Md., unless the hearing officer determines that the hearing should be held elsewhere.

(b) The hearing shall be conducted in a manner so as to bring out the pertinent facts relating to the challenge.

(c) The rule of evidence will not be strictly enforced but irrelevant and unduly repetitious testimony shall be excluded.

(d) Cross-examination of all witnesses is permitted and all testimony shall be received under oath or affirmation.

(e) The hearing officer shall have the authority to: (1) Administer oaths or affirmations, (2) rule on the admissibility of evidence, (3) limit the number of witnesses, (4) exclude any person from the hearing room for contumacious conduct or misbehavior that obstructs the hearing, (5) perform other such acts as are necessary or appropriate to the efficient conduct of any proceeding, and (6) make initial findings, analyses, and recommendations.

(f) The hearing shall be electronically recorded but no written record will be prepared unless the Bureau so orders or unless the challenging locality desires one in whole or part and pays the costs of such a written record, or the apportioned costs should the Bureau also desire a written record.

(g) The hearing officer shall prepare findings, analyses, and recommendations and shall transmit them along with all documentary evidence received and the tape or written record (if any) of the hearing to the Director.

§ 90.15 Decision by Director.

Upon receiving the material specified in § 90.14(g), the Director shall (a) review the findings and recommendations of the hearing officer, and (b) prepare and transmit a letter to the challenging State or unit of local government stating the decision and the reasons therefor. A copy of the hearing officer's findings, analyses, and recommendations shall also be transmitted to the challenging State or unit of local government, and is otherwise publicly available. This decision is final for the Department of Commerce.

§ 90.16 Notification of adjustment.

In the event that the Director finds that the population or per capita income estimate should be adjusted, the Bureau shall promptly inform the appropriate governmental agencies of the revision.

§ 90.17 Timing for hearing and decision.

A maximum period of 120 days, unless additional time is required for

sufficiently meritorious reason, shall be provided beyond the closing date for the filing of informal challenges to allow for (1) resolution of informal challenges, (2) appointment of the hearing officer, and (3) the completion of formal hearings. A maximum of 30 additional days shall be allowed for deliberations by the hearing officer and staff. A maximum of an additional 30 days shall also be provided beyond this during which the Census Bureau Director must rule on all cases.

Neither the timing nor the general provisions contained in these regulations shall affect the rights of communities to a review through the data improvement program of the Office of Revenue Sharing under the provisions of Pub. L. 92–512, section 102(b), as amended (31 U.S.C. 1222(b)). Localities challenging only through the Office of Revenue Sharing may not have access to a formal hearing as provided in these regulations.

§ 90.18 Representation.

A challenging unit of government may be represented by its chief executive officer or by counsel, or other duly authorized representative as designated by the chief executive officer in writing to the Bureau.

[FR Doc. 79–10390 Filed 4–5–79; 8:45 am]
BILLING CODE 3510–07–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 170

Standards Governing Commission Review of Applications for Registration As a Futures Association; Form of Registration Statement

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is adopting standards to be applied by the Commission in determining whether to register an applicant futures association under Section 17 of the Commodity Exchange Act. Section 17(b) requires, as a condition of registration, a futures association to demonstrate to the Commission that the association will be in the "public interest," as well as its ability to comply with regulations of the Commission and to carry out the purposes of Section 17. The Commission is also adopting a rule permitting a futures association to apply for registration by submitting to the Commission a transmittal letter accompanying the information required to be submitted to the Commission by Section 17(a), which includes the "rules of the association."

DATE: Effective on April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mark D. Young, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, telephone (202) 254–5716.

SUPPLEMENTARY INFORMATION: On October 5, 1978, the Commission published in the **Federal Register** a release accompanying the Commission's proposed standards to be applied to the registration of futures associations.[1] In that release the Commission discussed its experience in implementing Section 17 of the Commodity Exchange Act and reviewed the legislative history of Section 17, as amended by the Futures Trading Act of 1978.[2] The Commission also asked for public comment on (1) the proposed standards, (2) the form and content of registration applications to be submitted by futures associations and (3) certain policy questions facing the Commission in connection with the registration of futures associations.[3]

The Commission was disappointed in the paucity of comment it received in response to this **Federal Register** release, particularly since the Commission had stated that "the issues surrounding the evolution of futures associations are among the most significant presently facing both the Commission and those persons regulated by the Commission."[4] Nevertheless, the Commission is adopting, with certain modifications and additions discussed below, the standards it proposed on October 5, 1978.

The Commission wishes to emphasize, however, that in adopting these standards, the Commission is not announcing a determination that any particular form of futures association is necessary or would be in the public interest. Any such determination may only be made as part of the Commission's consideration of these and other issues involving futures associations in the context of specific registration applications it may receive. In this connection, the Commission points out that an applicant futures association will bear the substantial burden of demonstrating that it can satisfy the purposes embodied in Section 17 by effectively regulating its members. Moreover, consistent with the Commission's statutory mandate in Section 15 of the Act,[5] an applicant association must be able to exhibit an understanding and appreciation of the need to perform its regulatory functions in harmony with the public interest embodied in Federal antitrust laws and without imposing any undue anticompetitive burdens on its members. The Commission's expectations in this regard have been incorporated as a general standard in Rule 170.9 which the Commission has adopted in addition to the proposed standards.

No comments received opposed the proposed standards, although one commentator raised technical objections and requested clarification with respect to certain of the standards. Set forth below is a discussion of these comments and of certain issues the Commission wishes to address at this time.

A question was raised concerning the Commission's interpretation of the standard in Rule 170.1 that a futures association require its members to adhere to regulatory requirements "at least as stringent as those imposed by the Commission." The Commission wishes to make clear that this standard was intended to ensure that a futures association's regulatory requirements would be the functional equivalent of or more stringent than those adopted by the Commission. The standard does not contemplate that futures associations must adopt requirements identical to those of the Commission.[6]

The Commission recognizes the difficulties inherent in devising a "fair and equitable" membership structure consistent with the requirements imposed by the Act on futures associations.[7] The Commission does not believe that Section 17 requires—although it certainly permits—a scheme of association membership whereby each member of an association would have an absolutely equal voice in the association's affairs. On the other hand,

[1] 43 FR 46039 (October 5, 1978).

[2] See 7 U.S.C. 21 (1976), as amended by Pub. L. No. 95–405, § 22, 92 Stat. 876 (1978).

[3] 43 FR 46044–45 (October 5, 1978).

[4] 43 FR 46045 (October 5, 1978). The Commission would like to note, however, that the Securities and Exchange Commission and the National Association of Securities Dealers, Inc. submitted helpful and informative comments to the Commission.

[5] 7 U.S.C. 19 (1976).

[6] The Commission also wishes to clarify that the "at least as stringent as" requirement would not necessarily apply to regulations that might in the future be adopted by the Commission to govern the activities of those persons who are not members of a futures association. Section 17(e) of the Act, 7 U.S.C. 21(e) (1976), allows the Commission to impose additional regulatory burdens on non-members of futures associations where the Commission finds such regulations to be "necessary to protect the public interest and promote just and equitable principles of trade."

[7] See Section 17(b)(5), 7 U.S.C. § 21(b)(5) (1976).

the Commission is of the view that it is essential to the development and effective performance of a futures association that the association's members share, as equitably as possible, the power over and ability to influence association action. The Commission is particularly sensitive to these concerns for two reasons: (1) Those administering the affairs of a futures association more than likely will be the business competitors of other association members and (2) the Commission has a statutory responsibility in approving a futures association's rules "to endeavor to take the least anticompetitive means of achieving the objectives of [the] Act * * *."[8] Accordingly, the Commission believes that its standard contained in Rule 170.3, which proscribes an association structure whereby a single group or class of members may dominate or otherwise exercise disproportionate influence over any association action, is an appropriate and necessary standard.

Similar considerations apply with respect to Section 17(b)(6) of the Act,[9] which provides that the rules of a futures association must reflect an equitable method of assessing dues upon association members in order to defray association expenses. This requirement is in accord with the concerns embodied in Section 15 of the Act with respect to limiting any potential anticompetitive effects of the rules of an association.[10] One commentator expressed concern that the term "dues" as used in Section 17(b)(6) of the Act[11] and Rule 170.4 indicates that the Congress and the Commission believe that the financing of an association may be accomplished only by payment of membership "dues" charged at a certain rate for each member. The Commission does not interpret Section 17 as expressing a Congressional intent that the only available financing mechanism for an association is the imposition of "dues", as that term is generally understood. However, the Commission does view the term "dues" as including any form of membership or financing charge that the association might impose on its members. The Commission will require that any such method for financing an association comply with the requirements of Rule 170.4 and Section 17(b)(6) of the Act concerning the equitable allocation of the funding burden of an association, even if dues, per se, are not the mechanism utilized.

Section 17(b)(9) of the Act[12] mandates that an association which denies membership to a person must provide such person, among other things, notice of and an opportunity to be heard on the specific grounds being considered for denial of membership. One commentator suggested that the Commission delete the requirement in proposed Rule 170.7 that an association demonstrate that it will afford an oral hearing to all persons denied membership in the association. In proposing this standard, the Commission contemplated that the term oral hearing would refer to a procedure whereby a person to be denied membership would have a meaningful opportunity to present evidence in person of his qualifications and to rebut the grounds on which the membership denial was being considered. Such a procedure is consistent with the concepts of due process of law and fundamental fairness and should be satisfied by any self-regulatory group exercising certain quasi-governmental responsibilities. This does not mean, of course, that a person in a membership denial proceeding of an association may not voluntarily agree to waive any procedural rights afforded by the association or proceed on the basis of written stipulations. Nor does it mean that the association is not free to establish procedures that do not require an oral hearing where there is not dispute as to material facts. Accordingly, in order to clarify its meaning, the Commission has altered the requirements of Rule 170.7 to provide that an association must have a fair and orderly procedure affording a person denied membership an opportunity to submit evidence in response to the grounds for denial stated by the association.

The Commission is also adopting Rule 170.11(a) of its regulations which provides that the registration statement to be filed with the Commission by a futures association shall be a transmittal letter together with the "rules of the association" and the other information required to be provided the Commission in compliance with Section 17(a) of the Act,[13] including a detailed statement of the association's capability to comply with Section 17 of the Act and Part 170 of the Commission's regulations. The Commission believes it to be necessary and appropriate for an association to include this information in its registration statement. The Commission has also adopted Rule 170.11(b) expressly to require the applicant to furnish additional information upon the Commission's request.

The Commission wishes to inform the public that it anticipates taking the following procedural steps prior to registering any futures association. First, the Commission intends to publish in the **Federal Register** the registration statement of the association, including the association's bylaws, articles of incorporation and other materials. Second, the Commission expects to hold public hearings on those applications for registration as a futures association submitted to the Commission. Third, the Commission will request the comments of specific federal agencies and self-regulatory groups on the application.

The Commission emphasizes, however, that it does not intend to take these procedural steps if, after a review of an association's registration statement, it appears that the applicant has not satisfied the provisions and purposes of Section 17 and the regulations the Commission has adopted thereunder. In this connection, the Commission has adopted Rule 170.11(c) to make clear that the Commission may give written notice to any applicant association if it appears to the Commission that the applicant has not satisfied the requirements for registration under Section 17 of the Act and Part 170 of the Commission's regulations. If the Commission so notifies the applicant under Rule 170.11(c), the Commission will specify the perceived inadequacies in the registration statement. The applicant association will also be afforded a 60-day period in which to respond to the Commission's notification or to withdraw the application. In addition, Rule 170.12 delegates to the Director of the Division of Trading and Markets the power to take any of the actions enumerated in Rules 170.11(b) and (c). The Commission believes that this procedure will provide for an orderly registration process which will efficiently utilize the resources of any applicant association and the Commission.[14]

In considering any registration application from a futures association, the Commission will necessarily be faced with certain of the general policy

[8] Section 15, 7 U.S.C. 19 (1976).

[9] 7 U.S.C. 21 (b)(6).

[10] 7 U.S.C. 19.

[11] 7 U.S.C. 21(b)(6).

[12] 7 U.S.C. 21(b)(9).

[13] 7 U.S.C. 21(a). See 43 FR 46045 (October 5, 1978).

[14] Section 17(f) of the Act, 7 U.S.C. 21 provides that the Commission may deny registration to a futures association "[i]f, after appropriate notice and opportunity for hearing, it appears to the Commission that any requirement of this Section is not satisfied, * * *." Any action the Commission or its delegate might take under Rules 170.11(c) or 170.12 are not intended to serve as a substitute for the notice and hearing requirements of Section 17(f).

issues raised by the Commission in its October 5, 1978, **Federal Register** release.[15] As indicated above, the Commission will consider these general policy questions and possible regulatory alternatives in the context of a specific registration application. For example, if an association proposes that its members are to include futures commission merchants, the Commission will consider as an alternative requiring all futures commission merchants to be members of at least one contract market. Thus, the Commission anticipates that its registration process will involve a thorough analysis of the self-regulatory interests to be served by a proposed association as well as the association's ability to satisfy these interests. The requirement in Section 17(b)(1) of the Act that the Commission register only those futures associations which the Commission finds are "in the public interest" requires no less than this type of scrutiny.

In consideration of the foregoing and pursuant to the authority in Sections 8a and 17 of the Commodity Exchange Act, 7 U.S.C. 12a and 21, as amended, 92 Stat. 876 (1978), the Commission hereby adds a new Part 170 to Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 170—REGISTERED FUTURES ASSOCIATIONS

Subpart A—Standards Governing Commission Review of Applications for Registration as a Futures Association Under Section 17 of the Act.

Sec.

170.1 Demonstration of Purposes (Section 17(b)(1) of the Act).
170.2 Membership Restrictions (Section 17(b)(2) of the Act).
170.3 Fair and Equitable Representation of Members (Section 17(b)(5) of the Act).
170.4 Allocation of Dues (Section 17(b)(6) of the Act).
170.5 Prevention of Fraudulent and Manipulative Practices (Section 17(b)(7) of the Act).
170.6 Disciplinary Proceedings (Sections 17(b)(8) and (b)(9) of the Act).
170.7 Membership Denial (Section 17(b)(9) of the Act).
170.8 Settlement of Customer Disputes (Section 17(b)(10) of the Act).
170.9 General Standard.

Subpart B—Registration Statement of Futures Associations To Be Submitted to the Commission.

170.11 Form of Registration Statement; Review of Registration Statements.
170.12 Delegation of Authority to Director of the Division of Trading and Markets.

[15] 43 FR 46044 (October 5, 1978).

Authority: Secs. 8a and 17 of the Commodity Exchange Act, 7 U.S.C. 12a and 21 as amended, 92 Stat. 876 (1978).

Subpart A—Standards Governing Commission Review of Applications for Registration as a Futures Association Under Section 17 of the Act.

§ 170.1 Demonstration of Purposes (Section 17(b)(1) of the Act).

A futures association must demonstrate that it will be able to carry out the purposes of Section 17 of the Act. Since a basic purpose of a futures association is to regulate the practices of its members, an association should demonstrate that it will require its members to adhere to regulatory requirements governing their business practices at least as stringent as those imposed by the Commission. For example, the association should be prepared to establish and maintain in accordance with § 1.52 of this chapter, a financial compliance program for those members of the association who are futures commission merchants.

§ 170.2 Membership Restrictions (Section 17(b)(2) of the Act).

If it appears to the Commission to be necessary or appropriate in the public interest and to carry out the purpose of Section 17 of the Act, a futures association may restrict its membership to individuals registered by the Commission in a particular capacity—floor brokers, futures commission merchants, commodity trading advisors, commodity pool operators and associated persons—or to individuals doing business in a particular geographical region or to firms having a particular level of capital assets or which engage in a specified amount of business per year.

§ 170.3 Fair and Equitable Representation of Members (Section 17(b)(5) of the Act).

A futures association must assure fair and equitable representation of the views and interests of all association members in the procedures providing for the adoption, amendment or repeal of any association rule, in an association's procedure for the selection of association officers and directors and in all other phases of the association's affairs and activities, including disciplinary and membership hearings. No single group or class of association members shall dominate or otherwise exercise disproportionate influence on any governing board of an association or on any disciplinary or membership panel of such an association. Non-members of the association shall be represented wherever practicable on any board or hearing panel of the association.

§ 170.4 Allocation of Dues (Section 17(b)(6) of the Act).

Dues imposed on members of a futures association must be allocated equitably among members and may not be structured in a manner constituting a barrier to entry of any person seeking to engage in commodity-related business activities.

§ 170.5 Prevention of Fraudulent and Manipulative Practices (Section 17(b)(7) of the Act).

A futures association must establish and maintain a customer protection program, including the adoption of rules to protect customers and customer funds and to promote fair dealing with the public. These rules shall set forth the ethical standards for members of the association in their business dealings with the public. An applicant association must also demonstrate its capability to foster a professional atmosphere among its members, including an acceptance of and adherence to the ethical standards, and to monitor and enforce compliance with the customer protection program and rules.

§ 170.6 Disciplinary Proceedings (Section 17(b)(8) and (b)(9) of the Act).

A futures association must provide a fair and orderly procedure with respect to disciplinary actions brought against association members or persons associated with members. These rules governing such disciplinary actions shall contain, at a minimum, the procedural safeguards contained in Section 17(b)(9) of the Act. In addition, an association, in disciplining its members should demonstrate that it will (a) take vigorous action against those who engage in activities in violation of association rules; (b) conduct proceedings in a manner consistent with the fundamental elements of due process; and (c) impose discipline which is fair and has a reasonable basis in fact.

§ 170.7 Membership Denial (Section 17(b)(9) of the Act).

A futures association must provide a fair and orderly procedure for processing membership applications and for affording any person to be denied membership an opportunity to submit evidence in response to the grounds for denial stated by the association. The procedures governing denials of membership in the association shall contain, at a minimum, the procedural

safeguards contained in Section 17(b)(9) of the Act.

§ 170.8 Settlement of Customer Disputes (Section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capability to promulgate rules and to conduct proceedings which provide a fair and equitable procedure, through arbitration or otherwise, for the voluntary settlement of a customer's claim or grievance of less than $15,000 brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with Section 17(b)(10) of the Act and be consistent with Part 180 of the Commission's regulations governing contract market arbitration and dispute settlement procedures.

§ 170.9 General Standard.

An applicant seeking registration as a futures association by the Commission must demonstrate the association's ability to comply with standards and requirements set forth in this part. The applicant must also demonstrate its ability to satisfy the provisions of Section 17 of the Act as well as other applicable legal considerations, including that the association will promote fair and open competition among its members and will conduct its affairs consistent with the public interest to be protected by the antitrust laws. The Commission shall not register an applicant association unless the Commission finds that the applicant has satisfied the conditions and requirements of Section 17 of the Act and of this Part and that registration will be in the public interest.

Supart B—Registration Statement of Futures Associations To Be Submitted to the Commission.

§ 170.11 Form of Registration Statement; Review of Registration Statement.

(a) Any association seeking registration by the Commission as a futures association must file with the Commission a letter requesting that the association be registered by the Commission as a futures association and accompany the letter with the following: (1) The constitution, charter or articles of incorporation of the association, (2) the bylaws of the association, (3) any other rules, resolutions or regulations of the association corresponding to the foregoing, (4) a detailed description of the association's organization, membership and rules of procedure and (5) a detailed statement of the association's capability to comply with the provisions of Section 17 of the Act and this part. This letter and the accompanying information shall be considered as the registration statement of the association. This letter and the accompanying information shall be filed with the Secretariat of the Commission at 2033 K Street, N.W., Washington, D.C. 20581

(b) At any time after an applicant's registration statement has been filed, the applicant association shall submit to the Commission any supporting or additional information concerning the application of the association as the Commission may request.

(c) If it appears to the Commission, after reviewing any registration statement filed by an applicant association, that the applicant has not satisfied the requirements for registration set forth in Section 17 of the Act or of this part, the Commission may, in its discretion, notify the applicant in writing to that effect. Such notice shall specify those requirements of Section 17 or of this part which do not appear to have been satisfied and shall afford the applicant a period of at least 60 days in which to respond to the Commission's notice by demonstrating or achieving compliance with the requirements specified by the Commission or otherwise. An applicant may withdraw its registration statement from Commission consideration at any time within such 60 day period.

§ 170.12 Delegation of Authority to Director of the Division of Trading and Markets.

The Commission hereby delegates, until the Commission orders otherwise, to the Director of the Division of Trading and Markets the authority to take any of the actions enumerated in §§ 170.11 (b) and (c). Notwithstanding the provisions of this section, if the Director believes it appropriate, he may submit the matter to the Commission for its consideration.

Issued by the Commission on April 3, 1979.

Gary L. Seevers,

Acting Chairman, Commodity Futures Trading Commission.

[FR Doc. 79-10658 Filed 4-5-79; 8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance (1950-); Extension of Recovery Period

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These regulations provide more flexible procedures for the recovery of an overpayment of social security benefits by removing the time limits on when the adjustment of an overpayment is to be completed. The regulations are designed to ease situations in which all or most of an individual's benefits were to be withheld before his or her expected last month of entitlement or the expiration of 3 years after the adjustment action was begun, whichever is earlier. We are also making two minor technical changes in the regulations.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Marval Cazer, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7463.

SUPPLEMENTARY INFORMATION: On July 21, 1978, these rules were published in the **Federal Register** (43 FR 31317) as Interim Regulations with a 60-day comment period. We received one comment which we respond to below. The Interim Regulations are adopted without change as final regulations.

Prior Policy

Sections 404.502 and 404.502a covered, among other things, what actions we took to recover an overpayment when the overpaid individual was entitled to monthly benefit payments under title II of the Social Security Act. In cases which did not involve fraud, if withholding the full monthly benefit would have deprived the individual of income needed for living expenses, we recovered the overpayment by withholding no less than $10 of the montly benefit payment. Even if we found that the overpaid individual was "at fault" in creating the overpayment, we were free to get back the overpayment by witholding only part of the monthly payment. This was done as long as we could get back all of the overpayment before the expected last month of the beneficiary's entitlement or at the end of 3 years after the adjustment action was begun, whichever was earlier. The term "at

fault" is defined in §§ 404.507 and 404.510.

The Final Rules

1. The amendment to § 404.502(c) keeps the $10 per month minimum recovery rate but removes any time limit for withholding the full overpayment. This change gives us and the overpaid individual greater flexibility in working out a plan for repayment all amounts overpaid to him or her. This rule does not apply to cases in which fraud is involved.

2. We are including two technical changes, although they are unrelated to the main change just described, so that our regulations will match our current operating policy.

a. The first change involves minor language changes and the deletion of Example 2 in § 404.509 which describes when we would not recover overpayments because recovery would be "against equity and good conscience". The reason for the change is that an application for disability insurance benefits, unless specifically limited, is an application for all title II benefits. The example stated that when an individual applied for disability benefits, he gave up his right to file for old-age benefits when first eligible. That is no longer correct.

b. The second change is in § 404.510(l) which deals with whether an individual is "without fault" when an overpayment occurs. We are eliminating all mention of wages from employment, although we are keeping the "without fault" provision for self-employment situations. We are doing this because a change in Pub. L. 92-603 (section 106) says that the benefits a person gets before becoming age 72 must no longer be reduced because of wages he or she earns in or after the month he or she becomes age 72. However, the net earnings of self-employed individuals in or after the month he or she reaches age 72 may result in deductions from benefits for months before age 72 (although those earnings would be prorated for deduction purposes).

Comment on Interim Regulation

We received only one comment on the Interim Regulation. The commenter believes it is unreasonable to expect a beneficiary to repay even $10 a month if it "would deprive the individual of income needed for ordinary and necessary living expenses."

The law requires us (with limited exceptions) to recover overpayments. The $10 per month minimum recovery rate is a minimal amount. Every overpaid individual who is "at fault" should be obliged to repay at least a small amount. We believe this is a fair and reasonable method of recovering incorrectly paid benefits. This reflects the finding that the individual was "at fault" while recognizing the individual's need for his or her benefit.

However, we are not required to get back an overpayment if an individual is without fault in causing the overpayment and our recovery would deprive the individual of income necessary for ordinary living expenses or be "against equity and good conscience" (as defined in § 404.509). Therefore, it is unnecessary to change the Interim Regulation.

The amendments are adopted without change from the Interim Regulation, as set forth below.

(Secs. 204, 205, and 1102 of the Social Security Act; 53 Stat. 1362, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; 42 U.S.C. 404, 405, and 1302.)

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.804 Social Security-Survivors Insurance.)

Dated: March 23, 1979.

Stanford G. Ross,
Commissioner of Social Security.

Approved: April 1, 1979.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

Part 404 of Chapter III, Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.502, paragraph (c) is revised to read as follows:

§ 404.502 Overpayments.

* * * * *

(c) *Adjustment by withholding part of a monthly benefit.* (1) Where it is determined that withholding the full amount each month would "defeat the purpose of title II," i.e., deprive the person of income required for ordinary and necessary living expenses (see § 404.508), adjustment under paragraphs (a) and (b) of this section may be effected by withholding an amount of not less than $10 of the monthly benefit payable to an individual.

(2) Adjustment as provided by this paragraph will not be available if the overpayment was caused by the individual's intentional false statement or representation, or willful concealment of, or deliberate failure to furnish, material information. In such cases, recovery of the overpayment will be accomplished as provided in paragraph (a) of this section.

* * * * *

2. Section 404.509 is amended by revising the introductory paragraph to read as follows, by deleting example 2, and by redesignating "Examples 3, 4, and 5" as "Examples 2, 3, and 4", respectively.

§ 404.509 Against equity and good conscience; defined.

"Against equity and good conscience" means that adjustment or recovery of an incorrect payment (under title II or title XVIII) will be considered inequitable if an individual, because of a notice that such payment would be made or by reason of the incorrect payment, relinquished a valuable right (examples (1) and (4)) or changed his or her position for the worse (examples (2) and (3)). In reaching such a determination, the individual's financial circumstances are irrelevant.

* * * * *

3. Section 404.510, paragraph (l), is revised to read as follows:

§ 404.510 When an individual is "without fault" in a deduction-overpayment.

* * * * *

(l) Reasonable belief, with respect to earning activity for months after December 1972, that net earnings from self-employment after the attainment of age 72 in the taxable year in which age 72 was attained would not cause deductions (see § 404.430(a)) with respect to benefits payable for months in that taxable year prior to the attainment of age 72.

* * * * *

[Regulations No. 4]

[FR Doc. 79-10585 Filed 4-5-79; 8:45 am]
BILLING CODE 4110-07-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 175, 176

1,2-Benzisothiazolin-3-One

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to establish the safe use of 1,2-benzisothiazolin-3-one as a preservative in adhesives and paper and paperboard in contact with dry food and fatty food. The agency is taking this action in response to a petition filed by ICI Americas Inc.

DATES: Effective April 6, 1979; objections by May 7, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** of November 22, 1977 (42 FR 59918) that a petition (FAP 3B2882) had been filed by ICI Americas Inc., Wilmington, DE 19897, proposing to amend §§ 175.105 and 176.170 (21 CFR 175.105 and 176.170) to include 1,2-benzisothiazolin-3-one for use as a preservative in adhesives and in paper and paperboard coating compositions in contact with aqueous and fatty foods. After publication of the notice of filing, the petitioner amended the petition to limit the paper and paperboard applications of the preservative to dry foods under § 176.180(b)(2) (21 CFR 176.180(b)(2)), and to fatty foods only under § 176.170(a)(5).

FDA has evaluated data in the petition and other relevant material and concludes that the food additive regulations should be amended as requested in the amended petition.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 175 and 176 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES COATINGS AND COMPONENTS

1. Part 175 is amended in § 175.105, by inserting a new entry alphabetically in the table in paragraph (c)(5) to read as follows:

§ 175.105 Adhesives.

* * * * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * * * *	
1,2-Benzisothiazolin-3-one (CAS Registry No. 2634-33-5)	For use only as a preservative.
* * * * * * *	

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

2. Part 176 is amended:

a. In § 176.170 by inserting a new entry alphabetically in the table in paragraph (a)(5) to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

(a) * * *

(5) * * *

List of substances	Limitations
* * * * * * *	
1,2-Benzisothiazolin-3-one (CAS Registry No. 2634-33-5)	For use only as a preservative in paper coating compositions and limited to use at a level not to exceed 0.01 mg/in^2 (0.0016 mg/cm^2) of the finished paper and paperboard and further limited to use only with food types V, VII-A, and IX in Table 1 of paragraph (c) of this section, under condition of use E, F, or G in Table 2 of paragraph (c) of this section.
* * * * * * *	
* * * * * * *	

b. In § 176.180 by inserting a new entry alphabetically in the table in paragraph (b)(2) to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * * * *

(b) * * *

(2) * * *

* * * * * * *	
1,2-Benzisothiazolin-3-one (CAS Registry No. 2634-33-5)	For use only as a preservative in paper coating compositions and limited to use at a level not to exceed 0.02 mg/in^2 (0.0031 mg/cm^2) of finished paper and paperboard.

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 7, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective April 6, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: April 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 77F-0256]

[FR Doc. 79-10715 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 182, 184

Malic Acid; GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that malic acid is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review being conducted by the agency.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 30, 1977 (42 FR 43644), a proposal was published to affirm that malic acid is generally recognized as safe for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on malic acid, reports of the mutagenic and teratogenic tests for the ingredient, and the report of the Select Committee on GRAS Substances (the Select Committee) are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of malic acid, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient uses for this ingredient, other than for the proposed conditions of use, and advised persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, to submit proof of those sanctions so that the safety of the prior-sanctioned uses could be determined. The Commissioner proposed to approve prior-sanctioned uses of malic acid in appropriate regulations under Part 181 (21 CFR Part 181), if the prior-sanctioned use could be affirmed as safe on the basis of information and data then available to him.

The Commissioner also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time. No reports of prior-sanctioned uses for malic acid were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of malic acid under conditions different from those set forth in this regulation has been waived.

Four comments were received in response to the proposal. All the comments concerned the maximum levels of malic acid in confectioners' products. A summary of the comments and the Commissioner's response follows.

The comments expressed the collective view that the proposed maximum levels for malic acid in hard candy (0.9 percent), powdered candy (0.7 percent), and chewing gum (0.7 percent) were too low relative to current manufacturing practice. Two comments recommended elevation of the maximum level in hard candy to 6.9 percent. Two other comments recommended separation of "powdered candy" and "chewing gum" from the "all other foods" category and requested maximum level of 3.0 percent malic acid for both.

The Commissioner has carefully considered the requested modifications in the maximum levels for malic acid in confectioners' products. The Commissioner recognizes that the 1971 National Academy of Sciences/National Research Council (NAS/NRC) survey upon which the proposed maximum usage levels were based, was not comprehensive and, in fact, probably represented only 60 percent of food ingredient users in the United States. The Commissioner has determined that the maximum usage levels for malic acid recommended in the comments for certain confectioners' products represent current good manufacturing practice for those products. Although the newly reported levels of use for malic acid are higher than the levels reported in the 1971 survey and the levels upon which the Select Committee based its safety evaluation, the Commissioner concludes that there are adequate safety data to support higher levels of use in these limited food categories. The maximum usage levels proposed in the comments are, therefore, included in this regulation. It is emphasized, however, that these higher usage levels are not an authorization for use of malic acid at any level higher than is necessary to achieve the intended effect in a specific food.

In accordance with the Commissioner's conclusion, the following regulation has been amended to reflect current good manufacturing practice. The maximum level of malic acid in hard candy is raised to 6.9 percent. Chewing gum is separated from other food categories and has a maximum malic acid level of 3.0 percent. Powdered candy, which is included in the definition of soft candy in 21 CFR 170.3(n)(38), has a maximum malic acid level of 3.0 percent.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. In Part 182, as follows:

§ 182.60 [Amended]

a. In § 182.60 *Synthetic flavoring substances and adjuvants,* by deleting the entry for "1-Malic acid."

§ 182.1069 [Deleted]

b. By deleting § 182.1069 *Malic acid.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184, by adding new § 184.1069 to read as follows:

§ 184.1069 Malic acid.

(a) Malic acid ($C_4H_6O_5$, CAS Reg. No. of L-form 97–67–6, CAS Reg. No. of DL-form 617–48–1) is the common name for 1-hydroxy-1, 2-ethanedicarboxylic acid. L (+) malic acid, referred to as L-malic acid, occurs naturally in various foods. Racemic DL-malic acid does not occur naturally. It is made commercially by hydration of fumaric acid or maleic acid.

(b) The ingredients meet the specifications of the Food Chemicals Codex, 2d Ed. (1972), as amended by the Second Supplement (1975)[1] which is incorporated by reference.

(c) The ingredients are used as a flavor enhancer as defined in § 170.3(o)(11) of this chapter, flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter, and pH control agent as defined in § 170.3(o)(23) of this chapter.

(d) The ingredients are used in food, except baby food, at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 3.4 percent for nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; 3.0 percent for chewing gum as defined in § 170.3(n)(6) of this chapter; 0.8 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; 6.9 percent for hard candy as defined in § 170.3(n)(25) of this chapter; 2.6 percent for jams and jellies as defined in § 170.3(n)(28) of this chapter; 3.5 percent for processed fruits and fruit juices as defined in § 170.3(n)(35) of this chapter; 3.0 percent for soft candy as defined in § 170.3(n)(38) of this chapter; and 0.7 percent for all other food categories.

(e) Prior sanctions for malic acid different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective May 7, 1979.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: March 19, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporation by reference was approved by the Director of the Office of the Federal Register on June 20, 1977 and is on file at the Federal Register Library.

[Docket No. 77N–0178]

[FR Doc. 79–10305 Filed 4–5–79; 8:45 am]

BILLING CODE 4110–03–M

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

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21 CFR Parts 182, 184

Succinic Acid; GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule affirms that succinic acid is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review being conducted by the agency.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 3, 1978 (43 FR 4635), The Food and Drug Administration (FDA) proposed to affirm that succinic acid is GRAS for use as a direct human food ingredient. The proposal was based on safety information developed by the Select Committee on GRAS Substances (the Select Committee) and was published in accord with the anounced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

Under § 170.35 (21 CFR 170.35), relating to the affirmation of GRAS food ingredients, copies of the scientific literature review on succinic acid, data

on a mutagenic evaluation, and the report of the Select Committee have been made available for public review in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Copies of the documents have also been made available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of succinic acid, the Commissioner of Food and Drugs gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA prior to September 6, 1958, were given notice to submit proof of such a sanction so that the safety of prior-sanctioned uses could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of succinic acid approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), provided the prior-sanctioned use could be affirmed as safe on the basis of data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert the sanction at any future time.

No reports of a prior-sanctioned use for succinic acid were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for use of succinic acid under conditions different from those set forth in this regulation has been waived.

No comments were received in response to the Commissioner's proposal and supporting data and information on succinic acid. The Commissioner therefore concludes that no change in the proposal to affirm the GRAS status of succinic acid is warranted. Accordingly, it is being promulgated without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1091 [Deleted]

1. In Part 182 by deleting § 182.1091 *Succinic acid.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. In Part 184 by adding new § 184.1091 to read as follows:

§ 184.1091 Succinic acid.

(a) Succinic acid ($C_4H_6O_4$, CAS Reg. No. 110-15-6), also referred to as amber acid and ethylenesuccinic acid, is the chemical 1,4-butanedioic acid. It is commercially prepared by hydrogenation of maleic or fumaric acid. It can also be produced by aqueous alkali or acid hydrolysis of succinonitrile.

(b) The ingredient meets specifications of the Food Chemicals Codex, 2d Ed. (1972), which is incorporated by reference.[1]

(c) The ingredient is used as a flavor enhancer as defined in § 170.3(o)(11) of this chapter and pH control agent as defined in § 170.3(o)(23) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.084 percent in condiments and relishes as defined in § 170.3(n)(8) of this chapter and 0.0061 percent in meat products as defined in § 170.3(n)(29) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation is effective May 7, 1979.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: March 20, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporation by reference was approved on July 10, 1973 by the Director of the Office of the Federal Register and is on file in the Federal Register Library.

[Docket No. 77N-0259]

[FR Doc. 79-10308 Filed 4-5-79; 8:45 am]

BILLING CODE 41-103-M

1 Copies may be obtained from: The National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

21 CFR Part 201

Drugs: Information Commonly Known; Revocation of Labeling Exemption

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the drug labeling regulations to revoke provisions that exempt certain prescription drugs from the requirement that the dispensing package contain full disclosure labeling (i.e., a package insert). The agency is taking this action because it has concluded that the exemptions are not warranted and that full disclosure labeling is necessary for the safe and effective use of prescription drugs.

EFFECTIVE DATE: October 3, 1979.

FOR FURTHER INFORMATION CONTACT: Michael C. McGrane, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 27, 1977 (42 FR 27263), FDA proposed to revoke the provision in § 201.100(c)(2) (21 CFR 201.100(c)(2)) that permits full disclosure labeling (the package insert) to be omitted from the dispensing package of certain prescription drugs and to revoke § 201.160 (21 CFR 201.160), which lists the drugs to which the exemption has applied. Interested persons were given to July 26, 1977, to submit comments on the proposal.

Eight comments were received on the proposal, six from manufacturers of drug products subject to the regulations and two from trade associations. A summary of the comments and the agency's responses to them follows:

1. Three comments objected to the blanket revocation of the exemption from the package insert requirement for the drugs listed in § 201.160. The comments contended that each of the exempted drugs should be examined individually to determine whether its continued exemption from the package insert requirement poses a potential hazard to the public health or whether a specific benefit can be shown to flow from the future use of a package insert with each of the drugs. One comment argued that the proposed revocation of the exemption is based on the agency's opinion about, and experience with, other drugs, but only the identification of a specific risk from the exemption or a specific benefit that will result from its revocation would justify revoking the exemption. Another comment argued

that each drug listed in § 201.160 should be reviewed individually and then removed from the list only if the review shows that the use information for the drug is not commonly known to physicians. One comment contended that, by proposing to revoke the exemption, FDA fails to recognize the scientific merit and judgment in originally establishing the exemption. Another comment argued that the mechanism for exempting drug products from the package insert requirement should be retained. The comment contended that elimination of the mechanism is unnecessary even if some of the drugs currently exempted should have package inserts.

FDA does not agree with these comments. As discussed in the preamble to the proposal, the agency last exempted a drug from the labeling requirements of § 201.100(c)(1) in the **Federal Register** of June 8, 1962 (27 FR 5428). During the 17 years since a drug has been found to qualify for the exemption from the package insert requirement, FDA's experience has shown that risks from the use of a drug may be uncovered long after the drug is first marketed and, thus, after physicians have become familiar with the indications, hazards, and warnings concerning its use. For example, in the **Federal Register** of May 27, 1977 (42 FR 27226), the agency published a final rule ending the exemption under § 201.160 for the drugs that had been reviewed under the agency's Drug Efficacy Study Implementation (DESI) program. Like other drugs on the list, the DESI drugs had been exempted from the package insert requirement of § 201.100(c)(1) because the agency believed the use information for them was commonly known to physicians. The DESI review showed, however, that these drugs were not effective for many of the labeled indications for which they were commonly used.

Conceivably, the agency could attempt to justify the continued exemption for some drugs from the package insert requirement by conducting a review of all of the drugs listed in § 201.160 to determine whether each is safe and effective for its labeled indications under contemporary scientific standards, and whether prescribers are knowledgeable about the use information for each drug. The use of FDA resources to review these drugs periodically for the sole purpose of reducing a few manufacturers' labeling obligations, however, is not justified. The use of FDA resources for that purpose would compromise other programs with greater public health significance. Revoking the labeling exemption in §§ 201.100(c)(2) and 201.160 merely applies to these drugs the general labeling regulations with which all other prescription drugs are required to comply.

2. One comment argued that section 502(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)) specifically provides for an exemption such as this.

FDA advises that section 502(f) of the act provides authority for exempting a drug from the requirement that its labeling bear adequate directions for lay use, and § 201.100 (21 CFR 201.100) of the agency's prescription drug labeling regulations exempts all prescription drugs from that requirement. To qualify for the exemption, prescription drugs are required, among other things, to bear a package insert that contains information for practitioners on the safe and effective use of the drug. Sections 201.100(c)(2) and 201.160 thus provided a further exemption from the package insert requirement for certain drugs. Only this latter exemption from the package insert requirement is eliminated under this final rule. The drugs in question are still subject to the provisions of § 201.100 and, accordingly, are still exempt from the "adequate directions for use" requirement under section 502(f) of the act.

3. Two comments objected to the proposal on the ground that requiring package inserts for the drugs exempted under § 201.160 would increase medical health care costs to individual patients and Federal, State, and county health care programs. One comment stated that the cost of the package insert is approximately $0.05 per package and that revoking the exemption would cost millions of dollars. Another comment argued that, despite the stated intent of the proposal to ensure that physicians have the information necessary to use a drug safely and effectively, the physician would rarely see the package insert.

FDA believes the benefit of the availability of the package insert to physicians and other health professionals, particularly those who dispense the drugs, outweighs the increased costs. Although it is well recognized that labeling for a prescription drug supplied in the form of a package insert is not generally received by the prescriber of the drug, the package insert is nonetheless the official and accepted source of labeling by health professionals and drug manufacturers.

4. Two comments opposed the revocation of the labeling exemption for sodium chloride injection and sterile water for injection. The comments stated that in small containers the two drugs are most frequently used as vehicles, solvents, or diluents for the administration of other drugs. The comments contended that these uses are well known to physicians and that it would be unreasonable to require separate package inserts for them, particularly when they are often packaged with an active drug for dilution or reconstitution.

FDA advises that if sodium chloride injection or sterile water for injection is marketed alone for use as a vehicle, solvent, or diluent for other medications, the safe and effective use of the drug requires information on its use for those purposes to accompany the product. As stated in paragraph 1 of this preamble, the use of FDA resources to monitor physicians' knowledge about and use of a few drugs for the sole purpose of reducing a few manufacturers' labeling obligations is not justified. The comments assume incorrectly that the marketing of an active drug for reconstitution packaged with a vehicle or diluent would require separate package inserts. In such cases the agency uniformly requires only a single package insert for the drug product and not separate inserts for its components.

5. An association of medical gas manufacturers asked whether the proposed revocation of § 201.160 would include the revocation of § 201.161 (21 CFR 201.161), which exempts carbon dioxide, cyclopropane, ethylene, helium, and nitrous oxide gases intended for drug use from certain labeling requirements, including the labeling requirement under § 201.100(c)(1). The comment argued that § 201.161 was developed as a result of consultations between FDA and representatives of the medical gas industry and, before its revocation is proposed, the original reasons for its promulgation should be considered.

FDA advises that this final rule does not revoke the labeling exemption for certain medical gases under § 201.161.

6. Several comments objected to the proposed effective date for the final regulation of 180 days after the date of publication in the **Federal Register**. The comments argued that the final regulation should apply only to drugs packaged after the effective date or, if the final regulation applies to drugs in the hands of manufacturers or own-label distributors on the effective date, the effective date would discriminate against manufacturers and own-label distributors who sell directly to retailers rather than through wholesalers.

Another comment favored the application of the final regulation to drug products packaged after the effective date because a public health problem has not been shown to exist as a result of the exemptions from full disclosure labeling.

The agency agrees that the effective date should not distinguish between manufacturers, own-label distributors, and other persons, but does not agree that an effective date 180 days after the date of publication of the final regulation is unreasonable. Because package inserts are not now required for these drugs, printing plates and supplies of printed labeling do not exist. In addition, this final regulation merely requires that the affected drugs comply with the general drug labeling regulations that apply to almost all prescription drugs, a requirement that can be implemented within 180 days. Accordingly, the final regulation is effective for all drugs initially introduced or initially delivered for introduction into interstate commerce on and after October 3, 1979.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701, 52 Stat. 1050–1053 as amended, 1055–1056 as amended (21 U.S.C. 352, 355, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 201 is amended as follows:

1. In § 201.100 by revising paragraph (c)(2) to read as follows:

§ 201.100 Prescription drugs for human use.

* * * * *

(c) * * *

(2) If the article is subject to section 505, 506, or 507 of the act, the labeling bearing such information is the labeling authorized by the approved new drug application or required as a condition for the certification or the exemption from certification requirements applicable to preparations of insulin or antibiotic drugs.

* * * * *

§ 201.160 [Revoked]

2. By revoking § 201.160 *Drugs; information commonly known.*

Effective date. This regulation is effective October 3, 1979, for any drugs that are subject to these regulations and are initially introduced or initially delivered for introduction into interstate commerce on or after that date.

(Secs. 502, 505, 701, 52 Stat. 1050–1053 as amended, 1055–1056 as amended (21 U.S.C. 352, 355, 371))

Dated: April 2, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 77N-0104]

[FR Doc. 79-10717 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 436, 449

Method for Griseofulvin Content

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations by providing for an improved method for determining the griseofulvin content of antibiotic drug products containing griseofulvin. The new method, gas liquid chromatography, replaces two existing methods—the spectrophotometric assay and the microbiological agar diffusion assay.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 26, 1978 (43 FR 22730), and corrected July 14, 1978 (43 FR 30302) and September 8, 1978 (43 FR 40038), the Commissioner of Food and Drugs proposed that the gas liquid chromatography method be adopted as the method specified in the regulations for content determination of the antibiotic drug griseofulvin.

Interested persons were given until July 25, 1978 to submit written comments. A summary of the comments and the Commissioner's response to them follows.

1. Comments from two manufacturers requested that the spectrophotometric assay, an alternative testing method in the current regulations, be retained.

The Commissioner has considered this request but does not believe there is sufficient reason to provide for a specific alternative testing method. As pointed out in the proposal, the gas liquid chromatography method is more accurate and reliable than either the microbiological agar diffusion assay or the spectrophotometric assay methods in the current regulations. However, the Commissioner advises that, under § 436.2 (21 CFR 436.2), manufacturers may use testing methods other than those designated as official methods, provided the results obtained are as accurate as those produced by the official methods.

2. One comment suggested that the testing method should include specific electronic and manual methods for measuring peak areas.

The Commissioner believes that it would be too restrictive to specify the method or methods to be used for peak area measurements. A specific method for measuring peak areas was not included in the proposed method so that any suitable manual or electronic method could be used for this purpose.

3. One manufacturer stated that under the proposed regulation, the life span of its column (proposed § 436.321(c)(1)) was limited to a few days.

The Commissioner advises that in Food and Drug Administration (FDA) laboratory experience, the useful column life has been much longer than that reported by this one respondent. The Commissioner concludes, based on FDA's actual experience and the results of collaborative studies cited in the preamble to the proposal, that the proposed procedure is satisfactory.

4. One comment requested that proposed § 436.321(c)(3) be amended to allow the use of nitrogen as a carrier gas.

The Commissioner recognizes that nitrogen could be used as a carrier gas under appropriate conditions. However, the typical conditions described in the proposed method (i.e., column, packing, and temperature) are specific for the use of helium. These conditions may not be suitable if nitrogen is used in place of helium. As previously mentioned, manufacturers can, under § 436.2, alter the conditions specified to provide optimum results for whatever testing system is used. There is no objection to the use of nitrogen as an alternate testing procedure as long as satisfactory separations and quantitations are obtained.

5. One comment objected to the use of chloroform as a laboratory reagent.

The Commissioner cannot agree with this objection. The amount of chloroform used as a solvent in this method can be safely handled in a chemical hood that would typically be used in this type of laboratory testing operation. The comment is therefore rejected.

6. One manufacturer requested that a high pressure liquid chromatography method be used in place of the proposed gas liquid chromatography method. The comment stated that the requested method is simpler than, and as precise as, the proposed method.

The Commissioner does not consider the comment pertinent to the proposal. The FDA currently has no experience with the high pressure liquid chromatography method for griseofulvin

content and, therefore, cannot judge its merits relative to gas liquid chromatography. The proposed method is significantly more precise and more specific than the methods currently in the regulations and, as pointed out in the premable to the proposal, the proposed method has been validated in a collaborative study involving 19 laboratories. The Commissioner is convinced that FDA's proposed method should be adopted now and not withheld pending lengthy validation of another method. The comment's suggested testing method will be reviewed for possible future amendments.

The Commissioner has considered the comments and concludes that the amendments should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 436 and 449 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended by adding new § 436.321 to read as follows:

§ 436.321 Griseofulvin gas liquid chromatography.

(a) *Equipment.* Gas chromatograph equipped with an electronic integrator and with a flame ionization detector: Hewlett Packard 7600 or equivalent.

(b) *Reagents.* (1) Chloroform, reagent grade.

(2) Internal standard solution: Prepare a solution containing 1.0 milligram of tetraphenylcyclopentadienone per milliliter in chloroform.

(c) *Typical conditions*—(1) *Column.* 1.2 meters by 4 millimeters ID, glass, packed with 1 percent OV-17 on Gas Chrom Q (100/120 mesh), or equivalent.

(2) *Temperatures.* Column 245° C; detector 260° C; injection port 260° C.

(3) *Carrier gas.* Helium approximately 60 millimeters per minute and 40 pounds per square inch (1.7 kilograms per square centimeter).

(4) *Detector.* Hydrogen flame ionization-hydrogen at 12 pounds per square inch (0.5 kilogram per square centimeter), air at 34 pounds per square inch (1.43 kilograms per square centimeter).

(5) *Sensitivity.* Adjusted to obtain peak heights greater than 50 percent full scale deflection.

(d) *Preparation of griseofulvin sample and working standard solutions.* Accurately weigh approximately 40 milligrams of both the sample and the working standard into separate 25-milliliter volumetric flasks. Add sufficient internal standard solution to dissolve the contents of each flask with vigorous mixing and then dilute to volume with internal standard solution and mix. Proceed as directed in paragraph (e) of this section.

(e) *Procedure.* Inject 1.0 microliter of this solution into the gas chromatograph. Use the typical conditions and materials listed in paragraphs (a), (b), and (c) of this section. The resolution of the peaks should be complete. The griseofulvin peak will elute before the internal standard peak. Calculate the griseofulvin content as directed in paragraph (f) of this section.

(f) *Calculations.* Calculate the griseofulvin content of the sample as follows:

$$\text{Micrograms of griseofulvin per milligram} = \frac{(R_u)\ (W_s)\ (f)}{(R_s)(W_u)},$$

where:

R_u = Area of the griseofulvin sample peak (at a retention time equal to that observed for the griseofulvin standard) / Area of the internal standard peak;

R_s = Area of the griseofulvin working standard peak / Area of the internal standard peak;

W_s = Weight of the griseofulvin working standard in milligrams;

W_u = Weight of the sample in milligrams;

f = Potency of the griseofulvin working standard in micrograms per milligram.

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

2. Part 449 is amended as follows:

a. In § 449.20, paragraphs (a)(1)(i), (a)(3)(i), (b)(1), and (b)(6) are revised to read as follows:

§ 449.20 Griseofulvin.

(a) * * *

(1) * * *

(i) Its griseofulvin content is not less than 900 micrograms and not more than 1,050 micrograms of griseofulvin per milligram.

* * * * *

(3) * * *

(i) Results of tests and assays on the batch for griseofulvin content, safety, loss on drying, melting point, specific rotation, identity, residue on ignition, heavy metals, specific surface area, and crystallinity.

* * * * *

(b) *Tests and methods of assay*—(1) *Griseofulvin content (gas liquid chromatography).* Proceed as directed in § 436.321 of this chapter.

* * * * *

(6) *Identity.* Dissolve an accurately weighed portion of the sample and of the griseofulvin working standard and dissolve each in sufficient methyl alcohol to obtain a concentration of 10 micrograms of griseofulvin per milliliter and mix well. (The standard solution can be kept under refrigeration and used for up to 1 month.) Record the ultraviolet absorption spectrum of solutions of the sample and standard from 240 to 320 nanometers. The spectral curves shall be similar, and each shall have a maximum at 292± 2 nanometers and a minimum at 269± 2 nanometers.

* * * * *

b. In § 449.120a, paragraphs (a)(1), (a)(3)(i) (*a*) and (*b*), and (b)(1) are revised to read as follows:

§ 449.120a Griseofulvin tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Griseofulvin tablets are tablets composed of griseofulvin, with or without one or more suitable fillers, colorings, lubricants, and binders. Each tablet contains 125, 250, or 500 milligrams of griseofulvin. The griseofulvin content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of griseofulvin that it is represented to contain. The loss on drying is not more than 5.0 percent. The tablets shall disintegrate within 1 hour.

The griseofulvin used conforms to the standards prescribed by § 449.20(a)(1).

* * * * *

(3) * * *

(i) * * *

(*a*) The griseofulvin used in making the batch for griseofulvin content, safety, loss on drying, melting point, specific rotation, identity, residue on ignition, heavy metals, specific surface area, and crystallinity.

(*b*) The batch for griseofulvin content, loss on drying, and disintegration time.

* * * * *

(b) *Tests and methods of assay—(1) Griseofulvin content (gas liquid chromatography).* Proceed as directed in § 436.321 of this chapter, except:

(i) Prepare the sample solution as follows: Accurately weigh 20 tablets and determine the average tablet weight. Grind the tablets to a fine powder in a mortar and transfer an accurately weighed sample to a volumetric flask of such size that for each 50 milliliters of volume there are 40 milligrams of griseofulvin (estimated). Add chloroform to about one-fourth volume of the flask. Swirl the flask and apply gentle heat to aid in dissolution of the griseofulvin. Allow the mixture to cool and then dilute to volume with chloroform and mix. Allow to settle and transfer 2.0 milliliters of the supernate to a conical centrifuge tube and evaporate to dryness under a current of dry air. Add 1.0 milliliter of the internal standard solution to the centrifuge tube and mix vigorously to obtain a uniform solution; and,

(ii) Calculate the milligrams of griseofulvin per tablet as follows:

$$\text{Milligrams of griseofulvin per tablet} = \frac{(R_u)\,(W_s)\,(f)\,(W_a)\,(V_u)}{(R_s)\,(W_u)\,(1{,}000)\,(50)},$$

where:

R_u = Area of the griseofulvin sample peak (at a retention time equal to that observed for the griseofulvin standard) / Area of the internal standard peak,

R_s = Area of the griseofulvin working standard peak / Area of the internal standard peak;

f = Potency of the griseofulvin working standard in micrograms per milligram;

W_a = Average tablet weight in milligrams;

W_s = Weight of the griseofulvin working standard in milligrams;

W_u = Weight of the ground tablet powder sample in milligrams;

V_u = Volume of the dissolved ground tablet powder sample in milliliters.

* * * *

c. In § 449.120b, paragraphs (a)(1), (a)(3)(i) (*a*) and (*b*), and (b)(1) are revised to read as follows:

§ 449.120b Griseofulvin capsules.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Griseofulvin capsules are gelatin capsules containing griseofulvin with a suitable filler and binder, with or without a suitable lubricant. Each capsule contains 125 or 250 milligrams of griseofulvin. The griseofulvin content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of griseofulvin that it is represented to contain. The loss on drying is not more than 1.0 percent. The griseofulvin used conforms to the standards prescribed by § 449.20(a)(1).

(3) * * * * *

* * *

(i) * * *

(*a*) The griseofulvin used in making the batch for griseofulvin content, safety, loss on drying, melting point, specific rotation, identity, residue on ignition, heavy metals, specific surface area, and crystallinity.

(*b*) The batch for griseofulvin content and loss on drying.

* * * * *

(b) *Tests and methods of assay—*(1) *Griseofulvin content (gas liquid chromatography).* Proceed as directed in § 436.321 of this chapter, except:

(i) Prepare the sample solution as follows: Empty the contents of 20 capsules into a tared weighing bottle. Weigh the powder and calculate the average capsule weight. Mix the powder and transfer in accurately weighed sample to a volumetric flask of such size that for each 50 milliliters of volume there are 40 milligrams of griseofulvin (estimated). Add chloroform to about one-fourth volume of the flask. Swirl the flask and apply gentle heat to aid in dissolution of the griseofulvin. Allow the mixture to cool and then dilute to volume with chloroform and mix. Allow to settle and transfer 2.0 milliliters of the supernate to a conical centrifuge tube and evaporate to dryness under a current of dry air. Add 1.0 milliliter of the internal standard solution to the centrifuge tube and mix vigorously to obtain a uniform solution; and,

(ii) Calculate the milligrams of griseofulvin per capsule as follows:

$$\text{Milligrams of griseofulvin per capsule} = \frac{(R_u)\,(W_s)\,(f)\,(W_a)\,(V_u)}{(R_s)\,(W_u)\,(1{,}000)\,(50)}.$$

where:

R_u = Area of the griseofulvin sample peak (at a retention time equal to that observed for the griseofulvin standard) / Area of the internal standard peak;

R_s = Area of the griseofulvin working standard peak / Area of the internal standard peak;

W_s = Weight of the griseofulvin working standard in milligrams;

f = Potency of the griseofulvin working standard in micrograms per milligram;

W_a = Average capsule fill weight in milligrams;

W_u = Weight of the capsule powder sample in milligrams;

V_u = Volume of the dissolved capsule powder sample in milliliters.

* * * * *

d. In § 449.120c, paragraphs (a)(1), (a)(3)(i)(*a*) and (*b*), and (b)(1) are revised to read as follows:

§ 449.120c Griseofulvin oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Griseofulvin oral suspension is griseofulvin oral suspension with one or more suitable flavorings, colorings, wetting agents, preservatives, and diluents in an aqueous vehicle. Each milliliter contains 25 milligrams of griseofulvin. Its griseofulvin content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of griseofulvin that it is represented to contain. Its pH is not less than 6.5 and not more than 7.5. The griseofulvin used conforms to the standards prescribed by § 449.20(a)(1).

* * * * *

(3) * * *

(i) * * *

(*a*) The griseofulvin used in making the batch for griseofulvin content, safety, loss on drying, melting point, specific rotation, identity, residue on ignition, heavy metals, specific surface area, and crystallinity.

(*b*) The batch for griseofulvin content and pH.

* * * * *

(b) *Tests and methods of assay*—(1) *Griseofulvin content (gas liquid chromatography).* Proceed as directed in § 436.321 of this chapter, except:

(i) Prepare the sample solution as follows: Transfer an accurately measured portion of the oral suspension equivalent to 100 milligrams of griseofulvin into a 50-milliliter round-bottomed glass-stoppered centrifuge tube. Add 5 milliliters of water and 20 milliliters of a solvent mixture of ethyl acetate and chloroform (85:15). Shake the tube for 1 minute and centrifuge it briefly to separate the layers. Transfer most of the upper layer to a 100-milliliter volumetric flask being careful not to remove any of the lower aqueous layer. Repeat the extraction step with two additional 20-milliliter portions of the solvent mixture combining the extracts in the volumetric flask with the first 20-milliliter extract. Dilute to volume with the solvent mixture and mix. Place 2.0 milliliters of this solution in a conical centrifuge tube and evaporate the contents to dryness on a steam bath under a current of dry air. Add 1.0 milliliter of the internal standard solution to the centrifuge tube and mix vigorously to obtain a uniform solution; and,

(ii) Calculate the milligrams of griseofulvin per milliliter as follows:

$$\text{Milligrams of griseofulvin per milliliter} = \frac{(R_u)\,(W_s)\,(f)\,(2)}{(R_s)\,(1{,}000)\,(V_o)},$$

where:

R_u = Area of the griseofulvin sample peak (at a retention time equal to that observed for the griseofulvin standard) / Area of the internal standard peak;

R_s = Area of the griseofulvin working standard peak / Area of the internal standard peak;

W_s = Weight of the griseofulvin working standard in milligrams;

f = Potency of the griseofulvin working standard in micrograms per milligram;

V_o = Volume of oral suspension taken in milliliters.

* * * * *

e. In § 449.120d, paragraphs (a)(1), (a)(3)(i) (*a*) and (*b*), and (b)(1) are revised to read as follows:

§ 449.120d Griseofulvin (ultramicrosize) tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality and purity.* Griseofulvin (ultramicrosize) tablets are composed of ultramicrosize crystals of griseofulvin dispersed in polyethylene glycol 6,000. Each tablet contains 125 milligrams of griseofulvin. The griseofulvin content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of griseofulvin that it is represented to contain. The loss on drying is not more than 5.0 percent. It passes the solubility characteristic test. The griseofulvin used conforms to the standards prescribed by § 449.20(a)(1).

* * * * *

(3) * * *

(i) * * *

(*a*) The griseofulvin used in making the batch for griseofulvin content, safety, loss on drying, melting point, specific rotation, identity, residue on ignition, heavy metals, specific surface area, and crystallinity.

(*b*) The batch for griseofulvin content, loss on drying, and solubility characteristic.

* * * * *

(b) *Tests and methods of assay*—(1) *Griseofulvin content (gas liquid chromatography).* Proceed as directed in § 436.321 of this chapter, except:

(i) Prepare the sample solution as follows: Accurately weigh 20 tablets and determine the average tablet weight. Grind the tablets to a fine powder in a mortar and transfer an accurately weighed sample to a volumetric flask of such size that for each 50 milliliters of volume there are 40 milligrams of griseofulvin (estimated). Add chloroform to about one-fourth volume of the flask. Swirl the flask and apply gentle heat to aid in dissolution of the griseofulvin. Allow the mixture to cool and then dilute to volume with chloroform. Mix

and allow to settle. Using gentle vacuum, remove and discard the waxy substance that forms on the top of the chloroform. Transfer 2.0 milliliters of the chloroform solution to a conical centrifuge tube and evaporate to dryness under a current of dry air. Add 1.0 milliliter of the internal standard solution to the centrifuge tube and mix vigorously to obtain a uniform solution; and,

(ii) Calculate the milligrams of griseofulvin per tablet as follows:

$$\text{Milligrams of griseofulvin per tablet} = \frac{(R_u)\,(W_s)\,(f)\,(W_a)\,(V_u)}{(R_s)\,(W_u)\,(1{,}000)\,(50)},$$

where:

R_u = Area of the griseofulvin sample peak (at a retention time equal to that observed for the griseofulvin standard) / Area of the internal standard peak;

R_s = Area of the griseofulvin working standard peak / Area of the internal standard peak;

W_s = Weight of the griseofulvin working standard in milligrams;

f = Potency of the griseofulvin working standard in micrograms per milligram;

W_a = Average tablet weight in milligrams;

W_u = Weight of the ground tablet powder sample in milligrams;

V_u = Volume of the dissolved ground tablet powder sample in milliliters.

* * * * *

Effective date: This amendment shall be effective May 7, 1979.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: March 15, 1979.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[Docket No. 77N-0069]

[FR Doc. 79-10311 Filed 4-5-79; 8:45 am]

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21 CFR Parts 430, 431, 436, 442, 460

Antibiotic Drugs; Cefamandole

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of a new antibiotic drug, cefamandole. The manufacturer has supplied sufficient data and information to establish the safety and efficacy of cefamandole.

DATES: Effective April 6, 1979; comments by May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Comestic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of a new antibiotic drug, cefamandole. The Commissioner concludes that the data supplied by the manufacturer on cefamandole are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in Parts 430, 431, 436, 442, and 460 (21 CFR Parts 430, 431, 436, 442, and 460) to provide for certification of cefamandole.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 430, 431, 436, 442, and 460 are amended to read as follows:

PART 430—ANTIBIOTIC DRUGS; GENERAL

1. Part 430 is amended in Subpart A as follows:

a. In § 430.5 by adding paragraphs (a)(65) and (b)(65) to read as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(65) *Cefamandole.* The term "cefamandole master standard" means a specific lot of cefamandole that is designated by the Commissioner as the standard of comparison in determining the potency of the cefamandole working standard.

(b) * * *

(65) *Cefamandole.* The term "cefamandole working standard" means a specific lot of a homogeneous preparation of cefamandole.

b. In § 430.6 by adding paragraph (b)(67) to read as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

* * * * *

(b) * * *

(67) *Cefamandole.* The term "microgram" applied to cefamandole means the cefamandole activity (potency) contained in 1.1364 micrograms of cefamandole master standard.

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

2. Part 431 is amended in § 431.53 by alphabetically inserting a new item in the fee schedule in paragraph (b)(1) to read as follows:

§ 431.53 Fees.

* * * * *

(b) * * *

(1) * * *

Test	Chargeable fee per test
* * * * *	
Polarographic assay	30
* * * * *	

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

3. Part 436 is amended as follows:

a. In § 436.33(b) by alphabetically inserting a new item in the table as follows:

§ 436.33 Safety test.

* * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in § 436.31)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in paragraph (c) of this section
* * *	*	*	*	*
Cefamandole nafate	3	40 mg	0.5	Intravenous
* * *	*	*	*	*

b. In §436.105(a) and (b) by alphabetically inserting a new item in the respective tables, as follows:

§ 436.105 Microbiological agar diffusion assay.

(a) * * *

Antibiotic	Media to be used (as listed by medium number in § 436.102(b)): Base layer	Media to be used: Seed layer	Milliliters of media to be used in the base and seed layers: Base layer	Milliliters of media: Seed layer	Test organism	Suggested volume of standardized inoculum to be added to each 100 milliliters of seed agar	Incubation temperature for the plates
						Milliliters	*Degrees C.*
* * *	*	*	*	*	*	*	
Cefamandole	2	1	21	5	A	0.06	37
* * *	*	*	*	*	*	*	

(b) * * *

Antibiotic	Drying conditions (method number as listed in § 436.200)	Initial solvent	Working standard stock solutions: Diluent (solution number as listed in § 436.101(a))	Working standard stock solutions: Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent	Standard response line concentrations: Final concentrations, units or micrograms of antibiotic activity per milliliter
*	*	*	*	*	*	*	
Cefamandole	Not dried		3	1 mg [a]	1 day		1 1.28, 1.60, 2.00, 2.50, 3.12 μg
*	*	*	*	*	*	*	

[a] The final concentration of the working standard stock solution is allowed to hydrolyze in a 37°C. constant temperature water bath for 60 minutes.

* * * * * * *

c. In Subpart F by adding new §§ 436.323 and 436.324 to read as follows:

§ 436.323 Continuous flow thin layer chromatography identity test for cefamandole nafate.

(a) *Equipment*—(1) *Chromatography tank.* Use a rectangular tank approximately 23 centimeters long, 23 centimeters high, and 9 centimeters wide equipped with a glass solvent trough in the bottom.

(2) *Plates.* Use a 20 x 20 centimeter thin-layer chromatography plate coated with silica gel G or equivalent to a thickness of 250 micrometers.

(3) *Cover.* A stainless steel cover with a slot measuring 21 x 0.6 centimeters, cut in the front edge.

(4) *Supporting platform.* A platform that can be placed in the bottom of the chromatography tank so that the solvent trough is elevated about 3.75 centimeters.

(b) *Reagents*—(1) *Developing solvent.* Mix *n*-butanol, glacial acetic acid, and water in volumetric proportions of 4:1:1, respectively.

(2) *Spray solution.* Mix starch iodide solution, glacial acetic acid, and 0.1 *N* iodine test solution, U.S.P. in volumetric proportions of 50:3:1. Prepare the starch iodide solution by mixing starch iodide paste test solution, U.S.P. and water in volumetric proportions of 1:1.

(c) *Preparation of spotting solutions.* Prepare solutions of the sample and working standard, each containing 1 milligram of cefamandole nafate per milliliter in distilled water.

(d) *Procedure.* Prepare a plate as follows: On a line 2 centimeters from the base of the silica gel plate, and at intervals of 1 centimeter, spot 5 microliters each of the standard solution and the sample solution. In addition, prepare one spot composed of 5 microliters of the sample solution and 5 microliters of the standard solution. Place the supporting platform in the bottom of the tank and place the solvent trough on it, near the front of the tank. Place a piece of Whatman #3 MM filter paper or equivalent, measuring 20 x 3 centimeters and folded in half, lengthwise, over the front edge of the tank to form a cushion and drying wick for the plate. Place the plate in the solvent trough with the coated side toward the front of the tank and leaning against the filter paper at the top. Pour the developing solvent into the trough and bottom of the tank. Cover the tank. The plate should extend approximately 1 centimeter beyond the top of the tank and through the slot in the cover. Seal all the openings in the tank with masking tape, except where the plate leans against the filter paper. Remove the plate from the tank after 4 hours. Allow the plate to air dry and then heat it in an oven for 15 minutes at 110° C. Remove the plate from the oven and immediately spray it with the spray solution. The compound appears as a white spot on a purple background.

(e) *Evaluation.* The sample and standard should have traveled the same distance from the origin, and the combined standard and sample should appear as a single spot that has traveled the same distance as the sample and standard individually.

§ 436.324 Polarographic analysis of cefamandole.

(a) *Equipment*—(1) *Polarograph.* Use a polarograph equipped with a dropping mercury indicating electrode, a platinum auxilliary electrode, and a saturated calomel reference electrode, such as Princeton Applied Research Model 174 [1] or equivalent.

(2) *X–Y plotter.* Use a suitable X–Y plotter, such as Houston Omnigraphic Model 2200–3–3 [2] or equivalent.

(3) *Nitrogen.* Use a nitrogen tank equipped with a pressure-reducing regulator and a filter to remove traces of oxygen, such as an oxisorb filter [1] or equivalent.

(b) *Reagent.* pH 2.3 Buffer: Dissolve

[1] Available from Princeton Applied Research Corporation, P.O. Box 2565, Princeton, NJ 08540.

[2] Available from Houston Instrument, 8500 Cameron Road, Austin, TX 78753.

3.6 grams of dibasic sodium phosphate, 39.4 grams of citric acid, and 70.8 grams of potassium chloride in sufficient distilled water to make 1 liter.

(c) *Operating conditions*—(1) Operating mode: Differential pulse.

(2) Scan range: −0.3 volt to −1.05 volts.

(3) Scan rate: −2 millivolts per second.

(4) Sensitivity: 10 to 20 microamperes or equivalent to keep peak on scale.

(5) Mercury drop time: 1 second per drop.

(6) Modulation amplitude: 25 millivolts.

(7) Display direction: +

(8) Damping: None.

(d) *Preparation of sample and working standard solutions.* Accurately weigh approximately 12 milligrams of sample or working standard into a 50-milliliter volumetric flask. Dissolve the sample or working standard in 4 milliliters of distilled water. Immediately prior to polarography, add 30 milliliters of pH 2.3 buffer, dilute to volume with distilled water, and mix.

(e) *Procedure.* Transfer a portion of the sample or working standard solution to the polarographic cell. Pass a stream of nitrogen through the solution for 5 minutes to remove the dissolved oxygen. After 5 minutes, disperse the nitrogen above the sample. Start the mercury dropping from the mercury dropping electrode, and, using the operating conditions described in paragraph (c) of this section, record the polarogram. Compare the polarogram of the sample to that of the working standard.

(f) *Calculations.* Calculate the potency of cefamandole as follows:

$$\text{Micrograms of cefamandole per milligram} = \frac{A \times \text{Milligrams of working standard} \times \text{Potency of working standard in micrograms per milligram}}{B \times \text{Milligrams of sample}}$$

where:

A = The peak height of the sample;

B = The peak height of the working standard.

The peak height is obtained from the polarogram by measuring the vertical distance from the peak to the baseline of the sample or working standard.

PART 442—CEPHA ANTIBIOTIC DRUGS

4. Part 442 is amended:

a. In Subpart A by adding new § 442.8 to read as follows:

§ 442.8 Cefamandole nafate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefamandole nafate is the sodium salt of 7-*D*-mandelamido-3-[[(1-methyl-1H-tetrazol-5-yl)thio]methyl]-8-oxo-5-thia-1-azabicyclo [4.2.0]-oct-2-ene-2-carboxylate formate (ester). It is so purified and dried that:

(i) Its cefamandole content is not less than 810 micrograms and not more than 1,000 micrograms of cefamandole per milligram on an anhydrous basis.

(ii) Its microbiological activity is not less than 810 micrograms and not more than 1,000 micrograms of cefamandole per milligram on an anhydrous basis.

(iii) Its moisture content is not more than 2.0 percent.

(iv) Its pH in an aqueous solution containing 100 milligrams per milliliter is not less than 3.5 and not more than 7.0.

(v) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for cefamandole content, microbiological activity, moisture, pH, and identity.

(ii) Samples required: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Cefamandole content.* Use either of the following methods; however, the results obtained from the polarographic assay shall be conclusive.

(i) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii) of this chapter, except use the cefamandole working standard.

(ii) *Polarographic assay.* Proceed as directed in § 436.324 of this chapter.

(2) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain a concentration of 1 milligram of cefamandole per milliliter (estimated). Hydrolyze this solution in a 37° C constant temperature water bath for 60 minutes. Further dilute a portion of the hydrolyzed solution with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to the reference concentration of 2.0 micrograms of cefamandole per milliliter (estimated).

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter.

(5) *Identity.* Proceed as directed in § 436.323 of this chapter.

b. In Subpart C by adding new § 442.208 to read as follows:

§ 442.208 Cefamandole nafate for injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefamandole nafate for injection is a dry mixture of cefamandole nafate and one or more suitable and harmless buffering agents. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cefamandole that it is represented to contain. It is sterile. Its is nonpyrogenic. It passes the safety test. Its moisture content is not more than 3.0 percent. Its pH is not less than 6.0 and not more than 8.0. The cefamandole nafate used conforms to the standards prescribed by § 442.8(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The cefamandole nafate used in making the batch for cefamandole content, microbiological activity, moisture, pH, and identity.

(*b*) The batch for cefamandole content, sterility, pyrogens, safety, moisture, and pH.

(ii) Samples required:

(*a*) The cefamandole nafate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Cefamandole content.* Proceed as directed in § 436.324 of this chapter, preparing the sample solution and calculating the cefamandole content as follows:

(i) *Sample solution.* Reconstitute the sample as directed in the labeling. If it is represented as a single dose container,

remove all of the withdrawable contents with a suitable hypodermic needle or syringe. If the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Further dilute an aliquot of this solution with distilled water to obtain a concentration of 2.0 milligrams of cefamandole per milliliter (estimated). Transfer 5 milliliters of this solution to a 50-milliliter volumetric flask, add 30 milliliters of pH 2.3 buffer, dilute to volume with distilled water, and mix.

(ii) *Calculations.* Calculate the cefamandole content as follows:

$$\text{Milligrams of cefamandole} = \frac{A \times \text{Milligrams of working standard} \times \text{Potency of working standard in micrograms per milligram} \times f}{B \times 50 \times 1{,}000}$$

Where: f = The dilution factor of the sample;

A = The peak height of the sample;

B = The peak height of the working standard.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(b) of this chapter, using a solution containing 50 milligrams of cefamandole per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(6) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 100 milligrams per milliliter, except determine the pH 30 minutes after preparation of the sample solution.

PART 460—ANTIBIOTIC DRUGS INTENDED FOR USE IN LABORATORY DIAGNOSIS OF DISEASE

5. Part 460 is amended in §§ 460.1 and 460.6 as follows:

a. In § 460.1, the lists in paragraphs (a) and (c)(1)(ii) and the tables under E and F of paragraph (c)(2) are amended by alphabetically inserting a new item as follows:

§ 460.1 Certification procedures for antibiotic susceptibility discs.

(a) * * *

Cefamandole: 30 mcg.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

Name of disc	Content of antibiotic in micrograms or units per disc
* * * * *	
Cefamandole disc	30 mcg. cefamandole
* * * * *	

(2) * * *

E. Interpretation of Zone Sizes

Antibiotic	Disc content	Diameter (millimeters) of zone of inhibition		
		Resistant	Intermediate	Susceptible
* * *	*	*	*	*
Cefamandole [11]	30 mcg	14 or less	15–17	18 or more.
* * *	*	*	*	*

[11] The cefamandole disc should not be used for testing susceptibility of other cephalosporins.

F. Reference Organisms

Antibiotic	Disc content	Individual tests		
		Zone diameters in millimeters		Permitted millimeter difference ATCC 25923–ATCC 25922
		With *S. aureus* ATCC 25923[1]	*E. coli* ATCC 25922[1]	
* * *	*	*	*	*
Cefamandole	30 mcg	28–34	24–31	—1 —6.8
* * *	*	*	*	*

[1] Available from: American Type Culture Collection, 12301 Parklawn Dr., Rockville, MD 20852.

b. Section 460.6 is amended in paragraphs (c)(3) and (d) by alphabetically inserting a new item in the tables to read as follows:

§ 460.6 Tests and methods of assay for potency of antibiotic susceptibility discs.

* * * * *

(c) * * *

(3) * * *

Antibiotic	Volume of suspension added to each 100 ml. of seed agar used for test	Suspension number	Medium	
			Base layer	Seed layer
*	*	*	*	*
Cefamandole (lithium)	1.0	10	E	A
*	*	*	*	*

(d) * * *

Antibiotic	Solvent	Standard curve (Antibiotic concentration per disc)
*	*	*
Cefamandole (lithium)	50 percent methyl alcohol	15, 30, and 60 ug.
*	*	*

Because the conditions prerequisite to providing for certification of this drug have been complied with and because the matter is noncontroversial, the Commissioner finds that notice and public procedure and delayed effective date are unnecessary, and that the amendment may become effective upon the day of publication. However, interested persons may, on or before May 7, 1979, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This regulation shall be effective April 6, 1979.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: March 15, 1979.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[Docket No. 78N-0396]

[FR Doc. 79-10312 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 446

Doxycycline Hyclate Capsules; Certification

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of a new dosage size of doxycycline hyclate capsules. The manufacturer has supplied sufficient data and information to establish the safety and efficacy of doxycycline hyclate capsules.

DATES: Effective April 6, 1979; comments by May 7, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION. The Commissioner of Food and Drugs has evaluated data submitted under provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) with respect to a new dosage size (300 milligrams) of doxycycline hyclate capsules. The Commissioner concludes that the manufacturer's data on that antibiotic drug product adequately establish its safety and efficacy for use as directed in the labeling and finds that the regulations should be amended in Part 446 (21 CFR Part 446) to provide for its certification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 446 is amended in § 446.120a by revising the second sentence of paragraph (a)(1) to read as follows:

§ 446.120a Doxycycline hyclate capsules.

(a) * * *

(1) * * * Each capsule contains doxycycline hyclate equivalent to either 50, 100, or 300 milligrams of doxycycline. * * *

* * * * *

Because the matter is noncontroversial and meets the prerequisites for certification of this drug, the Commissioner finds for good cause that prior notice and public procedure are unnecessary and that the amendment may become effective upon the date of its publication. Interested persons may, on or before May 7, 1979, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, four copies of written comments identified with the docket number found

in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9. a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This regulation is effective April 6, 1979.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: March 15, 1979.

Mary A. McEniry,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[Docket No. 78N-0415]

[FR Doc. 79-10309 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 460

Antibiotic Elution Discs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule provides for the certification of certain in vitro diagnostic devices, known as elution type antibiotic susceptibility discs, containing antimicrobials. The manufacturer has supplied sufficient data and information to establish the safety and effectiveness of these devices when used as directed in the labeling.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Bureau of Medical Devices (HFK-403), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7443.

SUPPLEMENTARY INFORMATION: An antibiotic elution disc is a small circular paper disc containing an antimicrobial agent. Such discs are used in clinical laboratories for determining susceptibility of microorganisms to antimicrobial drugs. A disc is placed in a solution of a microbiological growth medium to permit the separation of the antimicrobial agent from the disc into the liquid medium. This results in a bacterial growth medium containing a known amount of an antimicrobial agent.

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of the antibiotic elution discs. The Commissioner concludes that the data supplied by the manufacturer concerning these products are adequate to establish their safety and effectiveness when used as directed in the labeling and that the regulations should be amended in Part 460 (21 CFR Part 460) to provide for their certification.

Therefore, under the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 460 is amended by adding new § 460.11(a) to read as follows:

§ 460.11 Certification procedures for antibiotic elution susceptibility discs.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Antibiotic elution susceptibility discs are round flat discs that have a diameter of 6.35 millimeters (¼ inch) and are made of absorbent paper containing antibiotic compounds. The identity of each disc is signified by means of an identifying sign. The absorbent paper and dye or ink used must not affect either bacterial growth or the antibiotic. Each disc shall have a potency that is equivalent to that contained in a standard disc prepared with the following quantities of antibiotic drugs:

Ampicillin: 0.22 mcg.
Ampicillin: 4.5 mcg.
Bacitracin: 18.0 units.
Carbenicillin: 120.0 mcg.
Cephalothin: 15.0 mcg.
Chloramphenicol: 4.0 mcg.
Clindamycin: 2.0 mcg.
Colistin: 13.0 mcg.
Doxycycline: 0.5 mcg.
Doxycycline: 1.6 mcg.
Erythromycin: 2.5 mcg.
Gentamicin: 9.0 mcg.
Kanamycin: 22.0 mcg.
Methicillin: 5.0 mcg.
Neomycin: 24.0 mcg.
Novobiocin: 2.5 mcg.
Oleandomycin: 6.0 mcg.
Penicillin: 0.2 unit.
Streptomycin: 20.0 mcg.
Tetracycline: 0.5 mcg.
Tetracycline: 1.2 mcg.
Tobramycin: 10.0 mcg.
Vancomycin: 10.0 mcg.

The standard discs used to determine the potency shall be made of paper as described in § 460.6(d). Each antibiotic compound used to impregnate such standard discs shall be equilibrated in terms of the working standard designated by the Commissioner for use in determining the potency or purity of such antibiotic.

(2) *Packaging.* The immediate container shall be a tight container as defined by the U.S.P. and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused that are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. Each immediate container may contain a desiccant, and each may be packaged in combination with containers of suitable discs of drugs other than those described in paragraph (a) (1) of this section. Such other discs shall be suitable only if the manufacturer and packer have submitted to the Commissioner information of the kind described in § 431.17 of this chapter, and such information has been accepted by the Commissioner.

(3) *Labeling.* Each package of discs shall bear on its label or labeling, as hereinafter indicated, the following:

(i) On the outside wrapper or container and the immediate container:

(*a*) The batch mark.

(*b*) The name and potency of each disc in the batch according to the following:

Name of disc and content of antibiotic in micrograms or units per disc

Ampicillin elution disc, 0.22 mcg.
Ampicillin elution disc, 4.5 mcg.
Bacitracin elution disc, 18.0 units.
Carbenicillin elution disc, 120.0 mcg.
Cephalothin elution disc, 15.0 mcg.
Chloramphenicol elution disc, 4.0 mcg.
Clindamycin elution disc, 2.0 mcg.
Colistin elution disc, 13.0 mcg.
Doxycycline elution disc, 0.5 mcg.
Doxycycline elution disc, 1.6 mcg.
Erythromycin elution disc, 2.5 mcg.
Gentamicin elution disc, 9.0 mcg.
Kanamycin elution disc, 22.0 mcg.
Neomycin elution disc, 24.0 mcg.
Novobiocin elution disc, 2.5 mcg.
Oleandomycin elution disc, 6.0 mcg.
Penicillin elution disc, 0.2 unit.
Methicillin elution disc, 5.0 mcg.
Streptomycin elution disc, 20.0 mcg.
Tetracycline elution disc, 0.5 mcg.
Tetracycline elution disc, 1.2 mcg.
Tobramycin elution disc, 10.0 mcg.
Vancomycin elution disc, 10.0 mcg.

(*c*) The statement "Expiration date ————", the blank being filled in with the date that is 6 months after the month during which the batch was certified, except that the blank may be filled in with a date that is 12, 18, 24, 30, 36, 42, 48, 54, or 60 months after the month during which the batch was certified if the person who requests certification has submitted to the Commissioner results of tests and assays showing that such drugs as prepared by that person are stable for such longer period of time. If it is a packaged combination of discs of two or

more drugs, its outside wrapper shall bear only one expiration date, and that date shall be the date that is required for the shortest dated discs contained in the package.

(*d*) The statement "FOR IN VITRO DIAGNOSTIC USE".

(ii) On the circular or other labeling within or attached to the package, adequate directions for the use of such discs.

(4) *Request for certification; samples.* (i) In addition to complying with the requirements of § 431.1 of this chapter, a person who requests certification of a batch of antibiotic elution susceptibility discs shall submit with the request a statement showing the batch mark, the number of packages of each size in such batch, and the date on which the latest assay of the antibiotic used in making such batch was completed, the potency of each disc batch, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug constituting such batch was completed, and a statement that each ingredient used in making the batch conforms to the requirements prescribed therefor by this section.

(ii) In connection with the request, such person shall submit results of the tests and assays made by him or her on an accurately representative sample of the batch for potency.

(iii) In connection with the request, such person shall submit an accurately representative sample of the batch, consisting of one disc for each 5,000 discs in the batch, but in no case collecting less than 100 discs. Single discs will be taken at regular intervals throughout the entire time of packaging the batch.

(b) *Tests and methods of assay for potency of antibiotic elution susceptibility discs*—(1) *Preparation for assay.* Use culture media as directed in § 460.6(a).

(2) *Test organisms*—(i) *Culture of test organism suspensions.* For each test organism listed in the following table, select the appropriate medium (as listed in § 460.6(a)), incubation period of the Roux bottle, and suggested storage period under refrigeration for the particular test organism.

Test organism	Medium used for			
	Method used	Slants	Roux bottles	Storage [2]
Suspension 1—*Staphylococcus aureus* (ATCC 29737) [1]	1	A	A	2 weeks.
Suspension 2—*Staphylococcus aureus* (ATCC 13150) [1]	1	A	A	1 week.
Suspension 3—*Pseudomonas aeruginosa* (ATCC 25619) [1]	6	J	J	1 week.
Suspension 4—*Klebsiella pneumoniae* (ATCC 10031) [1]	1	A	A	2 weeks.
Suspension 5—*Micrococcus luteus* (ATCC 9341) [1]	2	A	A	2 weeks.
Suspension 6—*Bordetella bronchiseptica* (ATCC 4617) [1]	1	A	A	2 weeks.
Suspension 7—*Streptococcus faecalis* (ATCC 14506) [1]	3	E	—	3 days.
Suspension 8—*Staphylococcus epidermidis* (ATCC 12228) [1]	4	A	—	3 days.
Suspension 9—*Bacillus subtilis* (ATCC 6633) [1]	5	A	B	1 year.

[1] Available from: American Type Culture Collection, 12301 Parklawn Dr., Rockville, MD 20852.
[2] Storage period under refrigeration.

(ii) *Methods of preparation of test organism suspensions*—*(a) Method 1.* Maintain organisms on agar slants containing 10 milliliters of the appropriate medium. Transfer organisms to fresh slants using an inoculating loop. Streak the fresh slants thoroughly. Incubate the slants for 24 hours at 37° C. Remove resulting growth from the agar slant with sterile glass beads. Transfer the cells onto a large agar surface, such as a Roux bottle, containing 250 milliliters of the appropriate medium. Spread the cells over the entire surface of the Roux bottle. Incubate the Roux bottle for 24 hours at 37° C. Wash the resulting growth from the agar surface with 50 milliliters of sterile U.S.P. saline test solution.

(b) Method 2. Proceed as directed in paragraph (b)(2)(ii)(*a*) of this section, except wash the growth from the surface of the Roux bottle with 20 milliliters sterile U.S.P. saline test solution.

(c) Method 3. Using an inoculation loop, transfer a portion of the growth on the slant to a culture tube containing 10 milliliters of sterile medium of the following composition:

Calf brains, infusion from, 200.0 gm.
Beef heart, infusion from, 250.0 gm.
Proteose peptone, 10.0 gm.
Dextrose, 2.0 gm.
Sodium cloride, 5.0 gm.
Sodium phosphate dibasic, 2.5 gm.
Distilled water, q.s. pH 7.4 after sterilization, 1,000.0 ml.
Incubate for 24 hours at 37° C.

(d) Method 4. Proceed as directed in paragraph (b)(2)(ii)(*c*) of this section, except transfer growth from the slant to a culture tube containing 50 milliliters of Medium D.

(e) Method 5. Proceed as directed in paragraph (b)(2)(ii)(*a*) of this section. Incubate the Roux bottle for 7 days at 37° C. Centrifuge the suspension at 3,500 RPM for 30 minutes. Decant the supernatant liquid. Resuspend the sediment in 50 milliliters sterile U.S.P. saline test solution. Heat-shock the suspension by placing in a 70° C. water bath for 30 minutes.

(f) Method 6. Proceed as directed in paragraph (b)(2)(ii)(*b*) of this section, except use 20 milliliters of Medium K.

(3)(i) *Preparation of plates.* Use volumes of appropriate media and plates as directed in § 460.6(c)(1) and (2).

(ii) *Inoculum and media to be used.* Depending on the particular antibiotic in the disc to be tested, select from the following table the inoculum and media to be used:

Antibiotic	Medium		Suspension No.	Volume [2]	Incub. temp.
	Base layer	Seed layer			
				ml	*°C*
Ampicillin (.22 mcg)	E	A	1	1.5	32-35
Ampicillin (4.5 mcg)	A	L	2	[1] 1.0	32-35
B acitracin	A	L	2	[1] 1.0	32-35
Carbenicillin	A	L	3	5.0	37
Cephalothin	A	L	4	1.0	37
Chloramphenicol	A	L	5	1.0	32-35
Clindamycin	C	L	1	2.0	32-35
Colistin	G	L	6	0.3	37
Doxycycline	E	A	5	0.1	32-35
Erythromycin	C	L	7	0.2	37
Gentamicin	C	L	2	0.1	32-35
Kanamycin	A	L	1	[1] 1.0	32-35

Antibiotic	Medium				
	Base layer	Seed layer	Suspension No.	Volume[3]	Incub. temp.
Methicillin	A	L	2	0.1	32–35
Neomycin	C	L	8	6.0	32–35
Novobiocin	C	L	9	[2]0.2	37
Oleandomycin	A	L	2	[2]1.0	32–35
Penicillin	E	A	1	1.5	32–35
Streptomycin	C	L	1	0.1	32–35
Tetracycline	E	A	5	0.1	32–35
Tobramycin	C	C	2	0.1	32–35
Vancomycin	C	L	3	2.0	32–35

[1] Prepare a 1:100 dilution of the bulk suspension in sterile U.S.P. saline test solution. Use the indicated quantity of the diluted suspension to inoculate the seed medium.

[2] Prepare a 1:10 dilution of the bulk suspension in sterile U.S.P. saline test solution. Use the indicated quantity of the diluted suspension to inoculate the seed medium.

[3] Suggested volume of suspension to be added to each 100 ml of seed agar.

(4) *Preparation of standard discs.* Depending on the concentration of antibiotic contained in the disc to be tested, prepare a stock solution for the standard disc by dissolving an accurately weighed quantity of the working standard in the solvent indicated to obtain an appropriate stock solution. Make further dilutions as required in the solvent indicated to obtain the following concentrations required on the standard discs:

Antibiotic	Solvent	Standard disc concentrations
Ampicillin (0.22 mcg.)	Water	0.1, 0.2, 0.4 mcg.
Ampicillin (4.5 mcg.)	do	1, 5, 15, mcg.
Bacitracin	do	5, 15, 30 units.
Carbenicillin	Methanol	24, 80, 240 mcg.
Cephalothin	50-percent	7.5, 20, 60 mcg.
Chloramphenicol	do	2, 4, 8 mcg.
Clindamycin	do	1, 2, 4 mcg.
Colistin	Water	5, 12.5, 25 mcg.
Doxycycline	Methanol	0.25, 1, 3 mcg.
Erythromycin	do	1.25, 5, 22.5 mcg.
Gentamicin	Water	5, 10, 20 mcg.
Kanamycin	do	3, 15, 45 mcg.
Methicillin	do	2,5, 5, 10 mcg.
Neomycin	do	3, 15, 45 mcg.
Novobiocin	Methanol	1.25, 2.5, 5 mcg.
Oleandomycin	Water[1]	1.25, 5, 22.5 mcg.
Penicillin	do	0.1, 0.2, 0.4 unit.
Streptomycin	do	6.25, 25, 100 mcg.
Tetracycline	Methanol	0.25, 1, 3 mcg.
Tobramycin	Water	5, 10, 20 mcg.
Vancomycin	Water	3, 15, 45 mcg.

[1] If the chloroform adduct of oleandomycin is used as the standard, dissolve the weighing in absolute ethanol to a stock concentration of 10,000 micrograms per milliliter. Dilute this solution in water to achieve the working concentrations.

Use round, blank discs that conform to § 460.6(d). Place blank discs on aluminum or stanless steel wire mesh that is supported to allow circulation of air above and below the discs. Prepare the desired number of discs for each standard disc concentration by accurately adding 0.02-milliliter aliquots of the appropriate concentration of standard solution to each disc. Dry the discs in circulating air. Store standard discs under refrigeration in the presence of desiccant for a period not to exceed 2 weeks. Determine the stability of stored standard discs by assaying them at daily and weekly interveral using freshly prepared standard disc for comparison.

(5) *Assay*—(i) *Individual discs.* On each of three plates prepared as directed in paragraph (b)(3) of this section, place standard disc and two or more discs from each batch to be tested. The standard disc and the samples disc are place on the plates in a circular pattern with random arrangement, with no disc being coser than 24 millimeters (on centers) to any other disc. Discs are placed on the plates within as short a period of time as possible (not to exceed 3 minutes per plate) and tapped gently to ensure an even seal. After incubation as directed in paragraph (b)(3) of this section, measure the diameter of each circle of inhibition as accurately as possible. (In most cases, it is possible to estimate diameters to the nearest 0.1 millimeter).

(ii) *Estimation of potency.* Determine the logarithm of each dose of standard (x values) and the mean zone diameter for each dose of standard (y values). Using the three values of x and the three corresponding values of y, calculate Σx, Σx^2, $(\Sigma x)^2$, Σy, and Σxy. Calculate the regression coefficient (slope, b) and the Y-intercept (a) of the standard response line by using the following equations:

$$b = \frac{n\sum xy - (\sum x)(\sum y)}{n\sum x^2 - (\sum x)^2},$$

$$a = \frac{\sum y - b\sum x}{n},$$

where n = the number of standard doses.

Determine the zone diameter (Y) for each sample disc being tested. Using the regression equation

$$X = \text{antilog}\ \frac{\overline{Y} - a}{b},$$

calculate the concentration (X) for the mean response ($\overline{Y}$) of the sample discs.

(6) *Potency.* The potency of the batch is satisfactory if the mean result obtained for the batch is not less than 85 percent and not more than 150 percent of that represented.

Because the conditions prerequisite to providing for certification of these drugs have been complied with and because the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure are unnecessary, and that the amendment may become effective upon the day of publication. Interested persons may, on or before May 7, 1979, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments, in four copies identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date. This regulation is effective April 6, 1979.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: March 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 78N–0424]

[FR Doc. 79–10302 Filed 4–5–79; 8:45 am]

BILLING CODE 4110–03–M

21 CFR PART 510

New Animal Drugs; Hess & Clark, Division of Rhone-Poulenc, Inc.; Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect the change of sponsor name for the sponsor of several new animal drug applications (NADA's) from Hess & Clark, Division of Rhodia, Inc., to Hess & Clark, Division of Rhone-Poulenc, Inc. Supplemental NADA's have been filed to provide for this change.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Hess & Clark, Division of Rhone-Poulenc, Inc., filed supplemental NADA's providing for the change of sponsor name for several NADA's. This change of sponsor name does not involve changes in facilities, equipment, procedures, or production personnel. The approvals do not involve reevaluation of the parent NADA's, nor do they constitute reaffirmation of the drug's safety or effectiveness.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600 in paragraph (c)(1) by deleting in the entry for Hess & Clark the phrase "Division of Rhodia, Inc.," and inserting in its place the phrase "Division of Rhone-Poulenc, Inc.," and in paragraph (c)(2) for the entry No. "011801" by deleting the phrase "Division of Rhodia, Inc.," and inserting in its place the phrase "Division of Rhone-Poulenc, Inc."

Effective date. This regulation is effective April 6, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 21, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-10307 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 522

New Animal Drugs; Erythromycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a new animal drug application (NADA) filed by Abbott Laboratories providing for the use of erythromycin injection for treating dogs and cats for bacterial pneumonias, upper respiratory infections, bacterial wound infections, endometritis, and metritis in dogs, and secondary infections caused by sensitive organisms and associated with panleukopenia in cats.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Robert A Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Abbott Laboratories, North Chicago, IL 60064 filed an NADA (101-690V) providing for use of erythromycin injection for treating dogs for bacterial pneumonia, upper respiratory infections, endometritis, and metritis, and bacterial wound infections caused by sensitive staphylococcal, streptococcal, and corynebacterial organisms, and for treating cats for bacterial pneumonia, upper respiratory infections, secondary infections associated with panleukopenia, and bacterial wound infections caused by sensitive staphylococcal and streptococcal organisms.

Certain injectable products containing erythromycin were the subject of a National Academy of Sciences-National Research Council Drug Efficacy Study Group (NAS/NRC) report, published in the **Federal Register** of August 18, 1970 (35 FR 13158), which evaluated several products containing 50 and 100 milligrams of erythromycin per milliliter of injectable solution and found these products to be probably effective in treating certain diseases in cattle, sheep, swine, horses, dogs, cats, chickens, and turkeys, where such diseases are caused by microorganisms sensitive to erythromycin.

The NAS/NRC report stated that each disease claim should be either properly qualified as to causitive organism or dropped and that claims regarding "prevention of" disease should be replaced with the phrase "aid in control of" disease. In addition, the report stressed the need to: (1) Document and express dosages (as milligrams per pound of body weight) in large animals and frequency of administration in all species; (2) delete the resistance statement and statements claiming the drug to be more effective than other antimicrobial agents; (3) revise the labeling concerning withdrawal times, cautions, and misleading association of sensitivity in certain diseases; (4) delete the recommended use as an aid in curtailing weight loss due to handling and transporting cattle; and (5) add recommendations for administering with sterile equipment. The report also found that directions for lay use are inadequate. This evaluation concerned only the drug's effectiveness and safety to the animal to which it is administered. It did not take into account safety for food use of treated animals. The agency concurred with the NAS/NRC findings.

The NAS/NRC reviewed application (NADA 12-123V), sponsored by Abbott Laboratories, was originally approved March 22, 1960 for use in poultry. Several supplements were approved; one on July 18, 1960 provided for use in cattle, sheep, swine, horses, dogs, and cats. After the NAS/NRC review the application was further amended to reflect the product's compliance with the conclusions of that review.

Abbott Laboratories submitted this more recent application (NADA 101-690V) providing for use of products equivalent to the products subject to the NAS/NRC review. The newer application concerns use of 100 milligrams of erythromycin per milliliter of polyethylene glycol vehicle with 2 percent butyl aminobenzoate for treating dogs and cats for certain infections caused by erythromycin sensitive organisms.

This document amends the regulations to provide for the use of this drug. Approval of identical products need not include certain types of efficacy data as required by § 514.111(a)(5)(vi) (21 U.S.C. 514.111(a)(5)(vi)). In lieu of that data, approval may require bioequivalency or similar data as noted in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available from the Hearing Clerk (HFA-305), Food and Drug Administration.

In accordance with the freedom of information regulations and § 514.111(e)(2)(ii) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 522 is amended by adding new § 522.820 to read as follows:

§ 522.820 Erythromycin injection.

(a) *Specifications.* Each milliliter of polyethylene glycol vehicle contains 100 milligrams of erythromycin base with 2 percent butyl aminobenzoate.

(b) *Sponsor.* See 043731 in § 510.600(c) of this chapter.

(c) *NAS/NRC status.* The conditions specified in paragraph (d) of this section have been reviewed by NAS/NRC and are deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

(d) *Conditions of use in dogs and cats*—(1) *Amount.* 3 to 5 milligrams per pound of body weight, intramuscularly, two to three times daily, for up to 5 days.

(2) *Indications for use*—(i) *Dogs.* For the treatment of bacterial pneumonia, upper respiratory infections (tonsillitis, bronchitis, tracheitis, pharyngitis, pleurisy), endometritis and metritis, and bacterial wound infections caused by *Staphylococcus spp., Streptococcus spp.,* and *Corynebacterium spp.,* sensitive to erythromycin.

(ii) *Cats.* For the treatment of bacterial pneumonia, upper respiratory infections (rhinitis, bronchitis), secondary infections associated with panleukopenia, and bacterial wound infections caused by *Staphylococcus spp.* and *Streptococcus spp.*, susceptible to erythromycin.

(3) *Limitations.* Administer by deep intramuscular injection into the heavy muscles of the neck and limbs. Do not administer intravenously or intraperitoneally. Avoid subcutaneous use. Do not administer from moist or wet syringe. As with all antibiotics, appropriate in vitro culturing and susceptibility testing of samples taken before treatment should be conducted. Do not administer in conjunction with penicillin. As with all antibiotics, excessive continuous use may result in an overgrowth of nonsusceptible organisms. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation shall be effective April 6, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 9, 1979.

Terence Harvey,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-10313 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 540

Procaine Penicillin G Aqueous Suspension (Injectable); NAS/NRC Approval and Update of Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) providing revised labeling for use of injectable procaine penicillin G aqueous suspension for treating certain infections of cattle, sheep, swine, and horses. The application was filed by E. R. Squibb & Sons, Inc., in compliance with the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group evaluation of the product. This document also amends the regulations by specifying NAS/NRC approved conditions of use in the regulation, reflecting a supplement (use of suspension in dogs and cats) approved after compliance with the same NAS/NRC evaluation.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD. 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: Squibb's product was one of several mentioned in the NAS/NRC evaluation published in the **Federal Register** of August 25, 1970 (35 FR 13544). In that document, NAS/NRC concluded, and the Food and Drug Administration (FDA) agreed, that these products are probably effective for intramuscular use in treating infections in animals caused by pathogens sensitive to procaine penicillin. The document enumerated several recommendations (re. dosage, indications, precautions, warnings, etc.) intended to correct labeling deficiencies and bring the products into compliance with the evaluation's findings.

E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540, submitted a supplemental NADA (65-174V) in response to the NAS/NRC evaluation. The supplement and its ensuing amendments responded to the NAS/NRC recommendations essentially as did the supplement submitted by Pfizer, Inc., for its version of the drug. Pfizer's supplement published July 28, 1978 (43 FR 32748), amending 21 CFR 540.274b to codify dosage and indications identical to those approved in this document for Squibb's drug. Squibb submitted a clinical report entitled "A Study of Penicillin—Dihydrostreptomycin, Penicillin, and Dihydrostreptomycin for Treating Shipping-Fever in Calves" (conducted for Animal Health Institute and Squibb & Sons, Inc., by Howard Veterinary Consultation and Research); literature reprints and references supportive of labeling claims; tissue residue studies to support reduced withdrawal periods; validated tissue residue methodology; and revised labeling. These submissions have provided substantial evidence of efficacy and justify upgrading Squibb's drug from "probably effective" to "effective" NAS/NRC status. This action does not constitute reaffirmation of the safety of residues resulting from use of this drug.

Submission of applications for identical products having the same conditions of use that are identified by a footnote in the regulation need not include efficacy data as specified by 21 CFR 514.1(b)(8)(ii) or 21 CFR 514.111(a)(5)(vi). In lieu of such data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC-reviewed generic drugs, available from the Hearing Clerk (HFA-305), Food and Drug Administration (address below).

Approval of another Squibb supplement to NADA 65-174V published in the **Federal Register** of November 20, 1973 (38 FR 31967). The supplement provided labeling revised in accordance with NAS/NRC recommendations for use of procaine penicillin G aqueous suspension in treating dogs and cats. The labeling also contained the prescription legend that FDA requires when the drug is used in small animals. The regulation in the supplement-approving document failed to indicate—by footnote reference—those conditions of use having NAS/NRC generic approval. This document editorially amends that regulation to conform it to current format and also adds the footnote references.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended in § 540.274b by revising paragraph (c)(2) to read as follows:

§ 540.274b Procaine penicillin G aqueous suspension.

* * * * *

(c) * * *

(2)(i) *Specifications.* The drug conforms to the requirements prescribed by § 540.274a. Each milliliter contains 300,000 units of penicillin activity.

(ii) *Sponsor.* See No. 000003 in § 510.600(c) of this chapter.

(iii) *Conditions of use*—(*a*) *Dogs and cats*—(*1*) *Amount.* 10,000 units per pound of body weight daily at 24-hour intervals.[1]

(*2*) *Indications for use.* For intramuscular injection in dogs and cats in treatment of infections caused by penicillin-sensitive organisms.[1]

(*3*) *Limitations.* For intramuscular use only. Continue treatment at least 48

hours after symptoms disappear. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(*b*) *Cattle, sheep, swine, and horses*—(*1*) *Amount.* 3,000 units per pound of body weight (1 milliliter per 100 pounds body weight) daily.[1]

(*2*) *Indications for use.* For treatment of cattle and sheep for bacterial pneumonia (shipping fever) caused by *Pasteurella multocida*; swine for erysipelas caused by *Erysipelothrix insidiosa*; and horses for strangles caused by *Streptococcus equi.*[1]

(*3*) *Limitations.* Administer by deep intramuscular injection. Continue treatment at least 48 hours after symptoms disappear but do not exceed 7 days of treatment in nonlactating dairy and beef cattle, sheep, and swine, or 5 days in lactating cattle. Milk that has been taken during treatment and for 48 hours (four milkings) after the last treatment must not be used for food. Discontinue treatment for the following number of days before slaughter: nonruminating cattle (calves)—7; all other cattle—4; sheep—8; and swine—6. Not for use in horses intended for food.

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Effective date. This regulation is effective April 6, 1979.

(Sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)))

Dated: March 14, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-10310 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

Monensin, Monensin With Roxarsone; Revocation of Certain Regulations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Director of the Bureau of Veterinary Medicine is revoking portions of the regulations reflecting approval of two new animal drug applications (NADA's) providing for use of certain premixes containing monensin and monensin with roxarsone for manufacture of complete broiler feeds. The sponsor, Agricultural Processing Corp., has requested this action.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, the agency announces that approval of NADA's 93-532V and 93-599V is withdrawn. This document amends the animal drug regulations to delete those portions that reflect approval of these NADA's. Approval is being withdrawn at the request of the sponsor, Agricultural Processing Corp.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Part 558 is amended in § 558.355 *Monensin* by revoking and reserving paragraph (b) (5) and (6).

Effective date. This regulation is effective April 6, 1979.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: March 21, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-10303 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 610, 680

Blood Group Substances A, B, and AB; Additional Standards

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to prescribe additional standards to ensure safety, purity, potency, and effectiveness in the manufacture of Blood Group Substances A, B, and AB.

DATES: Effective April 6, 1979, except the labeling requirements, which become effective October 3, 1979.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: Blood Group Substances A and B are preparations of swine (porcine) and horse (equine) gastric mucins, respectively, and are used as immunogens in the production of commercial diagnostic reagents. The gastric mucins of horses may also contain group A activity. If the antigenicity of group A substance from horses equals or exceeds the potency requirements for group A substance, the material is identified as Blood Group Substance AB. The diagnostic reagents manufactured from blood obtained from individuals immunized with Blood Group Substances are used for ABO grouping procedures.

In the **Federal Register** of March 21, 1978 (43 FR 11716), the Food and Drug Administration (FDA) proposed to amend the biologics regulations in Part 680 (21 CFR Part 680) by adding seven new sections, §§ 680.20 through 680.26, that prescribe additional standards for the manufacture of Blood Group Substances. The agency also proposed to amend § 610.53(a) (21 CFR 610.53(a)) to change the proper name of the products in conformity with current usage.

Interested persons were given until May 22, 1978 to submit written comments. Two letters concerning the proposal were received. The comments contained in the letters and the agency's responses follow:

1. One comment on proposed § 680.22(g)(1)(iv) recommended that room temperature be defined as 15° to 30° C, in conformity with U.S.P. specifications, rather than 20° to 24° C as proposed.

FDA advises that the potency and identity testing proposed under § 680.22 is performed with diagnostic anti-A and anti-B Blood Grouping Serums. These reagents perform effectively only within a narrow temperature range. Therefore, the 20° to 24° C limit is established to ensure that the required test is accurate. This temperature range differs from that prescribed for drugs in the U.S.P. because of the unique temperature requirements of the diagnostic reagents involved. Accordingly, the comment is rejected.

2. One comment on proposed § 680.23(d)(1) recommended that the immunizing dose for the anaphylactic test be the contents of a final container rather than 1.0 milliliter (ml).

FDA recognizes that a single immunizing dose (final container content) of the product may vary from 0.5 to 1.0 ml. Because the anaphylactic test is performed to evaluate any possible hazard associated with a single immunizing dose of the product, a predetermined test volume may not be appropriate. Accordingly, the comment is accepted and § 680.23(d)(1) is amended in the final rule to provide that

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[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

the contents of a final container be injected into each of the guinea pigs.

3. One comment on proposed § 680.24(c) recommended that the regulations permit the use of phenol as a preservative. The comment suggested that a preservative would facilitate the processing and packaging of the product.

The agency is aware that phenol is normally used as an extracting reagent in the manufacture of Blood Group Substances and that the finished product may contain traces of phenol. However, following manufacture, sterile Blood Group Substances are very stable and require no further addition of preservatives. Accordingly, the agency is amending § 680.24(c) in the final rule to recognize that phenol may be present in Blood Group Substances as a residual from manufacturing. The addition of any preservative remains prohibited.

4. One comment on the labeling requirements of § 680.25 suggested that because the dry weight concentration of Blood Group Substances per unit volume is often irrelevant to the biologic activity of the product, the proposal to label the product in terms of dry weight will not contribute to the safety or efficacy of the product. Including dry weight information would also require label changes from lot to lot.

The agency accepts the comment. In addition, it is noted that the required safety, anaphylaxis, and pyrogen tests are performed on the contents of final containers, rather than on the dry weight of product. Accordingly, §§ 680.24(d) and 680.25 (a) and (c) are amended to reference the contents of a final container of the product in terms of an immunizing dose rather than in terms of dry weight to volume.

5. One comment on proposed § 680.25 (a) and (b) suggested that the information required on each final container label is excessive because of the limited label space.

The agency recognizes that the container label may be too small to accommodate legibly all of the information required under proposed § 680.25 (a) and (b). Accordingly, § 680.25 is amended in the final rule by revising paragraph (a) to reduce the number of items required on the final container label and paragraph (b) to require that, if the final container is not enclosed in a package, e.g., the container is enclosed only in an unlabeled shipping carton, all information required for the package label in paragraph (c) of this section shall accompany and be attached to each final container.

6. Two comments on proposed § 680.26(a) suggested that the number of final containers (70) to be submitted for release testing is unnecessarily large. One of the comments recommended that the requirement should be 30 final containers.

The agency has considered the amount of material needed for adequate potency and identity, safety, sterility, pyrogen, and anaphylaxis testing. Although 30 final containers may be inadequate, the agency believes that the volume of product contained in 40 final containers will be sufficient. Accordingly, the comments suggesting that fewer final containers be submitted for release testing are accepted and § 680.26(a) is amended in the final rule by requiring 40 final containers.

Therefore, under the Public Health Services Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 610 and 680 are amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

§ 610.53 [Amended]

1. In Part 610, § 610.53 *Dating periods for specific products* is amended in the table in paragraph (a) by revising the proper names of the products "Blood Group Specific Substances A and B," "Blood Group Specific Substance A," and "Blood Group Specific Substance B" to read "Blood Group Substance AB," "Blood Group Substance A," and "Blood Group Substance B," respectively.

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

2. In Part 680, new Subpart C, consisting at this time of §§ 680.20 through 680.26, is added to read as follows:

Subpart C—Blood Group Substances

Sec.
680.20 Blood Group Substances.
680.21 Reference preparations.
680.22 Potency and identity tests.
680.23 Other tests.
680.24 General requirements.
680.25 Labeling.
680.26 Samples; protocols; official release.

Authority: Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262.)

Subpart C—Blood Group Substances

§ 680.20 Blood Group Substances.

(a) *Proper names and definitions.* The proper names of these products shall be Blood Group Substance A, Blood Group Substance B, and Blood Group Substance AB. Each Blood Group Substance product shall consist of a sterile, pyrogen-free, nonanaphylactogenic, aqueous solution of purified polysaccharideamino acid complexes for use in immunization.

(b) *Source.* Blood Group Substance A shall be prepared from porcine stomachs; Blood Group Substance B and Blood Group Substance AB shall be prepared from equine stomachs.

§ 680.21 Reference preparations.

The following reference preparations shall be obtained from the Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20014, for use in determining the potency of Blood Group Substance as described in § 680.22 and in the manufacturer's package insert:

Reference Anti-A Blood Grouping Serum.
Reference Anti-B Blood Grouping Serum.
Reference Blood Group Substance A.
Reference Blood Group Substance B.

§ 680.22 Potency and identity tests.

An inhibition test for potency shall be performed on the contents of a final container of each lot of each product as follows:

(a) *Cell suspensions.* Separate 1 percent suspensions of A_1 and B red blood cells in isotonic saline shall be prepared daily after washing the cells at least twice with isotonic saline and shall result in a clear supernate. The cell suspensions shall be prepared from blood within 7 days after collection.

(b) *Reference serum.* (1) Reference Anti-A and Reference Anti-B Blood Grouping Serums shall be used in the inhibition test.

(2) Twofold dilutions (1:2, 1:4, 1:8, etc.) of each of the reference serums shall be prepared in isotonic saline containing a final concentration of 1 to 2 percent bovine albumin.

(3) A clean pipette shall be used for each dilution and each serum. Mechanical devices that avoid carryover may be used.

(c) *The test for selection of serum dilution for use in the inhibition test for potency.* (1) Reference Anti-A and Anti-B Blood Grouping Serums shall each be tested using A_1 and B cells, respectively.

(2) To a series of clean small test tubes (approximately 10 x 75 millimeters), add 0.1 milliliter of each successive serum dilution prepared as described in paragraph (b)(2) of this section and 0.1 milliliter of the appropriate 1 percent cell suspension prepared as described in paragraph (a) of this section.

(3) Mix thoroughly and centrifuge immediately for 1 minute at approximately 150 relative centrifuge

force (rcf) or at approximately 1,000 rcf for 20 seconds.

(d) *Interpretation of the test.* The cell buttons shall be gently dislodged and observed macroscopically. The reactions shall be graded as follows:

4+ Cell button remains in one clump.
3+ Cell button dislodges into several clumps.
2+ Cell button dislodges into many small clumps of nearly equal size.
1+ Cell button dislodges into finely granular, but definite, small clumps.

(e) *Selection of serum dilution for use in the inhibition test.* The proper dilution of the reference serum for use in the inhibition test is the next to the highest dilution showing a 4+ agglutination reaction (e.g., with the following dilution/reaction table:

Dilution	Un.	1:2	1:4	1:8	1:16	1:32	1:64	1:128	1:256	1:512,
Reaction	4+	4+	4+	4+	4+	3+	2+	1+	0	0

the proper dilution is 1:8).

(f) *Preparation for the inhibition test for potency*—(1) *Reference serum dilution.* A minimum of 3 milliliters of Reference Blood Grouping Serum shall be prepared in a proper dilution as described in paragraph (e) of this section.

(2) *Blood Group Substance dilution.* (i) A series of 11 separate threefold dilutions (1:3, 1:9, 1:27, etc.) of Blood Group Substance shall be prepared in isotonic saline in concentrations ranging from 1:1 (undiluted) to 1:59, 049.

(ii) A clean pipette shall be used for each dilution. Mechanical devices that avoid carryover may be used.

(g) *Performance of the inhibition tests for potency*—(1) *Blood Group Substance A.* (i) Transfer 0.1 milliliter of each dilution of Blood Group Substance A prepared as described in paragraph (f)(2) of this section to each one of 11 small test tubes (approximately 10 x 75 millimeters).

(ii) Place 0.1 milliliter of isotonic saline into a 12th test tube.

(iii) To each of the 12 test tubes, add 0.1 milliliter of the properly diluted Reference Anti-A Blood Grouping Serum prepared as described in paragraph (f)(1) of this section.

(iv) Mix thoroughly and incubate at room temperature (20° to 24° C) for 10 minutes.

(v) To each of the 12 test tubes, add 0.1 milliliter of the 1 percent A_1 cell suspension described in paragraph (a) of this section.

(vi) Mix gently and incubate at room temperature (20° to 24° C) for 15 minutes.

(vii) Centrifuge for 1 minute at approximately 150 relative centrifugal force (rcf) or at approximately 1,000 rcf for 20 seconds.

(viii) Repeat steps in paragraph (g)(1)(i) through (vii) of this section using Reference Blood Group Substance A.

(ix) Repeat steps in paragraph (g)(1)(i) through (vii) of this section using Reference Anti-B Blood Grouping Serum, the B cell suspension, and the Blood Group Substance A under test.

(2) *Blood Group Substance B.* For Blood Group Substance B or for Blood Group Substance AB, repeat steps in paragraph (g)(1)(i) through (vii) of this section, using each of the following sets of reagents.

(i) Blood Group Substance B plus Reference Anti-B Blood Grouping Serum plus B cell suspension.

(ii) Blood Group Substance B plus Reference Anti-A Blood Grouping Serium plus A_1 cell suspension.

(iii) Reference Blood Group Substance B plus Reference Anti-B Blood Grouping Serum plus B cell suspension.

(iv) Reference Blood Group Substance A plus Reference Anti-A Blood Grouping Serum plus A_1 cell suspension.

(h) *Interpretation of the test.* The cell buttons shall be gently dislodged and observed macroscopically. The reactions shall be graded as described in paragraph (d) of this section. The highest dilution of Blood Group Substance that totally inhibits agglutination is taken as the inhibition end point.

(i) *Potency test requirements.* Blood Group Substance A shall have a potency inhibition titer value equal to or greater than that of the Reference Blood Group Substance A. Blood Group Substance B shall have a potency inhibition titer value equal to or greater than that of the Reference Blood Group Substance B and less than that of Reference Blood Group Substance A. Blood Group Substance AB shall have potency inhibition titer values equal to or greater than those of Reference Blood Group Substance A and Reference Blood Group Substance B.

§ 680.23 Other tests.

(a) *Safety.* A safety test shall be performed on the contents of final containers of each lot of each product as prescribed in § 610.11 of this chapter.

(b) *Sterility.* A sterility test shall be performed on the contents of final containers of each lot of each product as prescribed in § 610.12 of this chapter.

(c) *Pyrogens.* A pyrogen test shall be performed on the contents of final containers of each lot of each product as prescribed in § 610.13(b) of this chapter.

(d) *Anaphylaxis.* An anaphylactic test shall be performed on the contents of a sufficient number of final containers of each lot of each product to perform the test as follows:

(1) The contents of one final container shall be injected intraperitoneally into each of 10 normal guinea pigs.

(2) After 3 weeks, each guinea pig shall be challenged intravenously with a 0.2-milliliter sample of the same product.

(3) None of the 10 sensitized guinea pigs shall exhibit anaphylactic shock.

§ 680.24 General requirements.

(a) *Processing.* (1) The processing method shall be one that has been shown consistently to yield a specific, potent final product, free of properties that would affect the product for its intended use throughout the dating period.

(2) Only material that has been fully processed, sterile filtered into a single vessel, and thoroughly mixed in that vessel shall constitute a lot.

(3) Each lot shall be filled in a single continuous operation.

(b) *Total nitrogen.* Blood Group Substances shall contain not more than 8 percent total nitrogen when determined on moisture-free and ash-free samples.

(c) *Preservative.* A preservative shall not be incorporated into bulk manufactured Blood Group Substance or into final containers. However, phenol may be present as a residual from manufacturing.

(d) *Final containers.* Final containers shall be sterile, pyrogen free, colorless, and transparent. The contents of the final container shall not exceed 1 milliliter of product containing not more than one immunizing dose of Blood Group Substance powder.

(e) *Date of manufacture.* The date of manufacture shall be the date the manufacturer initiates the last valid potency test that is reported on a protocol and submitted to the Director, Bureau of Biologics.

(f) *Dose.* A single human dose for intramuscular, subcutaneous or intradermal injection shall not exceed the contents of a final container.

§ 680.25 Labeling.

In addition to the labeling requirements of § 610.62 of this chapter and in lieu of the requirements in §§ 610.60 and 610.61 of this chapter, the following shall appear on the label of Blood Group Substances:

(a) *Lable affixed to each final container.* (1) Proper name of the product.

(2) Name, address (including zip code), and license number of the manufacturer.

(3) Lot number.

(4) Expiration date.

(5) The statement "ONE IMMUNIZING DOSE".

(6) Recommended storage temperature.

(7) The statement "SEE DIRECTIONS FOR USE".

(b) *Container not enclosed in a package.* If the final container is not enclosed in a package, e.g., the container is enclosed only in an unlabeled shipping carton, all information required for the package label in paragraph (c) of this section shall accompany and be attached to each final container.

(c) *Package label.* (1) Proper name of the product.

(2) Name, address (including zip code), and license number of the manufacturer.

(3) Lot number.

(4) Expiration date.

(5) The statement "CONTAINS NO PRESERVATIVE".

(6) Number of containers, if more than one.

(7) The statement "DERIVED FROM PORCINE (OR EQUINE) STOMACHS", as applicable.

(8) The statement "EACH FINAL CONTAINER CONTAINS ONE IMMUNIZING DOSE".

(9) Recommended storage temperature.

(10) The statement "DO NOT ADMINISTER INTRAVENOUSLY".

(11) The statement "DO NOT ADMINISTER TO FERTILE WOMEN".

(12) Recommendations for use.

(13) For Blood Group Substance B, the statement "CAUTION: MAY CONTAIN IMMUNOGENIC A ACTIVITY".

(14) The statement "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION".

(15) Reference to enclosed package insert.

§ 680.26 Samples; protocols; official release.

For each lot of product, the following material shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, Building 29A, 8800 Rockville Pike, Bethesda, MD 20014:

(a) *Samples.* Randomly selected samples consisting of 40 final containers packaged for distribution.

(b) *Protocol.* A protocol consisting of a summary of the history of the manufacture of the product, including the dates and results of all tests that are required by regulations.

(c) *Official release.* The product shall not be issued by the manufacturer until written notification of official release is received from the Director, Bureau of Biologics.

Effective date. This regulation is effective April 6, 1979, except the labeling requirements, which become effective October 3, 1979.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: April 2, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 77N-0436]

[FR Doc. 79-10714 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 558

Clopidol, Clopidol-Roxarsone, and Decoquinate Concentrates: Revocation of Applicable Portions of Regulations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect withdrawal of approval of three new animal drug applications (NADA's) held by Central Soya Co., Inc., for Master Mix broiler finisher concentrated premixes containing clopidol, clopidol-roxarsone, and decoquinate. This action was requested by the sponsor.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: In a separate document published elsewhere in this issue of the **Federal Register**, the agency is withdrawing approval of NADA's 43-430, 91-815, and 91-913 for concentrated premixes containing clopidol-roxarsone, clopidol, or decoquinate, respectively. The withdrawal was requested by the sponsor, Central Soya Co., Inc., 1300 Ft. Wayne Bank Bldg., Ft. Wayne, IN 46802. Accordingly, the regulations are amended in §§ 558.175 and 558.195 (21 CFR 558.175 and 558.195) to delete sponsor No. 012286, which reflects approval of the NADA's.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Part 558 is amended as follows:

§ 558.175 [Amended]

1. In § 558.175 *Clopidol* by deleting and reserving paragraph (b)(2).

§ 558.195 [Amended]

2. Section 558.195 *Decoquinate* is amended.

a. By deleting and reserving paragraph (c)(2).

b. By deleting sponsor No. 012286 from the "Sponsor" column in the table in paragraph (g)(1).

Effective date. This regulation is effective April 6, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: March 21, 1979.

Lester M. Crawford,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-10306 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 801

Medical Devices; Impact-Resistant Lenses in Eyeglasses and Sunglasses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the medical device regulations to allow technological alternatives to the "drop ball" or "impact" test in the testing of impact-resistant lenses for eyeglasses and sunglasses. The "drop ball" or "impact" test, which is the current required test for impact resistance, is designated as the "referee test." Under this amendment, lenses required to be impact resistant must be subjected to a test for impact resistance and must be capable of withstanding the "referee test."

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Peter B. Carstensen, Bureau of Medical Devices (HFK-310), Food and Drug

Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7222.

SUPPLEMENTARY INFORMATION: The proposal upon which this final rule is based was published in the **Federal Register** on January 6, 1978 (43 FR 1106). Interested persons were given until March 7, 1978 to comment. In response to several comments, a notice was published in the **Federal Register** of May 2, 1978 (43 FR 18699) extending the deadline for written comments to June 1, 1978.

Nine comments were received on the proposal. The issues most often raised concerned whether technological alternatives to the "referee test" should be allowed. Several comments also sought clarification of various provisions of the rule.

In general, the final rule has been adopted as proposed, although several changes have been made in response to the comments seeking clarification of the rule.

Statutory Authority

1. One comment stated that the proposed change in § 801.410 (21 CFR 801.410) is not in compliance with the Medical Device Amendments of 1976 (Pub. L. 94–295, 90 Stat. 539–583).

FDA disagrees with the comment. The enactment of the Medical Device Amendments did not eliminate any regulation already in effect. The change in § 801.410 to allow alternative methods of testing that are equal or superior to the referee test does not establish any new requirements not in effect before the amendments. The change in § 801.410 merely allows flexibility in meeting the requirements imposed by the regulation. The agency believes that sections 501, 502, 519, and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 360i, 371(a)) authorize this change in the regulation.

Lenses Subject to Testing for Impact Resistance

2. One comment suggested that the specific reference to "heat-treated" glass lenses in proposed § 801.410(c)(2) be deleted. The comment stated that because the term "heat-treated" generally refers to the technique of air tempering, its use may lead to confusion and the restriction in the development of new and advanced techniques for lens strengthening.

FDA agrees with the comment. Heat treating currently is not the principal means of tempering glass lenses. Therefore, proposed § 801.410(c)(2) has been changed to eliminate the specific reference to "heat-treated." Section 801.410(b) also contains a specific reference to heat treating. Although this section was not affected by the proposal, in the final regulation FDA has deleted the reference to heat treating in this section.

3. Three comments stated that proposed § 801.410(c)(3) should be changed to clarify whether all prescription glass lenses should be subjected to a test for impact resistance.

FDA agrees with the comment and has changed § 801.410(c)(3) to specify that each finished impact-resistant glass lens for prescription use shall be individually tested for impact resistance. This requirement does not apply to lenses of a type set forth in the second through the fourth sentences in § 801.410(c)(3) that are not required to be individually tested or that are exempted under § 801.410(c)(1) because a physician or optometrist has ordered non-impact-resistant lenses for a patient whose visual requirements would not be met by impact-resistant lenses.

4. One comment stated that proposed § 801.410(c)(3) should include a list of lenses that may be exempted from impact testing. These lenses, which are prescribed infrequently for specific, uncommon visual needs, have physical designs unsuitable for impact testing. These lenses have a high probability of failing an impact test or incurring cosmetic and functional surface damage from the test. The comment, however, supported the requirement that such lenses be made of impact-resistant materials or treated for impact resistance. The comment suggested that these lens types would meet the criteria for exemption: Prism segment multifocals; slab-off prisms; lenticular cataracts; iseikonics; depressed segment one-piece multifocals; bioconcaves; myodiscs and minus lenticulars; and custom laminates and cemented assemblies.

FDA agrees with the comment and has changed § 801.410(c)(3) to include the suggested list. The agency notes that the list of lenses that are exempted from the requirement of impact testing is the same as that set forth in the proposed revision of American National Standard Z80.1 (on file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857).

5. One comment stated that proposed § 801.410(c)(3) should be changed to require all nonprescription lenses and plastic prescription lenses to be tested only in the uncut-finished stage rather than the semifinished stage. The comment noted that semifinished lenses are not in final form with respect to thickness and surface curvatures. Because these lenses are thick at both the edge and the center, they will always pass the required impact test.

The agency agrees with the comment and has changed proposed § 801.410(c)(3) accordingly. Under the current regulation, plastic lenses may have significant flaws that are not detectable when tested in the semifinished form because of the thickness and shape of these lenses. FDA believes that requiring all plastic lenses to be tested in the uncut-finished or finished form will enable flawed lenses to be more easily detected because these lenses are in finished form with respect to thickness and curvature. This change reflects the current practice of most firms in the industry.

Alternative Test Methods

6. One comment stated that proposed § 801.410(d)(1) should be changed to prohibit the use of alternatives to the "drop-ball" or "impact" test because the current test simulates actual breakage conditions, applies substantial stress throughout the lens area enabling "proper" results, and is inexpensive and easy to administer.

FDA agrees that the referee test is an effective test and that it has been a significant factor in the reduction of eye injuries caused by the breakage of flawed lenses. However, several studies (cited in the preamble to the January 1978 proposal at 43 FR 1107) show that it would be desirable to develop test methodologies that are more efficient than the referee test, because the referee test reveals only flaws that may be present near the point of impact, not flaws located at the periphery of a lens. The agency therefore believes that alternative test methods should be allowed.

7. One comment stated that a manufacturer is currently able to defend product liability suits arising from injuries due to the breakage of lenses by stating that the lenses have been tested in accordance with § 801.410. The comment suggested that proposed § 801.410(d)(1) should prohibit the use of alternatives to the "drop ball" or "impact" test to eliminate possible product liability suits against manufacturers who do not use a test superior to the referee test.

The agency disagrees with the comment and notes that § 801.410 was promulgated to reduce substantially the number of eye injuries by requiring the use of impact-resistant lenses in eyeglasses and sunglasses. The

regulation was not promulgated for the purpose of insulating manufacturers against product liability suits. This amendment to § 801.410 will protect the public more adequately from potential eye injury (see paragraph 6 of this preamble). The amendment is not intended to have any bearing on the resolution of product liability suits. If a test superior to the "drop ball" or "impact" test is developed that produces more consistent and reliable results over time, FDA will designate that test as the referee test.

8. One comment suggested that tests that are permissible alternatives to the "drop ball" or "impact" test should be required to simulate impact conditions that are representative of lens breakage under actual conditions. The comment stated that "slow load" tests should not be permitted because these tests do not simulate impact conditions.

FDA disagrees with the comment. The agency believes that a test other than one that simulates impact conditions may adequately eliminate flawed lenses from commercial distribution. Several studies cited in the January 1978 proposal (see 43 FR 1107) show that test methodologies could be developed that are more effective than the referee test. As stated earlier, the referee test reveals only flaws that may be present near the point of impact, not flaws located at the periphery of the lens. The agency believes that this limitation on the effectiveness of the referee test may be inherent in all tests that simulate impact conditions that are representative of lens breakage under actual conditions. This amendment to § 801.410 will allow the eyeglass industry to investigate technological alternatives to the referee test that could eventually eliminate all flawed lenses from commercial distribution. FDA therefore does not agree that slow load and other "nonimpact" tests should be prohibited. Section 801.410(d)(1) provides that any test that is used must be equivalent or superior to the referee test described in § 801.410(d)(2).

9. One comment stated that proposed § 801.410(d)(1) should set forth specific criteria to determine whether an alternative test is equal or superior to the "drop ball" or "impact" test.

FDA disagrees with the comment. Because of the many variables present in any test method, the rapid advances being made in medical device technology, and the willingness of the industry to undertake investigations into innovative procedures to ensure the safety and effectiveness of medical devices, setting forth specific criteria to determine the validity of an alternative test not currently in existence may hinder the development of new test methodologies that could eliminate flawed lenses from commercial distribution.

10. One comment stated that the proposal should be changed to require FDA to approve any alternative test before its use. The comment questioned the validity of placing the burden of proving the equivalency or superiority of an alternative test on the manufacturer when (1) there are so many variables present in any test method that meaningful comparisons may be difficult, and (2) a manufacturer whose alternative test is rejected by FDA would be subject to recall requirements resulting in large financial losses.

FDA rejects the comment. The agency does not believe that it should apply its limited resources to testing and granting prior approval to alternative tests when a manufacturer can use the referee test. The regulation does set forth one test, the referee test in § 801.410(d)(2), that has been approved by FDA. The lenses of any manufacturer properly using the referee test will not be subject to a recall merely for failure to comply with the regulation. A manufacturer who chooses to use an alternative test must be able to prove the test's equivalency or superiority to the referee test.

11. One comment stated that the phrase "for prescription use" should be deleted from proposed § 801.410(d)(1) to ensure that all lenses (including sunglasses) are permitted to use alternatives to the "drop ball" or "impact" test.

FDA agrees and has deleted the phrase "for prescription use" in § 801.410(d)(1).

12. One comment suggested that the referee test in proposed § 801.410(d)(2) should be changed to permit the manufacturer to cover the lens with a polyethylene sheet of a thickness less than .076 millimeter (mm) before testing to avoid surface damage from the impact of the ball. The comment stated that this practice would have minimal effects on the test and would minimize cosmetic defects in the lens, caused by the test.

FDA disagrees with the comment because, at this time, there are insufficient data to determine whether the proposed change in the referee test would produce equivalent or better results. The agency has designated the drop ball test as the referee test because it has historically produced the most consistent and reliable results. The agency may at a later date reconsider its designation of the drop ball test as the referee test, if another test, or a revision of the referee test as proposed in the comment, produces results more consistent and more reliable than the drop ball test.

General Comments

13. One comment suggested that the term "impact-resistant" be changed to avoid confusion about whether impact-resistant lenses are safety lenses in compliance with Occupational Safety and Health Administration (OSHA) standards or are resistant to impact in compliance with FDA's less stringent standards.

FDA disagrees that the use of the term "impact-resistant" has caused confusion that would be relieved if the term were deleted from this regulation. The substitution of another term for lenses subject to this regulation would not eliminate the term "impact-resistant" from widespread use in advertising by manufacturers, distributors, or retailers. The term "impact-resistant lenses" does not denote safety lenses under OSHA regulations. Safety lenses ordinarily are used industrially and have a minimum optical center thickness of 3 mm. Safety lenses must withstand a more severe drop ball test than that described for impact-resistant lenses. Neither type of lens is unbreakable or shatterproof. To clarify existing regulatory requirements, FDA has prepared and distributed several documents about impact-resistant lenses (e.g., Question and Answer Pamphlet #1 on Impact-Resist Lenses, FDA Fact Sheet—Impact-Resistant Lenses).

14. One comment suggested that a statement be issued confirming that § 801.410 (a), (b), (e), (g), (h), and (i) are part of the final rule and remain unchanged under this amendment of § 801.410.

FDA notes that paragraphs (a), (e), (g), (h), and (i) are unchanged by this amendment of § 801.410. Paragraph (b) of § 801.410 has been changed (see paragraph 2 of this preamble).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 519, 701(a), 52 Stat. 1049–1051 as amended, 1055, 90 Stat. 564–565 (21 U.S.C. 351, 352, 360i, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 801 is amended in § 801.410 by revising paragraph (b), redesignating the existing text of paragraph (c) as (c)(1) and adding new paragraph (c) (2) and (3), and revising paragraphs (d) and (f) to read as follows:

§ 801.410 Use of impact-resistant lenses in eyeglasses and sunglasses.

* * * * *

(b) The consensus of the ophthalmic community is that the number of eye injuries would be substantially reduced by the use in eyeglasses and sunglasses of impact-resistant lenses.

(c)(1) To protect the public more adequately from potential eye injury, eyeglasses and sunglasses must be fitted with impact-resistant lenses, except in those cases where the physician or optometrist finds that such lenses will not fulfill the visual requirements of the particular patient, directs in writing the use of other lenses, and gives written notification thereof to the patient.

(2) The physician or optometrist shall have the option of ordering glass lenses, plastic lenses, or laminated glass lenses made impact resistant by any method; however, all such lenses shall be capable of withstanding the impact test described in paragraph (d)(2) of this section.

(3) Each finished impact-resistant glass lens for prescription use shall be individually tested for impact resistance and shall be capable of withstanding the impact test described in paragraph (d)(2) of this section. Raised multifocal lenses shall be impact resistant but need not be tested beyond initial design testing. Prism segment multifocal, slab-off prism, lenticular cataract, iseikonic, depressed segment one-piece multifocal, bioconcave, myodisc and minus lenticular, custom laminate and cemented assembly lenses shall be impact resistant but need not be subjected to impact testing. To demonstrate that all other types of impact-resistant lenses, including impact-resistant laminated glass lenses (i.e., lenses other than those described in the three preceding sentences of this paragraph (c)(3)), are capable of withstanding the impact test described in this regulation, the manufacturer of these lenses shall subject to an impact test a statistically significant sampling of lenses from each production batch, and the lenses so tested shall be representative of the finished forms as worn by the wearer, including finished forms that are of minimal lens thickness and have been subjected to any treatment used to impart impact resistance. All nonprescription lenses and plastic prescription lenses tested on the basis of statistical significance shall be tested in uncut-finished or finished form.

(d)(1) For the purpose of this regulation, the impact test described in paragraph (d)(2) of this section shall be the "referee test," defined as "one which will be utilized to determine compliance with a regulation." The referee test provides the Food and Drug Administration with the means of examining a medical device for performance and does not inhibit the manufacturer from using equal or superior test methods. A lens manufacturer shall conduct tests of lenses using the impact test described in paragraph (d)(2) of this section or any equal or superior test. Whatever test is used, the lenses shall be capable of withstanding the impact test described in paragraph (d)(2) of this section if the Food and Drug Administration examines them for performance.

(2) In the impact test, a ⅝-inch steel ball weighing approximately 0.56 ounce is dropped from a height of 50 inches upon the horizontal upper surface of the lens. The ball shall strike within a ⅝-inch diameter circle located at the geometric center of the lens. The ball may be guided but not restricted in its fall by being dropped through a tube extending to within approximately 4 inches of the lens. To pass the test, the lens must not fracture; for the purpose of this section, a lens will be considered to have fractured if it cracks through its entire thickness, including a laminar layer, if any, and across a complete diameter into two or more separate pieces, or if any lens material visible to the naked eyes becomes detached from the ocular surface. The test shall be conducted with the lens supported by a tube (1-inch inside diameter, 1¼-inch outside diameter, and approximately 1-inch high) affixed to a rigid iron or steel base plate. The total weight of the base plate and its rigidly attached fixtures shall be not less than 27 pounds. For lenses of small minimum diameter, a support tube having an outside diameter of less than 1¼ inches may be used. The support tube shall be made of rigid acrylic plastic, steel, or other suitable substance and shall have securely bonded on the top edge a ⅛- by ⅛-inch neoprene gasket having a hardness of 40±5, as determined by ASTM Method D 1415; [1] a minimum tensile strength of 1,200 pounds, as determined by ASTM Method D 412; [1] and a minimum ultimate elongation of 400 percent, as determined by ASTM Method D 412 (ASTM Methods D 412 and D 1415 are incorporated by reference). The diameter or contour of the lens support may be modified as necessary so that the ⅛- by ⅛-inch neoprene gasket supports the lens at its periphery.

* * * * *

(f) In addition, those persons conducting tests in accordance with paragraph (d) of this section shall maintain the results thereof and a description of the test method and of the test apparatus for a period of 3 years. These records shall be made available upon request at any reasonable hour by any officer or employee acting on behalf of the Secretary of Health, Education, and Welfare. The persons conducting tests shall permit the officer or employee to inspect and copy the records, to make such inventories of stock as the officer or employee deems necessary, and otherwise to check the correctness of the inventories.

* * * * *

Effective date. This regulation shall be effective May 7, 1979.

(Secs. 201, 501, 502, 519, 701(a), 52 Stat. 1040–1042 as amended, 1049–1051 as amended, 1055, 90 Stat. 564–565 (21 U.S.C. 321, 351, 352, 360i, 371(a)))

Dated: March 9, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporations by reference were approved by the Director of the Office of the Federal Register on February 5, 1976 and are on file in the Federal Register Library.

[Docket No. 77N-0354]

[FR Doc. 79-10304 Filed 4-5-79; 8:45 am]
BILLING CODE 4110-03-M

[1] Copies may be obtained from: American Society for Testing Materials (ASTM), 1916 Race St., Philadelphia, PA 19103.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[24 CFR Parts 280, 3280]

Mobile Home Construction and Safety Standards

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection and Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Redesignation.

SUMMARY: This redesignation transfers Part 280 Mobile Home Construction and Safety Standards, to a new Part 3280, Mobile Home Construction and Safety Standards. This redesignation is necessary because of the unnecessary delays and complications which result from having regulations that are the responsibility of one Assistant Secretary published in a chapter assigned to another Assistant Secretary. This is intended to streamline the issuance of

the Federal Mobile Home Construction and Safety Standards by placing all regulations implementing the National Mobile Home Construction and Safety Standards Act into a single chapter, chapter XX, which has been assigned to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection who has the responsibility for the mobile home program.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Richard A. Mendlen, Director, Standards Division, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, Telephone (202) 426-1872.

SUPPLEMENTARY INFORMATION: This redesignation transfers Part 280 from Chapter II to Chapter XX of Title 24. This means that the Mobile Home Construction and Safety Standards designated with the section number 280 are now designated with the section number 3280. In addition, all references to Part 280 in Part 3282, Mobile Home Procedural and Enforcement Regulations, and Part 3283, Mobile Home Consumer Manual Requirements, of Title 24 have been changed to reference Part 3280. Even though these changes have been made, manufacturers and other parties may continue to use documents which have been prepared which reference Mobile Home Construction and Safety Standards designated with the section number 280.

This redesignation is merely a procedural change to facilitate the issuance of Federal Mobile Home Construction and Safety Standards within the Department. Since it simply transfers existing regulations to another chapter, the Secretary finds for good cause that notice and opportunity for public procedure are unnecessary.

PART 280—[REDESIGNATED AS PART 3280]

Accordingly, 24 CFR Part 280, Mobile Home Construction and Safety Standards, is redesignated as a new Part 3280, Mobile Home Construction and Safety Standards, and transferred from Chapter II to Chapter XX of Title 24. All references in Part 3282, Mobile Home Procedural and Enforcement Regulations, and Part 3283, Mobile Home Consumer Manual Requirements, of Title 24 are amended to now refer to Part 3280.

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C. on March 30, 1979.

Geno C. Baroni,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.
Lawrence B. Simons,
Assistant Secretary for Housing—Federal Housing Commissioner.

[Docket No. R-79-641]

[FR Doc. 79-10767 Filed 4-5-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Lead; Corrections

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Corrections to preamble of final standard for occupational exposure to lead.

SUMMARY: OSHA's final standard for occupational exposure to lead was published in the **Federal Register** on November 14, 1978 (43 FR 52952; FR Doc. 78-31911) and November 21, 1978 (43 FR 54354; FR Doc. 78-31912). Corrections to the regulation were published in the **Federal Register** on January 26, 1979 (44 FR 5446). This notice lists corrections to the statement of reasons (preamble) accompanying the regulation. These changes are intended to correct typographical errors.

FOR FURTHER INFORMATION CONTACT: Gail Brinkerhoff, OSHA Office of Compliance Programming, U.S. Department of Labor, Room N3112, Washington, D.C. 20210, telephone 202-523-8034.

SUPPLEMENTARY INFORMATION: Federal Register Document 78-31911 is corrected as follows:

1. On page 52954, column 3, line 19, change "Tr. 1976-02" to "Tr. 1796-1802."
2. On page 52955, column 2, line 37, change "10 μg/1" to "10 mg/l."
3. On page 52955, column 2, line 50, change "μg/1" to "mg/l."
4. On page 52958, column 3, line 7, change "or" to "of."
5. On page 52960, column 1, line 55, change "Ex. 2(31)" to "Ex. 5(15)."
6. On page 52962, column 2, Table 1, Footnote 2, insert parentheses around "40 (Air) + 128."
7. On page 52969, Table Heading, line 4, change "9/5" to "9.5."
8. On page 52971, column 2, line 48, change "it" to "but."
9. On page 52973, column 1, line 1, close parentheses after "percent."
10. On page 52973, column 2, line 23, delete "of" between "worker" and "fear."
11. On page 52979, column 1, line 34, change "34-17" to "3417."
12. On page 52979, column 3, line 8, change "2387-80" to "2387-90."
13. On page 52988, column 2, line 62, the first sentence in the last paragraph should read "The monitoring requirement in the initial determination is minimal. * * *"
14. On page 52988, column 3, line 54, change "Ex. 3(12)" to "Ex. 3(125)."
15. On page 52993, column 1, line 58, the sentence beginning with the word "Accordingly" should read "Accordingly, the final standard limits to 4.4 hours the amount of time an employee may be required to wear a negative pressure respirator. * * *"
16. On page 53004, column 1, line 70, insert "Ex." before "105F."
17. On page 53013, column 2, line 21, "(1)(l)(v)" should read "(l)(1)(v)." This correction was listed in the original correction notice but was referenced to p. 53013, column 3, rather than column 2.

Federal Register document 78-31912 is corrected as follows:

18. On page 54357, column 2, line 47, insert "5" before "(15)."
19. On page 54357, column 3, line 44, change "p. 47735" to "p. 45935."
20. On page 54361, column 1, lines 3-9 should be in regular type and not part of quote.
21. On page 54369, column 1, line 36, change "32+11" to "32±11."
22. On page 54369, column 2, line 20, change "mg" to "μg."
23. On page 54400, column 1, Table 1, change ">10" to "<10."
24. On page 54400, column 1, Table 1, change "<10" to ">10."
25. On page 54404, column 3, Table/last line, change "131.46" to "31.46."
26. On page 54408, Table 2, Insert the Greek letter sigma with a line above it "$\bar{\sigma}$" before "=5.46."
27. On page 54417, column 1, line 47, change "Tr. 1976-02" to "Tr. 1796-1802."
28. On page 54428, Table 1, third column heading, insert ">" before "60 μg/100g."
29. On page 54428, Table 1, sixth column heading, insert ">" between "Total" and "40 μg/120g."
30. On page 54503, column 3, line 55, 41 lines of type which should have followed the word "those," were incorrectly printed on p. 54505. The

paragraph beginning on line 46 should read as follows: "Largely for technical reasons discussed earlier, OSHA has concluded that retrofit engineering controls may require up to three years for installation and, accordingly, allows that much time for the industry to achieve the 100 $\mu g/m^3$ interim level. For the less efficient producers, particularly those operating with antiquated equipment which would be expensive and difficult to retrofit, the Bergsoe process may be a more cost-effective long run solution. Given the operating efficiencies Bergsoe claims for his existing smelters, the entire industry may eventually convert for competitive reasons. Bergsoe estimates a two year period will be necessary to construct a 20,000 ton smelting and refining facility. OSHA has determined that 5 years is an appropriate compliance time for meeting the PEL."

"No significant change in prices is projected for secondary lead products, except to the extent primary producers can raise their price allowing secondary producers to follow. Labor requirements were estimated by DBA to increase by three percent resulting in a decrease in average productivity of 2.9% (Ex. 26, p. 6-33). It should be noted that the Bergsoe process is much more labor efficient than current smelting and refining techniques. Bergsoe testified that only 3 production workers are required in the smelting and another 3 for the refinery per shift. (Tr. 5201) Thus, conversion to that process would result in a huge increase in productivity.

"Increased energy usage was estimated by DBA to range between 16,520 and 156,000 MWH/year with the best estimate being an increase of 45,120 MWH/year. (Ex. 26, p. 5-40). This would have no significant impact on energy supplies or demand. This estimate does not include calculation of the potential energy savings from the Bergsoe process. Those smelters generate over 50% of their energy from the burning of the battery cases. Coupled with energy savings from current battery breaking and case disposal, this process is much more energy efficient than current techniques, even without the additional ventilation energy that retrofit would require."

31. On page 54505, column 1, lines 38ff., delete entire column beginning with "operating with antiquated equipment. * * *"

32. On Page 54505, column 2, lines 1-6, delete all through and including the word "potential."

Signed at Washington, D.C. this 30th day of March, 1979.

Eula Bingham

Assistant Secretary of Labor.

[FR Doc. 79-10723 Filed 4-5-79; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 825a

Gifts to the Department of the Air Force

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on Gifts to the Air Force. A review of the rule by the office responsible revealed a need to improve and simplify the regulatory language for better understanding by the public.

EFFECTIVE DATE: November 13, 1978.

FOR FURTHER INFORMATION CONTACT: Lt Col R. R. Semeta, Headquarters, U.S. Air Force (JACM), Office of the Judge Advocate General, 1900 Half Street, SW, Washington, DC 20324 (phone: 202-693-5840).

SUPPLEMENTARY INFORMATION: Part 825a of Chapter VII, Title 32 of the Code of Federal Regulations is revised to reduce its length and improve and simplify the regulatory language. It authorizes commanders of separate operating agencies to accept gifts of personal property of $500. or less.

This revision is issued under authority of section 8012, 70A Stat. 488, secs. 2601-2603, 70A Stat. 144-145, 76 Stat. 244; 10 U.S.C. 8012, 2601-2603, 9771, 9773.

The revised part will read as follows:

PART 825a—GIFTS TO THE DEPARTMENT OF THE AIR FORCE

Subpart A—General

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825a.27 Statutory authority.
825a.28 Procedures for accepting gifts other than under 10 U.S.C. 2601.
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Subpart E—Gifts for Distribution to Individuals

825a.31 Scope of subpart.
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825a.36 Temporary custody of gift items.
825a.37 Sample offer of gift by corporation.
825a.38 Sample offer of gift by individual.

Authority: Sec. 8012, 70A Stat. 488, secs. 2601-2603, 70A Stat. 144-145, 76 Stat. 244; (10 U.S.C. 8012, 2601-2603, 9771, 9773).

Note.—This part is derived from Air Force Regulation 11-26, November 13, 1978.

Subpart A—General

§ 825a.1 Purpose.

This part prescribes policies and procedures for receiving, accepting, and administering both conditional and unconditional gifts offered to the Department of the Air Force. It applies to gifts to individual members of the Department of the Air Force. It does not apply to gifts to religious funds (AFR 265-9, Chaplain Funds), or to nonappropriated welfare and sundry funds (AFR 34-3, Morale, Welfare, and Recreation Basic Responsibilities, Policies, and Practices). It does not authorize the solicitation of gifts by Air Force personnel. This part applies to all Air Force activities.

§ 825a.2 Explanation of terms.

(a) *Gift.* Includes a contribution, donation, bequest, or devise.

(b) *Gift to the Department of the Air Force.* A gift offered to the United

States, or to the Secretary of the Air Force acting on behalf of the United States.

(c) *Items of Nominal Value.* Items with a value of $500.00 or less.

(d) *Tangible Personal Property.* As used here, tangible personal property is divided into three categories:

(1) *Items of Historical Significance.* Historical property items, including personal papers, having value because of their association with the history of the United States Air Force.

(2) *Items of Artistic Significance.* Paintings, prints, sculptures, and other objects of an artistic nature.

(3) *Items for Current Use.* All other goods, wares and merchandise, including items which, upon acceptance, will be used by or for the benefit of some command, organizaton, or institution under the jurisdiction of the Department of the Air Force.

(e) *Intangible Personal Property.* Money, checks, money orders, drafts, bonds, shares of stock, and similar documents with a present or future value.

(f) *Real Property.* Land and all interests in land, as well as all buildings, structures, and fixed improvements thereon.

(g) *Unconditional Gift.* A gift of real property or tangible or intangible personal property offered with no limitations upon its ownership, use, expenditure, or disposition, or offered subject only to the requirement that the gift be used in the place, manner, or purpose for which its normal use is limited by its physical nature.

(h) *Conditional Gift of Money or Other Intangible Personal Property.* Such a gift is conditional if offered with specified limitations upon its ownership, use, expenditure, or disposition.

(i) *Conditional Gift of Real Property or Tangible Personal Property.* Such a gift is conditional if it is offered on condition that it be used, or disposed of, in fewer than all of the manners, purposes, or places in which it might normally be used; or if it is offered on condition that it be used by fewer specific departments or agencies than all of the departments or agencies that would normally use such property.

§ 825a.3 Air Force policy.

The following policies will be considered in determining whether to accept or reject an offer of a gift:

(a) Whenever possible, a gift of tangible personal property of nominal value should be unconditional, provided that the costs of accepting and maintaining the item will be negligible. When a gift is offered, responsible representatives of the Air Force will, if when the opportunity arises, tactfully suggest to the donor that the offer should be unconditional.

(b) Offers of the following personal property shall, if possible, be processed and accepted under Subpart C of this part as a conditional gift:

(1) Tangible personal property of more than nominal value.

(2) Tangible personal property of nominal value involving more than negligible acceptance and maintenance costs.

(3) Money or other intangible personal property.

(c) No arrangements will be made granting special privileges or concessions to the donor.

(d) If the donor is a defense contractor or subcontractor, the donor must state that the cost of the gift will not be charged, directly or indirectly, as an element of cost or price in any government contract.

(e) A useful gift of small value to military members of the Air Force, which contributes to their welfare, health, convenience, and morale, is deemed to be a gift to an individual and not a gift to the Department of the Air Force. The Air Force may receive such a gift for distribution to military members according to Subpart E of this part.

§ 825a.4 Authority to accept or reject gifts.

The authority to accept or reject a gift offered to the Department of the Air Force is vested in the Secretary of the Air Force and designated commanders. This authority depends upon the value and kind of property offered as follows:

(a) Gifts Requiring Secretarial Acceptance or Rejection. Any gift of real property, of personal property of more than $500 value (or of less than $500 value, but which will require more than negligible expenditures for its acceptance and maintenance) must be accepted or rejected promptly by, or by direction of, the Secretary of the Air Force, subject to the policies, procedures, and restrictions of this part.

(b) Gifts that may be accepted or rejected below Secretarial Level. A gift of tangible or intangible personal property of $500 or less, that does not require more than a negligible expenditure for its acceptance and maintenance, may be promptly accepted or rejected by:

(1) The commander of a major command.

(2) The commanders of separate operating agencies.

(3) The Superintendent of the Air Force Academy. The Superintendent is also authorized to accept or reject a gift of books and library materials with a value of $1,000 or less, if they do not require more than a negligible expenditure for their acceptance and maintenance.

(4) The Director of the Air Force Museum.

(5) The Chief of the Office of Air Force History.

(6) Commanders of USAF medical facilities.

(7) The Director of Dependent Schools-Pacific area.

(c) The commander of a major Air Force installation (see AFM 11-1, Vol. I, U.S. Air Force Glossary of Standardized Terms) may also accept or reject gifts of personal property with a value of $250 or less.

§ 825a.5 Determination of the nature of an offer of a gift.

(a) An administrative determination must be made initially as to whether a gift has been offered conditionally or unconditionally, because procedures for the acceptance of conditional or unconditional gifts and property accounting are not identical (see Subparts B, C, and D of this part).

(b) If there is any doubt as to whether the offer is conditional or unconditional, it shall be processed as a conditional gift (see Subpart C of this part).

§ 825a.6 Expenses prior to acceptance.

A prospective donor will be informed by the person authorized to receive the gift that the Air Force cannot assume responsibility for defraying any expenses incurred before the offered gift is accepted and while it still is in the possession of the donor or in the temporary custody of the Air Force.

§ 825a.7 Custodial responsibility.

Except in unusual circumstances, the Air Force will not accept custody of a gift before it is officially accepted. If custody is assumed by the Air Force, the donor will be informed in writing that the Air Force cannot assume responsibility for any loss or damage to the gift before it is formally accepted.

§ 825a.8 Correspondence files.

The command receiving final custody of gift property either for use, storage, or display will retain the original letter or instrument offering the gift, and a copy of the instrument accepting the gift.

§ 825a.9 Copyrighted or patented items.

A gift of a copyrighted or patented item will be treated in the same way as a gift of an item not so protected. However, if a copyrighted or patented gift might be used for governmental

purposes within the scope of the copyright or patent, it will be accepted only if the donor also grants to the Air Force a royalty-free license, to the extent necessary, under the copyright or patent, or gratuitously assigns the copyright or patent to the United States.

§ 825a.10 Gifts from foreign governments.

(a) Gifts from foreign governments to the Department of the Air Force do not require congressional approval (see AFR 900–48, Decorations, Service Awards, Unit Awards, Special Badges, Favorable Communications, Certificates, and Special Devices concerning decorations and awards from foreign governments).

(b) The Secretary of the Air Force has not delegated the authority to accept or reject gifts offered by foreign governments to the Department of the Air Force.

(c) Offers of gifts to the United States from foreign governments made under 50 U.S.C. 11511156 will be processed according to Subpart D of this part.

§ 825.11 Gifts of real property.

(a) The Secretary of the Air Force may accept gifts of land and interests therein for specific purposes (see 10 U.S.C. 9771; 10 U.S.C. 9773; and 10 U.S.C. 2601).

(b) When any person in the Air Force receives an offer of a gift of land, that person will send the offer letter, through channels, to HQ USAF/LEE, for appropriate action. The letter of transmittal will include the information required for a conditional gift of land (§ 825a.24(b)(5)).

§ 825a.12 Advice to donors concerning tax benefits.

(a) Air Force personnel will not advise a donor that a gift to the Department of the Air Force is tax-deductible, but may only call the donor's attention to 10 U.S.C. 2601.

(b) Air Force personnel will not place any valuation on a gift that a donor might offer to gain a tax benefit, but will suggest that the donor consult a civilian expert for specific tax advice.

(c) An offer will not be backdated nor will a gift be accepted on a condition that the offer be backdated for tax purposes.

§ 825a.13 Gifts not covered by this part.

If a gift is offered to the Air Force when there is no authorization to accept or reject it, the offer will be promptly forwarded, through channels, to HQ USAF. Depending upon the nature of the gift, send it to the attention of one of the officers listed in § 825a.19.

Subpart B—Unconditional Gifts

§ 825a.14 Acceptance of gifts.

In accepting an unconditional gift the following rules will be strictly observed:

(a) If an offer of a gift requires Secretarial acceptance or rejection (see § 825a.4), send it to HQ USAF for acceptance or rejection by, or by direction of, the Secretary of the Air Force.

(b) When a gift of personal property has only nominal value it may be accepted on behalf of the Secretary of the Air Force, by an officer designated in § 825a.4, if the costs of accepting and maintaining the gift will be negligible. When in doubt, process the offer as though the gift had more than nominal value.

(c) The person authorized will:

(1) Accept the gift on behalf of the United States and inform the donor in writing where to deliver or send the gift.

(2) Instruct the appropriate commander as to the disposition to be made of the item if it was delivered to a subordinate command for custody pending acceptance.

§ 825a.15 Rejection of gifts.

(a) The determination to reject an unconditional gift must be made personally by the person authorized to reject such gifts.

(b) No gift will be rejected unless it is determined that its acceptance clearly would not be in the best interests of the Air Force.

(c) Gifts may be rejected under the following circumstances:

(1) Acceptance involves the expenditure or use of funds in excess of amounts appropriated by Congress.

(2) The offered item is extremely dangerous.

(3) The offered item is in bad taste.

(4) Acceptance of the gift would raise a serious question of impropriety in light of the donor's present or prospective business relationships with the Department of the Air Force (see Part 920 of this chapter).

(5) The cost of acceptance and maintenance is disproportionate to any benefit.

(6) Any other circumstance covered by this part.

(d) When an unconditional gift is rejected, whether it was offered in writing or has been physically received, the rejection will be in writing and signed personally by the person authorized to reject the gift. The letter will acknowledge receipt of the offer (or the gift) and explain why the Air Force cannot accept it.

§ 825a.16 Procedures for receiving and transmitting offers of gifts.

(a) *Method of Offering Gifts.* An offer of an unconditional gift may be in any form, so long as it is in writing.

(b) *Transfer of Title.*—(1) *Personal Property.* The title to a gift of tangible or intangible personal property passes to the United States when the offer of the gift is accepted by a person authorized to accept it.

(2) *Real Property.* The title to a gift of real property passes to the United States when a deed to that property is delivered to, and is accepted by, the Secretary of the Air Force. Before accepting a deed, the Secretary must obtain the written opinion of the Attorney General of the United States to the effect that the deed conveys good title. If a donor offers a gift of real property by any means other than a deed, and the Secretary determines that the offer should be accepted, the donor will be asked to prepare and deliver a deed.

(c) *Transmittal of an Offer.* Any person, military or civilian, in the Department of the Air Force who receives an unconditional offer of a gift which he or she is not authorized to accept, will send the offer, through channels, to the appropriate authority listed in § 825a.14. If the offer must be forwarded to HQ USAF, it must be processed through the channels prescribed in § 825a.24(b).

(1) If the offer is to be forwarded to a higher command, the letter or endorsement will give all information available to the transmitting headquarters.

(2) In the letter of transmittal for tangible personal property, including items of historical significance:

(i) Describe the item, including the quantity, condition, material, and approximate size and weight.

(ii) Indicate the item's present use, location and availability.

(iii) Describe any unusual or large expense of accepting and using the item.

(iv) Describe the donor's present or prospective business relationships with the Department of the Air Force.

(v) Include the commander's recommendation concerning the acceptance or rejection of the gift.

(vi) Summarize the item's significance to the Air Force.

(vii) Add any documentation available.

(3) Unconditional offers of gifts of real property will be processed as directed in § 825a.11.

§ 825a.17 Accounting for or disposition of unconditional gifts.

After acceptance, the disposition of the following types of gift items will be as indicated:

(a) *Money.* When an unconditional gift of money is accepted, such money will immediately be turned over to the local accounting and finance officer, for deposit to the Miscellaneous Receipts Account 571299 (Gifts to the United States not Otherwise Classified) of the United States Treasury.

(b) *Intangible Personal Property Other Than Money.* Gifts in the form of negotiable or nonnegotiable instruments will be endorsed, or made payable to the Treasurer of the United States, and processed in the same manner as gifts of money.

(c) *Tangible Personal Property.* The disposition of personal property will depend upon the category to which it belongs and will be in accordance with the following procedures:

(1) Gifts of historical significance will be processed under AFR 210–3, Air Force Historical Program, or AFR 210–4, Air Force Museum Program, as appropriate. Direct communication between the Chief, Office of Air Force History; the Director, Air Force Museum; and other commands on the collection, inventory, and disposition of Air Force historical properties is authorized.

(2) Artistic gifts will be examined by the Secretary of the Air Force Office of Information (SAF/OICB) and used as prescribed by that office. If the shipment of an item is not practical, a photograph of it may be forwarded. A reproduction of the item will not be made without the permission of SAF/OICB and the use of such an item for purely commercial purposes is prohibited.

(3) Gifts of tangible personal property for current use will be processed according to § 825a.24(b). These items will be used for the purpose indicated by the accepting authority.

(d) *Real Property.* Gifts of real property will be used and accounted as directed in AFM 93–1.

(e) The offer of any gift from a private nonprofit organization will contain a copy of the organization's minutes which authorize the officer whose name appears on the offer, to make the gift.

Subpart C—Conditional Gifts

§ 825a.18 Statutory authority.

The Secretary of the Air Force may accept conditional gifts on behalf of the United States for certain purpose in connection with the operation of the Department of the Air Force (10 U.S.C. 2601).

§ 825a.19 Receipt and use of disposition of a conditional gift.

Responsibility for the receipt and use, or disposition, of a conditional gift is as follows:

(a) Director of Civil Engineering, HQ USAF, will maintain records for the receipt, use, and disposition of gifts of real property in accordance with AFM 93–1, Air Force Real Property Accountable Records, and such supplemental directives as may be issued.

(b) Director of Maintenance, Engineering, and Supply, HQ USAF, will prescribe the procedures for receiving, accounting, and disposing of tangible personal property (supply and equipment) for current use. Exceptions: see paragraphs (c) through (j) of this section, AFM 67–1, USAF Supply Manual and other supplemental directives).

(c) SAF/OIC will keep records for the receipt, use, reproduction, and disposition of paintings, prints, and other objects of an artistic nature.

(d) Director of Accounting and Finance (AFAFC/TC), Denver, CO 80279, will:

(1) Review each offer of a gift of money, checks, money orders, drafts, bonds, shares of stocks, and similar documents except those which may be accepted locally under § 825a.4;

(2) Process the gift for acceptance or rejection by the Secretary of the Air Force;

(3) Notify the recipient commander of acceptance or rejection and furnish instruction as to the disposition;

(4) Prescribe the accounting system to be used in reporting the collection, disbursement, and the status of all monies and proceeds of gifts deposited to the Trust Fund Receipt Account 578928, Deposits, Department of the Air Force General Gift Fund;

(5) Identify fully liquidated allocated funds of all gifts of money and similar documents deposited to the Trust Fund Receipt Account 578928, Deposits, Department of the Air Force General Gift Fund, and notify the Director of Budget, HQ USAF (AF/ACBOC) to take total final reporting (TFR) action; and

(6) Arrange for acquisition of US Government securities when required in an offer of a gift. NOTE: Amounts offered for the purchase of US Government securities will not be allocated to the recipient command.

(e) Direction of Budget, HQ USAF, upon receipt of notification that a collection has been made and deposited to the Trust Fund Receipt Account, 578928, Deposits, Department of the Air Force General Gift Fund, will establish budget authorizations and allocate funds to the major command or operating agency responsible for the designated Air Forec organizations or institution.

(f) The Chief, Office of Air Force History and the Director, Air Force Museum, will keep records for the receipt, use, and disposition of Air Force historical properties under AFR 210–3 or AFR 210–4, as appropriate.

(g) The Surgeon General HQ USAF will prescribe the procedures for receiving, accounting, and disposing of all tangible personal property for use in medical facility, according to AFM 67–1, Vol. 5, Air Force Medical Material Management System—General, and supplemental directives.

(h) Director of Administration, HQ USAF, will prescribe the procedures for receiving, accounting, and disposing of tangible personal property for current use which related to records, filing, microfilming, printing, duplicating, or copying, according to AFR 6–1, Policies, Procedures, and Standards Governing Air Force Printing, Duplicating, Copying, and Microform, and 12–1, Air Force Documentation, Management and other supplemental directives.

(i) Director of Data Automation, HQ USAF, will prescribe the procedures for receiving, accounting, and disposing of tangible personal property for current use which relates to automatic data processing, according to AFM 300–6, Automatic Data Processisng (ADP), and other supplemental directives.

(j) Other specialized commodities such as Military Affiliate Radio System (MARS) items, Programmed Communications Support Programs (PCSP) items, cryptographic and associated equipment, given for current use but not covered herein, will be accounted for according to procedures prescribed by the functional activity involved.

§ 825.20 Form of instruments offering gifts.

(a) An offer of a conditional gift under 10 U.S.C. 2601 may be in any form, so long as it is in writing, signed by the donor, witnessed, and dated. If the donor is a corporation or partnership, one of the officers or partners should sign the offer on behalf of the donor and include the appropriate certificate (see § 825a.37).

(b) Sample formats, containing suggested language, are at §§ 825a.37 and 825a.38. They are samples only, and appropriate changes may be made, depending upon the needs of the individual case.

(c) With respect to conditional gifts of real property under 10 U.S.C. 2601, the offer of gift is merely an offer to transfer title to the property to the Secretary of the Air Force, acting on behalf of the United States of America (see § 825a.16(b)(2)).

(d) With respect to all other conditional gifts under 10 U.S.C. 2601, acceptance of the offer of a gift effects a transfer of title to the gift property to the Secretary of the Air Force acting on behalf of the United States.

§ 825a.21 Acceptance of gifts.

The following policies govern the acceptance of conditional gifts:

(a) All conditional gifts will be accepted unles it is determined that acceptance will not be in the best interests of the Air Force.

(b) If an offer of a gift requires Secretarial acceptance or rejection (see § 825a.4), send it to HQ USAF for acceptance of rejection by, or by direction of, the Secretary of the Air Force.

(c) When a gift of personal property has only nominal value it may be accepted on behalf of the Secretary of the Air Force by officers designated in § 825a.4 if the cost of accepting and maintaining it will be negligible. When in doubt as to whether the value is only nominal or whether the cost of acceptance is negligible, process the offer as though the gift had more than nominal value. The person who accepts a gift of nominal value will submit a copy of the instruments offering and accepting the gift to the appropriate functional activities (see § 825a.19).

(d) When Secretarial approval is required, the Air Staff office concerned will prepare the letter of acceptance and submit it, with the approval of the Office of the Chief of Staff, to the Office of the Secretary of the Air Force, for signature.

(e) Unless the offer expressly prohibits it, the Secretary of the Air Force may dispose of conditional gifts and use the proceeds for the purposes specified in the offer.

§ 825a.22 [Reserved]

§ 825a.23 Rejection of gifts.

(a) The determination to reject a conditional gift will be made personally by the individual authorized to reject such gifts.

(b) Gifts may be rejected under the circumstances listed in § 825a.15 (b) and (c).

(c) When a conditional gift is rejected, whether it has been physically received or offered in writing, the rejection will be in writing and signed personally by the person authorized to reject the gift. The letter will acknowledge receipt of the offer (or the gift) and explain why the Air Force cannot accept it. When rejection requires Secretarial approval, the Air Staff office concerned will prepare a letter of rejection and submit it, with the approval of the Office of the Chief of Staff, to the Office of the Secretary of the Air Force for signature.

§ 825a.24 Procedures for receipt and transmittal of offers of gifts.

(a) *Receipt of Offers.* Any person, military or civilian, in the Department of the Air Force may receive a conditional offer of a gift and may also receive the gift item, subject to the provisions of § 825a.7.

(b) *Transmittal of Offers.* When it is necessary to send an offer to a higher command, the letter or indorsement will give all information available to the transmitting headquarters.

(c) *Processing Gifts of Personal Property for current use.* The Air Staff office of primary responsibility (OPR) for processing a gift of tangible personal property, is determined by the type of property being offered.

(1) For example, an offer of equipment items is forwarded to HQ USAF/LEY, Wash DC 20330; medical and nonmedical items for use in a medical facility to HQ USAF/SG, Wash DC 20330; records and filing, microfilming, printing, duplicating, copying, and related equipment and documents to HQ USAF/DA, Wash DC 20330; automatic data processing equipment to HQ USAF/ACD, Wash DC 20330.

(2) When a gift of tangible personal property requires Secretarial approval, send the following information through channels to the HQ USAF OPR:

(i) Describe the item (and the quantity), its condition, material, and approximate size and weight.

(ii) State the conditions and limitations of the offer.

(iii) Explain the present use, location, and availability of the item.

(iv) Describe any unusual or large expense involved in accepting and using the item.

(v) Describe the donor's present or prospective business relationships with the Department of the Air Force.

(vi) Include the recommendation of the commander transmitting the offer (and any intermediate commanders) for acceptance or rejection.

(d) *Processing Gifts of Money and Other Intangible Personal Property.* Send offers of money or other intangible personal property to Director of Accounting and Finance (AFAFC/TC), Denver CO 80279, and give the following information in writing:

(1) State the amount involved;

(2) Describe the donor's present or prospective business relationships with the Department of the Air Force; and

(3) State the conditions of the offer if they are not specified in the formal offer.

(e) *Processing Gifts of Historical Significance.* Send a gift having historical significance that requires Secretarial approval to the Air Force Museum, Wright-Patterson AFB, OH 45433 and a gift of personal papers to the Chief, Office of Air Force History, HQ USAF/CHO, Washington, D.C. 20314, with the information listed in § 825a.16(c)(2).

(f) *Items of Artistic Significance.* When paintings, prints, or other artistic objects are offered, they will be sent through channels to the Secretary of the Air Force (SAF/OI), Wash DC 20330, along with a summary of the item's artistic significance to the Air Force and the name of the artist.

(g) *Gifts of Real Property.* When a gift of real property is offered, the following information will be forwarded, through channels, to HQ USAF/LEE, Wash DC 20330, for review before submission for acceptance:

(1) Complete description of the land.

(2) Geographic location (including relation of the land to existing Air Force facilities).

(3) Need for the land (for example, to assist expansion of base).

(4) Type of land (for example, wasteland, agricultural, mountainous, swampland, timber).

(5) Current use of land.

(6) Availability of the land for occupancy.

(7) Buildings presently on site.

(8) Cost of acquisition, development, operation, rehabilitation, and maintenance.

(9) Availability of adjacent additional property.

(10) Accessibility of public transportation and communications systems, utility services, and public roads.

(11) Availability of housing, schools, and medical and recreational facilities.

(12) Impact on civilian economy, attitude of communities, owners, other agencies, and individuals.

(13) Approximate valuation of land.

(14) Suitability for use by other commands.

(15) Conditions under which offer was made.

(16) All pertinent facts concerning the donor's present or prospective business relationships with the Department of the Air Force.

(17) The recommendation of the commander transmitting the offer (and any intermediate commanders) as to acceptance or rejection.

§ 825a.25 Accounting for gift property accepted under 10 U.S.C. 2601.

(a) All records of property received by the Air Force under 10 U.S.C. 2601 must be kept separate from property acquired otherwise. Accounting for conditional gift property accepted under 10 U.S.C. 2601 will be as follows:

(1) *Real Property.* Records as prescribed by AFM 93–1 will be used for the accounting of real property acquired by the Department of the Air Force by gift under 10 U.S.C. 2601.

(2) *Historical Property.* Records of property having historical significance will be accounted for under AFR 210–3 or AFR 210–4, as appropriate.

(3) *Tangible Personal Property.* Personal property acquired by the Department of the Air Force by gift under 10 U.S.C. 2601 will be accounted for according to § 825a.19.

(4) *Money and Other Intangible Personal Property.* Funds received as gifts under 10 U.S.C. 2601, or proceeds from the sale or investment of these gifts, will be deposited in the Treasury to the Trust Fund Receipt account 578928, Deposits, Department of the Air Force General Gift Fund. Gifts will not be deposited in this account until the offer has been accepted by proper authority.

(i) When the gift has been accepted, AFAFC/TC will advise the recipient commander to deposit the check to Account 578928.

(ii) Gifts of money will not be spent until receipt of AF Form 401, Budget Authorization, and AF Form 402, Allocation of Allotment, from HQ USAF/ACB. Immediately after deposit, a copy of the DD Form 1311, Collection Voucher, will be forwarded through channels, to HQ USAF/ACB with a request for AF Form 401 and 402.

(iii) When a conditional gift carries a limitation on expenditures to the amount of interest earned by the gift (that is, interest from Treasury Bonds), the Treasury Department will issue certificates of deposit periodically.

(iv) When a certificate of deposit for interest earnings is received, the accounting and finance officer will prepare a collection voucher in the amount of the deposit, and forward a copy of the voucher to HQ USAF/ACB with a request for AF Form 401 and 402. (If a Treasury certificate of deposit covers the proceeds of a redeemed bond, notify AFAFC/TCE immediately. Do not request AF Forms 401 and 402 unless directed to do so by AFAFC/TCE).

(v) Records of receipts, disbursements, and transactions concerning gift funds will be kept, as required, by pertinent accounting and finance directives. Gifts of negotiable instruments will be endorsed or made payable to the Treasurer of the United States, and processed in the same manner as gifts of money.

(5) *Artistic Property.* Records of property with artistic significance will be kept by SAF/OICB.

(b) Property records will positively identify the property as gift property.

(1) The records described in paragraphs (a) (1), (2), (3), and (5) of this section, will be prominently and clearly stamped in the following manner: "PROPERTY ACQUIRED UNDER PROVISIONS OF 10 U.S.C. 2601."

(2) The records described in paragraph (a)(4) of this section, will be prominently and clearly stamped: "FUNDS ACQUIRED UNDER PROVISIONS OF 10 U.S.C. 2601."

§ 825a.26 Sale of gift property.

(a) The Secretary of the Air Force may, except when specifically prohibited by the terms of the offer, sell any gift or property received under 10 U.S.C. 2601.

(b) The Superintendent of the Air Force Academy, may, except when specifically prohibited by the terms of the offer, sell any books and library materials deemed excess to the needs of the Academy library.

(c) The proceeds of sale shall be treated in the same manner as a gift of money. The proceeds will be deposited in the appropriate account and will be subject to disbursement at the discretion of the Secretary of the Air Force in accordance with the terms and conditions of the gift.

Subpart D—Conditional Gifts Not Acceptable Under 10 U.S.C. 2601

§ 825a.27 Statutory authority.

Basic authority for the acceptance by the United States of all gifts which are offered for the purpose of furthering the defense effort is 50 U.S.C. 1151–1156.

(a) *General Provisions.* (1) The Secretary of the Treasury is authorized to accept or reject, on behalf of the United States, any gift of intangible personal property "made on condition that it be used for a particular defense purpose."

(2) The Administrator of General Services is authorized to accept or reject, on behalf of the United States, any gift of other property, real or personal, "made on condition that it be used for a particular defense purpose."

(3) The Secretary of the Treasury and the Administrator of General Services are required to consult with the interested Federal agencies in carrying out the provisions of this statute.

(b) *Limitations.* (1) The statute does not modify or repeal the authority to accept conditonal gifts granted under any other provisions of law.

(2) The authority of the Secretary of the Air Force under 10 U.S.C. 2601 to accept or reject a conditional gift is unimpaired by the provisions of this statute.

§ 825a.28 Procedures for accepting gifts other than under 10 U.S.C. 2601.

When a conditional gift (or offer of a gift) is received by an Air Force command and it is determined that the gift cannot be accepted under 10 U.S.C. 2601 and under Subpart C, the following steps will be taken:

(a) Money or Other Intangible Personal Property: The receiving command will:

(1) Acknowledge receipt of the gift and its referral to the Treasury Department, but will not indicate acceptance or rejection of the gift on behalf of the United States.

(2) Send the money or other intangible personal property, together with the acknowledgment and original correspondence, to the Treasury Department, Bureau of Accounts, Administrative Division, Wash DC 20220.

(3) In the letter of transmittal to the Treasury Department, recommend acceptance or rejection of the gift and cite the appropriation or fund account to which the proceeds of the gift should be credited to carry out the donor's intent.

(b) Real Property or Tangible Personal Property. The command receiving a conditional offer of a gift of real property or tangible personal property will:

(1) Acknowledge receipt of the offer and advise the donor of its referral to the General Services Administration regional office but will not indicate acceptance or rejection of the gift on behalf of the United States.

(2) Notify the appropriate regional office of the General Services Administration and recommend acceptance or rejection of the gift.

(3) Send a copy of the acknowledgment with notification and recommendation to the regional office of the General Services Administration.

§ 825a.29 Doubtful cases.

In case of doubt as to whether a conditional gift may properly be

accepted under 10 U.S.C. 2601 or whether it must be accepted under 50 U.S.C. 1151–1156, such doubt shall be resolved in favor of 10 U.S.C. 2601 and the offer of gift processed under Subpart C of this part. The final determination shall be made at HQ USAF, and the gift transmitted to the General Services Administration or the Treasury Department if such action is indicated.

§ 825a.30 Advice of disposition.

The Fiscal Assistant Secretary of the Treasury (in the case of a conditional gift of money or intangible personal property) and the Administrator of General Services (in the case of a conditional gift of real or tangible personal property) are responsible, respectively, for the official acceptance or rejection of the gift and for notifying the donor and the agency concerned of the action taken.

Subpart E—Gifts for Distribution to Individuals.

§ 825a.31 Scope of Subpart.

This subpart establishes policy and procedures for the receipt by the Air Force of certain types of gifts for distribution to military personnel. This subpart refers to personal gifts to Air Force members and employees, not to official gifts to the Department of the Air Force.

§ 825a.32 Acceptable gifts.

Only gifts on nominal value of a desirable and useful nature that contribute to the health, comfort, convenience, or morale of military personnel may be received under the provisions of this subpart. (For example: playing cards, books and written material for hospitalized airmen.)

§ 825a.33 Responsibility.

Subject to the policies, procedures, and limitations stated here:

(a) CONUS major commands may receive gifts intended for distribution to personnel within their respective commands. This authority may be delegated to subordinate commanders.

(b) Oversea major commanders may receive gifts from donors located within their geographic areas. This authority may be delegated to subordinate commanders.

(c) The Commander, Air Force Manpower and Personnel Center, Randolph AFB TX 78148, is designated to receive gifts from persons or organizations in the United States for distribution to oversea commands, and for CONUS distribution when gifts are intended for military personnel of more than one major command.

§ 825a.34 Advertising and publicity.

Receipt of gifts of the nature contemplated by this subpart will be subject to the following provisions:

(a) By the Donor of the Gift. Restrictions will not be placed on advertising or publicity by the donor. However, such advertising or publicity should not imply an indorsement of the product by the Air Force or any member of it.

(1) A donor may place on the gift a marking which identifies the property as being donated by a particular person, group, or organization. However, the marking must be in good taste and must not be worded so that it indorses (or implies an indorsement of) the product by the Air Force or any AF member or employee.

(2) Receipt by an Air Force commander of a gift so marked will not be construed as either advertising or publicity of the gift by the Air Force.

(b) By the Commander Receiving the Gift for Distribution:

(1) The receipt of the gift will not be publicly acknowledged exept in special cases, and where specifically authorized by the Secretary of the Air Force. The commander authorized to receive the gift will acknowlede its receipt by an appropriate letter to the donor on behalf of the military personnel of the command concerned.

(2) Arrangements will not be made which entail granting of special concessions of privileges to the donor.

(3) Publicity will not be initiated by the receiving commander.

§ 825a.35 Transportation charges.

(a) Packaging and Transportation Charges Paid by the Donor. Except for the gifts discussed in paragraph (b) of this section, gifts under this subpart will be received only if the donor pays all packaging and transportation charges to the following points:

(1) Gifts for Distribution in the CONUS. Gifts will be sent to the distribution point or points designated by the receiving commander or Commander, Air Force Manpower and Personnel Center, Randolph AFB TX 78148.

(2) Gifts for Distribution in Oversea Commands. Gifts will be sent to the port of embarkation of other coastal activity designated by the Commander, Air Force Manpower and Personnel Center, or to the point designated by the receiving oversea commander. Oversea commanders will make all necessary arrangements with the port of embarkation for shipment of gift property to its destination in the overseas area.

(b) Transportation Charges Paid by the Air Force. When the following conditions are met the Air Force may pay transportation charges from current appropriations for gifts in this section:

(1) The gift consists of supplies or materials that would otherwise be purchased with appropriated funds and transported to their destination at government expense.

(2) No conditions of any kind are attached to the gift.

§ 825a.36 Temporary custody of gift items.

If an offer of property for distribution to individuals is made to an individual who is not authorized to receive it, and the donor specifically requests that the Air Force assume custody while the proper procedure is being determined, the donor will be informed that the Air Force cannot assume responsibility for any loss or damage to the property before it is delivered to the point designated by the person authorized to receive the gift.

§ 825a.37 Sample offer of gift by corporation.

Offer of Gift

Know All Men by These Presents:

That the (Name of Company), a corporation, the owner of the property listed below, acting by and through (Name of Corporate Officer Signing), (The President), (One of its Vice Presidents) (——————), does hereby voluntarily give, transfer, convey, and assign said property, free and clear of all encumbrances, to the Secretary of the Air Force, acting on behalf of the United States of America, to have and to hold the same forever, hereby relinquishing for itself, its successors, and assigns all ownership, rights, title, interest, and possession therein to the donee absolutely: (Description of Property).

The herein described gift and transfer of said property does not entail the granting by the donee of special concessions or privileges to the donor.

The herein describes gift and transfer of said property is made for the benefit of or use in connecting with the establishment, operation, or maintenance of (Designated Air Force Organization or Institution) or other institution or organization under the jurisdiction of the Department of the Air Force, in conformance with 10 U.S.C. 2601.

IN WITNESS WHEREOF the (Name of Company) has affixed its seal and caused this instrument to be executed by (Name of Person Signing), (The President), (One of its Vice Presidents) (——————), for and on behalf of the (Name of Company) this (Day) of (Month) (Year).

_____

(Name of Company)

_____

By (Signature)

Certificate

I, (Name), certify that I am the (Secretary) (Assistant Secretary) (————————) of the (Name of Company), a corporation: that (Name), who signed the Offer of Gift dated (———), on behalf of the (Name of Company), is (The President) (A Vice President) of the (Name of Company); and said Offer of Gift was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers. (Date) ———
(Date) ——— (Name) ————————
(Corporate Seal)

Note.—For offers of gifts of real property, the above language should be modified as follows:

In the first paragraph, after the word "voluntarily," add the words "offer to" and change the phrase "hereby relinquishing" to read "relinquishing upon such gift and conveyance."

At the end of the first paragraph, add the following sentence: "Pursuant to this offer, I will deliver to the Department of the Air Force a deed transferring valid title to said property to the Secretary of the Air Force, acting on behalf of the United States of America."

In the first line of both the second and third paragraphs, change the phrase "The herein described gift and transfer of said property * * *" to read, "The gift and conveyance of said property offered herein * * *"

If the gift of real estate is under a different statute, cite that statute instead of 10 U.S.C. 2601.

§ 825a.38 Sample offer of gift by individual.

Offer of Gift

Know All Men by These Presents:

That I, (Name), the owner of the property listed below, due hereby voluntarily give, transfer, convey and assign said property, free and clear of all encumbrances, to the Secretary of the Air Force, acting on behalf of the United States of America, to have and to hold the same forever, hereby relinquishing for myself, my executors, administrators, heirs and assigns all ownership, rights, title, interest and possession therein to the donee absolutely: (Description of Property).

The herein described gift and transfer of said property does not entail the granting by the donee of special concessions or privileges to me or my executors, administrators, heirs and assigns.

The herein described gift and transfer of said property is made for the benefit or of use in connection with the establishment, operation, or maintenance of the (Designated Air Force Organization or Institution) or other institution or organization under the jurisdiction of the Department of the Air Force, in conformance with 10 U.S.C. 2601.

(Signature) (seal)

(Dated)
Witness:

(Signature)

Note.—See the note in § 825a.37.

Carol M. Rose,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-10722 Filed 4-5-79; 8:45 am]
BILLING CODE 3910-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-16 and 1-18

Federal Procurement; New Editions of Standard Forms

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations (FPR) prescribes the use of the January 1979 edition of Standard Form 19-A, Labor Standards Provisions (Applicable to Contracts in Excess of $2,000), and the February 1979 edition of Standard Form 21, Bid Form (Construction Contract). The action is taken to incorporate in the forms new and revised provisions. The intended effect of this amendment is to reduce the need for agencies to supplement the Standard forms. The amendment also includes revised Department of Labor office designations applicable to the labor standards.

EFFECTIVE DATE: This amendment is effective July 16, 1979, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

PART 1-16—PROCUREMENT FORMS

Subpart 1-16.4—Forms for Advertised Construction Contracts

Section 1-16.401 is amended to revise paragraphs (b) and (e), as follows:

§ 1-16.401 Forms prescribed.

* * * * *

(b) Labor Standards Provisions Applicable to Contracts in Excess of $2,000 (Standard Form 19-A, January 1979 edition).

* * * * *

(e) Bid Form (Construction Contract) (Standard Form 21, February 1979 edition).

* * * * *

Subpart 1-16.9—Illustrations of Forms

Sections 1-16.901-19-A and 1-16.901-21 are revised to illustrate the new editions of Standard Forms 19-A and 21.

§ 1-16.901-19-A Standard Form 19-A, Labor Standards Provisions Applicable to Contracts in Excess of $2,000.

(a) Page 1 of Standard Form 19-A.

LABOR STANDARDS PROVISIONS

Applicable to Contracts in Excess of $2,000

1. DAVIS-BACON ACT (40 U.S.C. 276a-276a-7)

(a) All mechanics and laborers employed or working directly upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations, 29 CFR Part 3), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics. A copy of such wage determination decision shall be kept posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. The term "mechanics and laborers" shall be deemed to include apprentices and trainees not covered by an approved program as provided by the Apprentices and Trainees clause of this contract.

(b) The Contractor may discharge his obligation under this clause to workers in any classification for which the wage determination decision contains:

(1) Only a basic hourly rate of pay, by making payment at not less than such basic hourly rate, except as otherwise provided in the Copeland Regulations (29 CFR Part 3); or

(2) Both a basic hourly rate of pay and fringe benefits payments, by making payment in cash, by irrevocably making contributions pursuant to a fund, plan, or program for, and/or by assuming an enforceable commitment to bear the cost of, bona fide fringe benefits contemplated by the Davis-Bacon Act, or by any combination thereof. Contributions made, or costs assumed, on other than a weekly basis shall be considered as having been constructively made or assumed during a weekly period to the extent that they apply to such period. Where a fringe benefit is expressed in a wage determination in any manner other than as an hourly rate and the Contractor pays a cash equivalent or provides an alternative fringe benefit, he shall furnish information with his payrolls showing how he determined that the cost incurred to make the cash payment or to provide the alternative fringe benefit is equal to the cost of the wage determination fringe benefit. In any case where the Contractor provides a fringe benefit different from any contained in the wage determination he shall similarly show how he arrived at the hourly rate shown therefor. In the event of disagreement between or among the interested parties as to an equivalent of any fringe benefit, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(c) The assumption of an enforceable commitment to bear the cost of fringe benefits, or the provision of any fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or in the wage determination decision forming a part of the contract, may be considered as payment of wages only with the approval of the Secretary of Labor pursuant to a written request by the Contractor. The Secretary of Labor may require the Contractor to set aside assets, in a separate account, to meet his obligations under any unfunded plan or program.

(d) The Contracting Officer shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination decision and which is to be employed under the contract shall be classified or reclassified conformably to the wage determination decision, and shall report the action taken to the Secretary of Labor. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics, including apprentices and trainees to be used, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination. Apprentices and trainees may be added under this clause only where they are employed pursuant to an apprenticeship or trainee program meeting the requirements of the Apprentices and Trainees clause below.

(e) In the event it is found by the Contracting Officer that any laborer or mechanic, including apprentices and trainees, employed by the Contractor or any subcontractor directly on the site of the work covered by this contract has been or is being paid at a rate of wages less than the rate of wages required by paragraph (a) of this clause, or by the Apprentices and Trainees clause of this contract, the Contracting Officer may (1) by written notice to the Government Prime Contractor terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (2) prosecute the work to completion by contract or otherwise, whereupon such Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

(f) Paragraphs (a) through (e) of the clause shall apply to this contract to the extent that it is (1) a prime contract with the Government subject to the Davis-Bacon Act, or (2) a subcontract also subject to the Davis-Bacon Act under such prime contract.

2. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (40 U.S.C. 327-333).

This contract is subject to the Contract Work Hours and Safety Standards Act and to the applicable rules, regulations, and interpretations of the Secretary of Labor.

(a) The Contractor shall not require or permit any laborer or mechanic, including apprentices, trainees, watchmen, and guards, in any workweek in which he is employed on any work under this contract to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic, including apprentices, trainees, watchmen, and guards, receives compensation at a rate not less than 1½ times his basic rate of pay for all such hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, whichever is the greater number of overtime hours. The "basic rate of pay," as used in this clause, shall be the amount paid per hour exclusive of the Contractor's contribution or cost for fringe benefits, and any cash payment made in lieu of providing fringe benefits, or the basic hourly rate contained in the wage determination, whichever is greater.

(b) In the event of any violation of the provisions of paragraph (a), the Contractor shall be liable to any affected employee for any amounts due, and to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including an apprentice, trainee, watchman, or guard, employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by paragraph (a).

3. APPRENTICES AND TRAINEES

(a) Apprentices shall be permitted to work at less than the predetermined rate for the work they performed (1) when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or (2) if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in paragraph (b) of this clause or who is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor shall furnish to the Contracting Officer written evidence of the registration of his

(b) Page 2 of Standard Form 19-A.

program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeymen hourly rates) for the area of construction, prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeymen's rate contained in the applicable wage determination.

(b) Trainees shall be permitted to work at less than the predetermined rate for the work performed when they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The term "trainee" means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, as meeting its standards for on-the-job training programs and which has been so certified by the Bureau. The ratio of trainees to journeymen on this contract shall not be greater than the ratio permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor shall furnish the Contracting Officer written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the Contractor shall no longer utilize trainees at less than the applicable predetermined rate for work performed until an acceptable program is approved.

(c) The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of this contract.

(d) If at any time the Bureau of Apprenticeship and Training determines, after opportunity for a hearing, that the standards of a training program have not been complied with, or that such a program fails to provide adequate training for participants, the Contractor shall not utilize trainees at less than the predetermined rate for the classification of work actually performed until an acceptable program is approved. If the Contractor brings an appeal pursuant to 29 CFR 5.17 within 30 days of his receipt of a certified letter withdrawing the Bureau of Apprenticeship and Training's approval, the effect of the withdrawal of approval of the program will be delayed until a decision is rendered on the appeal pursuant to 29 CFR 5.17.

4. PAYROLLS AND BASIC RECORDS

(a) The Contractor shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve them for a period of 3 years thereafter for all laborers and mechanics, including apprentices, trainees, watchmen, and guards working at the site of the work. Such records shall contain the name and address of each such employee, his correct classification, rate of pay (including rates of contributing for or costs assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Contractor has obtained approval from the Secretary of Labor as provided in paragraph (c) of the clause entitled "Davis-Bacon Act", he shall maintain records which show the commitment, its approval, written communication of the plan or program to the laborers or mechanics affected, and the costs anticipated or incurred under the plan or program.

(b) The Contractor shall submit weekly a copy of all payrolls to the Contracting Officer. The Government Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic, including apprentices and trainees conform with the work he performed. Submission of the "Weekly Statement of Compliance" required under this contract and the Copeland Regulations of the Secretary of Labor (29 CFR Part 3) shall satisfy the requirement for submission of the above statement. The Contractor shall submit also a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by paragraph (c) of the clause entitled "Davis-Bacon Act". Contractors employing apprentices or trainees under approved programs shall include a notation of the first weekly certified payrolls submitted to the contracting agencies that their employment is pursuant to an approved program and shall identify the program.

(c) The Contractor shall make the records required under this clause available for inspection by authorized representatives of the Contracting Officer and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

NOTE: Watchmen and guards appear on payroll records only for purposes of the Contract Work Hours and Safety Standards Act.

5. COMPLIANCE WITH COPELAND REGULATIONS

The Contractor shall comply with the Copeland Regulations of the Secretary of Labor (29 CFR Part 3) which are incorporated herein by reference.

6. WITHHOLDING OF FUNDS

(a) The Contracting Officer may withhold or cause to be withheld from the Government Prime Contractor so much of the accrued payments or advances as may be considered necessary (1) to pay laborers and mechanics, including apprentices, trainees, watchmen, and guards employed by the Contractor or any subcontractor on the work the full amount of wages required by the contract, and (2) to satisfy any liability of the Contractor and any subcontractor for liquidated damages under paragraph (b) of the clause entitled "Contract Work Hours and Safety Standards Act—Overtime Compensation."

(b) If the Contractor or any subcontractor fails to pay any laborer, mechanic, apprentice, trainee, watchman, or guard employed or working on the site of work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Government Prime Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

7. SUBCONTRACTS

The Contractor agrees to insert the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act—Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance with Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment" in all subcontracts. The term "Contractor" as used in such clauses in any subcontract shall be deemed to refer to the subcontractor except in the phrase "Government Prime Contractor."

8. CONTRACT TERMINATION—DEBARMENT

A breach of the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act—Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance with Copeland Regulations," "Withholding of Funds," and "Subcontracts" may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

9. DISPUTES CONCERNING LABOR STANDARDS

Disputes arising out of the labor standards provisions of this contract shall be subject to the Disputes clause except to the extent such disputes involve the meaning of classifications or wage rates contained in the wage determination decisions of the Secretary of Labor or the applicability of the labor provisions of this contract which questions shall be referred to the Secretary of Labor in accordance with the procedures of the Department of Labor.

☆ GPO : 1978 O - 260-455

BILLING CODE 6820-24-C

§ 1-16.901-21 Standard Form 21, Bid Form (Construction Contract).

(a) Page 1 of Standard Form 21.

BID FORM
(Construction Contract)

REFERENCE

Read the instructions to Bidders (Standard Form 22).
This form is to be submitted in

DATE OF INVITATION

NAME AND LOCATION OF PROJECT

BIDDER'S NAME AND ADDRESS *(Include ZIP Code) (Type or print)*

TELEPHONE NUMBER *(Include Area Code)*

DATE

TO:

In compliance with the above-dated invitation for bids, the undersigned hereby proposes to perform all work for

in strict accordance with the General Provisions (Standard Form 23-A), Labor Standards Provisions Applicable to Contracts in Excess of $2,000 (Standrd Form 19-A), specifications, schedules, drawings, and conditions, for the following amount(s)

SPECIMEN

21-109 *(Continue on other side)* STANDARD FORM 21 (Rev. 2-79) Prescribed by GSA, FPR (41 CFR) 1-16.601

(b) Page 2 of Standard Form 21.

The undersigned agrees that, upon written acceptance of this bid, mailed or otherwise furnished within calendar days (**calendar days unless a different period be inserted by the bidder) after the date of opening of bids, he will within 15 calendar days (unless a longer period is allowed) after receipt of the prescribed forms, execute Standard Form 23, Construction Contract, and give performance and payment bonds on Government standard forms with good and sufficient surety. The undersigned further agrees that, when reinsurance agreements are contemplated, all necessary reinsurance agreements will be on Government forms and will be executed and submitted with the bonds. However, when an additional period of days (not to exceed 45 calendar days) is authorized by the procuring activity, reinsurance agreements may be submitted within such period after the execution of the bond.

The undersigned agrees, if awarded the contract, to commence the work within calendar days after the date of receipt of notice to proceed, and to complete the work within calendar days after the date of receipt of notice to proceed.

**Bids acceptance period. Bids offering less than days for acceptance by the Government from the date set for opening will be considered nonresponsive and will be rejected.

RECEIPT OF AMENDMENTS: *The undersigned acknowledges receipt of the following amendments of the invitation for bids, drawings, and/or specifications, etc. (Give number and date of each):*

AMENDMENT NO.						
DATE						
AMENDMENT NO.						
DATE						

The representations and certifications on the accompanying STANDARD FORM 19-B are made a part of this bid.

ENCLOSED IS BID GUARANTEE, CONSISTING OF

IN THE AMOUNT OF

NAME OF BIDDER *(Type or print)*

FULL NAME OF ALL PARTNERS *(Type or print)*

BUSINESS ADDRESS *(Type or print) (Include "ZIP Code")*

BY *(Signature in ink. Type or print name under signature)*

TITLE *(Type or print)*

SPECIMEN

DIRECTIONS FOR SUBMITTING BIDS: *Envelopes containing bids, guarantee, etc., must be sealed, marked, and addressed as follows:*

CAUTION—*Bids should not be qualified by exceptions to the bidding conditions.*

STANDARD FORM 21 BACK (Rev. 2-78)

☆ U.S. GOVERNMENT PRINTING OFFICE : 1978 O—260-455(26)

BILLING CODE 6820-24-C

PART 1-18—PROCUREMENT OF CONSTRUCTION

Subpart 1-18.7—Labor Standards for Contracts Involving Construction

1. Section 1-18.703-1 is amended to revise paragraphs (a), (c), (d), and (f) as follows:

§ 1-18.703-1 Clauses for general use.

* * * * *

(a) *Davis-Bacon Act (40 U.S.C. 276a-276a-7).*

Davis-Bacon Act (40 U.S.C. 276a-276a-7)

(a) All mechanics and laborers employed or working directly upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations, 29 CFR Part 3), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics. A copy of such wage determination decision shall be kept posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. The term "mechanics and laborers" shall be deemed to include apprentices and trainees not covered by an approved program as provided by the Apprentices and Trainees clause of this contract.

(b) The Contractor may discharge his obligation under this clause to workers in any classification for which the wage determination decision contains:

(1) Only a basic hourly rate of pay, by making payment at not less than such basic hourly rate, except as otherwise provided in the Copeland Regulations (29 CFR Part 3); or

(2) Both a basic hourly rate of pay and fringe benefits payments, by making payment in cash, by irrevocably making contributions pursuant to a fund, plan, or program for, and/or by assuming an enforceable commitment to bear the cost of, bona fide fringe benefits contemplated by the Davis-Bacon Act, or by any combination thereof. Contributions made, or costs assumed, on other than a weekly basis shall be considered as having been constructively made or assumed during a weekly period to the extent that they apply to such period. Where a fringe benefit is expressed in a wage determination in any manner other than as an hourly rate and the Contractor pays a cash equivalent or provides an alternative fringe benefit, he shall furnish information with his payrolls showing how he determined that the cost incurred to make the cash payment or to provide the alternative fringe benefit is equal to the cost of the wage determination fringe benefit. In any case where the Contractor provides a fringe benefit different from any contained in the wage determination he shall similarly show how he arrived at the hourly rate shown therefor. In the event of disagreement between or among the interested parties as to an equivalent of any fringe benefit, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(c) The assumption of an enforceable commitment to bear the cost of fringe benefits, or the provision of any fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or in the wage determination decision forming a part of the contract, may be considered as payment of wages only with the approval of the Secretary of Labor pursuant to a written request by the Contractor. The Secretary of Labor may require the Contractor to set aside assets, in a separate account, to meet his obligations under any unfunded plan or program.

(d) The Contracting Officer shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination decision and which is to be employed under the contract shall be classified or reclassified conformably to the wage determination decision, and shall report the action taken to the Secretary of Labor. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics, including apprentices and trainees to be used, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination. Apprentices and trainees may be added under this clause only where they are employed pursuant to an apprenticeship or trainee program meeting the requirements of the Apprentices and Trainees clause below.

(e) In the event it is found by the Contracting Officer that any laborer or mechanic, including apprentices and trainees, employed by the Contractor or any subcontractor directly on the site of the work covered by this contract has been or is being paid at a rate of wages less than the rate of wages required by paragraph (a) of this clause, or by the Apprentices and Trainees clause of this contract, the Contracting Officer may (1) by written notice to the Government Prime Contractor terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (2) prosecute the work to completion by contract or otherwise, whereupon such Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

(f) Paragraphs (a) through (e) of the clause shall apply to this contract to the extent that it is (1) a prime contract with the Government subject to the Davis-Bacon Act, or (2) a subcontract also subject to the Davis-Bacon Act under such prime contract.

* * * * *

(c) *Apprentices and Trainees.*

Apprentices and Trainees

(a) Apprentices shall be permitted to work at less than the predetermined rate for the work they performed (1) when they are employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or (2) if a person is employed in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of apprenticeship and Training or State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in paragraph (b) of this clause or who is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor shall furnish to the Contracting Officer written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeymen hourly rates) for the area of construction, prior to using any apprentices on the contract work. The wage rate paid apprentices shall be not less than the appropriate percentage of the journeymen's rate contained in the applicable wage determination.

(b) Trainees shall be permitted to work at less than the predetermined rate for the work performed when they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The term "trainee" means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, as meeting its standards for on-the-job training programs and which has been so certified by the Bureau. The ratio of trainees to journeymen on this contract shall not be greater than the ratio permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor shall furnish

the Contracting Officer written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the Contractor shall no longer utilize trainees at less than the applicable predetermined rate for work performed until an acceptable program is approved.

(c) The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of this contract.

(d) If at any time the Bureau of Apprenticeship and Training determines, after opportunity for a hearing, that the standards of a training program have not been complied with, or that such a program fails to provide adequate training for participants, the Contractor shall not utilize trainees at less than the predetermined rate for the classification of work actually performed until an acceptable program is approved. If the Contractor brings an appeal pursuant to 29 CFR 5.17 within 30 days of his receipt of a certified letter withdrawing the Bureau of Apprenticeship and Training's approval, the effect of the withdrawal of approval of the program will be delayed until a decision is rendered on the appeal pursuant to 29 CFR 5.17.

(d) *Payrolls and Basic Records.*

Payrolls and Basic Records

(a) The Contractor shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve them for a period of 3 years thereafter for all laborers and mechanics, including apprentices, trainees, watchmen, and guards working at the site of the work. Such records shall contain the name and address of each such employee, his correct classification, rate of pay (including rates of contributing for or costs assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Contractor has obtained approval from the Secretary of Labor as provided in paragraph (c) of the clause entitled "Davis-Bacon Act", he shall maintain records which show the commitment, its approval, written communication of the plan or program to the laborers or mechanics affected, and the costs anticipated or incurred under the plan or program.

(b) The Contractor shall submit weekly a copy of all payrolls to the Contracting Officer. The Government Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic, including apprentices and trainees conform with the work he performed. Submission of the "Weekly Statement of Compliance" required under this contract and the Copeland Regulations of the Secretary of Labor (29 CFR Part 3) shall satisfy the requirement for submission of the above statement. The Contractor shall submit also a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by paragraph (c) of the clause entitled "Davis-Bacon Act". Contractors employing apprentices or trainees under approved programs shall include a notation on the first weekly certified payrolls submitted to the contracting agencies that their employment is pursuant to an approved program and shall identify the program.

(c) The Contractor shall make the records required under this clause available for inspection by authorized representatives of the Contracting Office and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

Note.—Watchmen and guards appear on payroll records only for purposes of the Contract Work Hours and Safety Standards Act.

* * * * *

(f) *Withholding of Funds.*

Withholding of Funds

(a) The Contracting Officer may withhold or cause to be withheld from the Government Prime Contractor so much of the accrued payments or advances as may be considered necessary (1) to pay laborers and mechanics, including apprentices, trainees, watchmen, and guards employed by the Contractor or any subcontractor on the work the full amount of wages required by the contract, and (2) to satisfy any liability of the Contractor and any subcontractor for liquidated damages under paragraph (b) of the clause entitled "Contract Work Hours and Safety Standards Act—Overtime Compensation."

(b) If the Contractor or any subcontractor fails to pay any laborer, mechanic, apprentice, trainee, watchman, or guard employed or working on the site of work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Government Prime Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

* * * * *

2. Section 1-18.704-3(a) is revised as follows:

§ 1-18.704-3 Procedure for requesting determinations.

(a) *Requests for project area or individual wage determinations.* Requests shall be submitted on completed Standard Form 308, Request for Determination and Response to Request, to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Construction Wage Determination, Washington, DC 20210. Only those classifications shall be checked on the form which will be needed in the performance of the work. Needed classifications that are not on the form may be added. The agency shall not list classifications which can be fitted into classifications on the form, or classifications which are not generally recognized in the area or in the construction industry. Requests shall:

(1) Include a sufficiently detailed description of the work to indicate the type of construction involved; i.e., building, heavy, highway, or other type;

(2) Include the location of the project, giving the distance in miles and the direction from the nearest point of reference;

(3) Include the agency's evaluation of whether the project is a building, heavy, highway, or other type of construction project;

(4) Be accompanied by any available pertinent wage payment information unless the wage patterns in the area are clearly established; and

(5) Include a complete statement of the incidence of use of the last previously issued installation determination, the total dollar amount of the contracts awarded thereunder, and an estimate of the use of any new determination during its 120-day life. This should include a brief description of the planned projects (i.e., commercial, residential, heavy, or highway), the estimated cost of each project, and the kinds of laborers and mechanics likely to be employed.

* * * * *

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

Dated: March 22, 1979.

Paul E. Goulding,
Acting Administrator of General Services.

[FPR Amendment 198]

[FR Doc. 79-10659 Filed 4-5-79; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 447

Payments for Services; Public Notice of Changes in Method or Level of Reimbursement

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This regulation requires Medicaid agencies to give sixty days public notice of proposed changes in the Statewide method or level of reimbursement for Medicaid services in certain specified circumstances. Its purpose is to allow the public to

evaluate these changes prior to their being made. We expect this regulation to help combat the rapid rise in health care costs.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Charles Gardner, 202-245-8990.

SUPPLEMENTARY INFORMATION: This regulation is based on sections 1902(a)(4)(A) and 1902(a)(30) of the Social Security Act. Section 1902(a)(4)(A) specifies that a State plan for medical assistance shall provide for "such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan". Section 1902(a)(30) requires that a State plan must:

> Provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan . . . as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments (including payments for any drugs provided under the plan) are not in excess of reasonable charges consistent with efficiency, economy, and quality of care.

This regulation is one of several initiatives we are taking to restrain the increase in health care costs. Since the health care industry is the third largest industry in the nation, the rapid increase in health care costs is a major contributor to the national problem of inflation.

Provisions of the Regulation

1. *When Notice Is Required.* This regulation specifies the circumstances in which Medicaid agencies are required to give public notice of proposed changes in Medicaid reimbursement at least sixty days before the changes take effect. Public notice is required for proposed changes that meet all of the following conditions:

(1) The proposed change affects the general method of payment to all providers of a particular service.

(2) The proposed change affects the level of payment for a particular service. For example, a change in the maximum allowable rate under a Statewide schedule of usual and customary charges due to an adjustment of the percentile ceiling.

(3) The proposed change is projected to affect a State's Medicaid expenditures for a particular service by 1% or more during the 12 months following the effective date of the change.

A threshold of 1% was selected to maximize the number of changes requiring a notice without requiring notice of very minor changes. We believe that most changes in reimbursement level amount to 5% or more, but a 5% threshold would allow a State to avoid public notice by making incremental changes of under 5%. We believe a threshold of 1% will result in public notice of all significant changes in a State's level of expenditures for the service involved.

Public notice is not required for changes that are necessary because of a court order or that are made to conform to Medicare reimbursement methodology. Because a court order is binding on a Medicaid agency, we believe public comment would not serve a useful purpose. Change in the Medicare method or level of reimbursement is normally made by HEW only after notice of the proposed change is published in the **Federal Register** for public comment. Therefore, a requirement that a State give public notice would be duplicative.

Notice is not required for a change that affects an individual provider, such as a change in a reimbursement rate for a particular hospital. Notice is not required for routine annual changes in prospective payment rates, as long as the general method of payment does not change.

Nor is notice required when expenditures are expected to increase because of an inflation factor that is part of a current method of payment, regardless of whether the percentage increase is 1% or more. If the agency's reimbursement system is based on material costs plus a professional fee, notice is not required when State expenditures for drugs or materials increase by 1% or more due to a change in wholesalers' or manufacturers' prices.

2. *Content and Circulation of Notice.* The notice must describe the change in reimbursement method or level, give an estimate of the expected annual increase or decrease in expenditures, and explain why the agency is changing is reimbursement methodology or level of reimbursement. The notice must also tell where copies of the proposed changes may be reviewed by the public and where copies of the comments may be sent and reviewed. The notice must give the time and place of any hearing on the change, or specify how to obtain this information.

Medicaid agencies are required to publish public notices in the newspaper of widest circulation in each city having a population of 50,000 or more. If there are no cities of that size, the public notice must be published in the newspaper of widest circulation in the State. If the State has a publication similar to the **Federal Register**, it may use that instead of newspapers.

3. *Revocation of Duplicative Provisions.* Because they duplicate in part the requirements of this regulation, we are revoking 42 CFR 447.261(d) (4) and (5), dealing with public notice of changes in inpatient hospital reimbursement, and 42 CFR 447.307(a), on public notice of changes in long-term care facility reimbursement. To improve the organization of the regulation, we are redesignating the remaining paragraph (b) in § 447.307 as § 447.306(c).

Discussion of Comments

Notice of proposed rulemaking was published on May 12, 1978 (43 FR 20516). Comments were received from twenty-six sources. Four commenters expressed satisfaction with the regulation and suggested no specific revisions. For the remaining twenty-two responses, the major concerns and our responses follow:

1. General Comments

Comment: The Secretary of HEW has no statutory authority to establish State administrative procedures and ratesetting methodology. This is in the State's domain, and the regulation usurps State responsibility.

Response: Sections 1902(a)(4)(A) and 1902(a)(30) of the Social Security Act give the Secretary statutory authority to establish methods of administration for the proper and efficient operation of a State's Medicaid plan. The regulations require only that States give public notice and notify HCFA of proposed changes in methods or levels of reimbursement. States retain their authority to make such changes.

Comment: Changes in drug prices and pharmacy dispensing fees should be excluded from the regulation. Drug prices are beyond the control of Medicaid agencies. Pharmacist fees have been too low historically and this regulation will impede raising them to reasonable levels.

Response: We believe that, in order to be effective in promoting public comment on Medicaid reimbursement changes, the notice requirement should apply to changes in method or level of reimbursement for each class of providers. We think that public involvement will enhance the quality of decision-making and lead to improved methods and more realistic levels of reimbursement. Accordingly, we have not accepted this suggestion to exempt pharmacists from the regulation. We have exempted changes in drug prices,

however, for the reason cited by the comments.

Comment: The general public will not be interested in nor knowledgeable enough to comment on proposed changes in methods or levels of reimbursement.

Response: The general public deserves the opportunity to comment on changes that affect it. We believe that many individuals and groups including recipients, health professionals, interest groups, and others interested in health care and the use of public funds, will be both interested and knowledgeable in commenting on proposed changes in Medicaid reimbursement.

Comment: What is acceptable in describing the expected economic impact of a change in reimbursement method or level?

Response: The regulation has been clarified and now requires that the notice (1) describe the proposed change in reimbursement method or level, (2) give an estimate of any expected increase or decrease in annual expenditures for the service involved, and (3) give an explanation of why the agency is changing its reimbursement methodology or its level of reimbursement.

2. Level or Method of Reimbursement

Comment: The regulation does not clearly describe which changes in the levels or methods of reimbursement require public notice.

Response: The regulation has been revised to clarify the circumstances in which public notice is required.

Comment: The regulation should allow for retroactive dollar adjustments in response to cost increases in utilities, food, and so forth.

Response: Retroactive dollar adjustments that are part of cost-settlements based on formula reimbursement methods do not require public notice, and are not covered by this regulation.

3. Sixty-Day Period

Comment: The regulation should be drafted so that it does not cause a sixty-day loss of revenue for providers, particularly at the beginning of a new year when new reimbursement methods may be implemented.

Response: States must publish notice to change methods or levels of reimbursement sixty days in advance of the desired implementation date. A Medicaid agency's planning process should be modified, if necessary, to build in the early publication of notices to minimize delays in implementation.

Comment: A sixty-day public notice period will delay the effective date of a new reimbursement rate if an excessive number of public comments are received.

Response: Even though comments on a particular provision may be voluminous, it is likely that they will tend to address the same concerns. For this reason, it should not be difficult to analyze the comments. If "excessive" comments are received on the same or varied aspects of a State's proposal, and if sufficient problems have been uncovered, a delay in implementation may be warranted.

Comment: Sixty-day notification should be given directly to providers of medical care and services.

Response: Providers will receive the same sixty-day notice given to the general public.

Comment: Public comments cannot be adequately analyzed and evaluated in a sixty-day period.

Response: We believe that sixty days is enough time for analysis and evaluation of comments. If a State needs a longer period for analysis, it may use a longer period, since the sixty-day period is a minimum, not a maximum.

Comment: The public notice requirement is an additional administrative burden for a State agency.

Response: We believe the benefits to be derived from giving the public an opportunity to comment on proposed changes in Medicaid reimbursement justify the additional administrative burden.

4. Public Announcement

Comment: Some States have a newspaper designated to publish all official State notices. Compliance with the regulation will be duplication.

Response: The regulation has been revised to permit States that have these publications to use them instead of newspapers.

Comment: The public notice requirement will not be effective in States with few cities of 50,000 or more population. Suggested alternatives include:

1. Publish notice in newspaper of largest circulation in each county within the State.

2. Publish notice in newspaper of largest circulation in the State.

Response: The regulation has been revised to require that public notice appear in the newspaper of widest circulation in a State if there is no city with population of 50,000 or more. In our view, publication in each county would be unnecessarily expensive.

Comment: Highly populated States having several cities of 50,000 or more population will incur excessive costs in providing public notice.

Response: The intent of the regulation is to encourage public participation. We believe the publication requirements are reasonable.

5. Access to Public Comments

Comment: Public comments should be available for review at a central location.

Response: The regulation has been revised to require that one set of comments be available at a central location.

42 CFR Part 447 is amended as set forth below:

1. The table of contents is amended to read as follows:

PART 447—PAYMENTS FOR SERVICES

* * * * *

Subpart B—Payment Methods: General Provisions

Sec.
447.200 Basis and purpose.
447.201 State plan requirements.
447.202 Audits.
447.203 Documentation of payment rates.
447.204 Encouragement of provider participation.
447.205 Public notice of changes in Statewide method or level of reimbursement.

Subpart C—Payment Methods and Upper Limits for Specific Services

* * * * *

Payment Determination

Sec.
447.301 Methods and standards for setting reasonable cost-related payment rates.
447.302 Actual costs.
447.303 Economic conditions and trends.
447.304 Redetermination of prospective payment rates.
447.305 Class rate determination.
447.306 Retroactive downward adjustment provisions.

* * * * *

2. A new § 447.205 is added to read as follows:

§ 447.205 Public notice of changes in Statewide method or level of reimbursement.

(a) *When notice is required.* Except as specified in paragraph (b) of this section, the agency must provide public notice of any proposed change in the Statewide method or level of reimbursement for a service, if the change is expected to increase or decrease Medicaid payments for that service by 1 percent or more during the

12 months following the effective date of the change.

(b) *When notice is not required.* Notice is not required if—

(1) The change is being made to conform to Medicare methods or levels of reimbursement;

(2) The change is required by court order; or

(3) The change is based on changes in wholesalers' or manufacturers' prices of drugs or materials, if the agency's reimbursement system is based on material cost plus a professional fee.

(c) *Content of notice.* The notice must—

(1) Describe the proposed change in method or level of reimbursement;

(2) Give an estimate of any expected increase or decrease in annual aggregate expenditures;

(3) Explain why the agency is changing its reimbursement methodology or level of reimbursement;

(4) Identify a local agency in each county (such as the social services agency or health department) where copies of the proposed changes are available for public review;

(5) Give an address where written comments may be sent and reviewed by the public; and

(6) If there are public hearings, give the location, date and time for hearings or tell how this information may be obtained.

(d) *Publication of notice.* The notice must—

(1) Be published at least 60 days before the proposed effective date of the change;

(2) Appear as a public announcement in—

(i) A State register similar to the **Federal Register;**

(ii) The newspaper of widest circulation in each city with a population of 50,000 or more; or

(iii) The newspaper of widest circulation in the State, if there is no city with a population of 50,000 or more; and

(3) Be sent to HCFA Regional Office upon publication.

§ 447.261 [Amended]

3. § 447.261 is amended by vacating and reserving paragraphs (d)(4) and (5).

4. § 447.306 is amended by adding a new paragraph (c), which revises and redesignates the content of § 447.307(b).

§ 447.306 Retroactive downward adjustment provisions.

(a) If facilities are classed by quality of services or level of care and the payment rates provide for adjustment to a prospectively set lower rate for facilities with service deficiencies, the plan must set forth the service deficiencies for which payment may be adjusted to the lower rate.

(b) A ratesetting method that provides for adjustment downward to a prospectively set lower rate is not subject to the upper limits under § 447.316.

(c) If proposed rates or rate formulas provide for retroactive downward adjustments, the agency, in publishing the proposed rates or rate formulas for public comment, under § 447.205, must state the deficiencies under which an adjustment would be made and the amount or percentage rate of the adjustment.

§ 447.307 [Reserved]

5. Section 447.307 is vacated and reserved. Paragraph (a) is deleted and paragraph (b) is revised and redesignated as paragraph (c) of § 447.306.

(Sec. 1102, Social Security Act (42 U.S.C. 1302)) (Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: March 9, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing Administration.

Approved: March 30, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-10582 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab Off Alaska; Notice of Continued Closure of Portion of Registration Area H (Cook Inlet) to Fishing by U.S. Vessels

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of Continued Effectiveness of Field Order.

SUMMARY: The Director, Alaska Region, (Regional Director) National Marine Fisheries Service (NMFS) gives notice of the continued effectiveness of a Field Order issued on January 30, 1979. That Field Order closed the Southern District of the Cook Inlet Registration Area to fishing for Tanner crab by vessels of the United States, until November 1, 1979, in accordance with the Fishery Management Plan for Tanner Crab off Alaska (FMP) and the Plan's implementing regulations (50 CFR 671.27(b)) (See 43 FR 57149).

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska 99802, Telephone (907) 586-7221.

SUPPLEMENTARY INFORMATION: On January 30, 1979, the Regional Director issued a final regulation (Field Order) that closed the Southern District of the Cook Inlet Registration Area to fishing for Tanner crab by vessels of the United States, until November 1, 1979 in accordance with 50 CFR 671.26(e)(2)(i). (See 44 FR 5885).

Public comment prior to the issuance of the Field Order was impracticable and contrary to the public interest, but public comment was invited for a period of 60 days following the effective date of the Order.

That Order also provided that as soon as practicable after the end of that 60-day period, the Regional Director shall, taking into account any comments received, publish in the **Federal Register** either: (a) a notice of continued effectiveness of the Field Order; or (b) a notice to modify or amend the Order.

No comments have been received by the Regional Director regarding this closure. Furthermore, no information has been presented from any source which would affect the necessity or appropriateness of the closure. Therefore, the closure of the Southern District of the Cook Inlet Registration area to fishing for Tanner crab by vessels of the United States continues in effect until November 1, 1979.

Signed at Washington, D.C., this the 2nd day of April, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

AUTHORITY: 16 USC 1801 *et seq.*

[FR Doc. 79-10792 Filed 4-5-79; 8:45 am]

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 340 and 890

Part-Time Employment

AGENCY: Office of Personnel Management.

ACTION: Interim Regulations with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement its responsibilities under P.L. 95-437, the Federal Employees Part-time Career

Employment Act of 1978. This law narrows the definition of part-time career employment in the Federal Government from scheduled work of less than 40 hours per week to scheduled work between 16 and 32 hours per week, requires most Federal agencies to develop and administer a program to expand part-time employment opportunities, and changes the personnel ceiling and fringe benefit provisions governing part-time career Federal employees. The proposed regulations define coverage under the Act for employment (Part 340) and health insurance (Part 890) purposes, and outline OPM responsibilities to provide technical guidance and assistance in the part-time employment area. The regulations also implement the statutory requirement that agencies report their progress in expanding part-time employment opportunities to the Office of Personnel Management on a twice-yearly basis.

DATES: Effective date: April 8, 1979, and until final regulations are issued.

Comment date: Written comments will be considered if received no later than June 5, 1979.

ADDRESS: Send written comments to Office of Staffing Policies, Examining Mangement Branch, Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Room 6526, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ed McHugh, 202–632–6817 (employment). Ed Borchers, 202–632–4684 (health benefits).

SUPPLEMENTARY INFORMATION: These regulations will be supplemented by guidance on part-time employment policy and fringe benefits changes developed by the Office of Personnel Management and issued through the Federal Personnel Manual System.

Pursuant to section 553(d)(3) of title 5 U.S.C., the Director finds that good cause exists for making these regulations effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Federal Employees Part-Time Career Employment Act of 1978 as amended by the Civil Service Reform Act of 1978.

Accordingly, the Office of Personnel Management is issuing new regulations under title 5, Code of Federal Regulations. A new Part 340 is established as set out below:

PART 340—PART-TIME EMPLOYMENT

Subpart A—Principal Statutory Requirements

Sec.
340.101 Principal statutory requirements.

Subpart B—Regulatory Requirements of the Office of Personnel Management

340.201 Regulatory requirements.
340.202 General provisions.
340.203 Technical assistance.
340.204 Agency reporting.

AUTHORITY: 5 U.S.C. 3401 et seq.

Subpart A—Principal Statutory Requirements

§ 340.101 Principal statutory requirements.

This subpart incorporates for the benefit of the user of the principal statutory requirements governing part-time career employment, as contained in 5 U.S.C. 3401–3408, and related provisions of Public Law 95–437.

Short Title

Section 1. This Act may be cited as the "Federal Employees Part-Time Career Employment Act of 1978".

Congressional Findings and Purpose

Sec. 2. (a) The Congress finds that—

(1) many individuals in our society possess great productive potential which goes unused because they cannot meet the requirements of a standard workweek; and

(2) part-time permanent employment—

(A) provides older individuals with a gradual transition into retirement;

(B) provides employment opportunities to handicapped individuals or others who require a reduced workweek;

(C) provides parents opportunities to balance family responsibilities with the need for additional income;

(D) benefits students who must finance their own education or vocational training;

(E) benefits the Government, as an employer, by increasing productivity and job satisfaction, while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling shortages in various occupations; and

(F) benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite the reduced income), thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience.

(b) The purpose of this Act is to provide increased part-time career employment opportunities throughout the Federal Government.

"§ 3401. Definitions

"For the purpose of this subchapter—

"(1) 'agency' means—

"(A) an Executive agency;

"(B) a military department;

"(C) an agency in the judicial branch;

"(D) the Library of Congress;

"(E) the Botanic Garden; and

"(F) the Office of the Architect of the Capitol; but does not include—

"(i) a Government controlled corporation;

"(ii) the Tennessee Valley Authority;

"(iii) the Alaska Railroad;

"(iv) the Virgin Island Corporation;

"(v) the Panama Canal Company;

"(vi) the Federal Bureau of Investigation, Department of Justice;

"(vii) the Central Intelligence Agency; and

"(viii) the National Security Agency, Department of Defense; and

"(2) 'part-time career employment' means part-time employment of 16 to 32 hours a week under a schedule consisting of an equal or varied number of hours per day, whether in a position which would be part-time without regard to this section or one established to allow job-sharing or comparable arrangements, but does not include employment on a temporary or intermittent basis.

"§ 3402. Establishment of part-time career employment programs

"(a)(1) In order to promote part-time career employment opportunities in all grade levels, the head of each agency, by regulation, shall establish and maintain a program for part-time career employment within such agency. Such regulations shall provide for—

"(A) the review of positions which, after such positions become vacant, may be filled on a part-time career employment basis (including the establishment of criteria to be used in identifying such positions);

"(B) procedures and criteria to be used in connection with establishing or converting positions for part-time career employment, subject to the limitations of section 3393 of this title;

"(C) annual goals for establishing or converting positions for part-time career employment, and a timetable setting forth interim and final deadlines for achieving such goals;

"(D) a continuing review and evaluation of the part-time career employment program established under such regulations; and

"(E) procedures for notifying the public of vacant part-time positions in such agency, utilizing facilities and funds otherwise available to such agency for the dissemination of information.

"(2) The head of each agency shall provide for communication between, and coordination of the activities of, the individuals within such agency whose responsibilities relate to the part-time career employment program established within that agency.

"(3) Regulations established under paragraph (1) of this subsection may provide for such exceptions as may be necessary to carry out the mission of the agency.

"(b)(1) The Civil Service Commission, by regulation, shall establish and maintain a program under which it shall, on the request of an agency, advise and assist such agency in the establishment and maintenance of its part-time career employment program under this subchapter.

"(2) The Commission shall conduct a research and demonstration program with

respect to part-time career employment within the Federal Government. In particular, such program shall be directed to—

"(A) determining the extent to which part-time career employment may be used in filling positions which have not traditionally been open for such employment on any extensive basis, such as supervisory, managerial, and professional positions;

"(B) determining the extent to which job-sharing arrangements may be established for various occupations and positions; and

"(C) evaluating attitudes, benefits, costs, efficiency, and productivity associated with part-time career employment, as well as its various sociological effects as a mode of employment.

"§ 3403. Limitations

"(a) An agency shall not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis.

"(b) Any person who is employed on a full-time basis in an agency shall not be required to accept part-time employment as a condition of continued employment.

"§ 3404. Personnel ceilings

"In administering any personnel ceiling applicable to an agency (or unit therein), an employee employed by such agency on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such employee's regularly scheduled workweek. This section shall become effective on October 1, 1980.

"§ 3405. Nonapplicability

"(a) If, on the date of enactment of this subchapter, there is in effect with respect to positions within an agency a collective-bargaining agreement which establishes the number of hours of employment a week, then this subchapter shall not apply to those positions.

"(b) This subchapter shall not require part-time career employment in positions the rate of basic pay for which is fixed at a rate equal to or greater than the minimum rate fixed for GS-16 of the General Schedule.

"§ 3406. Regulations

"Before any regulation is prescribed under this subchapter, a copy of the proposed regulation shall be published in the **Federal Register** and an opportunity provided to interested parties to present written comment and, where practicable, oral comment. Initial regulations shall be prescribed not later than 180 days after the date of the enactment of this subchapter.

"§ 3407. Reports

"(a) Each agency shall prepare and transmit on a biannual basis a report to the Civil Service Commission on its activities under this subchapter, including—

"(1) details on such agency's progress in meeting part-time career employment goals established under section 3392 of this title; and

"(2) an explanation of any impediments experienced by such agency in meeting such goals or in otherwise carrying out the provisions of this subchapter, together with a statement of the measures taken to overcome such impediments.

"(b) The Commission shall include in its annual report under section 1308 of this title a statement of its activities under this subchapter, and a description and evaluation of the activities of agencies in carrying out the provisions of this subchapter.

"§ 3408. Employee organization representation

"If an employee organization has been accorded exclusive recognition with respect to a unit within an agency, then the employee organization shall be entitled to represent all employees within that unit employed on a part-time career employment basis.".

(b) Subpart B of the table of chapters of part III of the analysis of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"SUBCHAPTER VII—PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

"Sec.
"3401. Definitions.
"3402. Establishment of part-time career employment programs.
"3403. Limitations.
"3404. Personnel ceilings.
"3405. Nonapplicability.
"3406. Regulations.
"3407. Reports.
"3408. Employee organization representation.

Sec. 4. (a) Section 8347(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, the Commission may not exclude any employee who occupies a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(b) Section 8716(b) of such title 5 is amended—

(1) by striking out of the second sentence "or part-time";

(2) by striking out "or" at the end of clause (1);

(3) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(4) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(c)(1) Section 8913(b) of such title 5 is amended—

(A) by striking out "or" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following:

"(3) an employee who is occupying a position on a part-time career employment basis (as defined in section 3391(2) of this title).".

(2)(A) Section 8906(b) of such title 5 is amended—

(i) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(ii) by adding at the end thereof the following new paragraph:

"(3) In the case of an employee who is occupying a position on a part-time career employment basis (as defined in section 3391 (2) of this title), the biweekly Government contribution shall be equal to the percentage which bears the same ratio to the percentage determined under this subsection (without regard to this paragraph) as the average number of hours of such employee's regularly scheduled workweek bears to the average number of hours in the regularly scheduled workweek of an employee serving in a comparable position on a full-time career basis (as determined under regulations prescribed by the Commission)".

(B) The amendments made by subparagraph (A) shall not apply with respect to any employee serving in a position on a part-time career employment basis on the date of the enactment of this Act for such period as the employee continues to serve without a break in service in that or any other position on such part-time basis.

Sec. 5. Each report prepared by an agency under section 3397(a) of title 5, United States Code (as added by this Act), shall, to the extent to which part-time career employment opportunities have been extended by such agency during the period covered by such report to each group referred to in subparagraphs (A), (B), (C), and (D), of section 2(a)(2) of this Act.

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 340.201 Regulatory requirements

This subpart contains the regulations of the Office of Personnel Management which implement the above sections of chapter 34 (as set out in § 340.101).

§ 340.202 General provisions

(a) *Definitions.* (1) "Part-time career employment" means regularly scheduled work of from 16 to 32 hours per week performed by an employee of an agency as defined in 5 U.S.C. 3401 (a) through (f), who has an appointment in tenure group I or II and who becomes employed on such part-time basis on or after April 8, 1979.

(2) "Tenure group I" applies to employees in the competitive service under career appointments who are not serving probation and permanent employees in the excepted service whose appointments carry no restrictions or conditions.

(3) "Tenure group II" applies to employees in the competitive service serving probation, career-conditional employees, and career employees in obligated positions. It also includes employees in the excepted service serving trial periods, whose tenure is

indefinite solely because they occupy obligated positions; or whose tenure is equivalent to career conditional in the competitive service.

(b) *Exception.* As an exception to the general definition of part-time employment in § 340.202(a)(1) and under the authority provided in 5 U.S.C. 3402(a)(3), an agency may permit an employee who has an appointment in tenure group I or II to perform regularly scheduled work of from 1 to 15 hours per week.

§ 340.203 Technical assistance

(a) The Office of Personnel Management shall provide, within available resources, consultation and technical advice and assistance to agencies to aid them in expanding career part-time employment opportunities. This assistance shall include but not be limited to:

(1) Help in developing part-time career employment programs;

(2) Information on public and private sector part-time employment practices;

(3) Development of special recruitment and selection techniques for filling part-time positions;

(4) Interpretations of part-time employment law, regulations and policy;

(5) Guidance on job sharing and position restructuring.

(b) Requests for information and assistance should be directed to the Associate Director for Staffing, Office of Personnel Management (OPM), Washington, D.C. 20415 or the local OPM regional office.

§ 340.204 Agency reporting

(a) Agency reports required under 5 U.S.C. 3407 shall be based on data as of March 31 and September 30 each year and shall be provided to the Office of Personnel Management not later than May 15 and November 15 respectively.

(b) Each agency shall include with such reports a copy of any agencywide part-time career employment program regulations and instructions issued during the 6-month period preceding the report date.

(c) Reports should be sent to the Associate Director for Staffing, Office of Personnel Management, Washington, D.C. 20415.

Part 890 of the regulations is amended by: (1) redesignating § 890.102(d) as § 890.102(e) and adding a new paragraph (d); and (2) by adding a new paragraph (v) to § 890.301, as set out below.

§ 890.102 Coverage

* * * * *

(d) Paragraph (c) of this section does not deny coverage to an individual appointed to perform "part-time career employment", as defined in section 3401(2) of title 5, United States Code, and 5 CFR 340, subpart B.

(e) The Office of Personnel Management makes the final determination of the applicability of this section to specific employee or group of employees.

§ 890.301 Opportunities to register to enroll and change enrollment

* * * * *

(v) *Change to part-time career employment.* An enrolled employee who moves, without a break in service or after a separation of three days or less, to "part-time career employment" as defined in section 3401(2) of title 5, United States Code, and 5 CFR 340, subpart B, may change to any other plan or option. This change in enrollment may be made within 31 days after the change to "part-time career employment".

Dated: March 30, 1979.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-10770 Filed 4-5-79; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213, 230, 250, 300, 302, 315, 316, 351, 410, 531, 591

Civil Service Reform; Interim Regulations With Request for Comments

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: New regulations to implement sections 3(5) of the Civil Service Reform Act of 1978 and 1104 of 5 U.S.C. provide general bases for delegation and, specifically, delegate to agencies the authority to appoint severely physically handicapped persons under Schedule A without prior Office approval (the language of the Schedule A authorities 213.3102 (t) and (u), has also been amended to reflect the provisions of Executive Order 12125); to approve training plans for disabled veterans; to waive controls on non-government training for employees to determine remote worksite "normal" commuting allowances and to enter into agreements with the Office which will permit them to take the following additional actions without prior approval: (1) Establishment of positions under the Schedule C authority at GS-15 and below; (2) modification of selection procedures for excepted positions; (3) waiver of time-in-grade restrictions for competitive employees; (4) appointments without competitive examination in rare cases; (5) bringing excepted positions or units of public or private enterprise into the competitive service; (6) appointment of individuals at grades GS-11 and above at pay rates above the minimum for the grade based on superior qualifications; (7) establishment of smaller competitive areas in RIF; (8) excepted appointment of aliens in the absence of qualified citizens to positions for which competitive examining authority has been delegated; and (9) grant exceptions to prohibition on payment of premium pay for periods of training.

Authorities proposed for delegation not requiring substantive regulation changes

Additionally, the Federal Personnel Manual, civil service rules, and other appropriate issuances will be changed to allow delegation on a blanket basis of authority to assign excepted employees serving in Schedules A and B to competitive duties and delegation through delegation agreements of the following authorities: (1) Assignment of excepted employees serving under Schedule C and statutory authorities to competitive positions; (2) competitive examining when an agency is the sole or predominant user of positions and including (a) approval of selective and quality ranking factors; (b) veteran passover; (c) ruling on objections to eligibles; (d) suitability and loyalty favorable determinations; (e) appointment of aliens; (f) conversion to career of employees formerly within reach on a register; and (g) restriction of consideration to one sex; (3) payment of travel and transportation to first post of duty for positions for which a shortage of eligibles exists; (4) payment of travel expenses for interviews for positions at grades GS-13 and below; (5) establishment of training agreements; (6) classification of 20 or more positions; (7) conduct of onsite evaluation function; (8) waiving limits on non-government facility training; and (9) exceptions to training restrictions of law not covered by other delegations.

DATES: Effective date: April 4, 1979, and until final regulations are issued. Comment date: Written comments will be considered if received no later than June 5, 1979.

ADDRESS: Send written comments to Office of the Assistant Director for Agency Compliance and Evaluation, Room 5478, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Susan Rothschild (202) 632-4467.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(1) of title 5, U.S.C., the Director finds that good cause exists for making these amendments granting exemptions and relieving restrictions effective in less than 30 days in order to provide continuity of operations and to give immediate and timely effect to sections 3(5) of the Civil Service Reform Act of 1978 and 5 U.S.C. 1104.

Accordingly, 5 CFR is amended as follows:

PART 213—EXCEPTED SERVICE

(1) Sections 213.102 and 213.3102, paragraphs (t), (u) and (bb) are amended as follows:

§ 213.102 Identification of positions in Schedule A, B, or C.

The Office of Personnel Management shall decide whether the duties of any particular position are such that it may be filled as an excepted position under Schedule A, B, or C. Authority to establish positions under Schedule C may be delegated under terms of an agreement between the Office and employing agencies. Establishment of Schedule C positions under terms of such an agreement would be subject to existing criteria as set forth in § 213.3301, to quotas established by the Office, and to any additional instructions prepared by OPM.

§ 213.3102 Entire executive civil service.

* * * * *

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and the Commission. Provisions to be included in such agreements are specified in the Federal Personnel Manual. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by the Office.

(u) Positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by the Office.

* * * * *

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of the Office except when the positions to be filled are covered by delegated examining authority under agreement with the Office.

PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

(2) Section 230.201 is amended to read as follows:

§ 230.201 Standards and requirements for agency personnel actions.

In taking a personnel action authorized by this chapter, each agency shall comply with the qualification standards and regulations issued by the Office of Personnel Management, the instructions published by the Office of Personnel Management in the Federal Personnel Manual, and the provisions of any agreement developed between the Office and the agency in connection with delegation of a specific authority.

PART 250—PERSONNEL MANAGEMENT IN AGENCIES

(3) Part 250 is added as follows:

Subpart A—Personnel Management Responsibilities

Sec.
250.101 Delegation agreements.
250.102 Authority to take corrective action or revoke agreement.

Authority: 5 U.S.C. 1104; Pub. L. 95-454; 92 Stat. 1120 and Sec. 3(5) of the Civil Service Reform Act of 1978; Pub. L. 95-454; 92 Stat. 1112.

Subpart A—Personnel Management Responsibilities

§ 250.101 Delegation agreements.

In certain circumstances, an agency will receive authorities through a delegation agreement developed between the agency headquarters and OPM. The agreement will set forth the conditions for application of a particular authority (or authorities). This agreement will include a description of performance standards and the system of oversight to be used in agency and OPM monitoring of authority use. An agreement will be for an initial period not to exceed two years. Renewals may be for an indefinite period unless modified or revoked for abuse.

§ 250.102 Authority to take corrective action or revoke agreement.

If OPM finds that the agency has taken an action under a delegated agreement contrary to law, rule, regulation or standard, it may require the agency to take corrective action. If, in the judgment of OPM, the agency is not adhering to the provisions of the delegated agreement, it may revoke the agreement at any time.

PART 300—EMPLOYMENT (GENERAL)

(4) Section 300.603 is amended by revising paragraph (a), subparagraphs (1) and (4), so that the section reads as follows:

§ 300.603 Exceptions to restrictions.

(a) Section 300.602 does not prevent the advancement of an employee when:

(1) The advancement is in accordance with a training agreement which has been approved by the Office or established under agreement with the Office; however, an agency may not make promotions of more than 2 grades in 1 year solely on the basis of a training agreement or series of training agreements;

(2) The advancement is to any grade or level up to that from which the employee has ever been demoted or separated by any agency because of a reduction in force;

(3) The employee is within reach on a register for competitive appointment to the position to be filled; or

(4) The head of the agency or his or her designee, with the prior approval of the Office of under agreement negotiated with the Office, authorizes the advancement to avoid undue hardship or inequity, in an individual case of meritorious nature.

(b) Section 300.602 (a) and (b) does not prevent the advancement of an employee who has 1 year of service in a position two grades lower than the position to be filled if there is no position in the normal line of promotion that is one grade lower than the position to be filled.

(c) Section 300.602(c) does not prevent the advancement of an employee to a position at GS-5 or below which he or she held previously or to which he or she could have been advanced previously under that paragraph.

PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

(5) Section 302.105 is amended to read as follows:

§ 302.105 Special agency plans.

An agency having a position subject to this part may establish a system for making appointments which will result in granting to eligible persons the preference or priority consideration referred to in sections 1302(c) or 8151 of title 5, United States Code, but which does not conform to all the procedural requirements set forth in this part. However, an agency may not put such a system into effect unless it has entered into an agreement with the Office permitting establishment of such systems, or has obtained prior Office approval for the particular system to be used.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

(6) Sections 315.604(a) and 315.703 are amended to read as follows:

§ 315.604 Employment of disabled veterans who have completed a training course under chapter 31 of title 38, United States Code.

(a) When a disabled veteran satisfactorily completes an approved course of training prescribed by the Veterans Administration under chapter 31, title 38, United States Code, any agency may appoint the veteran noncompetitively to the position or class of positions for which trained.

* * * * *

§ 315.703 Employees formerly reached on a register.

(a) *Employee coverage.* An employee who was serving in a position when his or her name was within reach for career or career-conditional appointment on a register appropriate for that position may be converted to career or career-conditional employment when:

(1) The employee's name was included on an appropriate certificate issued while the employee was serving in the position, or reconstruction of the appropriate register verifies that the employee would have been within reach;

(2) The register was being used for career and career-conditional appointments when he or she was reached;

(3) He or she has been continuously employed since being reached;

(4) Conversion is initiated either before the expiration of the register or during a period of continuous service since the employee was reached; and

(5) When the employee is a nonpreference eligible who was first reached after February 1, 1955, the Office, or the agency, in accordance with an agreement with the Office, determines that satisfactory reasons existed for passing over any preference eligible who preceded the employee on the register when he or she was reached and who is still within reach and available for appointment.

(b) *Tenure on conversion.* An employee whose appointment is converted under paragraph (a) of this section becomes:

(1) A career-conditional employee, except as provided in paragraph (b)(2) of this section;

(2) A career employee when he or she has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* An employee whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on completion of probation.

PART 316—TEMPORARY AND TERM EMPLOYMENT

(7) Paragraphs (a) and (c) of § 316.701, paragraph (a) of § 316.601, and paragraph (a) of § 316.702 are amended so that the sections read as follows:

§ 316.601 Appointment without competitive examination in rare cases.

(a) An agency may make an appointment without competitive examination when:

(1) The duties and compensation of the position are such, or qualified persons are so rare, that in the interest of good civil service administration the position cannot be filled through open competitive examination;

(2) The person to be appointed meets all applicable qualification requirements for the position; and

(3) The appointment is specifically authorized by the Office or is made under an agreement between the agency and the Office providing for such appointments.

(b) A person appointed under paragraph (a) of this section does not acquire a competitive status on the basis of that appointment.

(c) When a position filled under paragraph (a) of this section becomes vacant, the agency may fill the vacancy by another appointment under paragraph (a) of this section only if the conditions of subparagraph (3) of that paragraph are again met.

§ 316.701 Public or private enterprise taken over by Government.

(a) When the Office, or an agency acting under an agreement with the Office, finds that the Federal Government has taken over a public or private enterprise, or an identifiable unit thereof, and that a position has thereby been brought into the competitve service, the agency may retain the incumbent of the position.

(b)(1) When an agency retains an employee under paragraph (a) of this section in a position which it determines to be a continuing one, the agency shall decide on a timely basis whether it will convert that individual's employment to career or career-conditional under § 315.701 of this chapter.

(2) When an agency decides not to effect conversion under § 315.701 of this chapter, or the employee fails to qualify for conversion, the agency, in its discretion, may retain the employee as a status quo employee.

(c) When an agency retains an employee under paragraph (a) of this section in a position which it determines to be a noncontinuing one, the agency shall give the employee a temporary limited appointment under the conditions prescribed by the Office in the Federal Personnel Manual.

§ 316.702 Excepted positions brought into the competitive service.

(a) When the Office, or an agency acting under an agreement with the Office, finds that an excepted position has been brought into the competitive service by statute, Executive order, or the revocation of an exception under Civil Service Rule VI (§ 6.6 of this chapter), or is otherwise made subject to competitive examination, the agency may retain the incumbent of the position.

(b)(1) When an agency retains an employee under paragraph (a) of this section who was serving in a permanent excepted position under an appointment not limited to 1 year or less, the agency shall decide on a timely basis whether it will convert that employee's appointment to career or career-conditional under § 315.701 of this chapter.

(2) When the agency decides not to effect conversion under §315.701 of this chapter, or the employee fails to qualify for conversion, the agency, in its discretion, may retain the employee as a status quo employee.

(c) An employee retained under paragraph (a) of this section who was serving in a excepted position under an appointment limited to 1 year or less is permitted to serve temporarily under the conditions prescribed by the Office in the Federal Personnel Manual.

PART 351—REDUCTION IN FORCE

(8) Section 351.402(c) is amended to read as follows:

§ 351.402 Competitive area.

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) The standard for a competitive area is that it include all or that part of an agency in which employees are assigned under a single administrative authority. A competitive area in the departmental service meets this standard when it covers a primary subdivision of an agency in the local commuting area. A competitive area in the field service meets this standard when it covers a field installation in the local commuting area.

(c) An agency may establish a competitive area larger than one that meets the standard named in paragraph (b) of this section. In exceptional circumstances, and with the prior approval of the Office, an agency may establish a competitive area smaller than one that meets the standard named in paragraph (b) of this section. Agencies which have been delegated individual authority to do so may establish competitive areas smaller than named in paragraph (b) without prior approval of the Office.

(d) An agency may combine two or more competitive areas for initial competition in an enlarged competitive level or levels without correspondingly combining the areas for assignments between competitive levels. When an agency combines areas for initial competition only, it may limit competition for assignments between competitive levels to (1) the enlarged area, (2) a single competitive area, or (3) an area larger than a single area but smaller than the enlarged area.

PART 410—TRAINING

(9) Sections 410.506, 410.508(a) and 410.602(a) are amended to read as follows:

§ 410.506 Waiver of limitations on training of employees through non-Government facilities.

(a) Subject to chapter 41 of title 5, United States Code, and this part, an employee having less than one year of current, continuous civilian service in the Government is eligible for training by, in, or through non-Government facilitites on a finding by the head of his or her agency that postponement of the training until the employee has completed one year of current, continuous civilian service in the Government would be contrary to the public interest.

(b) The head of an agency may waive the limitations in section 4106(a) (1) and (3) of title 5, United States Code, for:

(1) An employee assigned to training by, in, or through a non-Government facility that does not exceed 40 hours within a single program;

(2) An employee receiving training provided by a manufacturer as a part of the normal service incident to initial purchase or lease of its products under procurement contract; and

(3) An employee receiving training through a correspondence course.

(c) The head of an agency may waive the limitation in section 4106(a)(3) of title 5, United States Code for individual employees when the following conditions are met:

(1) The employee is serving under a career or career-conditional appointment or an appointment without time limitation in the excepted service;

(2) The training would not cause the total amount of the employee's training through non-Government facilities in the current decade of service to exceed two years; and

(3) A record of use of the authority is to be inserted in the employee's Official Personnel Folder, showing:

(i) A description of the training in terms of its substance (e.g., hydrology), level (e.g., graduate), and facility to be used;

(ii) The amount of training through non-Government facilities already received in the employee's current decade of service which counts toward the limitation.

(iii) The period for which the waiver is required (specifying month and year in which it is to begin and end);

(iv) If the training is primarily for application to a future assignment, a description of its major duties;

(v) The projected beginning of the employee's next decade of service; and

(vi) A statement of that agency's reasons for believing that application of the limitation would be contrary to the public interest, including a description of the effect of postponement of the training's completion until the next decade of service.

(d) The head of an agency may waive the limitation in section 4106(a)(3) of title 5, United States Code, for an employee serving in a career-related work-study program when all of the following conditions are met:

(1) The employee is serving under a Schedule B appointment which allows the agency to carry the employee on its rolls during the non-work periods of the program and adequate opportunity for the employee to fulfill the obligation to continue in the service of the agency as required by section 4108 of title 5, United States Code;

(2) Graduate education shall not be covered by the waiver;

(3) The employee's expenses of college training that are being paid are limited to the expenses covered by section 4109(a)(2) of title 5, United States Code, and

(4) Information is recorded in the employee's Official Personnel Folder, recording the waiver, the nature of the program (e.g., Federal Junior Fellowship), and the length of training encompassed by the program.

* * * * *

§ 410.508 Agreements to continue in service.

(a) For the purpose of administering section 4108 of title 5, United States Code:

(1) The period of time an employee is required to agree to continue in the service of the agency begins on the first workday after the end of the training covered by the agreement; and

(2) "Additional expenses incurred by the Government in connection with his training" means expenses of training paid under section 4109(a)(2) of title 5, United States Code, but not salary, pay, or compensation.

* * * * *

§ 410.602 Prohibition on payment of premium pay.

(a) Except as provided by paragraph (b) of this section, no funds appropriated or otherwise available to an agency may be used for the payment of premium pay to an employee engaged in training by, in, or through Government facilities or non-government facilities.

(b) The following are excepted from the provision in paragraph (a) of this section prohibiting the payment of premium pay:

(1) An employee given training during a period of duty for which he or she is already receiving premium pay for overtime, night, holiday, or Sunday work, except that this exception does not apply to an employee assigned to full-time training at institutions of higher learning;

(2) An employee given training at night because situations which he or she must learn to handle occur only at night;

(3) An employee given training on overtime, on a holiday, or on a Sunday because the costs of the training, premium pay included, are less than the costs of the same training confined to regular work hours;

(4) An employee given training during periods of temporary assignment covered by § 550.162(c) of this chapter.

(5) An employee given training during a period not otherwise covered by a provision of this paragraph where premium pay is authorized by the employing agency as an exception from the provision in paragraph (a) of this section under authority delegated to it by the Office of Personnel Management; and

(6) An employee given training during a period not otherwise covered by a provision of this paragraph where premium pay is authorized by the Office of Personnel Management in response to a request of the employing agency for an exception from the provision in paragraph (a) of this section.

(c) An employee who is excepted under paragraph (b) of this section is eligible to receive premium pay in accordance with the pay authorities applicable to him or her.

PART 531—PAY UNDER THE GENERAL SCHEDULE

(10) Paragraph (b) of §531.203 is amended so the section reads as follows:

§ 531.203 General provisions.

(a) *New Appointments.* Except as provided by section 5333(a) of title 5, United States Code, and paragraph (b) of this section, a new appointment is made at the minimum rate of the grade, or when the minimum rate of the grade of a position has been set under Part 530 of this chapter, a new appointment is made at the minium rate set under Part 530 of this chapter.

(b) *Superior qualifications appointments.* (1) A "superior qualfications appointment" means an appointment to a position in Grade 11 or above of the General Schedule made, with the prior approval of the Office or under an agreement between the agency and the Office (except for positions in the Library of Congress), at a rate above the minimum rate of the appropriate grade under authority of section 5333 of title 5, United States Code because of the Superior qualifications of the candidate.

(2) An agency may make a superior qualifications appointment by new appointment or by reemployment except that when made by reemployment, the candidate must have a break in service of at least 90 calendar days from his or her last period of Federal employment or employment with the Government of the District of Columbia (other than (i) employment under an appointment as an expert of consultant under section 3109 of title 5, United States Code, (ii) employment under a temporary appointment effected primarily in furtherance of a post-doctoral research program, or effected as part of predoctoral or postdoctoral training program during which the employee receives a stipend, or employment under a temporary appointment of a graduate student when the work performed by the student is the basis for completing certain academic requirements for an advanced degree, (iii) employment as a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration or the Commissioned Corps of Public Health Service, or (iv) employment which is neither full-time employment nor the principal employment of the candidate).

(c) *Position or appointment changes.* Subject to §§ 531.204, 531.515, 539.201 of this chapter, and section 5334(a) of title 5, United States Code, when an employee is reemployed, transferred, reassigned, promoted, or demoted, the agency may pay the employee at any rate of the grade which does not exceed his or her highest previous rate; however, if the employee's highest previous rate falls between two rates of his or her grade, the agency may pay him or her at the higher rate. When an employee's type of appointment is changed in the same position, the agency may continue to pay the employee at his or her existing rate or may pay the employee at any rate of the grade which does not exceed his or her highest previous rate; however, if the employee's previous rate falls between two rates of the grade, the agency may pay him or her at the higher rate.

(d) *Computation of highest previous rate.* (1) The highest previous rate is based on a regular tour of duty at that rate under an appointment not limited to 90 days or less, or for the continuous period of not less than 90 days under one or more appointments without a break in service.

(2) The highest previous rate may not be based on (i) a rate received for an appointment as an expert or consultant under section 3109 of title 5, United States Code, or (ii) except as provided in paragraph (d)(3) of this section, a rate of basic pay established under section 5303 of title #5, United States Code.

(3) When an employee's rate of basic pay is one established under section 5303 of title 5, United States Code (referred to in this subparagraph as a special rate), the employee's highest previous rate is the rate to which he or she would have been entitled had the special rate not applied to him or her. However, with the prior approval of the Office, an agency may use special rate as the highest previous rate when:

(i) The employee is reassigned to a position for which no special rate, or a lesser special rate, has been established; and

(ii) The agency head, or an employee specifically designated by the agency head for that purpose, determines that the need for the services of the employee, and his or her contribution to the program of the agency, will be greater in the position to which he or she is being reassigned. The reasons for the determinations required by the subparagraph shall be submitted in writing to the Office with the request for prior approval.

(4) If the highest previous rate was earned in a General Schedule position, it is increased by subsequent amendments of the General Schedule. If the highest previous rate was earned in a position not subject to the General Schedule, it is computed as follows:

(i) The actual rate earned at the time of service computed on an annual basis is compared to the annual rates under the General Schedule as of the time of service to select an equivalent annual rate. When the actual rate is the same as a rate under the General Schedule, the rate under the General Schedule is the equivalent annual rate. When the actual rate is the same as a rate under the General Schedule and that rate occurs within two or more grades under the General Schedule, the rate which gives the employee the maximum benefit when it is converted under paragraph (d)(4)(ii) of the section is the equivalent annual rate. When the actual rate falls between two rates under the General Schedule, the higher rate is the equivalent annual rate. When the actual rate falls between two rates within the range of two or more grades under the General Schedule, the rate which gives the employee the maximum benefit when it is converted under paragraph (d)(4)(ii) of this section is the equivalent annual rate.

(ii) The equivalent annual rate determined under paragraph (d)(4)(i) of this section is converted to the equivalent rate under the current General Schedule and that rate is the employee's highest previous rate.

(e) *Agency classification action.* When an agency regrades a position to a grade higher than the one to which the position had been classified by Office action, and when subsequent to the regrading, the Office again classifies the position to the grade which it had originally assigned the position, the rate attained by the employee in the higher

grade may not be used as his or her highest previous rate.

(f) *Simultaneous actions.* When a position or appointment change and entitlement to a higher rate of pay occur at the same time, the higher rate of pay is deemed an employee's existing rate of basic pay. If an employee is entitled to two pay benefits at the same time, the agency shall process the changes in the order which gives the employee the maximum benefit.

PART 591—ALLOWANCES AND DIFFERENTIALS

(11) Part 591, Subpart C, is amended in its entirety to read as follows:

Subpart C—Allowance Based on Duty at Remote Worksites

Sec.
591.301 Purpose.
591.302 Coverage.
591.303 Responsibilities of agencies and the Office of Personnel Management.
591.304 Criteria for determining remoteness.
591.305 Allowance rates.
591.306 Employee eligibility for an allowance.
591.307 Payment of allowance rate.
591.308 Relationship to additional pay payable under other statutes.
591.309 Effective date for payment of allowance.
591.310 Effect of regulations in this subpart on allowances established under previous statutes.
Appendix A—Daily transportation allowance schedule commuting over land by private motor vehicle to remote duty posts.
Appendix B—Daily inconvenience or hardship allowance schedule, commuting over land by motor vehicle to remote duty posts.

Authority: 5 U.S.C. 5942; sec. 8, E.O. 11609, 3 CFR 1971–1975 Comp., p. 591; 5 U.S.C. 1104, Pub. L. 95–454, 92 Stat. 1120 and Sec. 3(5) of the Civil Service Reform Act of 1978; Pub. L. 95–454; 92 Stat. 1112.

Subpart C—Allowance Based on Duty at Remote Worksites

§ 591.301 Purpose.

This Subpart prescribes the regulations required by § 5942 of title 5, United States Code, for the payment of an allowance based on duty at remote worksites.

§ 591.302 Coverage.

(a) *Agencies.* This Subpart applies to executive departments as defined in section 101 of title 5, United States Code, and to independent establishments as defined in section 104 of title 5, United States Code, but does not apply to Government corporations as defined in section 103 of title 5, United States Code.

(b) *Employee.* This Subpart applies to each employee assigned to a permanent duty station at or within a designated remote duty post, except an employee who is a permanent or temporary resident at the remote duty post, and except foreign nationals employed at remote duty posts in foreign countries.

§ 591.303 Responsibilities of agencies and the Office of Personnel Management.

(a) Each agency is responsible for:

(1) Establishing and subsequently adjusting, in accordance with the provisions of this subpart, an allowance for each remote duty post at which the agency has employees and which meets the criteria in paragraph (a)(1) of § 591.304, as restricted by subsection (b) of § 591.304;

(2) Advising the Office of Personnel Management of each establishment or adjustment of an allowance under paragraph (a)(1) of this section, and of the basis for such establishment or adjustment;

(3) Submitting a recommendation to the Office of Personnel Management to establish or adjust an allowance for each remote duty post at which the agency has employees and which meets the criteria in paragraph (a)(2) or (a)(3) or paragraph (c) of § 591.304; and

(4) Advising the Office of Personnel Management in a timely manner of any changes in a duty post or commuting conditions or other factors that may affect an allowance that has been authorized by the Office of Personnel Management under paragraph (b) of this section.

(b) The Office of Personnel Management is responsible for:

(1) Establishing and subsequently adjusting, in accordance with the provisions of this Subpart, an allowance for each remote duty post which does not meet the criteria in paragraph (a)(1) of § 591.304, but does meet the criteria in paragraph (a)(2) or (a)(3) or paragraph (c) of § 591.304;

(2) Reviewing each establishment or adjustment of an allowance by an agency under paragraph (a)(1) of this section to determine if such establishment or adjustment is in accordance with the provisions of this Subpart; and

(3) Directing the termination or adjustment of any allowance determined by the Office to be not in accordance with the provisions of this Subpart, which termination or adjustment shall be implemented by the agency without delay.

(c) Each allowance which has been authorized by the Office of Personnel Management or the Civil Service Commission on or before February 1, 1979, and which is authorized for a remote duty post which meets the criteria in paragraph (a)(1) of § 591.304, shall be subject to further adjustment by the agency under paragraph (a)(1) of this section as if such allowance had been initially authorized by the agency under that paragraph.

§ 591.304 Criteria for determining remoteness.

(a) Except as provided by paragraphs (b) and (c) of this section, a duty post shall be determined to be a remote duty post for basic allowance eligibility purposes when:

(1) Normal ground transportation (e.g., automobile, train, bus) is available on a daily basis and the duty post is 50 miles, or more, one way from the nearest established community or suitable place of residence. Distance shall be computed in road or rail miles over the most direct route traveled from the center of the city, or other appropriate point for large cities or areas; or

(2) Daily commuting is impractical because the location of the duty post and available transportation are such that agency management requires employees to remain at the duty post for their workweek as a normal and continuing part of the conditions of employment; or

(3) Transportation may be accomplished only by boat, aircraft, or unusual conveyance, or under extraordinary conditions, and the distance, time, and commuting conditions result in expense, inconvenience, or hardship significantly greater than that encountered in metropolitan area commuting. A determination may only be made on an individual location basis.

(b) Except when the criteria in paragraph (a) (2) or (3) of this section are met, the criteria in paragraph (a)(1) of this section are not met:

(1) When the duty post is within the boundary of a metropolitan area, a developed urban area, or community of sufficient size to provide adequate consumer facilities; and

(2) When the duty post is within 50 miles of the center of, or other appropriate point for large cities or areas, a metropolitan area, a developed urban area, or community of sufficient size to provide adequate consumer facilities. (This generally excludes a post of duty within 50 miles of any city of 5,000 or more population.)

(c) A determination of remoteness for a duty post outside the 50 United States will be made on an individual location basis, taking into consideration the

distance, time, and commuting conditions, and the extent to which these factors result in significant expense, inconvenience, or hardship.

§ 591.305 Allowance rates.

(a) *General.* An allowance rate may not exceed $10 a day. An allowance rate shall be established for each post of duty determined to be remote under § 591.304, and shall be terminated or adjusted as warranted. In determining the amount of the allowance rate, the following shall be considered:

(1) Transportation expenses incurred in commuting to the remote post of duty as compared to transportation expenses (including cost of public transportation service) representative of those incurred in metropolitan areas within the United States or overseas as appropriate as periodically determined by the Office of Personnel Management.

(2) Expenses incurred for lodging, meals, other services, and miscellaneous expenses when it is not feasible for an employee to commute daily as at duty posts determined under § 591.304(a)(2).

(3) Inconvenience or hardship associated with commuting to the remote duty post taking into account such factors as travel time, road conditions and terrain, type and quality of vehicle, and climate conditions, and conditions that exist at those duty posts determined by the Office of Personnel Management to meet the criteria in § 591.304(a)(2).

(4) Operational or workload demands, weather conditions, or other situations which require an employee to report to or remain at this post of duty substantially beyond his or her normal arrival or departure time with respect to those duty posts meeting the criteria in § 591.304(a)(2).

(b) *Authorized allowance rates.* Each authorized allowance rate for each duty post may consist of up to three parts, separately stated as appropriate, and the authorized allowance rate shall be paid as provided in § 591.306, but no employee may be paid more than $10 a day. The parts which make up the authorized allowance rate are:

(1) *Transportation allowance.* (i) *Commuting by private motor vehicle.* A transportation allowance schedule showing the daily transportation expense rate to be paid under the distances and conditions described, when commuting by private motor vehicle is set out as Appendix A to this Subpart and is incorporated in and made part of this section.

(ii) *Travel by commercial or Government-provided transportation.* The transportation allowance shall be limited to the cost of the service less normal cost for public transportation service in metropolitan areas.

(2) *Inconvenience or hardship allowance.* An allowance rate to compensate for hardship or inconvenience may not be considered unless the travel time normally exceeds one hour one way between the closest established community or suitable place or residence and the remote duty post. An allowance schedule covering land travel by motor vehicle, showing the daily rates to be paid under the time factors and conditions described, for inconvenience or hardship combined, is set out as Appendix B to this subpart and is incorporated in and made part of this section.

(3) *Other commuting situations.* Notwithstanding paragraphs (b)(1) and (b)(2) of this section, when commuting is by boat, aircraft or an unusual conveyance, or under extraordinary conditions by motor vehicle, or involving factors or conditions unique to the duty post, the Office of Personnel Management shall establish the allowance based on the facts and circumstances of that individual remote duty post.

(4) *Miscellaneous.* When daily commuting is impractical as determined under § 591.304(a)(2):

(i) The Office of Personnel Management may authorize a miscellaneous allowance the amount to depend on such factors as miscellaneous expenses, living conditions that exist at the duty post, or inconvenience or hardship that may be associated with this type of employment environment. When employees are required to pay a fee for lodging, meals, or other services at the remote duty post, the miscellaneous allowance shall at least equal the amount charged for the use of facilities and services.

(ii) On those days when operational or workload demands, weather conditions, or other situations result in employees reporting to or remaining at the remote duty post substantially beyond normal arrival or departure time, the maximum daily allowance rate of 10 shall be paid.

§ 591.306 Employee eligibility for an allowance.

(a) An authorized allowance rate shall be paid to each employee with a permanent duty station at or within a remote post of duty approved under § 591.304, regardless of type of appointement or work schedule, only (1) when the employee travels the prescribed minimum distance and time, or is subject to prescribed minimum inconvenience or hardship factors, while commuting from the nearest established community or suitable place of residence and the remote duty post, or (2) the employee remains at the worksite at the direction of management because daily commuting is impractical.

(b) An employee shall be paid an authorized allowance rate for those days on which he or she incurs unusual expense in commuting to a remote post of duty or for those days on which he or she is subject to extraordinary inconvenience or hardship during the commuting.

(c) An employee who reside permanently, or temporarily for his or her own convenience at a remote duty post is not eligible for an authorized allowance rate during his or her period of residence.

§ 591.307. Payment of allowance rate.

(a) An authorized allowance rate is earned on a daily basis; however, where appropriate for administrative convenience, the rate may be averaged taking into consideration the number of noncommuting days over a period of time, and paid for each workday, excluding days in a nonpay status and period of extended absence.

(b) The transportation allowance is paid only when expense is incurred and at the lowest rate consistent with available transportation.

(c) The inconvenience or hardship allowance is paid regardless of eligibility for the transportation expense part of the allowance rate when the employee is otherwise eligible.

(d) Except as provided under § 591.305(b)(4)(ii), when the necessity for remaining at the post of duty for the workweek is the basis for the allowance under § 591.304(a)(2), the allowance rate is paid for each full day, or prorated for each part of a day, that the employee remains at the duty post.

(e) The transportation allowance prescribed by paragraph (b)(1)(i) of § 591.305, or other allowance as may be prescribed for commuting by private motor vehicle, may not be paid unless the officially approved work sechedule of the employee precludes use of the transportation services that may be available at lower cost.

(f) An employee, who normally commutes on a daily basis, will not be disqualified from receiving an authorized allowance when he or she is officially required to remain overnight at the remote duty post, for one or more days on a temporary basis, because of the schedule of operations or the nature of assigned work.

(g) When a remote duty post is determined by the Office of Personnel

Management under paragraph (a)(3) or (c) of § 591.304 as being basically eligible for an allowance, the Office of Personnel Management will determine the basis for payment of the allowance rate taking into consideration the facts and circumstances associated with commuting to the remote duty post.

§ 591.308 Relationship to additional pay payable under other statutes.

An allowance authorized under this subpart is in addition to any additional pay or allowances payable under other statutes. It shall not be considered part of the employee's rate of basic pay in computing additional pay or allowances payable under other statutes.

§ 591.309 Effective date for payment of allowances.

When an allowance is authorized for a remote duty post, the authorization shall specify the effective date that an agency shall begin paying the allowance to its employees, except that a date earlier than January 8, 1971, may not be specified.

§ 591.310 Effect of regulations in this subpart on allowances established under previous statutes.

Regulations in this subpart do not require a reduction in the allowance rates authorized under previous statutes unless an adjustment is determined to be warranted on the basis of a change in facts and circumstances on which that previous allowance was established.

APPENDIX A OF SUBPART C. DAILY TRANSPORTATION ALLOWANCE SCHEDULE, COMMUTING OVER LAND BY PRIVATE MOTOR VEHICLE TO REMOTE DUTY POSTS

Schedule I. Effective January 8, 1971 through July 12, 1975.

Round trip distance in excess of 50 miles	Degree A commuting conditions	Degree B commuting conditions	Degree C commuting conditions
up to 9 miles	$0.20	$0.22	$0.24
10 to 19	.70	.77	.84
20 to 29	1.20	1.32	1.44
30 to 39	1.70	1.87	2.04
40 to 49	2.20	2.42	2.64
50 to 59	2.70	2.97	3.24
60 to 69	3.20	3.52	3.84
70 to 79	3.70	4.07	4.44
80 to 89	4.20	4.62	5.04
90 to 99	4.70	5.17	5.64
100 to 109	5.20	5.72	6.24
110 to 119	5.70	6.27	6.84
120 to 129	6.20	6.82	7.44
130 to 139	6.70	7.37	8.04
140 to 149	7.20	7.92	8.64
150 to 159	7.70	8.47	9.24
160 to 169	8.20	9.02	9.84
170 and over	8.70	9.57	[1] 10.00

Schedule II. Effective on or after July 13, 1975.

Round trip distance in excess of 50 miles	Degree A commuting conditions	Degree B commuting conditions	Degree C commuting conditions
up to 9 miles	$0.30	$0.32	$0.34
10 to 19	1.05	1.12	1.19
20 to 29	1.80	1.92	2.04
30 to 39	2.55	2.72	2.89
40 to 49	3.30	3.52	3.74
50 to 59	4.13	4.32	4.68
60 to 69	4.80	5.12	5.44
70 to 79	5.55	5.92	6.29
80 to 89	6.30	6.72	7.14
90 to 99	7.05	7.52	7.99
100 to 109	7.80	8.32	8.84
110 to 119	8.55	9.12	9.69
120 to 129	9.30	9.92	[1] 10.00
130 to 139	[1] 10.00	[1] 10.00	[1] 10.00
140 to 149	[1] 10.00	[1] 10.00	[1] 10.00
150 to 159	[1] 10.00	[1] 10.00	[1] 10.00
160 to 169	[1] 10.00	[1] 10.00	[1] 10.00
170 and over	[1] 10.00	[1] 10.00	[1] 10.00

[1] Under the statute, $10 a day is the maximum allowance.

Degree A commuting conditions

Good paved roads; climatic conditions cause intermittent driving difficulty.

Degree B commuting conditions

Roads typically fair but may be good for part of distance or may be unpaved for short distances; climatic conditions during part of a season, in relation to terrain, contribute to additional cost.

Degree C commuting conditions

Fair to poor roads; unpaved for part of distance, or travel over range; hilly or mountainous terrain; climatic conditions during most of a season contribute to additional cost.

APPENDIX B OF SUBPART C. DAILY INCONVENIENCE OR HARDSHIP ALLOWANCE SCHEDULE, COMMUTING OVER LAND BY MOTOR VEHICLE TO REMOTE DUTY POSTS

Round trip distance in excess of 2 hours	Degree A commuting conditions	Degree B commuting conditions	Degree C commuting conditions
up to 15 minutes	$0.50	$0.63	$0.75
16 to 30	1.00	1.25	1.50
31 to 45	1.50	1.88	2.25
46 to 60	2.00	2.50	3.00
61 to 75	2.50	3.13	3.75
76 to 90	3.00	3.75	4.50
91 to 105	3.50	4.38	5.25
106 to 120	4.00	5.00	6.00
121 to 135	4.50	5.63	6.75
136 to 150	5.00	6.25	7.50
151 to 165	5.50	6.88	8.25
166 to 180	6.00	8.13	9.00

Degree A commuting conditions

Good paved roads; climatic conditions, in relation to type and quality of vehicle, cause minimal discomfort during trip.

Degree B commuting conditions.

Roads typically fair, but may be good for part of distance and possibly unpaved for short distances; climatic conditions during part of a season, in relation to type and quality of vehicle, result in moderate discomfort during trip.

Degree C commuting conditions.

Fair to poor roads, unpaved for part of distance, climatic conditions during most of a season, in combination with such factors as type and quality of vehicle and terrain, result in unusual discomfort during trip

End of Regulatory Material

Authorities proposed for delegations not requiring regulation changes.

The following proposed authorities for delegation involve changes to the Federal Personnel Manual, civil service rules, and other appropriate issuances but do not appear as substantive regulatory changes to delegate:

(a) On a blanket basis the authority to assign excepted employees serving in Schedules A and B to competitive duties; and

(b) Through delegation agreements the following authorities:

(1) *Assignment of Excepted Employees to Competitive Positions (Schedule C only) (CS Rule 6.5)*

Authorities may be granted to agencies to assign employees serving under Schedule C or statutory appointments to work of positions in the competitive service.

(2) *Competitive Examining (Title V, Chapter 33, Subchapter 1)*

Agencies may examine for positions for which the agency is the sole or predominant employer. This authority includes accepting applications, determining eligibility, assigning numerical scores and veterans preference points, establishing and maintaining registers, issuing certificates of eligibles for employment consideration, acting on objections to eligibles and requests to passover veterans (except for objections based on suitability or medical considerations and passovers of compensable preference eligibles with a disability of 30% or more).

Agencies may not be delegated authority to examine for administrative law judges or for positions that have requirements which are common to other agencies in the Federal Government, other than in exceptional cases in which the interests of economy and efficiency require such delegation and in which such delegation will not weaken the application of the merit system principles.

Specifically, delegation of examining authority may include items (3) through (9):

(3) *Approval of Selective and Quality Ranking Factors (Title V, Chapter 33, Subchapter 1)*

An agency may approve/disapprove selective and quality ranking factors.

(4) *Veterans Passover (Medical/Suitability/Other) (5 USC 3318(b))*

Authority may be delegated except that OPM will retain final approval authority on passovers based on suitability or medical considerations, and passovers of compensable preference eligibles with a disability of 30 percent or more.

(5) *Ruling on Objections to Eligibles (5 USC 3318(a))*

Authority may be delegated except that OPM will retain final approval authority on objections based on suitability or medical considerations.

(6) *Suitability and Loyalty Adjudications on Applicants (5 CFR 731.201)*

Agencies may make favorable determinations. OPM will retain appeals authority on ineligible ratings based on suitability or medical considerations.

(7) *Appointment of Aliens in the Competitive Service (5 USC Rule 7.4)*

If appropriate because of lack of qualified and available citizens for certain positions, the authority may be included in the delegation agreement.

(8) *Conversion to Career of Employees Formerly Within Reach on a Register (5 CFR 315.703)*

An agency may convert to career employees formerly within reach on a register.

(9) *Restriction of Consideration to One Sex (5 CFR 332.407)*

If appropriate to the employment setting, the authority may be included in the delegation agreement.

(10) *Payment for Travel and Transportation to First Post of Duty (5 U.S.C. 5723)*

Agencies may determine that a shortage of eligibles exists, either on a continuing or single, self-canceling basis, for positions for which that agency is the sole or predominant user.

Additionally, for positions at the GS–14 and GS–15 grade levels, agencies may be delegated authority to determine that a shortage of eligibles exists for single, self-canceling positions even when the agency is *not* the sole or predominant user of the series.

(11) *Payment of Travel for Interview at GS–13 and Below (CG Decision B106116 and FPM Chapter 571, Subchapter 1)*

Agencies may determine that a position in the competitive service is so unique in terms of its duties, responsibilities and/or performance requirements that a preemployment interview is necessary for a final determination of applicant's qualifications. Once such a determination has been made, the agency may pay preemployment interview expenses of the candidates. Agencies may not use this authority for entry level positions, i.e., determination may be made for positions at the GS–10 through GS–13 levels only.

(12) *Training Agreements (FPM Chapter 271)*

An agency may develop and implement plans under which intensive training is to be used as a substitute for normal requirements.

(13) *Agency Consultation on Classification Actions Affecting 20 or More Positions (FPM Chapter 511–A–4)*

A delegation agreement may specify a higher number than the current 20 positions or no limit on the number of positions which an agency may reclassify without prior OPM approval.

(14) *Onsite Evaluation Function (E.O. 9830)*

Delegation agreements may set forth agreed upon OPM and agency personnel management evaluation program responsibilities and a combined resource application strategy. However, OPM will retain the authority essential to meet its legal and regulatory oversight responsibilities.

(15) *Controls on Non-Government Facility Training (5 USC 4106 (a)(1) and (b))*

Authority may be delegated by agreement for an agency to exempt itself from the limitation on the total number of staff years of training through non-government facilities which an agency may provide its workforce (no more than one percent of the agency's total staff years in any fiscal year). The exemption must not result in the total staff years to be spent on training through non-government facilities to exceed two percent.

(16) *Exceptions to Training Restrictions of 5 USC Chapter 41 (Not Covered by Other Delegations) (5 USC 4102(b); Section 401(a) of E.O. 11348)*

An agency may be delegated authority for exemption from a constraint in 5 USC Chapter 41 not covered by other delegations.

OPM will provide guidance to implement these delegations, set minimum standards of performance, and monitor to assure that all personnel actions follow merit principles.

(5 U.S.C. 1104; Pub. L. 95–454; 92 Stat. 1120 and Sec. 3(5) of the Civil Service Reform Act of 1978; Pub. L. 95–454; 92 Stat. 1112)

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79-10925 Filed 4-4-79; 4:57 pm]

BILLING CODE 6325-01-M

Proposed Rules

Federal Register
Vol. 44, No. 68
Friday, April 6, 1979

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.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

Wood Telephone Pedestal Stubs; Prenotice of Proposed Specification

AGENCY: Rural Electrification Administration.

ACTION: Preproposal notice.

SUMMARY: The Rural Electrification Administration (REA), proposes to prepare a new specification covering wood telephone pedestal stubs. This specification will cover the minimum acceptable quality of these stubs. Currently they are included, in part, in REA Specification DT5C:PE9 entitled "Wood Poles, Stubs, and Anchor Logs and the Preservative Treatment of These Materials." There are two types of stubs, the rectangular sawn type and the round type. The sawn type is made from a crossarm blank. The shape is similar to a crossarm, but the treatment is for ground contact, similar to a pole. REA has also adopted special designs which differ somewhat from those in the specification. Some of the marking requirements differ from poles. As a result of these minor differences, confusion has resulted. It was, therefore, decided that a new specification should be prepared to resolve this problem.

DATE: Public comments must be received by REA no later than May 7, 1979.

ADDRESS: Interested persons may submit written data, views or comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director, Power Supply and Engineering Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–4413.

Dated: March 29, 1979.

Joe S. Zoller,
Acting Assistant Administrator—Electric.

[FR Doc. 79-10455 Filed 4-5-79; 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 140]

Financial Protection Requirements and Indemnity Agreements; Miscellaneous Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulations relating to the financial protection and indemnity that it requires of its licensees to implement legislation that modified and extended for ten years (to August 1, 1987) the present Price-Anderson legislaton. To complete this implementation a standard master policy form will be codified in the Commission's regulations after the Commission determines that the policy represents adequate proof that a licensee is maintaining the necessary secondary financial protection.

DATES: Public comments on this notice must be submitted on or before June 5, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mr. Ira Dinitz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301–492–8336.

SUPPLEMENTARY INFORMATION: In order to complete implementation of certain provisions of Pub. L. 94–197, legislation enacted on December 31, 1975 which modified and extended to August 1, 1978 the Price-Anderson Act (Pub. L. 85–256), the Nuclear Regulatory Commission must codify in 10 CFR Part 140, a standard master policy form which the Commission determines to be adequate proof that a licensee is maintaining the necessary secondary financial protection required by the Commission pursuant to subsection 170b. of the Atomic Energy Act of 1954, as amended. This standard master policy form was submitted by the Nuclear Energy Liability-Property Insurance Association (an additional policy identical to the published policy except that it contains supplemental money amounts has been submitted by the Mutual Atomic Energy Liability Underwriters but will not be published separately. The proposed rule, however, applies to both policies.)

Subsection 170b. establishes a mechanism—payment of a retrospective premium—whereby the utility industry would share liability for any damages exceeding the maximum liability insurance available from private sources, currently $160 million, that might result from a nuclear incident. In the event of a nuclear incident causing damages exceeding $160 million, each licensee of a commercial reactor rated at 100 electrical megawatts or more would be assessed a prorated share of damages of up to the statutory maximum of $5 million per reactor per incident.

Since August 1, 1977 the Commission has utilized a binder furnished by these two insurance pools as evidence of secondary financial protection. The use of the binder was necessary because the pools were not prepared to put the master policy in final form. The binder is being used in the interim. The binder is almost identical to the standard master policy form and in the staff's view meets all the requirements for implementation of Pub. L. 94–197. The pools have informed the staff that drafts of the master policy have been commented on by their utility clients and other organizations and all comments made by these organizations have been accomodated. The proposed rule making is to solicit public comment on the policy.

Both the master secondary financial protection policy and the accompany certificate of insurance, which names the utility insureds, establish the terms

and conditions under which the insureds are responsible for the payment of the retrospective premium and, in addition, establish the liability of the insurance pools for the non-payment of the premiums in the event of default by the insureds. The secondary financial policy establishes the conditions under which the restrospective insurance premium becomes payable and contains additional terms and conditions for (1) establishing, as previously mentioned, the total contingent liability of the insuring companies in the event of retrospective premium defaults; (2) establishing the requirements with which the insureds must comply in notifying the insuring companies of a nuclear incident; (3) establishing the rights of recovery by the insuring companies for any policy and (4) cancellation conditions for both the insuring companies and insureds.

Although the cost of investigating and settling liability claims and defending suits for damage is retained as a part of financial protection, (i.e., nuclear liability insurance), the proposed rule modifies certain sections of 10 CFR Part 140 in conformance with Pub. L. 94–197 to exclude these costs from government indemnity. The master secondary financial protection policy includes the same treatment of these costs. Finally, since the amendments to Part 140 merely implement a statute, good cause exists for omitting a value/impact analysis.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Part 140, Code of Federal Regulations, are published as a document subject to codification.

§ 140.92 [Amended]

1. Section 140.92, Appendix B, Article II, paragraph 8(d), is amended to read as follows:

(d) As used in this paragraph 8., Article II, and in Article III, "other applicable agreements" means each other agreement entered into by the Commission pursuant to subsection 170c. of the Act in which agreement the nuclear incident is defined as a "common occurence." As used in this paragraph 8., Article II, "the obligations of the licensee" means the obligations of the licensee under subsection 53e(8) of the Act to indemnify the United States and the Commission from public liability, together with any public liability satisfied by the insurers under the policy or policies designated in the Attachment, and the reasonable costs incurred by the insurers in investigating and settling claims and defending suits for damage.

2. Section 140.92, Appendix B, Article III, paragraph 3, is deleted.

3. Section 140.92, Appendix B, Article III, paragraph 4(a), is amended by deleting the phrase "and such reasonable costs described in paragraph 3 of this Article".

4. Section 140.92, Appendix B, Article III, paragraph 4(b), is amended by deleting the phrase "and to such reasonable costs described in paragraph 3 of this Article".

5. Section 140.92, Appendix B, Article IV, paragraph 1., is revised to read as follows:

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim (provided that no government indemnity that would otherwise be available to pay public liability claims is used for these purposes) and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

§ 140.93 [Amended]

6. Section 140.93, Appendix C, Article III, paragraph 3 is deleted.

7. Section 140.93, Appendix C, Article III, paragraph 4(a), is amended by deleting the phrase "and such reasonable costs described in paragraph 3 of this Article".

8. Section 140.93, Appendix C, Article III, paragraph 4(b), is amended by deleting "and to such reasonable costs described in paragraph 3 of this Article".

9. Section 140.93, Appendix C, Article IV, paragraph 1, is revised to read as follows:

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim (provided that no government indemnity that would otherwise be available to pay public liability claims is used for these purposes) and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

§ 140.94 [Amended].

10. Section 140.94, Appendix D, Article I, paragraph 6, is amended by deleting:

"During the period 12:01 a.m., . . . to 12:01 a.m. September 6, 1961, inclusive: 'Public liability' means any legal liability arising out of or resulting from a nuclear incident, except (1) claims under state or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed (a) at the location or, if the nuclear incident occurs in the course of transportation of the radioactive material, on the transporting vehicle, and (b) in connection with the licensee's possession, use, or transfer of the radioactive material; and (2) claims arising out of an act of war.

From 12:01 a.m., September 6, 1961:"

11. Section 140.94, Appendix D, Article II, paragraph 3 is deleted.

12. Section 140.94, Appendix D, Article II, paragraph 6, is amended by deleting the phrase "and to such reasonable costs described in paragraph 3 of this Article".

13. Section 140.94, Appendix D, Article III, paragraph 1, is revised to read as follows:

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other

persons indemnified in the settlement and defense of any claim (provided that no government indemnity that would otherwise be available to pay public liability claims is used for these purposes) and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

§ 140.95 [Amended]

14. Section 140.95, Appendix E, Article I, paragraph 6 is amended by deleting:

"During the period 12:01 a.m., * * * to 12:01 a.m. September 6, 1961, inclusive: 'Public liability' means any legal liability arising out of or resulting from a nuclear incident, except (1) claims under state or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed (a) at the location or, if the nuclear incident occurs in the course of transportation of the radioactive material, on the transporting vehicle, and (b) in connection with the licensee's possession, use, or transfer of the radioactive material; and (2) claims arising out of an act of war.

From 12:01 a.m., September 6, 1961:"

15. Section 140.95, Appendix E, Article III, paragraph 3, is deleted.

16. Section 140.95, Appendix E, Article III, paragraph 4(a), is amended by deleting the phrase "and such reasonable costs described in paragraph 3 of this Article".

17. Section 140.95, Appendix E, Article III, paragraph 4(b), is amended by deleting the phrase "and to such reasonable costs described in paragraph 3 of this Article".

18. Section 140.95, Appendix E, Article IV, paragraph 1, is revised to read as follows:

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim (provided that no government indemnity that would otherwise be available to pay public liability claims is used for these purposes) and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property or persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

§ 140.107 [Amended].

19. Section 140.107, Appendix G, Article II, paragraph 6(d), is revised to read as follows:

(d) As used in this paragraph 6., Article II, and in Article III," other applicable agreements means each other agreement entered into by the Commission pursuant to subsection 170c. of the Act in which agreement the nuclear incident is defined as a "common occurrence." As used in this paragraph 6., Article II, "the obligations of the licensee" means the obligations of the licensee under subsection 53e(8) of the Act to indemnify the United States and the Commission from public liability, together with any public liability satisfied by the insurers under the policy or policies designated in the Attachment, and the reasonable costs incurred by the insurers in investigating and settling claims and defending suits for damage.

20. Section 140.107, Appendix G, Article III, paragraph 3, is deleted.

21. Section 140.107, Appendix G, Article III, paragraph 4(a), is amended by deleting the phrase "and such reasonable costs described in paragraph 3 of this Article".

22. Section 140.107, Appendix G, Article III, paragraph 4(b), is amended by deleting the phrase "and to such reasonable costs described in paragraph 3 of this Article, as in the aggregate exceed $160,000,000".

23. Section 140.107, Appendix G, Article IV, paragrah 1, is amended to read as follows:

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim (provided that no government indemnity that would otherwise be available to pay public liability claims is used for these purposes) and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liabile for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

§ 140.108 [Amended].

24. Section 140.108, Appendix H, Article II, paragraph 3, is amended by deleting the phrase "including the reasonable costs of investigating and settling claims and defending suits for damage."

25. Section 140.108, Appendix H, Article III, paragraph 3, is deleted.

26. Section 140.108, Appendix H, Article III, paragraph 4(a), is amended by deleting the phrase "and such reasonable costs described in paragraph 3 of this Article."

27. Section 140.108, Appendix H, Article III, paragraph 4(b), is amended by deleting the phrase "and to such reasonable costs described in paragraph 3 of this Article, as in the aggregate exceed $160,000,000".

28. Section 140.108, Appendix H, Article IV, paragraph 1, is revised to read as follows:

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim (provided that no government indemnity that would otherwise be available to pay public liability claims is used for these purposes) and shall have the right (a) to require the prior approval of the Commission for the settlement or

payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

29. A new Section 140.109, Appendix I, is added to read as follows:

§ 140.109 Appendix I

NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION MASTER POLICY NO. ——

Nuclear Energy Liability Insurance

(Secondary Financial Protection)

Named Insured: Each Person or organization designated in Item 1 of a *certificate*.

Policy Period: Beginning on the first day of August, 1977, and continuing to the effective date and time of the cancellation or other termination of this policy, eastern standard time.

Limits of Liability: The amount of retrospective premium actually received by the companies plus the amount of the companies' contingent liability, if any, pursuant to Conditions 2, 3 and 4.

Date of Issuance

Authorized Representative

In consideration of the payment of the annual premium, in reliance upon the statements in the *certificates* and subject to the limits of liability, conditions and other terms of this Master Policy, the undersigned members of Nuclear Energy Liability Insurance Association (hereinafter called the "companies"), each for itself, severally and not jointly, and in the respective proportions herein set forth, and the *insureds* named in the *certificates*, agree as follows:

INSURING AGREEMENTS

I. NUCLEAR ENERGY LIABILITY INSURANCE *(Secondary Financial Protection)*

To pay on behalf of or to the *insured* or to the *insured's* workers' compensation carrier all sums payable as excess *losses* to which this Master Policy applies.

II. DEFINITIONS

"bodily injury" means bodily injury, sickness or disease, including death resulting therefrom, sustained by any person.

"certificate" means a Certificate of Insurance, including Declarations and Bond for Payment of Retrospective Premiums, issued to be a part of this Master Policy.

"common nuclear occurrence" means any occurrence or series of occurrences causing *bodily injury* or *property damage* arising out of the radioactive, toxic, explosive, or other hazardous properties of *nuclear material*

(a) disharged or dispersed from a nuclear reactor described in Item 3 of a *certificate* over a period of days, weeks, months, or longer, or

(b) discharged or dispersed from a nuclear reactor described in Item 3 of a *certificate* over a period of days, weeks, months or longer and also arising out of such properties of *nuclear material* so discharged or dispersed from one or more other nuclear reactors described in Item 3 of other *certificates*, or

(c) in the course of transportation for which protection is afforded (or would be afforded but for exhaustion of its limit of liability) under the *primary financial protection* described in Item 4 of a *certificate* and also arising out of such properties of nuclear material in the course of transportation for which protection is afforded (or would be afforded but for exhaustion of its limit of liability) under the *primary financial protection* described in Item 4 of one or more other *certificates*.

"damages and claim expenses" includes sums estimated by the companies to be payable under this policy and payments made by the companies under this Master Policy:

(a) in settlement of claims and in satisfaction of judgments against the *insureds* for damages because of *bodily injury* or *property* damage;

(b) for (1) costs taxed against an *insured* in any suit against the *insured* seeking damages payable under the terms of this Master Policy and interest on any judgment therein, (2) premiums on appeal bonds and bonds to release attachments in any such suit and (3) reasonable expenses, other than loss of earnings, incurred by the *insured* at the companies' request;

(c) for expenses incurred in the investigation, negotiation, settlement and defense of any claim or suit including, but not limited to, the cost of such services by salaried employees of the companies, fees and expenses of independent adjusters, attorneys' fees and disbursements, expenses for expert testimony, inspection and appraisal of property, examination, X-ray or autopsy or medical expenses of any kind;

(d) for expenses incurred by the companies in investigating a *nuclear incident* or in minimizing its effects;

(e) for all other expenses of the companies in fulfilling their obligations under this Master Policy, provided that such expenses are reasonable and necessary.

"excess losses" means all *damages and claim expenses*.

(a) because of *bodily injury* or *property damage* to which a *certificate* applies, and

(b) which are excess of all sums paid or payable as estimated by the companies under all applicable *primary financial protection*.

"extraordinary nuclear occurrence" has the meaning given it in the Atomic Energy Act of 1954, or in any law amendatory thereof.

"insured" means any person or organization identified in Items 1 or 2 of a *certificate*.

"nuclear incident" means

(a) an *extraordinary nuclear occurrence*, or

(b) a *common nuclear occurrence*, or if neither of these,

(c) an occurrence or series of occurrences, including continuous or repeated exposure to substantially the same general conditions, causing *bodily injury* or *property damage* arising out of the radioactive, toxic, explosive, or other hazardous properties of *nuclear material*.

"nuclear material" means *source material*, *special nuclear material* or *byproduct material*.

"primary financial protection" means the insurance policies or other contracts identified in Item 4 of a *certificate* and includes any amendment thereto which is consented to by the companies pursuant to Condition 6 of this Master Policy.

"property damage" means physical injury to or destruction or radioactive contamination of property, and loss of use of property so injured, destroyed or contaminated, and loss of use of property while evacuated or withdrawn from use because possibly so contaminated or because of imminent danger of such contamination.

"source material", *"special nuclear material"*, and *"byproduct material"* have the meanings given them in the Atomic Energy Act of 1954, or in any law amendatory thereof.

III. APPLICATION OF POLICY

Insurance is provided by this Master Policy only through a *certificate*. No insurance is afforded with respect to *bodily injury* or *property damage* caused prior to August 1, 1977 by a *nuclear incident*.

CONDITIONS

1. *Annual Premium*

The named insureds designated in a *certificate* shall pay to the companies the annual premium for each calendar year or part thereof.

Such annual premium shall be determined by the companies and stated in a written notice mailed to the first named insured shown in Item 1 of a *certificate*, and shall be due and payable as stated in such notice.

2. *Retrospective Premium*

The named insureds designated in a *certificate* shall pay to the companies retrospective premium in the event of *excess losses* due to *bodily injury* or *property damage* caused during their *certificate* period by a *nuclear incident* arising out of or in connection with a nuclear reactor described in Item 3 of the *certificate* or in Item 3 of any other *certificate*. The amount of retrospective premium due under each *certificate* shall be determined by multiplying such *excess losses* by the ratio of the maximum retrospective premium payable with respect to the *nuclear incident* under the *certificate* to the total of the maximum retrospective premiums

payable with respect to the *nuclear incident* under all such certificates.

If any portion of the *bodily injury* or *property damage* to which this Master Policy applies is caused during any portion of a *certificate* period by a *nuclear incident*, the retrospective premium the named insureds designated in such *certificate* are obligated to pay shall be determined as if all *bodily injury* or *property damage* to which this Master Policy applies caused by the *nuclear incident* had been caused during the *certificate* period of such *certificate*.

The maximum retrospective premium that the named insureds designated in a *certificate* shall pay to the companies for all *excess losses* arising out of any one *nuclear incident* is the amount stated in Item 7 of their *certificate*.

In the event of two or more *nuclear incidents*, the maximum amount of retrospective premium that shall be due from and payable by the named insureds in one calendar year shall not exceed twice the amount stated in Item 7 of their *certificate*. Any amount in excess thereof shall be paid in subsequent calendar years billed by the companies.

In addition, an allowance for applicable premium taxes shall be determined by the companies and paid to them by the named insureds at the time retrospective premiums are due and payable.

After a *nuclear incident* resulting in *excess losses*, the companies shall mail to the first named insured designated in Item 1 of a *certificate* written notice of the retrospective premium and allowance for premium taxes then due under such *certificate*. Such notice shall also constitute notice to all other named insureds designated in such *certificate*. The named insureds shall pay directly to the Nuclear Energy Liability Insurance Association the retrospective premium and allowance for premium taxes stated in the notice. The notice shall specify a date no earlier than 60 days after mailing by which time payment is to be received by the Nuclear Energy Liability Insurance Association.

The companies shall at least annually review their estimate of *excess losses* arising out of the *nuclear incident* and shall adjust the retrospective premium and allowance for premium taxes accordingly. If the amount due from the named insureds is increased, written notice shall be mailed to the first named insured in accordance with the foregoing paragraph; if decreased, the companies shall return the excess to the first named insured.

The obligation of the named insureds to pay retrospective premium and the allowance for premium taxes for *excess losses* arising out of a *nuclear incident* shall continue until the named insureds have paid the maximum retrospective premium stated in Item 7 of their *certificate* plus allowance for premium taxes.

The companies shall send to the Nuclear Regulatory Commission summaries of their estimates of *excess losses* arising out of the *nuclear incident* and their computations of retrospective premium and the allowance for premium taxes due.

All retrospective premium (but not the allowance for premium taxes) received by the companies is to be held by the companies separate from the companies' other assets and is to be used by the companies only for the purpose of paying *excess losses*. Any investment income received by the companies from such retrospective premium shall accrue to the benefit of the named insureds. This paragraph shall not apply to any retrospective premium received by the companies as reimbursement for any funds expended pursuant to Condition 4.

No commission will be paid with respect to retrospective premium and allowance for premium taxes.

3. *Limit of Liability*

Regardless of the number of

(a) persons or organizations who are *insureds* under this Master Policy, or

(b) claims made and suits brought against any and all *insureds*, or

(c) policies or contracts or primary *financial protection* or *certificates* which apply to the *nuclear incident*, or

(d) years this Master Policy and any *certificate* shall continue in force,

the total liability of the companies under this Master Policy for all *excess losses* arising out of any one *nuclear incident* shall not exceed the amount of retrospective premium actually received by the companies pursuant to Condition 2 with respect to such *nuclear incident* plus the companies' contingent liability, if any, as determined by Condition 4. Reimbursement of the companies for funds expended pursuant to Condition 4 shall not operate to increase the total liability of the companies.

4. *Contingent Liability of the Companies*

The companies have a contingent liability under this Master Policy for payment of *excess losses* but only if, and to the extent that, the retrospective premium due under one or more *certificates* is not paid. In the event of any such failure to pay retrospective premiums, the companies' obligations under this Condition 4 are limited as follows:

Regardless of the number of *nuclear incidents* which cause *bodily injury* or *property damage* to which this Master Policy applies, the number of years this Master Policy is in force, the number of *certificates* issued or in effect, or the number of annual premiums paid or payable,

(a) the total contingent liability of the companies for all *excess losses* arising out of two or more *nuclear incidents* shall not exceed $46,500,000;

(b) subject to the above provision (a), the total contingent liability of the companies for all *excess losses* arising out of any one *nuclear incident* shall not exceed $23,250,000;

(c) subject to the above provisions (a) and (b), the maximum amount to be paid by the companies in any one calendar year because of contingent liability for *excess losses* shall not exceed $23,250,000.

If a named insured designated in a *certificate* shall become insolvent or be adjudged bankrupt, the companies' obligation under this Condition 4 shall not apply to the failure of any named insured designated in such *certificate* to pay retrospective premium with respect to *excess losses* because of *bodily injury* or *property damage* caused after the date of such insolvency or bankruptcy.

5. *Investigation, Defense or Settlement of Claims or Suits*

Subject to the provisions of any written agreement between the companies and the Nuclear Regulatory Commission, the companies shall defend any claim or suit alleging *bodily injury* or *property damage* caused by a *nuclear incident* and seeking damages which are payable under this Master Policy, and may make such investigation and settlement of any claim or suit as they deem expedient. In no event shall the companies be obligated to pay any claim of judgment or to defend any claim or suit after the companies have paid the amount of retrospective premium actually received for excess *losses* arising out of the *nuclear incident* plus the amount of their contingent liability, if any.

6. *Primary Financial Protection*

Regardless of the number of policies or contracts of *primary financial protection* applicable to a *nuclear incident*, the limit of liability of all such policies or contracts shall be deemed to be exhausted when the sums paid under all such policies or contracts are equal to the lesser of (1) the sum of the limits of liability available under all such *primary financial protection*, or (2) one hundred sixty million dollars.

The named insured disignated in a *certificate* shall maintain in full effect during the currency of such *certificate* the *primary financial protection* described therein, except for any reduction of the limit of liability of such *primary financial protection* solely as the result of sums paid thereunder. Failure of the named insureds to comply with the foregoing shall not invalidate this Master Policy, but in the event of such failure the companies shall be liable only to the extent that they would have been liable had the named insureds complied therewith.

In the event that the limit of liability of the primary *financial protection* is reduced, such named insureds shall immediately inform the companies thereof and make all reasonable efforts to reinstate such limit.

Upon the companies' request the named insureds shall provide the companies with a certified copy of any policy or other contract of *primary financial protection*. No amendment of the *primary financial protection* shall increase, extend or broaden the insurance provided by this Master Policy unless the companies agree to the amendment by an endorsement issued to form a part of this Master Policy.

7. *Interest To Be Paid by Named Insured on Retrospective Premium and Allowance for Premium Taxes in Default*

If retrospective premium or allowance for premium taxes is not paid when due by the named insureds designated in Item 1 of a *certificate*, such named insureds shall be obligated to pay, in addition to the amount in default, interest thereon during the period of default. Such interest shall be computed at an annual rate equal to the sum of (a) three

percent plus (b) a rate of interest equal to Moody's Average Public Utility Bond Yield described in the issue of Moody's Bond Survey current on the date that the retrospective premium and allowance for premium taxes were due. The annual rate of interest shall be adjusted monthly during the period of default to reflect any revisions of Moody's Average Public Utility Bond Yield described in the issue of Moody's Bond Survey current on the first business day of each such month.

The interest so received shall be used to pay to the companies interest at the annual rate described above for any funds the companies have paid pursuant to Condition 4. Any balance remaining shall accrue to the benefit of named insureds not in default as if it were investment income on retrospective premium.

8. *Notice of Nuclear Incident, Claim or Suit*

In the event of *bodily injury*, or *property damage* to which this Master Policy applies or of a *nuclear incident* which may give rise to claims therefor, written notice containing particulars sufficient to identify the *insured* and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the *insured* to Nuclear Energy Liability Insurance Association or the companies as soon as practicable. If claim is made or suit is brought against the *insured*, and *insured* shall immediately forward to Nuclear Energy Liability Insurance Association or the companies every demand, notice, summons or other process received by or on behalf of the *insured*.

9. *Assistance and Cooperation of the Insured*

The *insured* shall cooperate with the companies and the companies' request, attend hearings and trials and assist in making settlements, in securing and giving evidence, in obtaining the attendance of witnesses and in the conduct of any legal proceedings in connection with the subject matter of this insurance. The *insured* shall not, except at the *insured's* own cost, make any payment, assume any obligation or incur any expense.

10. *Action Against Companies*

No action shall lie against the companies or any of them unless, as a condition precedent thereto, the *insured* shall have fully complied with all the terms of this Master Policy, nor until the amount of the *insured's* obligation to pay shall have been finally determined either by judgment against the *insured* after actual trial or by written agreement of the *insured*, the claimant and the companies.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Master Policy to the extent of the insurance afforded by this Master Policy. No person or organization shall have any right under this Master Policy to join the companies or any of them as parties to any action against the *insured* to determine the *insured's* liability, nor shall the companies or any of them be impleaded by the *insured* or the *insured's* legal representive. Except as provided in Condition 4, bankruptcy or insolvency of the *insured* or of the *insured's* estate shall not relieve the companies of any of their obligations hereunder.

11. *Subrogation*

In the event of any payment under this Master Policy, the companies may participate with the *insured* and any underlying insurer in the exercise of all the *insured's* rights of recovery against any person or organization liable therefor. Prior to knowledge of *bodily injury* or *property damage* to which this Master Policy applies or of a *nuclear incident* which may give rise to claims therefor, the *insured* may waive in writing any right of recovery against any person or organization. After such knowledge, the *insured* shall not waive or otherwise prejudice any such right of recovery but shall do everything necessary to secure such rights. Recoveries shall be applied first to reimburse any person or organization (including the *insured*) that may have paid any amount with respect to liability in excess of the limit of the companies' liability hereunder; then to reimburse the companies up to the amount paid hereunder; and lastly to reimburse anyone entitled to claim the residue, if any. A different apportionment may be made by agreement signed by all parties affected.

Reasonable expenses incurred in the exercise of rights of recovery shall be apportioned in the ratio of the respective losses for which recovery is sought. The companies shall, after deducting all of their expenses in securing recovery, apply the net amount of recoveries made by the companies as a credit in determining the amount of *excess losses*.

12. *Other Insurance*

This insurance shall be excess insurance over *primary financial protection*.

This insurance is concurrent with insurance afforded by a Master Policy—Nuclear Energy Liability Insurance (Secondary Financial Protection) issued to the named insured by Mutual Atomic Energy Liability Underwriters, hereinafter called "concurrent insurance". The companies shall not be liable under this Master Policy for a greater proportion of *excess losses* than the applicable limit of liability described in Condition 3 bears to the sum of (a) such limit plus (b) the applicable limit of liability of such concurrent insurance.

If the *insured* has other valid and collectible insurance (other than *primary financial protection* or concurrent insurance) applicable to *excess losses* covered by this Master Policy, the insurance afforded by this Master Policy shall be primary insurance under such other insurance.

13. *Changes*

Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Master Policy or estop the companies from asserting any right under the terms of this Master Policy; nor shall the terms of this Master Policy be waived or changed, except by endorsement executed by Nuclear Energy Liability Insurance Association on behalf of the companies and issued to form a part of this Master Policy.

14. *Assignment*

Assignment of interest by the named insured shall not bind the companies until their consent is endorsed hereon; if, however, the named insured shall die or be declared bankrupt or insolvent, this Master Policy shall cover such named insured's legal representative, receiver or trustee as an *insured* under this Master Policy, but only with respect to such legal representative's, receiver's or trustee's liability as such, and then only provided written notice of the legal representative's, receiver's or trustee's appointment as such is given to the companies within ten days after such appointment.

15. *Custodian of the Policy—Nuclear Regulatory Commission*

The named insureds have designated the Nuclear Regulatory Commission as the custodian of this Master Policy and any endorsements thereto.

16. *Cancellation*

The first named insured designated in Item 1 of a *certificate* may cancel such *certificate* by mailing to the companies and the Nuclear Regulatory Commission written notice stating when, not less than thirty days thereafter, such cancellation shall be effective.

The companies may cancel any *certificate* by mailing to the first named insured designated in Item 1 of such *certificate* written notice stating when, not less than ninety days thereafter, such cancellation shall be effective; provided that in the event of non-payment of any annual premium, retrospective premium or allowance for premium taxes due under a *certificate*, such *certificate* may be canceled by the companies by mailing to the first named insured designated therein written notice stating when, not less than thirty days thereafter, such cancellation shall be effective.

The mailing of notice as aforesaid shall be sufficient proof of notice. The effective date and time of cancellation stated in the notice shall become the end of the *certificate* period. Delivery of such written notice, either by the first named insured designated in Item 1 of a *certificate* or by the companies, shall be equivalent to mailing.

A copy of the companies' cancellation notice shall be mailed to the Nuclear Regulatory Commission, but mailing such a copy is not a condition of cancellation.

If a *certificate* is cancelled, the earned portion of the annual premium shall be computed pro-rata. Adjustment of the annual premium, if any, may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

Cancellation or termination of any *certificate* shall not terminate the obligation of a named insured to pay retrospective premium and the allowance for premium taxes as provided in such named insured's

certificate and Condition 2 of this Master Policy.

This Master Policy shall terminate automatically on the effective date and time of cancellation or termination of the last *certificate* in effect.

17. *Company Representation*

(a) Any notice, sworn statement or proof of loss which may be required by the provisions of this Master Policy may be given to any one of the companies, and such notice, statement or proof of loss so given shall be valid and binding as to all companies.

(b) In any action or suit against the companies, service of process may be made on any one of them and such service shall be deemed valid and binding service on all companies.

(c) Nuclear Energy Liability Insurance Association is the agent of the companies with respect to all matters pertaining to this insurance. All notices or other communications required by this Master Policy to be given to the companies may be given to such agent, at its office at the Exchange, Suite 245, 270 Farmington Avenue, Farmington, Connecticut—06032 with the same force and effect as if given directly to the companies. Any requests, demands or agreements made by such agent shall be deemed to have been made directly by the companies.

18. *Authorization of First Named Insured*

Except with respect to compliance with the obligations imposed on the *insured* by Conditions 8, 9, 10 and 11 of this Master Policy, the first named insured designated in Item 1 of a *certificate* is authorized to act for every other person and organization insured under such *certificate* in all matters pertaining to this insurance.

19. *Changes in Subscribing Companies and in Their Proportionate Liability*

The members of Nuclear Energy Liability Insurance Association subscribing this Master Policy, and the proportionate liability of each, may change from time to time.

Each company subscribing this Master Policy upon its issuance shall be liable only for its stated proportion of any obligation assumed or expense incurred under this Master Policy because of *bodily injury* or *property damage* caused during the period from the effective date of this Master Policy to the close of December 31 next following. For each subsequent calendar year, beginning January 1 next following the effective date of this Master Policy, the subscribing companies and the proportionate liability of each such company shall be stated in an endorsement issued to form a part of this Master Policy, duly executed by the President of Nuclear Energy Liability Insurance Association on behalf of each such company, and mailed or delivered to the Nuclear Regulatory Commission.

20. *Declarations*

By acceptance of this Master Policy, the named insureds designated in a *certificate* agree that the statements in such *certificate* are their agreements and representations, that this Master Policy and such *certificate* are issued in reliance upon the truth of such representations and that this Master Policy and such certificate embody all agreements between such named insureds and the companies or any of their agents relating to this insurance.

IN WITNESS WHEREOF each of the subscribing companies has caused this Master Policy to be executed on its behalf by the Nuclear Energy Liability Insurance Association and duly countersigned on the first page by an authorized representative

For the subscribing Companies of
NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

By _____
Burt C. Proom, President

NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

Certificate———Forming Part of Master Policy No.———.

Certificate of Insurance Declarations and Bond for Payment of Retrospective Premiums

Certificate of Insurance

This is to certify that the persons and organizations designated in Item 1 of the Declarations are named insureds under the Master Policy—Nuclear Energy Liability Insurance (Secondary Financial Protection), herein called the "Master Policy," issued by Nuclear Energy Liability Insurance Association.

Such insurance as is provided by the Master Policy applies, through this *certificate*, only:

(a) to the *insureds* identified in Items 1 and 2 of the Declarations,

(b) for the *certificate* period stated in Item 6 of the Declarations,

(c) to *bodily injury* or *property damage*

(1) with respect to which the *primary financial protection* described in Item 4 of the Declarations would apply but for exhaustion of its limit of liability as described in Condition 6 of the Master Policy, and

(2) which is caused during the *certificate* period stated in Item 6 of the Declarations by a *nuclear incident* arising out of or in connection with the nuclear reactor described in Item 3 of the Declarations, and

(3) which is discovered and for which written claim is made against the *insured* not later than ten years after the end of the *certificate* period stated in Item 6 of the Declarations. However, with respect to *bodily injury* or *property damage* caused by an *extraordinary nuclear occurrence* this subparagraph (3) shall not operate to bar coverage for *bodily injury* or *property damage* which is discovered and for which written claim is made against the *insured* not later than twenty years after the date of the *extraordinary nuclear occurrence.*

Declarations

Item 1. Named insureds and addresses:
(a)
(b)

Items 2. Additional *Insureds:*

Any other person or organization who would be insured under the *primary financial protection* identified in Item 4 of the Declarations but for exhaustion of the limit of liability of such *primary financial protection.*

Item 3. Description and location of nuclear reactor:

Item 4. (a) Identification of *primary financial protection* applicable to the nuclear reactor and limit(s) of liability thereof:

Nuclear Energy Liability Insurance Association's Policy NF-$124,000,000.

Mutual Atomic Energy Liability Underwriters' Policy MF-$36,000,000.

(b) The following endorsements, attached to the *primary financial protection* policies listed in Item 4 (a) also apply to the insurance afforded by the Master Policy through this *certificate* as though they were attached hereto:

(1) Waiver of Defenses Endorsement (Extraordinary Nuclear Occurrence) and (2) Supplementary Endorsement—Waiver of Defenses—Reactor Construction at the Facility,

(c) The limits of liability provided under the *primary financial protection* specified in Item 4 (a) above are not shared with any other reactor except as follows:

Item 5. Limits of Liability: The amount of retrospective premium actually received by the companies plus the amount of the companies' contingent liability, if any, pursuant to Conditions 2, 3, and 4 of the Master Policy.

Item 6. *Certificate* Period: Beginning at 12:01 a.m. on and continuing to the effective date and time of cancellation or termination of the Master Policy or this *certificate*, whichever first occurs, eastern standard time.

Item 7. Maximum retrospective premium (exclusive of allowance for premium taxes) payable pursuant to Condition 2 of the Master Policy with respect to each *nuclear incident:* $3,875,000.

Item 8. Premium payable pursuant to Condition 1 of the Master Policy for the period from———through December 31 following: $———.

Bond for Payment of Retrospective Premiums

Know all men by these presents, that the undersigned do hereby acknowledge that they are named insureds under the Master Policy described in the above Certificate of Insurance and Declarations. The named insureds do hereby convenant with and are held and are firmly bound to the members of Nuclear Energy Liability Insurance Association subscribing the Master Policy (hereinafter called the "companies") to pay to the companies all retrospective premiums and allowances for premium taxes which shall become due and payable in accordance with the Master Policy, as it may be changed from time to time, with interest on such premiums and allowances for taxes to be computed at the rate provided in the Master Policy from the date payment thereof is specified to be due the companies in written notice to the first named insured as provided in Condition 2 of the Master Policy until paid;

And it is hereby expressly agreed that copies of written notices of retrospective premiums and allowances for premium taxes due and payable or other evidence of such amounts due and payable sworn to be a duly authorized representative of the companies shall be prima facie evidence of the fact and

extent of the liability of the named insureds for such amounts;

And it is further expressly agreed that the named insureds will indemnify the companies against any and all liability, losses and expenses of whatsoever kind of nature (including but not limited to interest, court cost, and counsel fees) which the companies may sustain or incur (1) by reason of the failure of the named insureds to comply with the covenants or provisions of this Bond and (2) in enforcing any of the convenants or provisions of this Bond, or any provisions of the Master Policy relating to such covenants or provisions;

For the purpose of recording this agreement, a photocopy acknowledged before a Notary Public to be a true copy hereof shall be regarded as an original.

The preceding Certificate of Insurance, Declarations and Bond form a part of the Master Policy. Cancellation or termination of the Master Policy or the Certificate of Insurance shall not affect the named insured's obligations under the policy or the Bond to pay the retrospective premiums and allowances for premium taxes, as provided in this *Certificate* and Condition 2 of the Master Policy.

IN WITNESS WHEREOF, the named insured have caused the Declarations and the Bond for Payment of Retrospective Premiums to be signed and sealed by a duly authorized officer, to be effective August 1, 1977, eastern standard time.

Attest or Witness ————————

Named Insureds:

————————————————

(Named Insured—Type or Print)

By————————————(Seal)

(Signature of Officer)

————————————————

(Type or Print Name & Title of Officer)

Date:————————————

IN WITNESS WHEREOF, the companies subscribing the Master Policy have caused the Certificate of Insurance and the Declarations to be signed on their behalf by the President of Nuclear Energy Liability Insurance Association to be effective ———— eastern standard time, and countersigned below by a duly authorized representative.

For the Subscribing Companies of
NUCLEAR ENERGY LIABILITY INSURANCE ASSOCIATION

By ————————————

Burt C. Proom, President

Countersigned by:

————————————————

(Authorized Representative)

Authority: Pub. L. 85-256, as amended; 71 Stat. 576, as amended; 42 U.S.C. 2210.

Dated at Washington, D.C. this 2nd day of April, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-10854 Filed 4-5-79; 8:45 am]

BILLING CODE 7590-01

FEDERAL RESERVE SYSTEM

[12 CFR Parts 204, 217]

International Banking Facilities; Advance Notice of Proposed Rulemaking

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System is extending until May 18, 1979, the comment period on a request by the New York Clearing House Association to consider a proposal that the Board amend Regulations D and Q to provide that deposits of specially designated International Banking Facilities be exempt from reserve requirements and interest rate restrictions.

DATE: Comments must be received by May 18, 1979.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should refer to docket number R-0214.

FOR FURTHER INFORMATION CONTACT: Thomas D. Simpson, Senior Economist, Division of Research and Statistics (202-452-3361); or James S. Keller, Attorney, Legal Division (202-452-3582), Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: On December 14, 1978, the Board requested that comments on the Clearing House proposal be submitted to the Board by March 15, 1979. The Board is extending the comment period until May 18, 1979, and in addition to those issues on which it previously requested comments, invites comments on the impact that IBF's might have on deposit-taking and credit extension in offshore markets.

The New York Clearing House Association proposes that the Board amend Regulations D and Q to provide that deposits of specially designated International Banking Facilities (IBFs) be exempt from reserve requirments and interest rate regulations. These facilities would be operated separately from other offices of the bank. The Clearing House maintains that such an action, coupled with special State and local tax treatment of IBFs, would: enhance the role of major domestic monetary centers as international banking centers by attracting business from abroad; stimulate local economies by providing new jobs and raise local tax revenues; and lower bank costs and improve bank efficiency. The State of New York has enacted a law giving eventual tax-free status to IBFs, contingent upon favorable reserve requirement and interest rate action at the Federal level. So far as is known, no other State has taken similar action.

The Clearing House proposal contemplates that an IBF would be allowed to accept funds only from foreign customers, the facility's own U.S. head office, and other IBFs. It could offer only obligations subject to withdrawal on call (after a specified notice period) or fixed-maturity obligations with a minimum maturity of one business day; IBFs would not be authorized to offer deposits subject to immediate withdrawal or negotiable CDs.

Although funds placed with IBFs may be regarded as deposits upon which the reserve requirement would be set at 0 percent, the member bank would be subject to the 3 percent statutory minimum average reserve requirement on the sum of its domestic time deposits. Since the 3 percent minimum could reduce the attractiveness of the proposal for many member banks, as an alternative, consideration might be given to exempting obligations of IBFs from deposit treatment similar to the treatment accorded Federal funds borrowings and certain repurchase agreements.

IBFs could not advance credit to U.S. customers, except to other IBFs or to their own head offices; and advances to their own head ofices would be subject to the same reserve requirement that is imposed under Regulation D [1] on net borrowings by member banks from their own foreign branches (which is zero at present).

Establishment of IBFs would be expected to result in the creation of a new dollar deposit in this country competitive with Euro-dollars but subject to U.S. laws and hence not subject to the "foreign country risk" generally attached to dollar deposits in banks outside the United States. Obligations issued by IBFs probably would carry somewhat higher yields than comparable deposits at domestic offices of members banks because of the

[1] By Board action on February 14, 1979, provisions of the Board's regulations regarding reserve requirements for foreign branches of member banks were transferred from Regulation M (12 C.F.R. Part 213) to Regulation D (12 C.F.R. Part 204). 44 Fed. Reg. 10,499 (1979).

absence of reserve requirements. As a result, foreigners might shift funds from other international banking centers and from banking offices in the United States to IBFs. Moreover, U.S. corporations—particularly those with foreign affiliates—might be encouraged by favorable terms to find ways of placing funds with IBFs.

Implications for Deposit Holdings

Various deposit shifts are likely to occur as a result of creation of an IBF. Foreign-owned Euro-dollar deposits may shift to an IBF. In addition, existing foreign deposits held in U.S. banking offices might also be eligible to move into an IBF. Foreign demand deposits in the United States total $18 billion, while foreign-owned time deposits amount to $12½ billion.

The volume of funds placed in IBFs would also be affected by whether the facility is available to foreign subsidiaries of U.S. corporations. Domestic companies would not be able to place funds directly with IBFs, but could do so indirectly through a foreign affiliate. Even if IBF accounts were not used directly for transactions purposes, some U.S. depositors—with foreign affiliates—might find short-term IBF obligations to be an attractive cash management instrument and might substitute IBF obligations for other short-term investments—such as RPs—and for demand deposits.

The availability of IBF accounts to various types of depositors has implications for measures of the monetary aggregates; for the level of required reserves; and for competitive relationships among foreign corporations, U.S. corporations with foreign subsidiaries, and other companies should be permitted to hold funds in an IBF, or whether minimum maturities of funds placed in an IBF should be seven days rather than one day, would affect deposit holdings and competitive relationships. A 7-day minimum maturity would, for example, reduce the difference between time accounts in IBF's and minimum maturity time deposits in domestic banks.

Implications for Credit Availability

Currently, credit extended to foreigners (including their own foreign branches) by banking offices in the United States is estimated to exceed deposit and nondeposit liabilities to foreigners by about $20 billion.

However, it cannot be determined *a priori* whether the amount of foreign loans that could be shifted to IBFs from domestic offices would be larger or smaller than the amount of deposit and nondeposit funds that would be shifted, and thus it cannot be determined whether the availability of domestic credit to domestic sectors would be affected.

In the final analysis the impact on the availability of credit to domestic sectors will depend on the degree to which IBFs are linked to domestic markets. If no restrictions are applied to funds channeled from IBFs to domestic U.S. offices of the parent bank as would be the case with a zero reserve requirement on head office borrowings from the IBF, there would be no, or little, impact on the availability of domestic bank credit from creation of an IBF. Any difference between the volume of domestic deposits shifted to IBFs and the volume of foreign loans shifted from domestic offices could be reflected in transactions by IBFs with their domestic offices.

Alternatively, should reserve requirements apply to funds channeled from IBFs to domestic U.S. offices of the parent bank, there would be a greater scope for a spread to develop between the rates at which IBFs would lend to head offices or other IBFs and the Federal funds rate.[2] The larger the reserve requirement the less closely would IBFs tend to be linked to domestic money markets, and the more likely that variations in flows of funds from domestic deposits to IBFs would be reflected in variations in their foreign lending.

Implications for Foreign Exchange Rates

The same general considerations would affect the extent to which shifts of funds from U.S. offices to IBFs would have an impact on the exchange rate for the dollar. By establishing a zero, or low, reserve requirement on lending by IBFs to domestic U.S. offices of the parent bank, the Board could minimize any possible adverse effect on the exchange rate that might otherwise result from a difference between the volume of deposits in domestic offices shifted to IBFs and the volume of foreign credits in the loan portfolios of those domestic offices that was shifted to IBFs. The Board's policy regarding reserve requirements on lending to domestic offices would thus likely receive increased attention if IBFs were established.

It may be noted that if IBF obligations were regarded as an especially attractive dollar asset, there might be an incentive for some foreign investors to shift funds from money market instruments denominated in foreign currencies to IBFs. As the IBFs advanced these funds to domestic U.S. offices, there would be a tendency for some modest strengthening in the exchange rate for the dollar.

The Effects of Competitive Balance Among Banks

IBFs could affect the relative positions of banks, as well as of their foreign and domestic customers. The Board recognized that if IBFs are to be established on a nationwide basis, adequate time would be needed to permit an opportunity for changes in State laws and regulations. The Board also recognized that IBFs might also be operated by banks outside New York through Edge Corporations in New York. Various locations and modes of operations may have differing impacts on banking institutions under current circumstances.

The Board is considering the proposal and its desirability in light of its impact on monetary conditions, regulatory control, competitive balance and other factors.

Comment is invited by May 18, 1979, from all parties on issues raised by the proposal. In its December 14, 1978 statement, the Board stated it would be particularly interested in views on the minimum maturity of accounts that might be held in an IBF, on reserve requirements applicable to head office borrowings from an IBF, on the advisability of making obligations offered by the facility available to foreign subsidiaries of U.S. corporations, on implications for competitive balance among banks, on the length of time that might be required for changes in State laws and regulations and the lead time that member banks would reasonably need in order to establish IBFs.

Board of Governors of the Federal Reserve System, April 2, 1979.

Theodore E. Allison,
Secretary of the Board.

[Docket No. R-0214]

[FR Doc. 79-10744 Filed 4-5-79 8:45 am]

BILLING CODE 6210-01-M

[2] The Federal funds rate and the rate for loans by one IBF to another would tend to be equal in the absence of restrictions on flows of funds between IBFs and head offices; there would be no differences in country risk on loans in each market as there currently is between interbank Euro-dollar loans and Federal funds loans.

CIVIL AERONAUTICS BOARD

[14 CFR Part 323]

Terminations, Suspensions, and Reductions of Service

April 2, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Request for comments on interim rule.

SUMMARY: The Board has adopted an interim rule, PR-200, published elsewhere in this issue governing notice procedures for terminations, suspensions, and reductions of service by air carriers, and for documents filed in response to such notices. The Board is inviting comments on the interim rule, which is effective immediately, with a view to issuing a revised rule later if necessary.

DATES: Comments by: June 8, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: April 24, 1979. Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 35197, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5444.

(Sec. 204, 401, 416, 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1710, 1731, 1732; 49 U.S.C. 1324, 1371, 1386, 1389.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[PDR-65; Docket 35197]

[FR Doc. 79-10719 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 70, 500, 514, 571]

Chemical Compounds in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: In FR Doc. 79-8215 in the issue of March 20, 1979 at page 17070, the final paragraph beginning "In accordance * * *," which appears above the signature at the bottom of the third column on page 17114, is corrected to read as follows:

It is hereby certified that the economic effects of this proposal have been carefully analyzed in accordance with Executive Order 12044 and that a Draft Regulatory Analysis has been prepared. A copy of the Draft Regulatory Analysis is on file with the Hearing Clerk, Food and Drug Administration.

FOR FURTHER INFORMATION CONTACT: Robert J. Condon, Bureau of Veterinary Medicine (HFV-105), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1580.

Dated: April 1, 1979.

Sherwin Gardner,
Acting Commissioner of Food and Drugs.

[Docket No. 77N-0026]

[FR Doc. 79-10716 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 56]

Regional Consistency Regulations; Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Hearing on proposed rulemaking.

SUMMARY: This document announces a public hearing on the regional consistency regulations which were proposed on March 9, 1979 (44 FR 13043).

DATE: The hearing will be held May 21, 1979.

ADDRESS: The hearing will be held at the Environmental Protection Agency, Waterside Mall, 401 M Street SW., Washington, D.C. in Room 3906. The hearing will be convened at 9:30 a.m. and will be adjourned at 4:00 p.m..

FOR FURTHER INFORMATION CONTACT: Mr. Joseph J. Sableski, Chief, Plans Guidelines Section, (MD-15), Environmental Protection Agency, Research Triangle Park, N.C. 27711. Telephone: (919) 541-5437 commercial; 629-5437 FTS.

Supplementary Information

Participation in Hearing: Any person desiring to make a statement at the hearing or to submit material for inclusion in the record of the hearing should provide written notice of such intention, together with 8 copies of the proposed statement or material for inclusion in the record. The statement of intention to present information at the hearings should be submitted to Mr. Joseph Sableski by May 9, 1979, at the address given above. The copies of proposed testimony or material for inclusion in the record may be submitted to Mr. Sableski by May 9, 1979 or at the public hearing on May 21, 1979. EPA will keep the record of the public hearing open for 30 days after completion of the hearing to provide an opportunity for any member of the public to submit rebuttal and supplementary information on the data presented at the hearing.

Background Information: Section 301(a)(2) of the Clean Air Act as amended in 1977 directs the EPA to promulgate regulations concerning consistency among EPA Regional Offices and States in implementing and enforcing the Act. These regulations were proposed March 9, 1979 (44 FR 13043).

Section 307(d)(5) of the Act requires that the Administrator provide an opportunity for the oral presentation of "data, views, or arguments in addition to an opportunity to make written comments * * *" with respect to the proposed regional consistency regulation. The proposed rulemaking published on March 9, 1979 stated that "EPA will hold a public hearing in about a month and a half in Washington, D.C."

EPA particularly invites comments on the following areas of interest:

1. Mechanisms for fairness and uniformity (§§ 56.4 and 5 of the regulations). Are these adequate?

2. Dissemination of policy and guidance (§ 56.6 of regulations). Will this measure help assure regional consistency? How might it be strengthened?

3. Regional Office audits (§ 56.7 of regulation). How might this measure be improved? What should the audit manuals include?

4. State and local agency performance audits (§ 56.8 of regulation). Can these measures be improved? What should the audit manuals include?

5. Will provisions 1-4 above be sufficient to identify and resolve inconsistent procedures and policies used by Federal and State air pollution control agencies in implementing or enforcing the Clean Air Act? If not, why not, and what other mechanisms could be used?

Mr. Darryl D. Tyler, Chief, Standards Implementation Branch, is hereby designated as the Presiding Officer for the hearing. He will be responsible for

maintaining order, excluding irrelevant or repetitious material, scheduling presentations, and, to the extent possible, notifying participants of the time at which they may appear.

The hearing will be legislative in nature with Agency officials empaneled to receive testimony and ask questions of all witnesses. Persons interested in testifying at the hearing should advise the Agency as instructed above. Though no cross-examination will take place at the hearings, written questions directed at witnesses testifying at the hearing may be submitted to the panel by members of the audience.

A verbatim transcript of the hearing and written statements will be made available for public inspection and copying during normal working hours at the U.S. Environmental Protection Agency's Central Docket Section, Room 2903B, Waterside Mall, 401 M St. SW., Washington, D.C. 20460 (Docket No. OAQPS-79-11).

Dated: March 29, 1979.

Edward Tuerk,
Acting Assistant Administrator for Air, Noise, and Radiation.

[FRL 1091-7]

[FR Doc. 79-10725 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

Proposed Disapproval of an Administrative Order Issued by Ohio Environmental Protection Agency to Dayton Press, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to disapprove an Administrative Order issued by the Ohio Environmental Protection Agency to Dayton Press, Inc. The Order requires the Company to bring air emissions from eight printing presses in Dayton, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by May 31, 1980. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed disapproval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before May 7, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied for appropriate charges at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Bertram C. Frey, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2082.

SUPPLEMENTARY INFORMATION: Dayton Press, Inc. operates a facility at Dayton, Ohio. The Order under consideration addresses emissions from eight printing presses at the facility, which are subject to OAC 3745-17-07 and OAC 3745-21-07. The regulations limit the emissions of organic materials and visible air contaminants and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by May 31, 1980.

Because this Order has been issued to a major source of organic material emissions and visible air contaminants and permits a delay in compliance with the applicable regulations, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d)(4) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. The U.S. EPA has determined that this Order does not meet the requirements of Section 113(d)(4) because:

1. Subparagraph (4) of Section 113(d)(4) requires that the source will expeditiously use new means of emission limitation which is determined to be adequately demonstrated upon expiration of the Order. Dayton Press has proposed the installation of catalytic incineration systems (CRPC) to control hydrocarbon emissions from seven printing presses. According to the schedule incorporated into the Ohio Order, the first system would achieve compliance by April 21, 1978, and then undergo testing to determine whether all performance guarantees are met. If so, the remaining units would be installed. The U.S. EPA believes that the first unit may qualify as a new means of emission limitation, but once it has been found to operate satisfactorily, the units in the second group should no longer be considered new means. Consequently, U.S. EPA has concluded that the requirement of subparagraph (A) of Section 113(d)(4) is not met. U.S. EPA also notes that the April 21, 1978, date was not met. Nor has Dayton Press begun to install any additional presses with the CRPC systems as required under the Order.

2. Before an order can be issued, Section 113(d)(4)(B) requires that the new means of emission limitation is not likely to be used unless the Order is granted. As the U.S. EPA interprets subparagraph (B), the unlikelihood should be related to the fact that the proposed means is new. For example, a source may be hesitant to install the new means because first unit testing may not have resolved all technical problems. Dayton Press has made a commitment only to control the first press. Only if first unit testing proves the new means successful, would the company thereafter proceed to install the remaining units that are the subject of the Order. U.S. EPA is of the opinion that the requirement of subparagraph (B) may be met for the first press to be controlled but not for the remaining presses. The requirement to control the remaining seven presses is made contingent upon successful first unit testing rather than the issuance of Order. Accordingly, the U.S. EPA does not believe that the requirements of 113(d)(4)(B) are satisfied.

3. Paragraph 12 of the Findings of Fact of the Order states the conclusion that "Dayton Press would not likely use the CRPC system (new means) of emission control on the press and dryer equipment listed in [the] Order * * * unless the Order is issued". Upon inquiry with the State of Ohio, U.S. EPA has determined that Ohio concluded that the subparagraph (B) requirement was met, because if the Order was not issued, Dayton Press would likely resort to litigation to avoid or delay installation of control. The U.S. EPA does not believe that the likelihood of litigation satisfied the requirements of 113(d)(4)(B). Moreover, U.S. EPA emphasizes that the Order does not address thirty (30) other presses on the premises that are the subject of a Notice of Violation issued to Dayton Press by U.S. EPA on October 14, 1977.

If the Order is disapproved by U.S. EPA, source compliance with its terms would not preclude Federal enforcement

action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would similarly not be precluded. If disapproved, the Order would not constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may disapprove the Order. After the public comment period, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: February 22, 1979.

John McGuire,
Regional Administrator.

1. The text of the Order reads as follows:

Ohio Environmental Protection Agency

Dayton Press, Inc.

Order

Pursuant to Section 3704.03(S) of the Ohio Revised Code and Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, the Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings of Fact and issues the following Orders.

Findings of Fact

1. Dayton Press, Inc. (hereinafter "Dayton Press"), is a corporation organized under the laws of the State of Florida and licensed to do business in the State of Ohio. Dayton Press is engaged in the business of printing magazines and periodicals at its plant at 2219 McCall Street, Dayton, Ohio 45401. The magazines and periodicals produced by Dayton Press are printed with heat-set ink on letterpress and web offset press printing equipment, and with gravure inks on gravure press equipment. A portion of the solvent content of the heat-set inks is evaporated and vented to the atmosphere as hydrocarbon emissions by gas-fired dryers on Dayton Press' press equipment.

2. Over the past several years, Dayton Press has engaged in an extensive program of research and testing of inks and control equipment, but is unable to comply with OAC 3745-21-07 and 3745-17-07 despite said research and testing program.

3. Dayton Press had been operating the letterpress and dryer equipment and web offset press and dryer equipment which is listed in Order (5) below, in violation of Ohio Environmental Protection Agency (hereinafter "OEPA") emission standards for hydrocarbons and opacity, under either variances, permits to operate, or a consent order. Such authorizations to operate have now all expired by their terms or will cease to be effective upon the effective date of this Order. Dayton Press filed applications for renewal of the variances covering presses 254, 154, 1155, and 235, and application for renewal of the permit to operate press 365. All these applications are currently pending before the OEPA.

4. TEC Systems, Incorporated (hereinafter "TEC"), a manufacturer of dryer equipment, has developed an emission control and energy conservation option, called the Catalytic Recuperative Pollution Control (CRPC) system, for use in connection with its new dryer equipment which also appears to be adaptable by retrofitting it on certain of the dryer equipment manufactured by TEC and supplied to Dayton Press in the past. To date, TEC's CRPC system has been applied and tested at production scale at only one printing facility. That application was limited to new dryer equipment and the results of the testing have not been made public to date.

5. Dayton Press is engaged in a major, long-term program of upgrading and modernizing its printing and other production equipment in response to advances in the technology of publications printing and the requirements of its customers. In furtherance of its program, Dayton Press submitted to the Regional Air Pollution Control Agency (hereinafter "RAPCA") and the OEPA an application for a permit to install a new web offset press (press 335).

6. On March 9, 1977, the Director issued a proposed denial of Dayton Press' application for a permit to install press 335. Dayton Press thereafter filed a timely request for an adjudication hearing and the matter was set down for hearing.

7. TEC thereafter advised Dayton Press that it has the capability to manufacture and deliver a CRPC unit to Dayton Press for installation on press 335. In its communications with Dayton Press, TEC has agreed informally to guarantee that installation of a CRPC unit on press 335 will produce compliance with existing air pollution control requirements, will require consumption of no more natural gas than a conventional TEC gas-fired dryer, and will require catalyst replenishment an average of not more often than once each nine months and catalyst replacement not more often than an average of once each 27 months.

8. Dayton Press ordered on August 1, 1977 a CRPC system for press 335 and is prepared to install it in accordance with Schedule A in the Orders below, and to test the CRPC unit on press 335 intensively for a period of six months to determine whether the unit meets TEC's representations and guarantees and to submit a report on its testing program to the Agency.

9. If the CRPC unit to be installed on press 335 meets TEC's guarantees and representations, including compliance with applicable OEPA emission regulations, Dayton Press is prepared to order and install additional CRPC units on letterpress and web offset press drying equipment identified in Order (5) below, at the rate and on the schedule specified in Order (5) and Schedule B in the Orders.

10. Dayton Press is prepared to maintain an interim hydrocarbon emission reduction program, pending the completion of installation of permanent controls on the press and dryer equipment identified in Order (5) below, comprised of continued use of inks compounded with solvents which are not photochemically reactive materials and reduction of hydrocarbon solvent content in letterpress inks through partial substitution of water for hydrocarbon solvent materials.

11. Operation of the letterpress and web offset press and dryer equipment identified in Order (5) below, results in the discharge of organic material into the atmosphere in violation of OAC 3745-21-07, and/or visible air contaminants in violation of OAC 3745-17-07.

12. Implementation of the Orders below fulfills the requirements of Section 113(d)(4) of the Clean Air Act, as amended, in that: Dayton Press will expeditiously use a new means jof emission limitations, the CRPC system which is likely to be adequately demonstrated in retrofitted applications to TEC Model "C" and "MC" dryer equipment; Dayton Press would not likely use the CRPC system of emission control on the press and dryer equipment listed in Order (5) below unless this Order is issued; the CRPC system has a substantial likelihood of achieving an equivalent continuous emission reduction to other means of emission limitation, at lower cost in terms of energy, economic, or non-air quality environmental impact; and compliance by Dayton Press with the requirements of the Ohio implementation plan would be impracticable prior to, and during, the installation of the CRPC systems.

13. The compliance schedules set forth in the Orders below require compliance with applicable emission regulations as expeditiously as practicable.

14. Implementation by Dayton Press of interim control measures contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

15. The Director's determination to issue the Orders set forth below is based on his consideration of reliable, probative, and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

WHEREUPON, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Section 3704.03(S) of the Ohio Revised Code and Section 113(d) of the Clean Air Act, as amended, 42 U.S.C., 7401 *et seq.*

1. Press 335 and the presses identified in Order (5) below, shall be brought into compliance with applicable emission regulations, including OAC 3745-21-07 and 3745-17-07.

2. Dayton Press shall take any steps necessary to confirm or ratify the order placed August 1, 1977 for a CRPC system for

press 335, and shall bring press 335 into compliance with Order (1) above, in accordance with compliance Schedule A as follows:

Schedule A.—*Beginning Date: August 1, 1977*

Milestones	Period (weeks)	Date
1. Issuance of purchase order for control equipment. (Includes: Formal draft of equipment specification and contractual conditions. Review and approval of manufacturer's warranty by general counsel. Preparation and transmittal of order).	0	Complete.
2. Completion of custom engineering drawings and specifications for locating and sizing of control equipment, and for modification of existing facilities. (Includes: Fitting, locating, and sizing of auxiliary CRPC blower and ducting thereto. Renovation of chill roll hooding and ducting arrangement. Resizing of existing exhaust fan and motor drive assembly. Overall systems design and selection of componentry. Determination of costs and delivery; early ordering of critical delivery componentry. Assessment of structural loading, alternative augmentation and design of column and base footing reinforcements, and above-the-roof support members. Submit copy of engineering plans to RAPCA).	7	Complete.
3. Issue contract for facility modifications. (Includes: Submission of specifications to prospective contractors. Engineering critique of bids and alternatives thereto. Formalization of contract and letting thereof).	9	Complete.
4. Completion of facility modifications. (Includes: Delivery, cutting, welding and installation of modifications to internal steel and concrete structures. Incision of roofing insulation layers and installation of water-bound pitch pockets supports for steel spanner members. Rigging, welding, painting, etc., of structural support members).	13	Complete.
5. Delivery of control equipment, auxiliary dryer components and heat recovery units. (Includes: Receiving, reconciliation of ordered parts and inventorying. Simultaneous in-house inventory of non-vendor supplied plumbing, electrical and other hardware required for the job).	20	December 16, 1977.
6. Completion of installation and control equipment system start-up, including retrofitting of press dryers, installation of control equipment and instrumentation associated therewith. (Includes: Rigging, locating, leveling, and securing roof-top equipment. Disassembly and retrofitting of dryers air nozzle system and recirculating air blower. Plumbing and electrical facilitation. Sheet metal and ductwork construction. Connection of controls and modification of press console unit. Replacement/renovation of exhaust fan and motor drive assembly. Renovation of chill roll head and associated ducting with recuperative blower. Retrofitting of building make-up air systems).	26	January 27, 1978.
7. Completion of press-dryer/abatement system debugging and check-out. (Includes: Pneumatic adjustment and balancing of systems air flows and damper controls. Full check-out of fuel handling equipment, temperature controls, and combustion process).	31	March 3, 1978.
8. Achievement of final compliance with all applicable state and federal rules and regulations. (Includes: Engagement of testing service. Selection of test and analysis methods. Fulfillment of intent to test notification with local agency. Scheduling and conduct of test operation. Preparation and submission of test report).	36	April 7, 1978.
9. Engineering and economic analysis of energy retrieval by heating of plant make-up air. (Includes: Assessment of thermodynamic alternatives and the financial feasibility thereof in respect to capturing energy for building make-up air. Reconfiguration of roof-mounted make-up air units to accommodate space heating).	38	April 21, 1978.
10. Completion of performance testing. (Includes: Monitoring of systems performance. Ongoing analysis of fuel consumption and abatement performance. Engineering consultation with manufacturer as needed. Assessment of fuel consumption and catalyst use life and system performance. Development of conclusions and final test report).	64	October 20, 1978.

3. Beginning on or about April 21, 1978, Dayton Press shall conduct a detailed testing program on the CRPC unit installed on press 335 for a period of six months to determine whether the units meets TEC's representations and guarantees. Dayton Press shall submit a report on the results of the testing program to RAPCA within three weeks after completion of the testing program.

4. If the CRPC unit installed on press 335 meets TEC's guarantees and representations, including compliance with applicable OEPA emission regulations, Dayton Press shall order and install additional CRPC units on its letterpress and dryer equipment and web offset press and dryer equipment which is identified in Order (5) below, and bring said presses into compliance with Order (1) above, in accordance with Schedule B as follows:

Schedule B.—Compliance Schedule for Letterpresses and Web Offset Presses Equipped With TEC Model "M" or "CM" Dryers

Milestones

1. Issuance of purchase order for control equipment. (Includes: Formal draft of equipment specification and contractual conditions. Review and approval of manufacturer's warranty by general counsel. Preparation and transmittal of order.) (Zero weeks.)

2. Completion of custom engineering drawings and specifications for locating and sizing of control equipment, and for modification of existing facilities. (Includes: Fitting, locating and sizing of auxiliary CRPC blower and ducting thereto. Renovation of chill roll hooding and ducting arrangement. Resizing of existing exhaust fan and motor drive assembly. Assessment of thermodynamic alternatives and the financial feasibility thereof in respect to capturing energy for building make-up air. Overall systems design and selection of componentry. Determination of costs and delivery; early ordering of critical delivery componentry. Assessment of structural loading, alternative augmentation and design of column and base footing reinforcements, and above-the-roof support members. Submit copy of engineering plans to RAPCA.) (6 weeks.)

3. Issue contract for facility modifications. (Includes: Submission of specifications to prospective contractors. Engineering critique of bids and alternatives thereto. Formalization of contract and letting thereof.) (11 weeks.)

4. Completion of facility modifications. (Includes: Delivery, cutting, welding and installation of modifications to internal steel and concrete structures. Incision of roofing insulation layers and installation of water-bound pitch pockets supports for steel spanner members. Rigging, welding, painting, etc., of structural support members. Reconfiguration of roof-mounted make-up air units to accommodate space heating.) (27 weeks.)

5. Delivery of control equipment, auxiliary dryer components and heat recovery units. (Includes: Receiving, reconciliation of ordered parts and inventorying. Simultaneous in-house inventory of non-vendor supplied plumbing, electrical and other hardware required for the job.) (28 weeks.)

6. Completion of installation and control equipment system start-up, including retrofitting of press dryers, installation of control equipment and instrumentation associated therewith. (Includes: Rigging, locating, leveling, and securing roof-top equipment. Disassembly and retrofitting of dryers air nozzle system and recirculating air blower. Plumbing and electrical facilitation. Sheet metal and ductwork construction. Connection of controls and modification or press console unit. Replacement/renovation of exhaust fan and motor drive assembly. Renovation of chill roll hood and associated ducting with recuperative blower. Retrofitting of building make-up air systems.) (32 weeks.)

7. Completion of press-dryer/abatement system debugging and check-out. (Includes: Pneumatic adjustment and balancing of systems air flows and damper controls. Full check-out of fuel handling equipment, temperature controls, and combustion process.) (36 weeks.)

8. Achievement of final compliance with all applicable state and federal rules and regulations. (Includes: Engagement of testing service. Selection of test and analysis methods. Fulfillment of intent to test notification with local agency. Scheduling and conduct of test operation. Preparation and submission of test report.) (40 weeks.)

5. CRPC units shall be installed in accordance with the foregoing Schedule B on presses 254, 154, 1155, 235, 365, and 465. An order for a CRPC unit for one of the foregoing presses shall be placed on or before October 20, 1978, and an additional CRPC unit shall be ordered not less often than once every twelve weeks thereafter until a CRPC unit has been ordered for each of the presses listed herein. Dayton Press shall endeavor to install CRPC units on these presses in order of decreasing emissions as follows: 254, 154, 1155, 235, 365, and 465. Said presses shall all be brought into compliance with Order (1) above no later than May 31, 1980.

6. Notwithstanding Orders (4) and (5) above, if other control equipment or means of controlling emissions from the presses identified in Order (5) is developed during the period of effectiveness of this Order, and the Director determines that such control equipment or means of controlling emissions will bring said presses into compliance with Order (1) above, Dayton Press shall have the right to install such other control equipment or utilize such other means of controlling emissions. Such control equipment shall be installed as expeditiously as practicable on such schedule as is acceptable to the Director, provided that said presses are all brought into compliance with Order (1) above, no later than May 31, 1980.

7. Pending completion of installation of control equipment on all presses identified in Order (5) above, Dayton Press shall maintain an interim hydrocarbon emission reduction program for such presses comprised of continued use of inks compounded with solvents which are not photochemically reactive materials, and reduction of hydrocarbon solvent content in letterpress inks through partial substitution of water for hydrocarbon solvent materials. Such program constitutes the best practicable system of emission reduction for the period during which this Order is in effect prior to the installation of control equipment, in accordance with Section 113(d)(7) of the Clean Air Act, as amended. If serious product quality or operational problems are experienced at any time with the use of any such inks, Dayton Press may, upon written notification to the Director, remove such ink from any press equipment on which such problems are experienced and resume use of inks formulated with conventional solvents until an ink formulated with a solvent which is not a photochemically reactive material which is satisfactory from product quality and operational standpoints can be obtained and placed on such press equipment; provided, that the use of inks formulated with conventional solvents for a period of more than seven (7) calendar days must be approved by the Director.

8. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in Schedules A and B above, Dayton Press shall submit a progress report to RAPCA. The person submitting these reports shall certify whether each increment of progress has been achieved. During the period of testing the CRPC unit on press 335 described in Order (3) above, Dayton Press shall also submit progress reports every two (2) months.

9. Dayton Press shall submit quarterly reports to RAPCA commencing January 1, 1978. Each report shall contain data on actual ink usage for all press equipment identified in Order (5) above during the reporting quarter and projected ink usage for the next quarter.

10. Dayton Press shall comply with any other emission monitoring and reporting required by Chapter 3704 of the Ohio Revised Code and the regulations promulgated thereunder.

11. Press 557 shall cease operation on August 1, 1977.

12. Press 557 shall not be operated after August 1, 1977, unless it is brought into compliance with Order (1) above prior to operation, and a permit to operate obtained in accordance with OAC 3745-35-02.

13. Dayton Press shall conduct such emission or other test of each press as the Director may required in accordance with Schedules A and B above in order to demonstrate compliance with Order (1) above. Such tests shall be conducted in accordance with procedures approved by the Director. Notification of intent to test shall be provided to RAPCA thirty (30) days prior to the testing date.

14. Dayton Press shall apply for and obtain a permit to operate press 335 and each press identified in Order (5) above in accordance with OAC 3745-35-02.

15. Dayton Press is hereby notified that unless exempted under Section 120(a)(2) (B) or (C) of the Clean Air Act, as amended, it will be required to pay a noncompliance penalty pursuant to Section 120 of the Clean Air Act, as amended, if it fails to achieve final compliance with Order (1) above by July 1, 1979.

Ned E. Williams,
Director of Environmental Protection.

Waiver

Dayton, Press, Inc. agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. Dayton Press, Inc. hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders before any court of competent jurisdiction either in law or equity. Dayton Press, Inc. also waives any and all rights it might have to such judicial review of any approval by U.S. EPA of the attached Findings and Orders in connection with any judicial review of Ohio's air implementation plan (or portion thereof).

Charles D. Arkman,
Authorized Representative of Dayton Press, Inc.

[FRL 1094-5]

[FR Doc. 79-10724 Filed 4-5-79; 8:45am]
BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 433]

Medical Assistance Program; Medicaid Management Information Systems

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed Rule.

SUMMARY: This proposal sets forth a new procedure to improve Medicaid program management, by assuring that State Medicaid Management Information Systems (MMIS) are expanded or revised as necessary to meet program needs. Under the procedure, HCFA would publish major new requirements for comment before deciding to adopt them, and would provide increased Federal matching and reasonable phase-in time for their implementation. HCFA would also periodically review ongoing systems to assure that all system requirements and performance standards are currently being met.

DATE: Closing dates for receipt of comments: June 5, 1979.

ADDRESS: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. Please refer to File Code MMB-261-P. Agencies and organizations are requested to submit comments in duplicate. Beginning two weeks from today, the public may review the comments on Monday through Friday of each week, from 8:30 a.m. to 5:00 p.m. Comments will be available in Room 5231 of the Department's offices at 330 C street, SW., Washington, D.C. 202-245-0950.

FOR FURTHER INFORMATION CONTACT: Wes Baker 202-245-8913.

SUPPLEMENTARY INFORMATION: The purpose of these regulations is to add needed flexibility to the requirements under Medicaid (title XIX of the Social Security Act) for mechanized claims processing and information retrieval systems, and to assure that the systems are operated in the most effective way to achieve program goals.

Current Program

Section 1903 (a)(3) of the Act authorizes Federal matching of State expenditures for mechanized claims processing and information retrieval systems, commonly referred to as Medicaid Management Information Systems. The purpose of these systems is to provide more efficient, economical, and effective administration of the State plan. Federal matching at 90% is available in State expenditures for design, development, implementation, or improvement of the systems, and at 75% for operation. These rates are higher than the normal administrative matching (50%). This provision is implemented in the current Medicaid regulations at 42 CFR Part 443, Subpart C.

Need for Modifications

The MMIS is a vital part of the Department's plan to improve the management of State Medicaid

programs. Because program needs are constantly changing, States need a flexible data system that can respond to and reflect those changes and support efforts to manage the program in the most cost-effective and coordinated way. The basic design of the MMIS includes this flexibility, allowing States and HEW to adapt to new requirements and innovations in health care system management. However, the present regulations are not clear on our authority to require previously approved systems to expand or modify to meet new needs.

Proposed Additions

To make full use of the MMIS capability and to assure that systems do not meet management needs, this proposed regulation provides that HCFA may periodically expand or modify the MMIS system requirements and that States must incorporate these new or modified system requirements in order to receive matching at the 90% or 75% rate. Among the system requirements we have in mind are performance standards by which to assess how well the MMIS is functioning. Since Medicaid is a joint Federal-State program, new or modified system requirements and performance standards will be developed with State participation. They will also be published for comment before a final decision is made. Requirements and standards that are adopted will be issued in the Medical Assistance Manual, which contains the specific criteria used for approving systems eligible for the increased matching.

Proposed Periodic Reviews

In the past, approval reviews by HCFA have primarily assessed the capacity of the system to process claims and to generate the required reports. Once the system was approved, there has been no mechanism for assessing whether the system retained the capabilities at time of approval.

Therefore, in addition to providing for new or modified requirements, the proposed regulation would provide for periodic reevaluation of systems on the basis of performance against standards. States that continue to meet the standards will continue to be approved for the 75 percent match. Systems that were previously approved for higher FFP, but do not incorporate new requirements or standards will lose their eligibility for this rate and revert to the 50 percent rate. We will allow States a reasonable amount of time to correct or improve their systems before FFP reverts to the 50 percent rate.

Effect of Regulation

In summary, the proposed regulation would affect States' receipt of FFP for mechanized claims processing and information retrieval systems in the following manner:

1. No longer would State systems be compared solely with the MMIS General Systems Design as it exists at the time the State applies for the increased FFP rate. In the future, States would have to incorporate additional systems requirements, as determined by HCFA. HCFA would issue new system requirements, including performance standards, only as needed, no more often than once a year unless very compelling circumstances exist. HCFA would also publish the proposed changes for public comment.

2. States that had received 90% FFP for design, development and installation of systems may receive that rate for improvements needed to make the required changes. Other States, receiving 75% FFP for operation, may receive 90% for the required changes related to freestanding, State-owned subsystems.

3. HCFA will allow the States a reasonable time to comply with new or modified requirements. The time required will be determined based on the complexity of the change and other relevant factors.

4. If a State fails to implement the new system requirements, HCFA will withdraw approval for the higher FFP rate, and provide matching at the standard 50 percent administrative rate.

5. Following initial approval for operation of an MMIS, HCFA will review the operations as often as may be required to assure adherence to performance standards. If, at the time of review, the system fails to satisfy any of the system requirements and standards, HCFA will reduce the FFP rate to 50 percent, after allowing a reasonable amount of time for correction or improvement.

We have discussed these revisions in general terms at conferences with State officials and with the American Public Welfare Association. On those occasions we expressed our desire to use the MMIS more effectively in managing the Medicaid program and pledged to work closely with States in achieving this goal.

42 CFR Part 433, Subpart C, is amended as set forth below.

1. § 433.112(b)(2) is revised to read as follows:

§ 433.112 FFP for design, development, installation or improvement of mechanized claims processing and information retrieval systems.

* * * * *

(b) The Administrator will approve the system if the following conditions are met:

* * * * *

(2) The system meets the system requirements and performance standards in part 7-71-00 of the Medical Assistance Manual, as periodically amended.

* * * * *

2. § 433.113 is amended to read as follows:

§ 433.113 FFP for operation of mechanized claims processing and information retrieval systems.

(a) FFP is available at 75 percent of expenditures for operation of a mechanized claims processing and information retrieval system approved by the Administrator.

(b) The Administrator will approve the system operation if the conditions specified in paragraphs (e) through (g) of this section are met.

(c) The requirements of § 433.112(b), except (5) and (6), as periodically modified under § 433.112(b)(2), must be met.

(d) The system must have been operating continuously during the period for which FFP is claimed.

(e) The system must provide individual notices, within 45 days of the payment of claims, to all or a sample group of the persons who received services under the plan.

(f) The notice required by paragraph (e) of this section—

(1) Must specify—

(i) The service furnished;

(ii) The name of the provider furnishing the service;

(iii) The date on which the service was furnished; and

(iv) The amount of the payment made under the plan for the service; and (2) Must not specify confidential services (as defined by the State) and must not be sent if the only service furnished was confidential.

(g) The system must provide both patient and provider profiles for program management and utilization review purposes.

(h) The Administrator will review the system periodically against the requirements in § 433.112(b)(2) to determine whether the system continues to meet the requirements of this section.

3. A new § 433.115 is added as follows:

§ 433.115 Additional system requirements.

Whenever the Administrator modifies requirements for approval of systems under § § 433.112 and 433.113, he will—

(a) Publish a notice describing the proposed revision in the **Federal Register** for comment;

(b) Issue the final requirement in the Medical Assistance Manual; and

(c) Allow an appropriate period for Medicaid agencies to meet the requirement, determining this period on the basis of the requirement's complexity and other relevant factors.

(Sec. 1102, 1902(a)(4) and 1903(a)(3) of the Social Security Act (42 U.S.C. 1302, 1396a(a)(4) and 1396(a)(3))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program).

Dated: March 29, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing Administration.

Dated: March 30, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-10584 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-35-M

[42 CFR Part 460]

Professional Standards Review; Redesignation of PSRO Areas in North Carolina

AGENCY: Health Care Financing Administration (HCFA), Hew.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would redesignate PSRO areas in North Carolina in order to transfer Moore County from Area VII to Area VIII. As a result of the proposed redesignation, the PSRO areas will better coincide with Medicaid review activities and with the health service areas.

DATES: Consideration will be given to written comments or suggestions received by June 5, 1979.

ADDRESSES: Address comments to: Ann Flurry, Room 13A-19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. In commenting, please refer to File Code HSQ-61-P. Comments will be available for public inspection beginning approximately two weeks after publication, in Room 16A-55 of the Department's Offices at 5600 Fishers Lane, Rockville, Maryland on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m., telephone (301) 443-3880.

FOR FURTHER INFORMATION, CONTACT: Ann Flurry, (301) 443-1794.

SUPPLEMENTARY INFORMATION: On March 18, 1974, regulations were published in the **Federal Register** (39 FR 10204) designating eight PSRO areas within North Carolina. The purpose of the present proposal is to redesignate PSRO Areas VII and VIII so that Moore County, currently in Area VII, is transferred to Area VIII.

Guidelines for the redesignation of PRSO areas (42 CFR 460.2) provide that we may revise area designations when we determine it necessary. The basis for this proposed redesignation is that the PRSO for Area VIII, rather than the PRSO for Area VII, is currently carrying out utilization review in the Moore County hospitals. It is doing so under the State Medicaid review program, through a subcontract with the State Medicaid Agency. (This is the only review taking place in the Moore County hospitals.) Additionally, the degree of congruence with the health service area would be increased, since Moore County is in the health service area most nearly aligned with PSRO Area VIII.

42 CFR 460.37 is proposed to be revised as follows:

§ 460.37 North Carolina.

Eight Professional Standards Review Organization areas are designated in North Carolina, composed of the following counties:

AREA I

Avery	Transylvania
Caldwell	Jackson
Mitchell	Henderson
Yancey	Polk
McDowell	Graham
Burke	Macon
Haywood	Cherokee
Buncombe	Clay
Rutherford	Madison
Swain	

AREA II

Watauga	Rowan
Surry	Davidson
Stokes	Ashe
Yadkin	Alleghany
Forsyth	Wilkes
Iredell	Alexander
Davie	

AREA III

Rockingham	Alamance
Caswell	Randolph
Guilford	

AREA IV

Person	Durham
Orange	Chatham

AREA V

Granville	Wake
Vance	Lee
Warren	Harnett
Franklin	Johnston

AREA VI

Halifax	Washington
Northampton	Tyrrell
Hertford	Dare
Gates	Wilson
Chowan	Greene
Perquimans	Pitt
Pasquotank	Beaufort
Camden	Hyde
Currituck	Lenoir
Nash	Craven
Edgecombe	Pamlico
Bertie	Jones
Martin	Carteret

AREA VII

Catawba	Stanly
Lincoln	Montgomery
Cleveland	Union
Gaston	Anson
Mecklenburg	Richmond
Carbarrus	

AREA VIII

Wayne	Robeson
Hoke	Bladen
Cumberland	Pender
Sampson	Columbus
Duplin	Brunswick
Onslow	New Hanover
Scotland	Moore

(Sections 1102 and 1152 of the Social Security Act (42 U.S.C. 1302 and 1320c-1).)

Dated: March 2, 1979.

Leonard D. Schaeffer,
Administrator, Health Care Financing Administration.

Approved: March 30, 1979.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc. 79-10583 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-35-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 4700]

Wild Free-Roaming Horse and Burro Protection, Management, and Control; Miscellaneous Amendments

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking would amend the regulations relating to wild free-roaming horses and burros on the public lands, in implementation of the Wild Free-Roaming Horse and Burro Act as amended by the Public Rangelands Improvement Act of 1978. The amended rules will improve the protection, management, and control of wild free-roaming horses and burros on the public lands.

DATE: Comment by: June 5, 1979.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular working hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert J. Springer at the above address or telephone 202-343-6011.

SUPPLEMENTARY INFORMATION: The principal author of this proposed rulemaking is Robert J. Springer of the Divison of Range Management, Bureau of Land Management, Washington, D.C., assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

The Public Rangelands Improvement Act of 1978 (Pub. L. 95-514, 92 Stat. 1803) amended the Wild Free-Roaming Horse and Burro Act of 1971 (16 U.S.C. 1331 et seq.) in several significant respects. The law now provides that:

1. Not more than four animals may be adopted by any one individual unless the Secretary determines, in writing, that such individual is capable of humanely caring for more than four animals;

2. The Secretary may grant title to not more than four animals per year to a qualified transferee after the transferee has provided humane treatment to the animals for one year;

3. Wild free-roaming horses and burros or their remains shall lose their status as such and no longer be considered as falling within the purview of the Act when—

a. Title is passed to an individual;

b. The animal dies of natural causes before title is passed;

c. The animal is destroyed under provisions of the Act;

d. The animal dies of natural causes; or

e. the animal's death is incidental to studies and research authorized by the Act.

The regulations prohibit use of wild free-roaming horses and burros for commercial exploitation and make violation of this provision a punishable offense. The term "commercial exploitation" has been defined in this proposed rulemaking to mean use of a wild free-roaming horse or burro, because of its characteristics of wildness, for direct or indirect financial gain. For instance, using these untamed animals in rodeos for bucking stock would be an example of commercially exploiting their characteristics of wildness.

Present regulations provide that the carcasses of wild free-roaming horses and burros cannot be sold or processed into a commercial product. The proposed regulations provide that the carcasses of animals that have lost their status as wild free-roaming horses and burros may be disposed of in any customary manner.

This proposed rulemaking implements the 1978 amendments to the Wild Free-Roaming Horse and Burro Act.

It is hereby determined that the proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)] is required.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Wild Free-Roaming Horse and Burro Act of 1971, as amended (16 U.S.C. 1331 et seq.) it is proposed to amend Part 4700, subchapter D, Chapter 2, Title 43 of the Code of Federal Regulations as set forth below.

1. Section 4700.0-5 is amended to revise subsection (d) and to add two new sections (n) and (o) as follows:

§ 4700.0-5 Definitions.

* * * * *

(d) "Excess animals" means wild free-roaming horses or burros (1) which have been removed from an area by the authorized officer pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

* * * * *

(n) "Commercial exploitation" means using a wild free-roaming horse or burro, because of its characteristics of wildness, for direct or indirect financial gain. Charateristics of wildness include the rebellious and feisty nature of such animals and their defiance of man as exhibited in their undomesticated and untamed state. Uses such as saddle or pack stock or other uses that require domestication of the animal are not commercial exploitation of the animals because of their characteristics of wildness.

(o) "Inhumane treatment" means causing physical stress to an animal through any harmful action or omission that is not compatible with standard animal husbandry practices; causing or allowing an animal to suffer from a lack of necessary food, water or shelter; using any equipment, apparatus, or technique during transportation, domestication or handling that causes undue injury to an animal; or failing to treat or care for a sick or injured animal.

2. Section 4700.0-6 is amended by adding new paragraphs (c) and (d) as follows:

§ 4700.0-6 Policy.

* * * * *

(c) Wild free-roaming horses and burros shall be considered in the development of resource management plans under the Bureau's planning system.

(d) Where wild free-roaming horses and burros use, as part of their habitat, public lands administered by the Bureau of Land Management and lands in the National Forest system, the Bureau of Land Management shall cooperate to the fullest extent with the Forest Service in the management of these animals.

3. Section 4730.1 is revised to read as follows:

§ 4730.1 Inventory and planning.

(a) A current inventory of wild free-roaming horses and burros shall be maintained by the authorized officer for each area where a herd exists for the purpose of evaluating population dynamics including whether and where excess animals exist as a basis for making management decisions. Such inventory will be designed to estimate animal numbers, productivity, sex ratio and age structure for each herd.

(b) In planning for management, protection, and control of wild free-roaming horses and burros, including determination of desirable numbers and other management requirements of these regulations, the authorized officer will utilize the Bureau's multiple use planning system.

(c) Using the information developed from inventory data and planning the authorized officer shall determine—

(1) Appropriate protection and management for wild free-roaming horses and burros on the management area under consideration; and

(2) The appropriate actions needed to achieve proper population levels.

(d) In making these determinations, the authorized officer shall consult with the U.S. Fish and Wildlife Service, wildlife agencies in the State, individuals independent of Federal or State government recommended by the National Academy of Sciences, and any other individuals who he determines have scientific expertise or special knowledge of wild horse and burro protection, wildlife management and

animal husbandry as related to rangeland management.

4. Subpart 4740 is revised in its entirely to read as follows:

Subpart 4740—Removal and Relocation of Excess or Problem Animals

Sec.
4740.1 Capture.
4740.2 Removal from public lands.
4740.2-1 Acts of mercy.
4740.2-2 Loss of status.
4740.2-3 Disposal of carcasses.
4740.3 Relocation.
4740.3-1 Relocation on public lands.
4740.3-2 Custodial arrangements.
4740.4 Granting of title.

Subpart 4740—Removal and Relocation of Excess or Problem Animals

§ 4740.1 Capture.

Under the supervision of the authorized officer, where it has been determined necessary, wild free-roaming horses and burros may be captured, corralled and held in a humane manner. All excess or problem animals will be held under humane conditions pending disposal under the provisions of this Subpart.

§ 4740.2 Removal from public lands.

The authorized officer, after making a determination that there are excess or problem animals in an area and that action is required, shall immediately remove those animals from the public lands in the following order of priority:

(a) Old, sick, or lame animals shall be destroyed in the most humane manner possible.

(b) Any additional excess animals shall be humanely captured and removed for private maintenance and care for which the authorized officer determines an adoption demand exists by qualified individuals, organizations, or agencies and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling).

(c) Additional excess animals for which an adoption demand by qualified individuals does not exist shall be destroyed using the most humane, and cost efficient manner possible.

(d) The order of priority in subsections (b) and (c) of this section shall not apply to problem animals. These animals may be handled under either alternative in the discretion of the authorized officer.

§ 4740.2-1 Acts of mercy.

Any severely injured or seriously sick animals will be destroyed in the most humane manner possible as an act of mercy.

§ 4740.2-2 Loss of status.

Wild free-roaming horses and burros or their remains shall lose their status as such—

(a) Upon passage of title under § 4740.4 of this part;

(b) If they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title;

(c) Upon destruction by the authorized officer or his designee pursuant to section 3(b) of the Act;

(d) If they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4 of the Act and disposal is authorized by the authorized officer or his designee; or

(e) Upon destruction or death for purposes of or incident to the program authorized in section 3 of the Act.

§ 4740.2-3 Disposal of carcasses.

Carcasses of animals that have lost their status as wild free-roaming horses and burros may be disposed of in any customary manner. However, no consideration of any kind shall be received by any person who transfers the remains of a wild free-roaming horse or burro, that has not lost its status as such, to a rendering plant or other facility for disposal.

§ 4740.3 Relocation.

Wild free-roaming horses and burros may be relocated when: (1) The authorized officer determines there are excess animals in an area; (2) They have been removed from private lands under § 4750.3 of this title; (3) They are problem animals; or (4) the authorized officer determines that proper resource and herd management requires such action.

§ 4740.3-1 Relocation on public lands.

Wild free-roaming horses and burros shall not be introduced by relocation to areas of public land that were not being used by wild free-roaming horses or burros as all or part of their habitat on December 15, 1971.

§ 4740.3-2 Custodial arrangements.

(a) The authorized officer may transfer for private maintenance or adoption up to four wild free-roaming horses or burros per year to any qualified person, organization, or government agency.

(b) Wild free-roaming horses and burros shall be transferred only to an applicant of a legal age in the State in which the applicant resides.

(c) Notwithstanding the provision of subsection (a) hereof, more than four animals per year may be transferred to any qualified person, organization, or agency for adoption if the authorized officer determines in writing that the applicant is capable of humanely transporting and caring for the additional animals.

(d) Before wild free-roaming horses and burros are transferred, the applicant shall sign a cooperative agreement that incorporates provisions for custodial maintenance including but not limited to provisions for proper maintenance of the animals and protection from inhumane treatment and commercial exploitation.

(e) If the authorized officer determines that an adopted wild free-roaming horse or burro is being commercially exploited, inhumanely treated, or treated in a manner that violates a provision of the cooperative agreement, he may take immediate possession of the animal.

(f) If a wild free-roaming horse or burro that has been transferred for private maintenance or adoption dies, the transferee shall notify the authorized officer within 14 days of the death.

(g) Persons, organizations, or agencies who receive wild free-roaming horses or burros that have been previously transferred for private maintenance or adoption shall be subject to all the provisions of this part. No wild free-roaming horse or burro shall be transferred without the approval of the authorized officer.

§ 4740.4 Granting of title.

(a) The authorized officer may grant title to not more than four wild free-roaming horses and burros in any one year upon application of any qualified person, organization, or agency to whom these animals have been transferred for adoption. Applicants for granting of title must be of legal age in the State in which they reside.

(b) Persons, organizations, or agencies who have provided humane conditions, treatment, and care for the animals they have adopted for at least one year under a cooperative agreement with the Bureau of Land Management are qualified to apply for title to the animals. The application for a title shall include a written statement of a licensed veterinarian attesting that the animals have been given humane treatment and care for no less than one year preceding the filing of the application.

(c) The application for title shall be on a form prescribed by the Director, Bureau of Land Management, and shall be filed at the office specified on the form.

5. Section 4760.2 is amended by revising paragraph (e); redesignating paragraph (f) as paragraph (l); and by adding paragraphs (f), (g), (h), (i), (j) and (k) to read as follows:

§ 4760.2 Prohibited acts.

* * * * *

(e) Sells, directly or indirectly, a wild free-roaming horse or burro, or the remains thereof, or

(f) Uses a wild, free-roaming horse or burro for commercial exploitation, or

(g) Causes or allows the inhumane treatment of a wild, free-roaming horse or burro, or

(h) Uses a wild, free-roaming horse or burro for bucking stock in a rodeo or similar contest.

(i) Fails, upon written notice, to produce for inspection by an authorized officer those animals assigned to him for private maintenance under a cooperative agreement; however, notification of the death of a wild free-roaming horse or burro within 14 days of the death of the animal will be considered an adequate explanation for failure to produce the animal, or

(j) Removes or attempts to remove, alters or destroys any official freeze mark identifying a wild horse or burro, or its remains, or

(k) Being the assignee of a wild free-roaming horse or burro, or having charge or custody of the animal, abandons the animal without making arrangements for necessary food, water and shelter.

Guy R. Martin,

Assistant Secretary of the Interior.

April 3, 1979.

[FR Doc. 79-10567 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-84-M

Notices

Federal Register
Vol. 44, No. 68
Friday, April 6, 1979

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Flue-Cured Tobacco Advisory Committee Meeting

The Flue-Cured Tobacco Advisory Committee will meet in the Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, laboratory, Room 223 Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, North Carolina 27605, at 1 p.m., on Friday, May 11, 1979.

The purpose of the meeting is to advise and counsel the Secretary of Agriculture regarding an equitable apportionment of the available tobacco inspectors amongst the markets he has designated pursuant to the Tobacco Inspection Act, 7 U.S.C. 511–511q.

Matters to be discussed include the estimated quantity of tobacco ready for market in each marketing area and other matters as specified in 7 CFR, Part 29, Subpart G, § 29.9404.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. Leonard J. Ford, Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, 300—12th Street, S.W., Washington, D.C. 20250 (202) 447–2567. Written statements should be submitted prior to or at the meeting.

Dated: April 2, 1979.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-10556 Filed 4-5-79; 8:45 am]

BILLING CODE 3410-02-M

Tri State Livestock Co., et al.; Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., Name and Location of Stockyard	Date of Posting
Georgia	
GA-186—Tri State Livestock Co., Valdosta.	March 1, 1979.
Iowa	
IA-254—Producers Livestock Marketing Assn., Feeder Pigs, Creston.	February 5, 1979.
South Dakota	
SD-161—Gettysburg Livestock Exchange, Inc. Gettysburg.	February 9, 1979.
Texas	
TX-315—Southwest Livestock Exchange, Inc., Uvalde.	July 7, 1978.
Wisconsin	
WI-135—Laverne Hall and Sons Sale Barn, Westby.	July 7, 1978.

Done at Washington, D.C., this *2nd* day of *April*, 1979.

Edward L. Thompson,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 79-10560 Filed 4-5-79; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

Assignment of Geographic Area for the Cedar Rapids Grain Service, Inc.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the assignment of geographic area to the Cedar Rapids Grain Service, Inc., Cedar Rapids, Iowa, for the performance of official grain inspection functions. This agency was designated as an official agency on September 15, 1978, under the United States Grain Standards Act, as amended.

EFFECTIVE DATE: April 6, 1979.

FOR ADDITIONAL INFORMATION CONTACT: J. T. Abshier, Federal Grain Inspection Service, Compliance Division, 1400 Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: The Cedar Rapids Grain Service, Inc., Cedar Rapids, Iowa, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et. seq.*, hereafter the "Act") for the performance of official inspection functions on September 15, 1978. The designation also included a proposed assignment of geographic area within which this agency would operate. Geographic areas are assigned to each official agency pursuant to Sections 7(f)(2) and (3) of the Act (7 U.S.C. 79(f)(2) and (3)).

Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operating at one time within an assigned geographic area.

Section 7(f)(3) of the Act provides that except as authorized by the Administrator, no official agency shall officially inspect, under the Act, any official or other sample drawn from a lot of grain unless the lost of grain is physically located within the geographic area assigned to the agency at the time the sample is drawn.

The proposed geographic area assigned to the Cedar Rapids Grain Service, Inc., on September 15, 1978, was:

Bounded on the north by: The north Blackhawk County line from V49 east; the Buchanan County line east; the eastern Buchanan County line south; the nothern Linn County line east; the Jones County line east;

Bounded on the east by: The eastern Jones County line south; the Cedar County line south to State Route 130;

Bounded on the south by: State Route 130 west to State Route 38; State Route 38 south to Interstate 80; Interstate 80 west to State Route 63; and

Bounded on the west by: U.S. Route 63 north north to State Route 8; State Route 8 east to State Route 21; State Route 21 north to D38; D38 east to State Route 297; State Route 297 north to V49; V49 north to Bremer County.

The three specified service points of the Cedar Rapids Grain Service, Inc., are: 1831 J Street, S.W.; 1700 Block 16th Street; and 1300 Block Waconia Avenue; all located in Cedar Rapids, Iowa. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city,

town, or other location specified by an agency for the conduct of official inspection functions other than offficial grading where no licensed inspector is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's assigned geographic area.

Interested persons were given until December 22, 1978, to comment on the proposed geographic area. No comments were received regarding the notice published in the **Federal Register.**

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to this agency will remain as originally proposed.

Interested persons may obtain a map of the assigned geographic area by contacting the Compliance Division, Delegation and Designation Branch, Federal Grain Inspection Sevice, 1400 Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447–8525.

(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))

Done in Washington, D.C. on: April 2, 1979.

D. R. Galliart,

Acting Administrator.

[FR Doc. 79–10557 Filed 4–5–79; 8:45 am]

BILLING CODE 3410–02–M

Assignment of Geographic Area for the Amarillo Grain Exchange, Inc.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces the assignment of geographic area to the Amarillo Grain Exchange, Inc., Amarillo, Texas, for the performance of official grain inspection functions. This agency was designated as an official agency on August 11, 1978, under the United States Grain Standards Act, as amended.

EFFECTIVE DATE: April 6, 1979.

FOR ADDITIONAL INFORMATION CONTACT: J. T. Abshier, Federal Grain Inspection Service, Compliance Division, 1400 Independence Avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: The Amarillo Grain Exchange, Inc., Amarillo, Texas, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereafter the "Act") for the performance of official inspection functions on August 11, 1978. The designation also included a proposed assignment of geographic area within which this agency would operate. Geographic areas are assigned to each official agency pursuant to Sections 7(f)(2) and (3) of the Act (7 U.S.C. 79(f)(2) and (3)).

Section 7(f)(2) of the Act generally provides that not more than one official agency shall be operating at one time within an assigned geographic area.

Section 7(f)(3) of the Act provides that except as authorized by the Administrator, no official agency shall officially inspect, under the Act, any official or other sample drawn from a lot of grain unless the lot of grain is physically located within the geographic area assigned to the agency at the time the sample is drawn.

The proposed geographic area assigned to the Amarillo Grain Exchange, Inc., on August 11, 1978, was:

Bounded on the north by: The Texas-Oklahoma State line from New Mexico east;

Bounded on the east by: The Texas-Oklahoma State line south-southeast to Montague County; the Clay-Montague County line south to southern Clay County line;

Bounded on the south by: The southern Clay County line; the western Clay County line north to Wichita County; the southern Wichita County and Wilbarger County lines; the western Wilbarger County line north to Hardeman County; the southern Hardeman County line; the western Hardeman County line north to Childress County; the southern Childress County line north to U.S. Route 287; U.S. Route 287 northwest to Donley County; Donley County southern county line; the southern Armstrong County line west to Prairie Dog Town Fork of the Red River; Prairie Dog Town Fork of the Red River northwest to State Route 217; State Route 217 west to Farm to Market Road (FM) 1062; FM 1062 west to U.S. Route 385; U.S. Route 385 north to Oldham County; the southern Oldham County line west to State line; and

Bounded on the west by: The Texas-New Mexico State line north to Oklahoma.

The specified service point of the Amarillo Grain Exchange, Inc., is 1300 South Johnson Street, Amarillo, Texas 79101, which is located within the agency's proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors in located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspector is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's assigned geographic area.

Interested persons were given until January 8, 1979, to comment on the proposed geographic area. No comments were received regarding the notice published in the **Federal Register.**

After due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the geographic area assigned to this agency will remain as originally proposed.

Interested persons may obtain a map of the assigned geographic area by contacting the Compliance Division, Delegation and Designation Branch, Federal Grain Inspection Service, 1400 Independence avenue, S.W., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447–8525.

(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))

Done in Washington, D.C. on April 2, 1979.

D. R. Galliart,

Acting Administrator.

[FR Doc. 79–10559 Filed 4–5–79; 8:45 am]

BILLING CODE 3410–02–M

Termination of Official Services; Replacement Agency Not To Be Designated for the Buffalo, New York, Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces that a replacement agency will not be designated to provide official services in the Buffalo, New York, area. The Buffalo Corn Exchange, Buffalo, New York, the agency formerly providing official services in the Buffalo area, was not eligible for designation under the terms of the United States Grain Standards Act, as amended, and thus allowed its official agency status to terminate midnight, November 19, 1978.

EFFECTIVE DATE: April 6, 1979.

FOR ADDITIONAL INFORMATION CONTACT: J. T. Abshier, U.S. Department of Agriculture, Federal Grain Inspection Service, Compliance Division, 1400 Independence Avenue, S.W., Room 2405, Auditors Building, Wasington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: Pub. L. 94–582, enacted in 1976 to amend the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*, hereinafter the "Act"), provides in Section 27 that any interior inspection agency providing service on November 20, 1976, the date on which the amended Act became effective, could continue to do so without a designation until the expiration of a period as determined by the Administrator, but not to exceed 2 years after the Act's effective date (7 U.S.C. 74 note).

The Corn Exchange (Exchange), Buffalo, New York, was advised on November 15, 1977, that conflicts of interest, as defined by Section 11(b) of the Act (7 U.S.C. 87(b)), existed in their agency. The Exchange submitted no proposal to effect a satisfactory resolution of these conflicts of interest and therefore was ineligible for designation as an official agency.

The January 26, 1979, issue of the **Federal Register** (44 FR 5482–5483) announced that because the Exchange was not eligible for designation under the terms of the amended Act, their designation terminated midnight, November 19, 1978, in accordance with Section 27 of the Act (7 U.S.C. 74 note).

Members of the grain trade and other interested parties were given until March 12, 1979, to comment on the need for continuing official inspection services in the Buffalo area and, subject to a final determination by the Administrator as to the need, make application for designation to operate as an official agency in the Buffalo, New York, area.

No comments were received on the need for continuing official inspection service. However, the Federal Grain Inspection Service (FGIS) received informational material from Mr. Daniel Bicz, a business consultant with the Erie County Industrial Development Agency, which indicated that he was circulating a questionnaire on behalf of flour milling interests in that area to determine whether the Port of Buffalo required continuing offical inspection service. Mr. Bicz was urged to forward any comments or results pertaining to the situation to the Office of the Director of the Compliance Division prior to the closing date of the comment period which was March 12, 1979. No additional information was received regarding this situation.

In addition, no requests for applications for designation were made regarding the January 26, 1979, notice.

By reason thereof and after due consideration of all relevant matters and information available to the U.S. Department of Agriculture, the Administrator, Federal Grain Inspection Service, has determined that at this time a replacement agency will not be designated to provide official services in the Buffalo, New York, area.

This action does not preclude any future application for designation as an offical agency if it can be established that there is a need for official services in the Buffalo, New York, area.

Done in Washington, D.C. on April 2, 1979.

D. R. Galliart,
Acting Administrator.

[FR Doc. 79–10558 Filed 4–5–79; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Forest Service

Gospel-Hump Advisory Committee; Meeting

The Gospel-Hump Advisory Committee will meet at 4 p.m., May 2, 1979, at the Lewiston Community Center, 1424 Main, Lewiston, Idaho. The purpose of this meeting will be to make a review of accomplishments and decisions made to date.

The meeting will be open to the public. Persons who wish to attend should notify Ed Laven, 319 East Main, Grangeville, Idaho; telephone 208/983–1950. Written statements may be filed with the committee before or after the meeting.

March 27, 1979.

Don Biddison,
Forest Supervisor.

[FR Doc 79–10541 Filed 4–5–79; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Colorado-Ute Electric Association, Inc., Montrose, Colorado; Draft Supplement to the Yampa Project Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Supplement to the Yampa Project Final Environmental Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a proposed financing application to the Rural Electrification Administration from Colorado-Ute Electric Association, Inc., Box 1149, Montrose, Colorado 81401, to finance the construction of transmission facilities to deliver additional power and energy to the Basalt, Eagle, and Roaring Fork Valley areas of Colorado. This Draft Supplement examines the impacts of a 230 kV transmission line, for which the routing is changed by this supplement, to be constructed from the Public Service Company of Colorado (PSCC) Malta Substation to the Wolcott Substation of Colorado-Ute. This line was originally described as the Wolcott-Malta 230 kV transmission line in the Yampa Project Final Environmental Statement. At the suggestion of certain Federal agencies, Colorado-Ute now proposes to change the routing of this line.

Additional information may be secured on request, submitted to Mr. Joseph S. Zoller, Acting Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Supplement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Supplement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 1268, or at the borrower's address indicated above.

Comments concerning the environmental impact of the proposed construction should be addressed to Mr. Zoller at the address given above. Comments must be received on or before June 5, 1979 to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 28th day of March, 1979.

Joseph Vellone,
Acting Administrator, Rural Electrification Administration.

[FR Doc. 79–10383 Filed 4–5–79; 8:45 am]

BILLING CODE 3410–15–M

Lee County Electric Cooperative, Inc.; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has

prepared a Final Environmental Impact Statement (FEIS) in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Lee County Electric Cooperative, Inc., P.O. Box 3455, North Fort Myers, Florida 33903. This loan application, together with funds from other sources, includes financing for the construction of approximately 11 miles of 230 kV transmission line and an associated 230/138 kV substation.

Additional information may be secured on request and submitted to Mr. Joe S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The FEIS may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th & Independence Avenue, S.W., Washington, D.C., Room 4310, or at the borrower's address indicated above. Final action may be taken with respect to this matter after thirty (30) days.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 28th day of March, 1979.

Joseph Vellone,

Acting Administrator, Rural Electrification Administration.

[FR Doc 79-10382 Filed 4-5-79; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF DEFENSE

Army Department

Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands in Lake Cumberland, Ky.

By virtue of the authority vested in the Secretary of the Army and in the Secretary of Agriculture by the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505a, 505b), it is ordered as follows:

(i) The lands under the jurisdiction of the Department of the Army described in Exhibit A attached hereto and made a part hereof, which lands are within the exterior boundaries of the Daniel Boone National Forest, Kentucky, are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture, subject to outstanding rights or interests of record and to such continued use by the Corps of Engineers of all of these lands which are necessary for the construction, operation, and maintenance of the Lake Cumberland project for its intended purposes; including, but not limited to, the right to perform timber clearing, flooding of the area, to construct and maintain transmission lines, utilities, access roads, and to make improvements in the aid of navigation. Administration of licenses, permits, and easements for such outgrants of rights-of-way will be transferred to the Secretary of Agriculture.

(2) The National Forest lands described in Exhibit B, attached hereto and made a part hereof, which are a part of the Daniel Boone National Forest, Kentucky, are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Army, subject to outstanding rights or interests of record.

Pursuant to Section 2 of the aforesaid Act of July 26, 1956, the National Forest lands comprising the Lake Cumberland project. The Department of the Army lands transferred to the Secretary of the Army by this order are hereafter subject only to the laws applicable to the Department of the Army lands transferred to the Secretary of Agriculture by this order are hereby subject to the laws applicable to lands acquired under the Act of March 1, 1911 (38 Stat. 961), as amended.

This order will be effective as of April 6, 1979.

Dated: September 18, 1978.

Clifford L. Alexander, Jr.,

Secretary of the Army.

Dated: October 12, 1978.

Bob Bergland,

Secretary of Agriculture.

Exhibit A

Lands Transferred From the Secretary of the Army to the Secretary of Agriculture

Lands under the jurisdiction of the Department of the Army for or in connection with the Lake Cumberland Project located in Pulaski, Laurel, Whitley, and McCreary Counties, Kentucky, as follows:

Segment AA2712-B, AA—All of Tracts AA2750, AA2757, AA2758, and a portion of Tract AA2755.

Segment DD—All of Tracts DD3001, DD3002, DD3004, DD3005, DD3006, DD3007, DD3009-A, DD3009-B, DD3010, DD3012, DD3015-A, DD3015-B, DD3016, and DD3017.

Segment EE—All of Tracts EE3102, EE3103, EE3104, and EE3106.

Segment FF—All of Tracts FF3201, FF3203, FF3204, FF3205-A, FF3205-B, FF3206, and FF3208.

Segment GG—All of Tracts GG3301, GG3304, GG3305, GG3307, GG3309-A, GG3309-B, GG3310, GG3311, GG3312, and GG3314.

Segment HH—All of Tracts HH3402, HH3403, HH3405, HH3407, and HH3409.

Segment II—All of Tracts II3502, II3504, II3505, II3507, II3509, II3510, II3512, and II3513.

Segment JJ—All of Tracts JJ3602, JJ3603, JJ3604, JJ3606, JJ3607, JJ3609, JJ3610, JJ3612, JJ3614, and JJ3616.

Segment KK—All of Tracts KK3701, KK3703, KK3704, KK3706, KK3707, KK3709, KK3712, KK3713, and KK3714.

Segment NN—All of Tract NN4023 and portions of Tracts NN4022, and NN4027.

Segment OO—All of Tracts OO4102-A, OO4102-B, OO4104, OO4107, OO4108, OO4109, OO4110, and OO4112.

Segment PP—All of Tracts PP4201, PP4203, PP4204, PP4206, PP4209, PP4213, PP4214, PP4215, PP4216, and PP4217.

All lands transferred herein consist of 3,118.54 acres, more or less. Legal descriptions of the transferred tracts and Real Estate Segment Maps depicting their location are on file in the office of the District Engineer, Nashville District, Corps of Engineers, Nashville, Tennessee and the office of the Forest Supervisor, Daniel Boone National Forest, Winchester, Kentucky.

Exhibit B

Lands Transferred From the Secretary of Agriculture to the Secretary of the Army

Lands under the jurisdiction of the Department of Agriculture for or in connection with the Daniel Boone National Forest located in Pulaski, Wayne, and McCreary Counties, Kentucky, as follows:

All of Tracts 1501aII, 1258g, 2954, 1833a, 2809, 1258bXXVII, 1258bXI, and portions of Tracts 1535c, 1535d, 1481a, 1932, 2840, 2947, 1261f, 1258b, 1258bXIII, 1258bXIV, 1258j, 1833 and 1629 containing 566.30 acres, more or less.

A complete legal description of the transferred tracts and survey plats depicting their location are on file in the office of the Forest Supervisor, Daniel Boone National Forest, Winchester, Kentucky, and in the office of the District Engineer, Nashville, District, Corps of Engineers, Nashville, Tennessee.

[FR Doc. 79-10656 Filed 4-5-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

Aero Union Corp.; Application for an All-Cargo Air Service Certificate

April 2, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 35083, from Aero

Union Corporation of Chico, California for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before April 27, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-10670 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

Ball Brothers, Inc.; Application for an All-Cargo Air Service Certificate

March 30, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 34520 from Ball Brothers, Inc. of Anchorage, Alaska for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before April 27, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-10669 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

Burlington Northern Air Freignt, Inc.; Application for an All-Cargo Air Service Certificate

April 2, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 34007, from Burlington Northern Air Freight, Inc. of Newport Beach, California for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before April 27, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeroanutics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-10668 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

Continental Air Lines, Inc.; Application for an All-Cargo Air Service Certificate

April 2, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 35031, from Continental Air Lines, Inc. of Los Angeles, California for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before April 27, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeroanutics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-10671 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

Former Irregular Air Service Investigation; Continuance of Hearing

The hearing of the application of Two Americas Trading Co., Inc., d/b/a International Charter Brokers, heretofore set for 5 April 1979 (44 FR 14612, 13 March 1979), is continued to 1 May 1979 at 9 AM in Hearing Room A, Room 1003, 1875 Connecticut Avenue, N.W., Washington, D.C. 20428.

Dated at Washington, D.C., April 2, 1979.

Rudolf Sobernheim,
Administrative Law Judge.

[Docket 33363]

[FR Doc. 79-10667 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

National Airlines, Inc., et al.; Order of Suspension and Investigation of Transatlantic Fare Revisions Filed

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of March, 1979.

National Airlines, Inc. (National), Northwest Airlines, Inc. (Nothwest), and Ceskoslovenske Aerolinie (CSA) have recently filed revisions to their transatlantic fares.[1] The revisions generally consist of increases in both peak- and basic-season fares.

In particular, National would eliminate the normal economy fare's seasonal differential by establishing a single level throughout the year,[2] and apply a surcharge of $25 for each stopover;[3] Northwest would maintain the normal economy fare at present levels but assess a $30 charge for each interline connection in the United States–United Kingdom market;[4] and CSA would increase its U.S.–Czechoslovakia first-class and normal economy fares by about five and three percent, respectively.

We find that the following revisions to transatlantic fares may be unlawful: the normal economy fare levels snd stopover surcharge proposed by National;[5] the interline surcharge proposed by Northwest; and the first-class and normal economy fare increases proposed by CSA. We will therefore suspend them pending investigation.

[1] Tariff C.A.B. No. 71, issued by Air Tariffs Corporation, Agent. The National and Northwest revisions are intended for effect April 29, 1979; CSA's for April 1, 1979.

[2] For example, National's Miami-Paris roundtrip normal economy fare is currently $926 and $754 during the peak and basic seasons, respectively; the carrier proposes an all-year level of $870.

3 At present, normal economy fare passengers are permitted unlimited stopovers at no extra charge.

[4] There is currently no additional charge for interline service.

[5] We will not suspend National's normal economy fares between the United States, on the one hand, and Germany and the Benelux countries, on the other hand. In Order 79-2-15, January 24, 1979, the Board vacated an earlier suspension of normal economy fares in these markets on the grounds that sufficient competition is developing to adequately protect the public interest.

In a series of recent orders,[6] we suspended various carrier proposals to increase the levels of transatlantic normal economy fares. The factors which led to our decisions were, briefly, (a) the virtual absence of price competition in normal economy fares in the markets involved, (b) the fact that these fares contain generous allowances for facilities unrelated to direct, point-to-point service—e.g., stopover and circuitry privileges—which many on-demand passengers neither need nor use, yet for which they are forced to pay, and (c) the lack of alternative on-demand fares. We suggested that a more competitive environment might develop low, on-demand, point-to-point (i.e., "unbundled") fares, with separate charges for extra services like stopovers available at the passengers option.

National now proposes to unbundle its normal economy fare insofar as stopovers are concerned. The proposal also includes single, all-year levels which represent increases of between 12 (Miami-London) and 16 (Miami-Paris) percent over current basic-season levels, which are already set beyond what is necessary to cover the cost of allowing travelers as many stopovers as they choose to make. The effect of National's normal economy fare revisions is most dramatic with respect to a basic-season passenger making stops. For example, a Miami-Paris normal economy fare passenger making three stops currently pays $754 roundtrip; under National's proposal, that passenger would pay $945 roundtrip—a 25.3 percent increase for the same service. While we have no objection to an all-year level *per se*, those proposed are nonetheless too high. Similarly, we cannot permit any increases in CSA's normal economy fare which, like National's, already covers the cost of ancillary services which many normal-fare passengers do not use.

Northwest's proposed interline surcharge is similar to National's stopover charge. The normal economy fare levels already reflect the additional service (for the passenger) and revenue dilution (for the transatlantic carrier) of joint transportation. Northwest's separate charge, absent any reduction in level, is merely another increase under the guise of reform. The passenger using joint transportation faces an increase in a fare that is already too high while the passenger using direct service continues to pay a fare incommensurate with the cost of the service provided.

We would prefer to let market forces evolve a more reasonable normal economy fare, whoe price more closely reflects the cost of the service actually provided, but we are not yet convinced that competition in many transatlantic markets is strong enough to do the job. In the meantime, we are compelled to prevent further increases, whatever form they assume. In our judgement, *bona fide* unbundling of the normal economy fare would involve not only the institution of separate charges for extra services, such as National and Northwest proposed here, but a corresponding reduction in the fare's levels to reflect simple point-to-point, on-demand services, which these same carriers have not proposed. We realize that our consistent suspensions of fares in the presence of inflation reduces their real price, but we do not believe that these fares have yet reached levels that a fully competitive environment would produce.

Finally, Czechoslovakia has ordered the carriers to employ a weight-based baggage system in transportation affecting U.S. points, with excess-baggage charges tied to the first-class fare. Hence, CSA's proposed increases in this fare would produce increases in excess-baggage charges already found unlawfully high by the Board,[7] and we cannot permit them. We recently took similar actions on first-class fare increases proposed by Pan American World Airways, Inc., and Iran Air.[8]

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), 403, 801 and 1002(j) thereof:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendices A and B hereof,[9] and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we hereby suspend the tariff provisions specified in the attached Appendix A and defer their use from April 29, 1979, to and including April 28, 1980, and suspend the tariff provisions specified in the attached Appendix B and defer their use from April 1, 1979, to and including March 31, 1980, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[10] and it shall become effective on April 1, 1979; and

4. We shall file copies of this order in the aforesaid tariff and serve them upon Ceskoslovenske Aerolinie, National Airlines, Inc., and Northwest Airlines, Inc.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

[Order 79-3-185; Docket 35091]

[FR Doc. 79-10662 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

[6] See Orders 79-1-158, January 11, 1979; 78-11-93, November 9, 1978; 78-10-143, October 20, 1978; 78-10-61, October 5, 1978; and 78-9-38, August 23, 1978.

[7] *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportion*, Order 76-3-81, March 12, 1976, where the Board concluded that space, not weight, is the principal factor determining the value of baggage services; weight may not be the sole determinant of the amount of baggage a passenger may carry without additional charge; and an excess-baggage charge assessed at the rate of one percent of the first-class fare per kilogram is unjust and unreasonable and in violation of section 404(a) of the Federal Aviation Act of 1958. See also Orders 78-4-80, April 14, 1978; 77-4-97, April 20, 1977; 77-3-36, March 7, 1977; and 76-5-26, May 10, 1976.

[8] See Orders 79-1-158, January 11, 1979, and 78-12-58, November 28, 1978.

[9] Appendices A and B are filed with the original document.

[10] We submitted this order to the President on March 20, 1979.

[1] All members concurred.

Pan American World Airways, Inc., et al.; Order of Suspension and Investigation of Proposed Transatlantic Fare Revisions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of March, 1979.

Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), British Airways (BA), British Caledonian Airways (BCAL), Lineas Aereas de Espana, S.A. (Iberia) Transportes Aereos Portugueses (TAP), Compagnie Nationale Air France (Air France), Alitalia Linee Aeree Italiane, S.p.A. (Alitalia), Royal Air Maroc, and Aerlinte Eireann Teoranta (Irish) have recently filed revisions to their transatlantic fares.[1] The revisions generally consist of increases in both peak- and basic-season fares, and most are proposed for effectiveness April 1, 1979. Appendix A outlines the carriers' filings in detail.[2]

Each of the carriers proposes revisions to normal economy fares. Pan American, TWA, TAP, Air France and Alitalia would leave their levels at

[1] TWA's revisions are contained in Tariff C.A.B. No. 37 issued by Trans World Airlines, Inc.; all others are contained in Tariff C.A.B. No. 71, issued by Air Tariffs Corporation, Agent.

[2] Appendices A through F are filed with the original document.

status quo,[3] but apply a surcharge of $25 for each stopover. The carriers currently permit an unlimited number of stopovers at no extra charge.[4] Furthermore, Pan American, TWA, TAP, and Alitalia would cancel their U.S.-Italy economy-class "special" fares.[5]

BA would also maintain the normal economy fare at present levels, but assess a $30 charge for each interline connection when a passenger's transportation is jointly provided by BA and other carriers. There is currently no additional charge for interline service.

BCAL, Iberia and Royal Air Maroc would eliminate the normal economy fare's seasonal differential by establishing a single level throughout the year. For instance, BCAL's Houston-London normal economy roundtrip fare [6] is currently $964 peak and $826 basic; BCAL proposes an all-year level of $976. The Iberia (in the New York-Madrid market) and Royal Air Maroc (in the New York-Casablanca market) roundtrip normal economy fares are now $822 peak and $650 basic; the two carriers propose $780 throughout the year.[7] Irish would retain the current two-season structure, but increase the fare's levels by about five percent for each season.

We find that the following revisions to transatlantic normal economy fares may be unlawful: the stopover surcharges proposed by Pan American, TWA, TAP, Air France and Altialia; the interline surcharge proposed by BA; and the increased fare levels proposed by BCAL, Iberia, Royal Air Maroc, Irish and Pan American. We will therefore suspend them pending investigation. We will take no action on the carrier's other revisions.

In a series of recent orders,[8] we suspended various carrier proposals to increase the levels of transatlantic normal economy fares. We stated that the excessive levels of these fares appear largely the product of (a) the virtual absence of price competition in normal economy fares in the markets involved, and (b) the fact that these fares contain generous allowances for facilities unrelated to direct, point-to-point service—e.g., stopover and circuity privileges—which many on-demand passengers neither need nor use, yet for which they are forced to pay. We suggested that a more competitive environment might develop low, on-demand, point-to-point (i.e., "unbundled") fares, with separate charges for extra services like stopovers available at the passenger's option. Such an environment might also, of course, simply result in a lower full-service fare.

Pan American, TWA, TAP, Air France and Alitalia now propose to unbundle their normal economy fares insofar as stopovers are concerned. The proposals, however, include no reductions in the levels of the fares, which have traditionally been set beyond what is necessary to cover the cost of allowing travelers as many stopovers as they choose to make. Hence, the carriers' proposals do not address our fundamental concern with these fares: they are too high. For the passengers making stops, these proposals would result in *de facto* increases varying with the number of stops. Under the Pan American and TWA proposals, for example, a New York-Rome passenger who made four stops en route last summer and paid $970 roundtrip would, this summer, pay $1,070 rountrip for the same service—a 10.3 percent increase.[9]

On the other hand, point-to-point passengers would get no price relief, and continue to pay a fare in excess of the cost of the service provided. In the New York-Rome market last summer, the carriers offered the "special" fare at $800 roundtrip. They now plan to cancel this fare, leaving New York-Rome on demand, point-to-point passengers, like their counterparts in nearly all other transatlantic markets, no alternative but the normal economy fare at $970 roundtrip—a 21.3 percent increase in price for the same service. This wide price gap between the "special" and normal economy fares seems a conservative measure of the disparity between what the price of simple, point-to-point should be and what the carriers charge.[10] In these circumstances, we must conclude that the carriers' ostensible unbundling of normal economy fares is simply an effort to obtain increases in these fares' already excessive prices.

BA's proposed interline surcharge is similar. The normal economy fare levels already reflect the additional service (for the passenger) and revenue dilution (for the transatlantic carrier) of joint transportation. BA's separate charge, absent any reduction in level, is merely another increase under the guise of unbundling. The passenger using joint transportation faces an increase in a fare that is already too high while the passenger using direct service continues to pay a fare incommensurate with the cost of the service provided.

Finally, we have no objection to that feature of the BCAL, Iberia and Royal Air Maroc proposals which provides for a single all-year economy fare level. The carriers are in the best position to judge whether or not some seasonal differential is desirable. But the proposed levels, like those proposed by Irish and—to and from certain Middle East and Asian points—Pan American, are nevertheless too high. BCAL's proposed fare represents an 18 percent increase in the current basic-season level and is even above the present peak-season level. The all-year levels proposed by Iberia and Royal Air Maroc, while representing slight decreases from present peak-season levels, would nevertheless confront would-be basic-season travelers with increases of about 20 percent in still bundled fares. The objections we expressed in our earlier suspension orders remain pertinent to the BCAL, Iberia, Royal Air Maroc, Irish and Pan American increases here, and we are therefore constrained to suspend them.

Our actions here are consistent with our position on these fares. Transatlantic normal economy fares remain largely the result of a long series of intercarrier agreements, by which their levels have been set high enough not only to cover the cost of basic, point-to-point transportation, but to protect inefficient and generally high-cost carriers and provide an array of ancillary services. All passengers who require on-demand service must pay a single, premium fare, whether or not they use these extra services. They have no alternative, since the restrictions attached to promotional fares effectively bar non-discretionary passengers from using them.

We would prefer to let market forces evolve a more reasonable normal economy fare, whose price more closely reflects the cost of the service actually provided, but we are not yet convinced that competition in most transatlantic

[3] Pan American would, however, increase normal economy fare levels to/from certain Middle East and Asian points by two to three percent.

[4] Alitalia's surcharge, however, would apply only to stopovers made outside Italy. The carrier would continue to permit unlimited stops within Italy at no extra charge.

[5] The "special" fare either prohibits or severely limits stopovers, and is available at considerable discounts from the normal fare. In the New York-Rome market, for example, the unrestricted, roundtrip normal economy fare is currently $970 and $832 during the peak and basic seasons, respectively; the restricted, roundtrip "special" fare is $800 peak and $720 basic.

[6] I.e., the "Executive Full Facilities" fare.

[7] The peak season is May 15 through September 14 eastbound and June 15 through October 14 westbound. The basic season is the remainder of the year.

[8] See Orders 79-1-158, January 11, 1979; 78-11-93, November 9, 1978; 78-10-143, October 20, 1978; 78-10-61, October 5, 1978; and 78-9-38, August 23, 1978.

[9] Alitalia's distinction between stopovers within and without Italy differs from the other carriers' proposed stopover provisions only in degree, not substance.

[10] "Conservative" in view of our belief that even the "special" fare appears overpriced. See Order 78-11-93.

markets is strong enough to do the job. In the meantime, we are compelled to prevent further increases, whatever form they assume. We realize that our consistent suspension of fares in the presence of inflation reduces their real price, but we do not believe that these fares have yet reached levels which a fully competitive environment would produce.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), 403, 801 and 1002(j) thereof:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendices B, C, D, E, and F hereof, and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions, or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we hereby suspend and defer the use of the tariff provisions in the attached: Appendix B from April 1, 1979, to and including March 31, 1980; Appendix C from April 1, 1979, to and including March 31, 1980; Appendix D from April 17, 1979, to and including April 16, 1980; Appendix E from April 1, 1979, to and including March 31, 1980; and Appendix F from May 1, 1979, to and including April 30, 1980; unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [11] and it shall become effective April 1, 1979; and

4. We shall file copies of this order in the aforesaid tariffs and serve them upon Alitalia Linee Aeree Italiane, S.p.A., British Airways, British Caledonian Airways, Compagnie Nationale Air France, Royal Air Maroc, Lineas Aereas de Espana, S.A., Pan American World Airways, Inc., Transportes Aereos Portugueses, Trans World Airlines, Inc., and Aerlinte Eireann Teoranta.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[12]

Phyllis T. Kaylor,

Secretary.

[Order 79-3-184; Docket 35063]

[FR Doc. 79-10661 Filed 4-5-79; 8:45 am]

BILLING CODE 6320-01-M

[11] We submitted this order to the President on March 19, 1979.

[12] All Members concurred except Member O'Melia who did not vote.

CIVIL RIGHTS COMMISSION

New Hampshire Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:30 p.m. on April 30, 1979, in the Ramada Inn, 172 N. Main, Concord, New Hampshire.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

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

Dated at Washington, D.C., April 2, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-10623 Filed 4-5-79; 8:45 am]

BILLING CODE 6335-01-M

New York Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York Advisory Committee (SAC) of the Commission will convene at 5:00 p.m. on May 18, 1979 and will end at 2:00 p.m. on May 19, 1979, in the Ramada Inn, 450 North Street, Schenectady, New York.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

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

Dated at Washington, D.C., April 2, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-10622 Filed 4-5-79; 8:45 am]

BILLING CODE 6335-01-M

Pennsylvania Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 5:00 p.m. on April 17, 1979, at 300 Spring Garden, Training Room #12, Philadelphia, Pennsylvania.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning and multiple civil rights issues in Pennsylvania.

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

Dated at Washington, D.C., April 2, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-10621 Filed 4-5-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Voluntary Product Standard; Intent To Withdraw

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Voluntary Product Standard PS 61-74, "Plastic Containers (Jerry-Cans) for Petroleum Products."

This withdrawal action is being proposed for the reason that PS 61-74 is adequately covered by the American Society for Testing and Materials' standard ASTM D3435-78, "Standard Specification for Plastic Containers (Jerry-Cans) for Petroleum Products," and duplication is inappropriate and not in the public interest.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standard Development Services, National Bureau of Standards, Washington, D.C. 20234 by June 5, 1979.

The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal. For further information, contact Karl G. Newell, Area Code (301) 921–2356.

Dated March 23, 1979.

Ernest Ambler,

Director.

[FR Doc. 79–10551 Filed 4–5–79; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Statement of Organization, Practices, and Procedures (SOPP's) Amendment

In FR Doc. 77–26339, appearing in the **Federal Register** issue of September 13, 1977, on page 46016 (10), make the following addition:

(e) Policy on Public Testimony before the Gulf Council on Draft FMP's prior to Final Deliberation and Approval.

No public testimony on a draft EIS/FMP will be received or considered by the Gulf Council after the date specified in the **Federal Register** for the closure of the public comment period, except as provided below:

As soon as practicable after the close of public hearings, the council's Management Committee will convene to review public testimony on the DEIS/FMP. The Committee shall convene for this purpose not less than ten days prior to the Council meeting at which final approval of the plan is scheduled. After consideration of the public testimony, the Committee will formulate its recommendations to Council on changes in the DEIS/FMP.

The Management Committee's recommended changes in the DEIS/FMP will be summarized by staff and, at least seven days prior to the council meeting, released throught the news media in the areas affcted by the DEIS/FMP. The local news releases indicate that the Council will hear public testimony on the Management Committee's recommended changes during the first afternoon session of the Council meeting.

Testimony during the special public comment session before the Council shall be limited to comments on the changes proposed by Committee, as public testimony was already received on other aspects of the DEIS/FMP. After the special session, the council will not hear any additional testimony.

This procedure may be published in the **Federal Register** along with the Notice of Public Hearing and should be explained to the public at each public hearing.

Dated: April 3, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–10742 Filed 4–5–79; 8:45 am]

BILLING CODE 3010–22–M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss: (1) decision process on Snapper/Grouper Fishery Management Plan; (2) decision process on King and Spanish Mackerel Fishery Management Plan; (3) review of Billfish Fishery Management Plan; (4) review of foreign fishing permit applications, if any, and (5) other management business.

DATES: The meeting will convene on Tuesday, April 24, 1979, at 1:30 p.m. and will adjourn on Thursday, April 26, 1979, at approximately noon. The meeting is open to the public.

ADDRESS: The meeting will take place at Quality Inn-Airport, Savannah, Georgia.

FOR FURTHER INFORMATION CONTACT: Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: April 3, 1979.

Winfred H. Meibohm

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–10740 Filed 4–5–79; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the Council has established the Scientific and Statistical Committee which will meet to discuss fishery management plans under development, conduct a public comment period, and conduct other Committee business.

DATES: The meeting will convene on Monday, May 7, 1979, at 1 p.m., Tuesday, May 8, 1979, at 8 a.m., and adjourn at approximately 5 p.m., on both days. The meeting is open to the public.

ADDRESS: The meeting will take place at the Southwest Fisheries Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: April 2, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79–10741 Filed 4–5–79; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979: Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: April 6, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On January 26, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (44 F.R. 5487) of proposed addition to Procurement List 1979, November 15, 1978 (43 F.R. 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1979:

Class 7520

Box, Filing

7520-00-285-3144, Regions 9, 10
7520-00-285-3145, Regions 4, 5, 6, 7, 8
7520-00-285-3146, Regions 4, 5, 6, 7, 8
7520-00-285-3148, Regions 4, 5

C. W. Fletcher,
Executive Director.

[FR Doc. 79-10571 Filed 4-5-79; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1979: Correction of Proposed Addition

The document published in the Federal Register on March 30, 1979 (44 FR 19009) proposing the addition to Procurement List 1979 is amended to correct the proposal for Hood, Protective, Painter's as follows:

Class 8415

Hood, Protective, Painter's
The above for requirements of Pearl Harbor Naval Shipyard, Hawaii only.

Comments on the proposed addition to the Procurement List of the above Hood must be received on or before May 9, 1979.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-10570 Filed 4-5-79; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1979: Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 a commodity to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 9, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 8340

Pole Section, Tent, 8340-00-223-7849.

SIC 7349

Janitorial/Custodial Service, Federal Building, 511 N.W. Broadway Street, Portland, Oregon.

SIC 7399

Microfilm Reproduction Service, Department of the Navy, Aviation Supply Office, Philadelphia, Pennsylvania.

SIC 7399

Assembly, Food Packet, Long Range Patrol, 8970-00-926-9222.
Assembly, Food Packet, In Flight, 8970-00-060-2899.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-10573 Filed 4-5-79; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1979: Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1979 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 9, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 7920

Mophead, Wet, 7920-00-634-0202; 7920-00-634-0203.

C. W. Fletcher,
Executive Director.

[FR Doc. 79-10572 Filed 4-5-79; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Closure of the Active Air Force Portion of the Duluth International Airport (IAP), MN Environmental Impact Analysis Process

April 3, 1979.

The Air Force has begun the formal environmental impact analysis process for the proposal to study closure of the active Air Force portion of the Duluth International Airport, Minnesota.

At the present time, the Air Defense network consists of radars around the periphery of the United States; six CONUS Region Control Centers (RCCs); a backup intercept control facility in Florida; and the North American Air Defense Command (NORAD) Combat Operations Center in Colorado. Part of this network is the semi-automatic ground environment (SAGE) system which was designed and deployed in the 1950's to counter the Soviet bomber threat as then percieved. It now provides ground control intercept aircraft detection and command and control for the peacetime air soverignty mission and bomber defense mission. SAGE's 1950's vintage vacuum tube technology has been expensive and difficult to maintain. As a result, the Air Force is transitioning to the joint surveillance system (JSS) for peacetime sovereignty.

The current NORAD configuration includes six RCCs. These will be replaced by four JSS Region Operations Control Centers (ROCCs) with more efficient equipment. The RCC at Duluth will not be required in the new JSS configuration. Preliminary studies indicated that there are no other missions for Duluth, so the Air Force proposes to withdraw supporting units concurrent with the inactivation of the SAGE/RCC. The Duluth Air National Guard (ANG) Base, a separate portion of the Duluth IAP, is essentially unaffected.

The environmental impact analysis process will consider the impact of this proposed action on the area surrounding the Duluth IAP. Approximately 590 military and 300 civilian authorizations could be deleted from Duluth as a result of this installation closure. Loss of other jobs (base exchange, concessions, and non-appropriated fund) include approximately 25 full-time, and 30 part-time.

The environmental impact analysis process will lead to a formal environmental assessment which will be

used to determine if a draft environmental impact statement (EIS) will be prepared or if a finding of no significant impact is appropriate.

If the formal environmental assessment indicates there may be significant impact on the quality of the human environment, the Air Force will file a draft EIS with the Environmental Protection Agency and release it to the public.

If such impacts are not found, a finding of no significant impact will be prepared and released.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C–885, the Pentagon, Washington, D.C. 20330, telephone (202) 697–9279.

Carol M. Rose,
Air Force Federal Register Liaison Officer

[FR Doc. 79–10577 Filed 4–5–79; 8:45 am]

BILLING CODE 3910–01–M

Proposed Closure of Goodfellow Air Force Base, Tex., Environmental Determination

April 3, 1979.

The following is the Environmental Determination, dated January 25, 1979, for the Proposed Closure of Goodfellow Air Force Base, TX.

A. *Description of Proposed Action:* The current decline in overall Air Force activity has resulted in reduced technical training requirements. Accordingly, the Air Force proposes to relocate its cryptological training mission from Goodfellow AFB, TX and to declare all Air Force facilities at Goodfellow excess to Air Force needs. The overall objective of this proposal is to provide more efficient and economical management of technical training programs. The proposed action would result in a reduction of 1120 military and 448 civilian jobs from Goodfellow AFB. The estimated population reduction, including dependents, and military students, would be approximately 4400 persons from the San Angelo, TX area.

The alternative to this proposal is to take no action and to continue the cryptological training mission at Goodfellow AFB.

B. *Biophysical Environmental Impact Analysis:* The analysis of potential biophysical environmental impacts is documented in a Formal Environmental Assessment (FEA). The following is a summary of the most important findings in the FEA:

Goodfellow AFB Area: The proposed closure of Goodfellow would create no adverse impacts on the biophysical environment in the Goodfellow area. The proposed action would decrease water consumption, and the generation of solid wastes, wastewater, and air pollutants. Although these impacts are favorable, they are not significant in relation to the existing biosphysical environment.

Mission Beddown: The bases which will be considered to accept the Goodfellow mission will be separately assessed for environmental impact.

Alternative: The alternative of maintaining the crytological training mission at Goodfellow would continue the current minimal biophysical environmental impacts.

C. *Unresolved Issues:* The Environmental Determination is limited to closing Goodfellow and does not consider relocating Air Force cryptological training to any other installation. The Department of Defense is presently evaluating the feasibility of consolidating military cryptological training at various DOD installations. Therefore, any decision to close Goodfellow AFB would be contingent upon completion of the DOD study and appropriate environmental analyses of potential receiving installations.

D. *Environmental Determination:* After careful review of the FEA, I have concluded that closure of Goodfellow will not constitute a major Federal action having a significant adverse impact on the quality of the affected environment (San Angelo, Texas and vicinity) nor is it likely to be highly controversial there with regard to its biophysical environmental impacts.

Pending resolution of the unresolved issues, it appears that a Draft Environmental Impact Statement need not be filed with the U.S. Environmental Protection Agency.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C–885, the Pentagon, Washington, D.C. 20330, telephone: (202) 697–9297.

Francis J. Smith,
Colonel, USAF,
Chairman, HQ USAF Environmental Protection Committee.

Carol M. Rose,
Air Force Federal Register Liaison Officer.

[FR Doc. 79–10575 Filed 4–5–79; 8:45 am]

BILLING CODE 3910–01–M

Proposed Inactivation of Air Force Units at Kingsley Field, or Environmental Determination

April 3, 1979.

The following is the Environmental Determination, dated December 13, 1978, for the Proposed Inactivation of Air Force Units at Kingsley Field, OR.

A. *Description of Proposed Action:* The US Air Force proposes to inactivate the active Air Force units at Kingsley Field, OR. This action would result in a reduction of approximately 650 military and civilian jobs at Kingsley Field.

Alternatives being considered are:

Alternative 1. Inactivate all active units and excess all facilities except alert facilities necessary to accept a dispersal mission.

Alternative 2. No action.

Alternative 3. Maintain a fighter interceptor detachment on 24 hour alert at Kingsley Field.

B. *Biophysical Environmental Impact Analysis:*

The analysis of potential biophysical environmental impacts is documented in a Formal Environmental Assessment (FEA). The following is a summary of the most important findings in the FEA:

1. *Waste Water:* The proposed action would result in approximately an 80% reduction in total flow to the existing Kingsley Field Waste Water Treatment Plant (WWTP). This could decrease the efficiency of the existing plant. However, this should not adversely affect the receiving stream water quality due to the net reduction of wastewater entering the stream. At the present time, approximately 18 pounds each of Biochemical Oxygen Demand (BOD) and Suspended Solids (SS) per day enter the stream. This is based on an average effluent quality of 8 mg/L BOD and SS and a wastewater flow of 0.27 MGD. This meets the National Pollutant Discharge Elimination System (NPDES) permit limits of 30 mg/L for each. The proposed action may result in an effluent quality of approximately 25 mg/L BOD (still within NPDES limits), but because of the reduced flow (estimated to be 0.054MGD) the total pollutants entering the stream per day would be reduced from 18 lbs to 11 lbs. The impacts of Alternatives 1 and 3 would be essentially the same as the proposed action.

Alternative 2 would result in no change to the existing WWTP loading, and the effluent should continue to comply with the NPDES permit.

2. *Air Pollution, Noise and Solid Waste:* The proposed action, or the alternatives, would result in a reduction (or no change for Alternative 2) of these pollutants.

C. *Environmental Determination:* After careful review of the FEA, I have concluded that this project will not constitute a major Federal Action affecting the quality of the human environment, nor is it likely to be highly controversial with regard to its biophysical environmental impacts.

Thus, the requirements of the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) Guidelines, and Air Force Regulation 19–2 have been complied with and a Draft Environmental Impact Statement need not be filed with the US Environmental Protection Agency.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C–885, the Pentagon, Washington, D.C. 20330, telephone: (202) 697–9297.

Francis J. Smith, *Colonel, USAF*
Chairman, HQ USAF Environmental Protection Committee

Carol M. Rose,
Air Force Federal Register Liaison Officer.

[FR Doc. 79–10576 Filed 4–5–79; 8:45 am]

BILLING CODE 3910–01

Proposed Withdrawal of Active Air Force Units From Hancock Field, N.Y., Environmental Impact Analysis Process

April 3, 1979.

The Air Force has begun the formal environmental impact analysis process for the proposal to study withdrawal of active Air Force units from Hancock Field, NY.

At the present time, the Air Defense network consists of radars around the periphery of the United States; six CONUS Region Control Centers (RCCs); a backup intercept control facility in Florida; and the North American Air Defense Command (NORAD) Combat Operations Center in Colorado. Part of this network is the semi-automatic ground environment (SAGE) system which was designed and deployed in the 1950s to counter the Soviet bomber threat as then perceived. It now provides ground control intercept aircraft detection and command and control for the peacetime air sovereignty mission and bomber defense mission. SAGE's 1950's vintage vacuum tube technology has been expensive and difficult to maintain. As result, the Air Force is transitioning to the joint surveillance system (JSS) for peacetime sovereignty.

The current NORAD configuration includes six RCCs. These will be replaced by four JSS Region Operations Control Centers (ROCCs) with more efficient equipment. The RCC at Hancock will not be required in the new JSS configuration. Preliminary studies indicated that there are no other missions for Hancock, so the Air Force proposes to withdraw supporting units concurrent with the inactivation of the SAGE/RCC.

The environmental impact analysis process will consider the impact of this proposed action on the area surrounding Hancock Field.

Approximately 370 military and 195 civilian authorizations could be deleted from Hancock as a result of this installation reduction. Loss of other jobs (base exchange, concessions, and non-appropriated fund) include approximately 30 full-time and 80 part-time. Remaining at Hancock field are approximately 220 Air National Guard (ANG) technicians (full-time civilian); 910 ANG part-time military, (to include the 220 dual-roled technicians above); and 65 active Air Force, Army and Navy manpower authorizations. The ANG 174 Tactical Fighter Group will continue normal operations.

The environmental impact analysis process will lead to a formal environmental assessment which will be used to determined if a draft environmental impact statement (EIS) will be prepared or if a finding of no significant impact is appropriate.

If the formal environmental assessment indicates there may be significant impact on the quality of the human environment, the Air Force will file a draft EIS with the Environmental Protection Agency and release it to the public.

If such impacts are not found, a finding of no significant impact will be prepared and released.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C-885, the Pentagon, Washington, D.C. 20330, telephone (202) 697-9279.

Carol M. Ross,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-10578 Filed 4-5-79; 8:45 am]

BILLING CODE 3910-01-M

Proposed Reorganization of USAF Aerospace Defense Forces Negative Determination

April 3, 1979.

The following is the Negative Determination, dated May 17, 1978, for the proposed reorganization of the USAF Aerospace Defense Forces.

Proposed Action: The United States Air Force proposes to reorganize the USAF Air Defense and Surveillance/Warning Resources in 1978 encompassing the following actions:

1. Give the following Aerospace Defense Command (ADCOM) assets to the other USAF major air commands.

a. Transfer its missile warning and space surveillance assets to the Strategic Air Command (SAC).

b. Transfer its air defense field assets to the Tactical Air Command (TAC).

c. Communications assets associated with each function would transfer to the Air Communications Service (AFCS).

2. Reduce ADCOM from a USAF major air command. The reduced organization would carry out USAF responsibilities in support of the bi-national (Canada and United States) Headquarters North American Air Defense (NORAD) and the Joint Chiefs of Staff (JCS) specified command, also called ADCOM, including responsibility for the Cheyenne Mountain Complex, Colorado Springs, Colorado.

3. Make the following approximate manpower changes in carrying out the above actions: (Manpower data are based on FY 4/77 levels.)

Colorado Springs Area, Colo., −1650.
Tyndall, AFB, Fla., +215.
Langley AFB, Va., +165.
Offutt AFB, Nebr., +190.
Scott AFB, Ill., +25.

Environmental Evaluation: An Environmental Impact Assessment (EIA) was prepared by the Air Force Civil Engineering Center, Tyndall AFB. After a careful review of this EIA, I have concluded that this proposed action will not have a significant effect on the quality of the human environment and it is not likely to be highly controversial with regard to its environmental impacts. Thus, an Environmental Impact Statement need not be prepared for filing with the Environmental Protection Agency (EPA). This determination is based on the following considerations:

1. *Water, Air, Noise, Solid Waste and Natural Resources:* The impact in these areas of consideration will be beneficial at Colorado Springs (manpower reduction) and adverse at the receiving locations (manpower increase). However, with the relatively small numbers of persons involved at the latter, the adverse impacts due to increased water consumption, air pollution from vehicular traffic and home heating, traffic noise, generation of solid waste and consumption of natural resources are considered to be minor.

2. *Land Use:* No changes in land use plans are foreseen as a result of the proposed action. The privately-owned Childlaw Building in Colorado Springs will be freed for other use but is expected to remain an office building. Because of the relatively small number of households involved at the receiving locations, any increase of residential development will very likely occur in areas already identified as residential.

3. *Socio-Economic:* a. Colorado Springs Area. It is estimated that this action may result in a loss of about $35 million in personal income and a reduction of approximately $1 million in Air Force procurement for the Colorado Springs Standard Metropolitan Statistical Area (SMSA). Unemployment could increase by about 1.6% to a total of about 7.3%. Housing vacancy rates could increase by about 1.3% to a total of about 7.7%. School funds from the Federal government will be reduced by less than 1%. Considering the dynamic character of the area, its recent history of growth and the currently declining housing vacancy rates, the socio-economic effect is not expected to have a major long-term adverse impact on the area.

b. Tyndall AFB. It is estimated that this action will increase personal income by about $4 million and Air Force procurement by approximately $300,000 in the Tyndall AFB area. Unemployment may decrease by about 0.3% to about 8.5% total. The housing requirement can be met by the local area housing market within a 45-minute driving time. The school system, now operating over capacity, will be further impacted until additional space is available in 1979. Other community services can adequately support the additional personnel and their families. While the above effects are not considered significant, they will be partially offset by other concurrently proposed personnel reductions at Tyndall AFB, should the proposals be implemented.

c. Other receiving locations. The number of persons transferred to the remaining three Air Force bases represent 1.7% or less of the

respective currently assigned manpower. Any effects resulting from this action in these areas are considered to be negligible.

4. *Conclusions:* a. The principal effects of the proposed reorganization of the USAF Aerospace Defense Forces are socio-economic. Adverse soci-economic effects will be felt in the Colorado Springs area. However, they are expected to be minor and short term, considering size and the dynamic nature of the Colorado Springs area.

b. Impacts on the natural environment at all locations are considered neglible, and in no way create a "significant adverse impact on the quality of the human environment." No controversy over the effects of the proposed action on the natural environment is known or anticipated, though the merits of the proposed reorganization itself may be controversial.

c. The environmental analysis is based on the approximate manpower changes indicated in paragraph 3, page 1. During implementation of the proposed reorganization, operational considerations may require adjustments in these numbers. The impacts of any changes will be evaluated and an amendment to the assessment will be prepared if appropriate.

d. Adverse socio-economic impacts alone do not create a requirement for a formal EIS.

e. Accordingly, I conclude that the National Environmental Policy Act and applicable implementing regulations do not require the preparation of a formal EIS for this proposed reorganization.

Francis J. Smith,

Colonel, USAF Chairman, HQ USAF Environmental Protection Committee.

On February 7, 1979, the Environmental Impact Assessment and the Negative Determination were supplemented, as follows, to reflect proposed changes in the manpower alignment.

1. The Environmental Impact Assessment for the Proposed Reorganization of USAF Aerospace Defense Forces, dated April 1978, and the subsequent Negative Determination, dated 17 May 1978, were based on levels which are no longer current. Since preparation of these documents, the manpower levels have varied due to routine programming actions. This supplement reflects manpower changes based on levels projected for FY 4/79.

2. Appropriate manpower changes for the proposed reorganization are updated as follows:

	EIA	Updated
Colorado Springs Area, CO	−1650	−1360
Tyndall AFB, FL	+215	+215
Langley AFB, VA	+165	+170
Offutt AFB, NE	+190	+190
Scott AFB, IL	+25	+25

3. The principal effects of the proposed reorganization would be socio-economic. Eighteen percent fewer personnel would be withdrawn from the Colorado Springs area as a result of this proposal than was evaluated in the Environmental Impact Assessment. The socio-economic effect on the area due to this proposal would, therefore, be reduced.

4. Since the updated manpower changes are either relatively minor reductions or increases, the conclusion of no significant impact on the quality of the human environment from this proposed action remains unchanged.

5. This environmental impact assessment includes both the environmental and socio-economic impacts associated with the proposed action. Subsequent to its preparation and processing, Council on Environmental Quality issued a new definition for "Human Environment" which has resulted in the division of the analysis of these impacts into separate documents for more recent proposed realignments. The additional workload to divide this completed assessment into two such documents was not justified.

Francis J. Smith,

Colonel, USAF, Chairman, HQ USAF Environmental Protection Committee.

A further refinement of the proposed manpower alignment resulted in supplement number two, as follows, on March 15, 1979.

1. The Environmental Impact Assessment for the Proposed Reorganization of USAF Aerospace Defense Forces, dated April 1978, the Negative Determination, dated 17 May 1978, and the Supplement, dated 7 Feb 79, indicated Tyndall AFB, FL would receive some of the activities and associated personnel from Colorado Springs.

2. Appropriate manpower changes for the proposed reorganization are updated as follows:

	Supplement dated 7 Feb 79	Supplement number 2
Colorado Springs Area CO	−1360	−1360
Tyndall AFB, FL	+215	−14
Langley AFB, VA	+170	+400
Offutt AFB, NE	+190	+190
Scott AFB, IL	+25	+25

3. There will be no impacts at Tyndall AFB as a result of the proposed reorganization. In the Langley AFB area, adequate housing and services are available to support the increase in personnel. There will be no significant increase in biophysical environmental effects.

4. Since the updated manpower changes are either relatively minor reductions or increases, the conclusion of no significant impact on the quality of the human environment from this proposed action remains unchanged.

Francis J. Smith,

Colonel, USAF, Chairman, HQ USAF Environmental Protection Committee.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C-885, the Pentagon, Washington, D.C. 20330, telephone: (202) 697-9297.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-10579 Filed 4-5-79; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Draft Environmental Impact Statement; Fountain Creek, Colo.

Albuquerque District, Corps of Engineers, is in the process of preparing a Draft Environmental Impact Statement for proposed flood control measures on Fountain Creek, Colorado, to protect the city of Pueblo, Colorado.

AGENCY: U.S. Army, Corps of Engineers, Albuquerque District, DOD.

ACTION: Preparation of a Draft Environmental Impact Statement (DEIS).

NOTICE: In Federal Register, Document 79-8708, on page 17545, in the issue of Thursday, 22 March 1979, in paragraph "4. *Public Involvement,*" the date should be corrected to read July 1979.

Larry A. Blair,

Lieutenant Colonel, CE, Deputy District Engineer.

[FR Doc. 79-10542 Filed 4-5-79; 8:45 am]

BILLING CODE 3710-KK-M

DEPARTMENT OF DEFENSE

Corps of Engineers

Proposed Flood Control Project in the Green Brook Basin, Middlesex, Somerset and Union Counties, New Jersey

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action: Flood protection for the Green Brook basin consisting of levees, walls, channel work, two retention dams. In addition a number of homes, and commercial enterprises would either be bought out or flood proofed.

2. Reasonable Alternatives: Other plans considered included non-structural methods such as evacuation of the floodplain additional flood proofing and land use regulations. Structural solutions included other detention reservoirs, diversion tunnels, floodwalls and levees without channel modifications, alternate alignments of levees and floodwalls and channel modifications plans along with a "no action" alternative.

3. Scoping Process: a. Public Involvement: Plan formulation stage public meetings were held by the New York District, Corps of Engineers on April 4, 1974 and September 28, 1978 in Plainfield, New Jersey. At these meetings, the Corps presented to the residents and other interested parties, a discussion of the various alternative plans considered in plan formulation. In conjunction, views and comments were obtained on the environmental assessment that was furnished with the public notice at the public meeting. In addition, to the public meetings, the Corps has solicited comments from Federal, State and local agencies, concerned groups and citizens.

b. Significant Issues Requiring In-depth Analysis: Impacts on the Watchung Reservation. Impacts on the State Endangered Bog Turtle (*Clemmys muhlenbergi*). Impacts related to cultural/historical matters.

c. Assignments.

d. Environmental Review and Consultation: U.S. Fish and Wildlife Service.

4. Scoping Meeting will not be held.

5. Estimate date of statement availability September 1979.

ADDRESS: U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007. Project Manager, Thomas Pfeifer. Attn: NANEN–Cj, Tel. No. (212) 264–9086. EIS Coordinator, Daniel Malanchuk. Attn: NANEN–E, Tel. No. (212) 264–4662.

Dated: March 28, 1979.

P. A. Descenza,

Chief, Engineering Division.

[FR Doc. 79–10597 Filed 4–5–79; 8:45 am]

BILLING CODE 3710–06–M

Flood Control Project on West Canada Creek, Village of Herkimer, Herkimer County, NY

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action: Raising and repairing existing levee system in order to prevent overtopping by floodwaters during ice jams.

2. Reasonable Alternatives: *Raise the Existing Federal Levee and Reconstruct the NYSDPW Levee.*

Raise the Existing Federal Levee and Raise and Stabilize the NYSDPW Levee. In conjunction with raising the Federal levee, two degrees of stabilization are being considered for the NYSDPW levee which included the following:

(1) Patching the structure in the area where the fines have completely washed out raising the structure in two locations where the top elevation is below the 100 year ice jam stage.

(2) Placing an impervious blanket along the entire length of levee and raising the structure where the top elevation is below the 100 year ice jam stage.

(3) Patching and raising the NYSDPW levee with sheet piling.

3. Scoping Process: a. Public Involvement: A number of meetings have been held with local interests to solicit their views during the preliminary planning stages. Two public meetings are planned, with notification to all interested parties at least thirty days prior to the meetings. The Corps has also solicited comments from Federal, State and local agencies.

b. Significant Issues Requiring In-depth Analysis. The probable destruction of several acres of woodland.

c. Assignments: Cultural Resources Reconnaissance by New York State Archeologists Office.

d. Environmental review and consultation: U.S. Fish and Wildlife Service.

4. Scoping Meeting will not be held.

5. Estimate date of statement availability June 1980.

ADDRESS: U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007. Project Manager, Alvin Brown. Attn: NANEN–Cj. Tel No. (212) 264–9086. EIS Coordinator, Daniel Malanchuk. Attn: NANEN–E. Tel No. (212) 264–4662.

Dated: March 28, 1979.

P. A. Descenza,

Chief, Engineering Division.

[FR Doc. 79–10598 Filed 4–5–79; 8:45 am]

BILLING CODE 3710–06–M

Proposed Navigation Project at Moriches Inlet, Suffolk County, Long Island, N.Y.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action: The proposed action to improve navigation is to dredge an entrance channel through the Seaward sand bar which has formed at Moriches Inlet. An inner bay channel will be dredged to connect with the Intracoastal Waterway. A dune and beachfill will be constructed to reinforce a section of the beach, east of the inlet. During initial construction and/or during maintenance, dredged material will be placed on the ocean beaches.

2. Reasonable Alternatives: No action.

All other alternatives are variations of the proposed schemes including: Different channel widths and depths, and different sites for disposal of the dredged material, structural alternatives, such as breakwaters, extension of the jetties, weir-jetties have been rejected due to excess cost and potential severe adverse environmental impact.

3. Scoping Process: a. Public Involvement: A public meeting was held November 1978. Prior to the meeting, representatives of the Corps met with representatives of a local citizen group Phase II who are advocates for some type of navigation improvement as well as County legislators and the state.

b. Significant Issues Requiring In-depth Analysis: Impact on hydraulics of the Inlet. Impact on littoral drift system. Impact on Bay resources. Impact on adjacent National Seashore.

c. Assignments: U.S. Fish and Wildlife Service provide planning aid letters as well as environmental inventory and assessment of the impacts of alternative plans.

d. Environmental review and consultation: During planning and preparation of the DEIS, close cooperation is maintained with U.S. Department of Interior, U.S. Department of Commerce, U.S. Environmental Protection Agency. Local citizen groups and organizations provide data on fishing industry and use of Moriches Bay.

4. Scoping Meeting will not be held.

5. Estimate date of statement availability January 1980.

ADDRESS: U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007. Project Manager, Duncan Schweitzer. Attn: NANEN–Cy. Tel. No. (212) 264–9078. EIS Coordinator, Linda Monte. Attn: NANEN–E. Tel. No. (212) 264–4196.

Dated: March 28, 1979.

P. A. Descenza,

Chief, Engineering Division.

[FR Doc. 79–10599 Filed 4–5–79; 8:45 am]

BILLING CODE 3710–06–M

Proposed Maintenance Dredging of the Narrows of Lake Champlain, N.Y. and Vt.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Description of proposed Action: The proposed work is the maintenance dredging of two areas to a depth of 12 feet and a width of 200 feet. The areas to be dredged are "The Elbow" located just north of Whitehall, New York, and the area around Benson Landing, Vermont an estimated 13 miles north of Whitehall, New York. An estimated 80,000 cubic yards will be removed from these two areas and disposed of at either of two presently proposed sites; one is east of the project—north of Whitehall and the other is an island located west of the project-north of Whitehall.

2. Reasonable alternatives: The possible alternatives to this work are:

a. Not to dredge.

b. Changing the dredging procedure.

c. Changing the disposal site.

3. Scoping Process: a. Public Involvement: Two assessments were written on the project, one in 1974 and one in 1977, and reviewed by the appropirate Federal and State Agencies. All comments received are being incorporated into this environmental impact statement. Up to this time no private comments were requested on this project.

b. Significant Issues Requiring In-depth Analysis: The only significant issue to date is the problem with the proposed disposal sites. Most of these sites contain wetland type vegetation and so may be considered sensitive areas. This issue will be discussed in detail in the environmental impact statement.

c. Assignments: None Anticipated.

d. Environmental review and consultation: Requests will be made to the coordinating agencies for data to input into the environmental impact statement. Upon completion of the draft, the appropriate agencies will be requested to review and comment. The resulting comments and any additional data will be incorporated into future documents.

4. Scoping Meeting will not be held.

5. Estimate date of statement availability Sept. 1980.

ADDRESS: U.S. Army Engineer District, New York, New York, N.Y. 10007. Project Manager Larry Yee. ATTN: NANOP, Tel. No. (212) 264-0199. EIS Coordinator, Carolyn Barth. ATTN: NANEN-E, Tel No. (212) 264-4662.

Dated: March 28, 1979.

P. A. Descenza

Chief, Engineering Division.

[FR Doc. 79-10600 Filed 4-5-79; 8:45 am]

BILLING CODE 3710-06-M

Proposed Flood Control Project, Saw Mill River Basin, Nepera Park Area of Yonkers, New York

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action: The proposed plan of flood protection of the Nepera Park area of the City of Yonkers consists of an earthen levee that would be constructed adjacent to the right bank of the Saw Mill River between the vicinity of Hearst Street and Tompkins Avenue. The proposed levee would be approximately 1,830 feet long and would have an average height of 10 feet. The proposed levee would also be approximately 50 feet in width. In conjunction with this plan, interior drainage works would be provided. There works include the construction of a diversion chamber and piping to allow most of the surface runoff to get into the river at a different location, and a ponding area to handle the remaining runoff.

2. Resonable Alternatives: Other plans considered included non-structural methods such as evacuation of the flood plain, floodproofing and land use regulations—structural solutions included detention reservoirs, diversion tunnels, floodwalls and levees, alternate alignment of levees, and floodwalls, channel modification plan along with the "no action" alternative.

3. Scoping Process: a. Public Involvement: A plan formulation stage public meeting was held in Yonkers, N.Y. on January 11, 1978, by the District Engineer in order to obtain views and comments of local interests and interested parties regarding the various alternative plans under consideration. At the public meeting there was a detailed presentation of the flood control plans considered and a discussion of the information and input required from the local concerns. A Public Notice and a Summary of Information Report (containing a preliminary environmental assessment of the alternatives) was circulated in December 1977. The Draft Environmental Impact Statement will be circulated for review to all interested Federal, State, local agencies, as well as interested local groups or individuals. Additional public meetings will be held.

b. Significant Issues Requiring In-depth Analysis: (1) Relationship of the proposed project to land use.

(2) Construction activities impacts.

(3) Hydraulic effects of the project.

(4) Fish and Wildlife impacts.

(5) Effects of the project on archaeological or cultural resources.

(6) Alternatives to the proposed action.

c. Assignments.

d. Environmental review and consultation: Coordination will be effected with Federal, State and local agencies, as well as interested local concerns, in the preparation of the draft statement, and any subsequent revisions to the statement would also be coordinated. The U.S. Fish and Wildlife Service will provide the Corps of Engineers, with Fish and Wildlife data, as well as, planning aid letters throughout the course of flood control study.

4. Scoping Meeting will not be held.

5. Estimated date of statement availability: May 15, 1979.

ADDRESS: U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007. Project Manager, Larry Petrosino. Attn: NANEN-Cy, Tel No. (212) 264-9077. EIS Coordinator, Peter Doukas. Attn: NANEN-E, Tel No. (212) 264-1275.

Dated: March 28, 1979.

P. A. Descenza,

Chief, Engineering Division.

[FR Doc. 79-10601 Filed 4-5-79; 8:45 am]

BILLING CODE 3710-06-M

Proposed Navigation Project in Gowanus Creek Channel, Brooklyn, New York

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action—The proposed recommended plan consists of the deepening of the various reaches in the Federal navigation channels in Gowanus Creek Channel. Reaches 1 and 2 will be deepened from 30 feet to 40 feet (mlw), Reach 4 from 30 feet to 35 feet (mlw), and Reach 5 from 30 feet to 32 feet (mlw). Reach 2a will be deepened from 30 to 40 feet (mlw) thereby widening the turning area from Reach 1 to Reach 2. The dredged material will be disposed of on an upland non-wetland area.

2. Reasonable Alternatives—Non-structural alternatives considered were greater unit vessel loading, alternate delivery sites and traffic control/advice as a means of accident reduction. Structural alternatives included various channel modification plans and various disposal alternatives. The no-action plan was also considered.

3. Scoping Process: a. Public Involvement—At this stage two formal public meetings have been held regarding the proposed project. The first on 6 January 1977 was held in Brooklyn, NY to introduce the general concept of the project and invite comment. The second, a formulation stage meeting, held on 26 May 1978 in Brooklyn, NY introduced a series of alternative plans to the public. This meeting also outlined preliminary environmental impacts for the proposed alternatives. Comments were solicited regarding both the alternatives and the stated environmental impacts. Copies of the transcripts of both meetings are available at the District office.

The draft environmental statement will be sent to various Federal, State and local agencies, as well as interested conservation groups. It will be revised following receipt of comments.

b. Significant Issues Requiring In-depth Analysis: (1) Relationship of the proposed project to land use.

(2) Construction activities impacts.

(3) Hydraulic effects of project.

(4) Fish and wildlife effects.

(5) Effects of the project on archaeological or cultural resources.

(6) Alternatives to the proposed action.

c. Assignments: Corps of Engineers—hydraulic and hydrologic information, economic considerations.

FWS&NOAA—fish and wildlife data.

EPA—air and water quality data.

Coast Guard—navigation data.

d. Environmental review and consultation: Coordination will be effected with Federal, State and local agencies, as well as interested local concerns in the preparation of the draft statement, and any subsequent revisions to the statement would also be coordinated. The U.S. Fish and Wildlife Service has provided the Corps of Engineers with fish and wildlife data, and will provide planning aid letters throughout the course of the study.

4. Scoping Meeting will not be held.

5. Estimated date of statement availability: July 1, 1979.

ADDRESS: U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007. Project Manager, Bruce Bergmann. Attn: NANEN–Cy, Tel. No. (212) 264–9077. EIS Coordinator, Mario Del Vicario. Attn: NANEN–E, Tel. No. (212) 264–4663.

Dated: March 28, 1979.

P. A. Descenza,

Chief, Engineering Division.

[FR Doc. 79-10602 Filed 4-5-79; 8:45 am]

BILLING CODE 3710-06-M

Proposed Flood Control Project for the Bronx River Basin at Bronxville, Tuckahoe, East Yonkers, Westchester County, N.Y.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a draft Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action: Proposed plan of action has not yet been selected.

2. Reasonable Alternatives: Non-structural plans, channel modification plan, plans consisting of floodwalls and levees without channel modification will also be considered. In addition combination plans consisting of structural and non-structural methods will also be developed.

3. Scoping Process: a. Public Involvement—Public Meetings will be held throughout the study.

b. Significant Issues Requiring In-depth Analysis: (1) Land-use and potential land-use conflicts, if any. (2) Project effects on fish and wildlife resources. (3) Project effects on significant cultural resources. (4) Temporary environmental effects due to the construction operations. (5) Alternatives plans of flood protection.

c. Assignments: The U.S. Fish and Wildlife Service will prepare planning-aid letters throughout the course of this flood control study. This coordination will include a discussion of the fish and wildlife resource base, and project-related environmental impacts. In addition, the U.S. Fish and Wildlife Service will provide the Corps with recommendations that would minimize adverse environmental impacts.

d. Environmental review and consultation: The environmental impacts prepared for this study will be circulated for review and comments to various Federal, State, local agencies, as well as, to interested local groups and individuals.

4. Scoping Meeting will be held 23 May 79. Time 8:00 PM. Location Bronxville Public School, Midland Avenue, Bronxville, N.Y.

5. Estimate date of statement availability June 1980.

ADDRESS: U.S. ARMY ENGINEER DISTRICT, NEW YORK, 26 Federal Plaza, New York, N.Y. 10007. Project Manager, Duncan Schweitzer, Attn. NANEN–Cy, Tel. No. (212) 264–9078; EIS Coordinator, Peter Doukas, Attn: NANEN–E, Tel. No. (212) 264–4663.

Dated: March 28, 1979.

P. A. Descenza,

Chief, Engineering Division.

[FR Doc. 79-10603 Filed 4-5-79; 8:45 am]

BILLING CODE 3710-06-M

Borrow Area and Channel Dredging in East Rockaway Inlet, New York

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Supplemental Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action: Dredging to a depth of 20 feet below mean low water, the East Rockaway Inlet navigation channel and an irregular area on either side of the channel to create a borrow area roughly 1,500 feet by 3,500 feet. The dredging will improve the navigation channel and provide a source of sand for the ongoing Rockaway Beach Erosion Control Project.

2. Reasonable Alternatives: The East Rockaway Inlet navigation channel can be maintained at its existing authorized depth of 12 feet below mean low water by periodic maintenance dredging. Sand for beach fill can be acquired from existing authorized offshore borrow areas.

3. Scoping Process: a. Public Involvement: The following agencies have been contacted for preliminary coordination:

EPA.

National Marine Fisheries Service.

Fish and Wildlife Service.

NY Dept. of Environmental Conservation.

Various Federal, State, and local agencies will receive draft copies of the supplemental EIS. Notice will be posted in the Federal Register as to the availability of the completed Supplement.

b. Significant Issues Requiring In-depth Analysis: (1) The impact on beaches to the west of the dredged area, which will likely trap littorally transported material.

(2) The impacts of the dredged area on wave climate, height, and intensity.

(3) Potential hydraulic impacts on the bay area resulting from modification of the entrance to the East Rockaway Inlet Channel.

(4) Cultural Recon Study related to new material dredging.

c. Assignments: Corps of Engineers—hydraulic and hydrologic information; quantity of sand fill needed; economic considerations FWS & NOAA—fish and wildlife data EPA—air and water quality data Coast Guard—navigation data.

d. Environmental review and consultation: Comments of Federal and State environmental agencies will be incorporated into Final Supplement.

4. Scoping Meeting will not be held.

5. Estimate date of statement availability July 1979.

ADDRESS: US ARMY ENGINEER DISTRICT, NEW YORK, 26 Federal Plaza, New York, N.Y. 10007. Project Manager, Robert Ericksen, Attn: NANEN-G, Tel. No. (212) 264-9080; EIS Coordinator, Robert Dieterich, Attn: NANEN-E, Tel. No. (212) 264-4662.

Dated: March 28, 1979.

P. A. Descenza,

Chief, Engineering Division.

[FR Doc. 79-10604 Filed 4-5-79; 8:45 am]

BILLING CODE 3710-OC-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 16-17 May 1979, at 201 Varick Street, 9th floor, New York, N.Y. 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

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

April 3, 1979.

[FR Doc. 79-10665 Filed 4-5-79; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board; Advisory Committee Meeting

The Defense Science Board will meet in closed session 10-11 May 1979 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for 10-11 May 1979 to discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communication, and Technology issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

April 3, 1979.

[FR Doc. 79-10666 Filed 4-5-79; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Enduring Strategic Command Control and Communications Meeting

The Defense Science Board Task Force on Enduring Strategic Command Control and Communications will meet in closed session on 1-2 May 1979 in Marina del Rey, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

A meeting of the Task Force on Enduring Strategic Command Control and Communications has been scheduled for 1-2 May 1979 to review and modify draft final report to the Secretary of Defense.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

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

April 3, 1979.

[FR Doc. 79-10663 Filed 4-5-79; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Naval Surface Ship Vulnerability; Advisory Committee Meeting

The Defense Science Board Task Force on Naval Surface Ship Vulnerability will meet in closed session on 27 March 1979 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

A meeting of the Task Force on Naval Surface Ship Vulnerability has been scheduled for 2 May 1979 to review, evaluate, and summarize the vulnerability of naval surface ships with consideration of their effectiveness in carrying out future naval missions.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

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

April 3, 1979.

[FR Doc. 79-10664 filed 4-5-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meeting:

A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on April 24

and 25, 1979, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 3:00 p.m. on April 24. The purpose of this meeting is to permit attendance by representatives of the IWP at a meeting of the IEA Standing Group on the Oil Market (SOM) which is being held on April 25 and at a meeting of an *ad hoc* group of the SOM which is being held on April 24.

The agenda for the meeting is under the control of the SOM and its *ad hoc* group. It is expected that the IWP representatives will be asked to discuss with the SOM and its *ad hoc* group the subjects listed below.

1. Inclusion of North Sea crude oil in the IEA crude oil reporting system.
2. Draft publication of IEA crude oil import price data.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., April 3, 1979.

Robert C. Goodwin, Jr.,
Assistant General Counsel, International Trade & Emergency Preparedness.

[FR Doc. 79-10569 Filed 4-5-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act

AGENCY: Department of Energy.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, et seq., the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of a final programmatic environmental impact statement which analyzes the impacts associated with the implementation of the Powerplant and Industrial Fuel Use Act (FUA). The FUA will require utilization of coal or other alternate fuels (other than natural gas or petroleum) as the primary energy source in many new and existing powerplants and major fuel burning installations unless an exemption is granted by the Secretary of Energy.

FOR FURTHER INFORMATION CONTACT: Steven A. Frank, Office of Fuels Conversion, Department of Energy, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-6246.

J. Thomas Wolfe, Office of General Counsel, Department of Energy, Room 6G087, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6947.

Robert Stern, Division of NEPA Affairs/Environment, Department of Energy, Room 6234, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-5998.

SUPPLEMENTARY INFORMATION:

AVAILABILITY

Single copies of the final environmental impact statement are available from Steven A. Frank at the above address. Copies of the final statement also are available for public review in the DOE Freedom of Information Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, and in ERA's Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

On November 5, 1978, DOE issued a Notice of Availability of a Draft Environmental Impact Statement and Public Hearing (43 FR 52515, November 13, 1978). On January 2, 1979, DOE issued a Notice of Draft Environmental Impact Statement Public Hearings and Extension of Comment Period (44 FR 2004, January 9, 1979). Both of these notices referred to the same Programmatic EIS, which analyzes the environmental impacts associated with the regulations for implementing the Powerplant and Industrial Fuel Use Act of 1978 (FUA). DOE held public hearings on this draft EIS on January 29-30 and February 1-2, 1979, and received written comments thereafter. In accordance with the provisions of the National Environmental Policy Act, DOE has considered all of the comments received on the draft EIS, and has prepared a final EIS which addresses these comments.

Issued in Washington, D.C., April 2, 1979.

Barton R. House,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-10776 Filed 4-5-79; 8:45 am]
BILLING CODE 6450-01-M

Department of Energy

Federal Energy Regulatory Commission

Alabama-Tennesee Natural Gas Co., Proposed PGA Rate Adjustment

Aril 3, 1979

Take notice that on March 23, 1979, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35630, tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet:

Thritieth Revised Sheet No. 3-A
Superseding Substitute Twenty-Ninth Revised Sheet No. 3-A

This revised tariff sheet is proposed to become effective as of April 1, 1979.

Alabama-Tennessee states that the purpose of such revised tariff sheet is to reflect the effect of Tennessee Gas Pipeline Company's Substitute Twenty-Fourth Revised Sheet No. 12-A, of its FERC Gas Tariff Ninth Revised Volume No. 1, filed with the Commission on March 15, 1979 to be effective April 1, 1979.

The revised sheet to Alabama-Tennessee's tariff provides for the following rates:

Rate Schedule	Thirtieth Revised Sheet No. 3-A
G-1	
Demand	$2.69
Commodity	148.61¢
SG-1	
Commodity	168.26¢
I-1	
Commodity	157.45¢

Alabama-Tennessee states that the purpose of such revised tariff sheet is to reflect the rate increase of Tennessee Gas Pipeline Company issued March 15, 1979.

Alabama-Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected State regulatory Commissions.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before April 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP73-77 (PGA 79-2)]

[FR Doc. 79-10830 Filed 4-5-79; 8:45 am]
BILLING CODE 6450-01-M

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

April 3, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on March 20, 1979, tendered for filing Second Substitute 47th Revised Sheet No. 10 and Second Substitute 48th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that Second Substitute 47th Revised Sheet No. 10 is being filed in substitution for Substitute 47th Revised Sheet No. 10 in order to reflect lower rates from Algonquin Gas' supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), under the Commission's Opinion No. 21–A in Docket No. RP74–41 than were used in determination of the rates set forth in Substitute 47th Revised Sheet No. 10.

The proposed effective date of Second Substitute 47th Revised Sheet No. 10 is March 1, 1979.

Second Substitute 48th Revised Sheet No. 10 is being filed to reflect in the rates in 48th Revised Sheet No. 10 which was filed on March 2, 1979, proposed to be effective April 1, 1979, the effect of the revision in rates from Texas Eastern reflected in Second Substitute 47th Revised Sheet No. 10. 48th Revised Sheet No. 10 was filed to reflect the reduction in Federal Income Tax from 48% to 46%.

The proposed effective date of Second Substitute 48th Revised Sheet No. 10 is April 1, 1979.

Algonquin Gas recognizes that Texas Eastern filed its rates pursuant to Opinion No. 21–A without prejudice to the right of any other party to the proceedings in Docket No. RP74–41 to seek rehearing and/or judicial review of Opinion No. 21–A. For that reason, Algongquin Gas hereby requests that the Commission accept that tariff sheet filed by Algonquin Gas to be effective March 1, 1979, and April 1, 1979, which synchronizes its rates with the underlying rates of Texas Eastern.

Algonquin Gas states that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

April 3, 1979.

[Docket No. RP72–110 (PGA 79–1)]

[FR Doc. 79–10631 Filed 4–5–79; 8:45 am]

BILLING CODE 6450–01–M

Appalachian Exploration and Development, Inc. et al.; Petition for Declaratory Order and Filing of Revised Tariff Sheets

April 3, 1979.

Appalachian Exploration and Development, Inc., Docket Nos. CI76–590, *et al.;* Sea Robin Pipeline Co. Docket Nos. RP73–89 & RP77–6 (PGA79–1).

On February 22, 1979, Sea Robin Pipeline Company (Sea Robin) filed a petition for declaratory order pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR § 1.7). Sea Robin seeks an order granting protective relief to enable it to recover on a current basis increased purchase gas costs attributable to purchases made pursuant to the Commission's optional procedure regulations, 18 CFR § 2.75.

Sea Robin states that on December 1, 1978 the Commission issued an order in *Appalachian Exploration and Development, Inc., et al.,* Docket Nos. CI76–590, *et al.,* in which it directed certain producers to limit collection of rates under pending optional procedure certificate applications to the applicable price levels prescribed by the Natural Gas Policy Act of 1978. Sea Robin further states that in an order issued January 2, 1979 the Commission accepted Sea Robins's PGA filing subject to the elimination of certain optional procedure purchase costs in excess of NGPA maximum lawful prices. On January 15, 1979 Sea Robin filed a revised tariff sheet reflecting the elimination of such costs in the amount of $30,781,768. The Commission accepted this tariff sheet, effective January 1, 1979, on January 31, 1979.

On February 1, 1979 the Commission issued an order in Docket No. CI76–590, *et al.,* granting rehearing for purposes of further consideration. Sea Robin states that, should the Commission stay or reverse its December 1, 1978 order in Docket No. CI76–590, *et al.,* it would be in an untenable position, since it has eliminated certain optional pricing costs in compliance with a Commission directive. Sea Robin states that if the Commission re-examines its position in Docket Nos. CI76–590, *et al.,* it should also permit Sea Robin to restore optional pricing purchase costs in excess of NGPA ceilings effective January 1, 1979. In accordance with this request, Sea Robin has filed Revised Substitute Nineteenth Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff.

Sea Robin requests that, in the alternative, any order on rehearing of the December 1, 1978 order in Docket Nos. CI76–590, *et al.,* contain protective language to insure that Sea Robin is able to recover on a current basis any increased gas costs resulting from any order on rehearing. Sea Robin states that a one time surcharge would be required to permit such recovery.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. CI76–590, et al., RP73–89 and RP77–6 (PGA79–1)]

[FR Doc. 79–10632 Filed 4–5–79; 8:45 am]

BILLING CODE 6450–01–M

Bangor Hydro-Electric Co.; Order Issuing License (Major)

Issued: March 29, 1979.

On December 18, 1967 Bangor Hydro-Electric Company (Bangor) filed an application[1] under Section 4(e) of the Federal Power Act (Act) for a major license for the constructed Medway Project, FERC No. 2666.[2] The project is

[1] Supplemented on June 18, 1968, and February 17, 1972.

[2] This proceeding was commenced before the Federal Power Commission (FPC). By regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Federal Energy Regulatory Commission (FERC). In this order, the term "Commission" refers to the FPC for actions or statements that occurred before October 1, 1977; otherwise, it refers to the FERC.

located on the West Branch of the Penobscot River in the Town of Medway, Penobscot County, Maine.

Although public notice of Bangor's application inviting protests or petitions to intervene was published in a local newspaper and in the **Federal Register**, no protests or petitions to intervene were received. Several federal, state, and local agencies have commented on Bangor's license application, however. We discuss these commets below.

History and Description of the Project

The Medway Project was constructed in 1922 by the Penobscot Power Company, and was acquired by Bangor in 1931. Bangor states in its application that the project's spillway was reinforced and strengthened in 1954–55, but that no major changes have ever been made to the powerhouse or to its principal equipment.

The constructed dam is a run-of-the river project with negligible pondage. The project consists of a 20-foot high concrete gravity dam impounding a 120-acre reservoir, a powerhouse containing five generating units with a total installed capacity of 3,440 kW, and appurtenant facilities. Provision for a sixth turbine generator unit was made at the time of project construction.

Navigable Water

In our order issuing a license for Project No. 2312, we found that the stretch of the West Branch of the Penobscot where the Medway Project lies, upon which extensive logging operations have been conducted, is a navigable water of the United States. 30 F.P.C. 1465, 1466 (1963). On that basis we find that the Medway Project must be licensed, in accordance with Sections 4(e) and 23(b) of the Act.

Safety and Adequacy

Our staff has analyzed the project dam and reports that it would be safe and stable under relevant hydrostatic loading conditions. The spillway is capable of passing a flow of 46,000 cubic feet per second (cfs)—about 2.3 times the historical flow of record. The spillway could pass the probable maximum flood of about 50,000 cfs with a minor amount of overtopping of the concrete abutment. The staff advises that, even if the dam should fail, no appreciable increase in flow would occur, because the project has negligible storage. The staff's field inspection reports show the project works and equipment to be adequately maintained, and in satisfactory repair and operating condition. We conclude that the project as licensed is safe and adequate.

Recreation

The Medway Project is located on a stretch of the West Branch which for many years has had poor water quality. The water quality is currently rated as Class D, capable of transporting waste without the development of nuisance conditions. The upstream discharge of paper mill effluent is the principal source of the river's pollution.

Our staff advises that the project area would have little potential for recreational development if this stretch of the West Branch remained Class D water. Federal, state, county, and local agencies and officials each agreed that no recreational development of the area would be advisable until the water qualty improved.[3] Bangor's revised Exhibit R, which designates certain lands to be reserved for future recreational development, but which makes no special provision for the development of any facilities, is generally consistent with these comments.

Since the time of those comments, the river's water quality has indeed improved. Several pollution abatement measures have been taken, including the installation of secondary treatment facilities at the paper mills immediately upstream from the Medway project.

The Main Department of Environmental Protection has informed our staff that it expects that when analysis is completed, water samplings taken during the summer of 1978 will show that the West Branch of the Penobscot River at the site of the Medway Dam now qualifies for reclassification by the state legislature as Class C. This water quality level would be compatible with non-body-contact recreation. The Department also expects that the river will eventually qualify for reclassification as Class B2, which would be compatible with body-contact recreation.

Accordingly, in License Article 35, we are requiring Bangor to submit a revised Exhibit R within one year after the water quality of the West Branch of the Penobscot River at the project is classified Class C by the State of Maine. Because there is a reasonable probability that the West Branch's water quality will continue to improve, this revised exhibit should take into account what recreational facilities to add for the optimum recreatinal development of the project as the water quality improves further. In this evolving situation, if any recreational development supplemental to that proposed by Bangor becomes necessary, we may require Bangor to construct additional facilities, under Article 17 of this license. For the present, we will accept Bangor's Exhibit R to the extent that is shows lands reserved for future recreational development. We also note that for much of the project lands Bangor holds only flowage rights. Article 17 also reserves the right to require Bangor to obtain additional property rights in the future to accommodate public use of the project's recreational resources.

Fish and Wildlife

Bangor has not filed an Exhibit S for the Medway Project. Our staff advises, however, that standard Article 15 will adequately provide for fish and wildlife resource needs at the project at this time. On the basis of staff's recommendation and the agency comments, we conclude that an Exhibit S is not necessary now.

We caution that our decision not to require an Exhibit S now merely modifies the procedures which Bangor must follow, and does not alter the substantive requirements to which Bangor must adhere. We are aware that conditions in the West Branch are undergoing steady improvement. Should we later determine that, as a result of this improvement, additional measures are necessary or desirable to conserve and enhance the fish and wildlife resources affected by the project, we have sufficient authority under Article 15 to require Bangor to undertake those measures or to submit an Exhibit S at that time.

Other Environmental Considerations

The Medway Project was constructed more than a half century ago. The issuance of this license does not authorize any additional construction or any change in project operation. On the basis of agency comments and our staff's independent analysis, we conclude that issuance of this license is not a major federal action significantly affecting the quality of the human environment.

Comprehensive Development

Our staff has thoroughly analyzed the Medway Project in relation to other existing and planned development on the Penobsoct River. The staff reports that this project is consistent with that development and develops the available head between the upstream East Millinocket Project No. 2458 and the downstream Mattaceunk Project No.

[3] These agencies and officials included the U.S. Department of the Interior, Maine State Park & Recreation Commission, Penobscot County Court of County Commissioners, and the Medway Board of Selectmen.

2520.[4] When the Penobscot Power Company constructed the Medway Project, however, it made provision for an extra generating unit. We believe that the comprehensive development of the Penobscot River Basin requires that Bangor now study the economic feasibility of installing additional generating capacity. The escalating cost of alternative energy sources and Bangor's use of the existing generating units at an average annual plant factor of 113 percent suggest that additional capacity may well be economically justified. In Article 37, we are requiring Bangor to file a feasibility study within one year. In light of this requirement and the other conditions of this license, we conclude that the Medway Project as conditioned is best adapted to a comprehensive plan for improving and developing the Penobscot River system for beneficial public uses.

Annual Charges

The installed capacity of the Medway Project is 3,440 kW, or 4,590 horsepower. Special Article 30 establishes this as the authorized installed capacity of the project for annual charge purposes. No lands of the United States are included in the project area.

License Term

Seventeen years ago the Commission revised its policy on the appropriate license term for projects constructed before 1935 and afterwards operated in navigable waters without the required federal authorization. *Public Service Company of New Hampshire*, Project No. 2288, 27 F.P.C. 830, 834 (1962) ("*Androscoggin*"). *Androscoggin* recognized that a person who enjoyed three or more decades of unregulated operation would, if granted a full fifty year license, reap a substantial windfall from the prolonged delay in filing. He would also gain unmerited advantages over a person who had fully complied with the Act. The Commission noted that in 1943 several landmark decisions on navigability [5] put every owner of a project located on a stream capable of floating logs "on notice of the perils of further unlicensed operation." 27 F.P.C. at 833–34. Accordingly, the Commission ruled that licenses for projects of that kind constructed and operated before 1943 would normally be given termination dates of December 31, 1993—fifty years from the end of 1943.

Since *Androscoggin*, the Commission has issued more than 160 licenses which terminate on December 31, 1993. A number of additional license applications for constructed projects have been or are expected to be filed which would receive December 31, 1993 expiration dates under the *Androscoggin* formula. The great number of simultaneous relicensing and takeover proceedings which the simultaneous termination of all these licenses will produce will pose an enormous administrative burden for the Commission and its staff in the 1990's. Because our licensing authority over the Medway Project is based on the use of the West Branch of the Penobscot for transportation of logs, continued application of the *Androscoggin* doctrine here would add one more relicensing candidate to the class of '93.

While the considerations underlying the *Androscoggin* decision retain their full vitality today, continued application of the *Androscoggin* rule is no longer administratively feasible. In responsibly fulfilling our public trust, we must discharge our duties efficiently and timely. Continued application of the *Androscoggin* termination date rule will render timely and efficient hydroelectric licensing virtually impossible toward the end of the century. To alleviate the problem the Commission will face in the 1990's, while at the same time limiting as much as practicable the unmerited advantages identified in *Androscoggin*, this license and licenses for projects on navigable waters with no post-1935 construction will normally be issued for a period ending twenty years from issuance.

As in *Androscoggin*, however, this policy on termination dates "should not be viewed as a rigid formula to be followed mechanically." 27 F.P.C. at 836. Where circumstances of a particular project would render a term ending twenty years from issuance unwise or unsuitable, we will tailor the license term to those circumstances.[6]

The reason which leads us to modify the *Androscoggin* rule regarding license termination dates is not relevant for setting the effective date of a license. The license which we are tendering to Bangor has an effective date of April 1, 1962, in accordance with the policy established in *Androscoggin*.

The Commission Orders: (A) This license is issued to Bangor Hydro-Electric Company of Bangor, Maine, for a period effective April 1, 1962, and terminating twenty years from the last day of the month in which this license issues, for the continued operation and maintenance of the Medway Project No. 2666, located in Penobscot County, Maine, on the West Branch of the Penobscot River, a navigable water of the United States, subject to the terms and conditions of the federal Power Act (Act) which is incorporated by reference as part of this license, and subject to the regulations the Commission issues under the Act.

(B) The Medway Project No. 2666 consists of:

(1) All lands, to the extent of the Licensee's interest in those lands, constituting the project area and enclosed by the project boundary, the project area and boundary being shown and described by certain exhibits which form part of the application for license and are designated and described as:

Exhibit J—Sheet 1 of 2 (FERC No. 2666–1) General Map of Project area; Sheet 2 of 2 (FERC No. 2666–2) General Map of the Transmission System.

Exhibit K—Sheet 1 of 2 (FERC No. 2666–3) Detail Map of the Reservoir; Sheet 2 of 2 (FERC No. 2666–4) Detail Map of the Reservoir.

(2) Project works consisting of: (1) a 343-foot long, 20-foot high concrete gravity dam with 4-foot 10-inch high flashboards; (2) a fishway and log sluice section 28 feet long; (3) a 64-foot long 20-foot high forebay wall section with 3-foot 4-inch high flashboards; (4) an integral powerhouse and non-overflow section 170 feet long containing 5 generating units with a total installed capacity of 3,440 kW; (5) a reservoir with a surface area of 120 acres at a normal pond elevation of 259.3 feet m.s.l. which extends 1.8 miles upstream; (6) transmission facilities consisting of (a) generator leads, (b) three 2.3/46-kV transformers, and (c) 46-kV powerlines and facilities to connect the hydroelectric plant to the Medway substation; and (7) appurtenant facilities. The location, nature, and character of these project works are more specifically shown and described by the exhibits cited in subparagraph (1) and by the following exhibits that also form a part of the application for license:

Exhibit L—Sheet 1 of 3 (FERC No. 2666–5) General Plan and Dam Section; Sheet 2 of 3 (FERC No. 2666–6) Main Floor Plan; Sheet 3 of 3 (FERC No. 2666–7) Powerhouse Plan and Section.

[4] The project provides average annual generation of 34,000 MWh, utilizing a renewable resoruce that saves the equivalent of approximately 55,800 barrels of oil or 15,700 tons of coal annually.

[5] *City of Spooner, Wisconsin*, 3 F.P.C. 986 (1943); *Wisconsin Michigan Power Company*, 3 F.P.C. 449 (1943); *Wisconsin Public Service Corporation*, 3 F.P.C. 495 (1943), *aff'd*, 147 F.2d 743 (7th Cir.), *cert. denied*, 325 U.S. 880 (1945).

[6] These circumstances, for example, include projects for which the owner has been recalcitrant or untimely in filing an application, in making the application acceptable for processing, or in filing additional information requested.

Exhibit M—Consisting of seven pages showing "General Description and Specifications of Equipment and Appurtenances."

(3) All of the structures, fixtures, equipment, facilities or property which may be employed in connection with the project, including portable property, located on or off the project area, as approved by the Commission, and all riparian or other rights which are necessary or appropriate for the maintenance or operation of the project.

(C) Exhibits J, L, and M designated and described in ordering paragraph (B) above are approved and made a part of the license. Exhibit K designated and described in ordering paragraph (B) above is approved only to the extent that it shows the general location, description, and nature of the project.

(D) The Exhibit R drawing entitled "Recreation Plan, Medway Hydro Project" (FERC No. 2666–9) filed on July 3, 1968, which supersedes the original Exhibit R drawing (FERC No. 2666–8) filed on December 18, 1967, is approved only to the extent that it shows project lands reserved for future recreational development.

(E) This license is also subject to Articles 1 through 28 set forth in Form L–3 (Revised October 1975) entitled, "Terms and Conditions for Constructed Major Project Affecting Navigable Waters of the United States", 54 F.P.C. ———, attached to and made a part of this license. This license is also subject to these additional articles:

Article 29. Pursuant to section 10(d) of the Act, after the first 20 years of operation of the project under the license, the rate as computed below shall be the specified rate of return on the net investment in the project for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. One-half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of the specified rate of return per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year; provided, that, if and to the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year or years after the first 20 years of operation under the license, the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any, thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained until further order of the Commission.

The annual specified reasonable rate of return shall be the sum of the weighted cost components of long-term debt, preferred stock, and the cost of common equity, as defined in this paragraph. The weighted cost component for each element of the reasonable rate of return is the product of its capital ratios and cost rate. The current capital ratios for each of the above elements of the rate of return shall be calculated annually based on an average of 13 monthly balances of amounts properly includable in the Licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rates for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the treasury Department's 10-year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 30. The Licensee shall pay the United States for the cost of administration of Part I of the Act a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations in effect from time to time. The authorized installed capacity for that purpose is 4,590 horsepower.

Article 31. Prior to the commencement of any construction or development of any project works or other facilities at the project, the Licensee shall consult and cooperate with the Maine State Historic Preservation Officer (SHPO) to determine the need for, and extent of, any archeological or historic resource surveys and any mitigative measures that may be necessary. The Licensee shall provide funds in a reasonable amount for such activity. If any previously unrecorded archeological or historic sites are discovered during the course of construction, construction activity in the vicinity shall be halted, a qualified archeologist shall be consulted to determine the significance of the sites, and the Licensee shall consult with the SHPO to develop a mitigation plan for the protection of significant archeological or historic resources. If the Licensee and the SHPO cannot agree on the amount of money to be expended on archeological or historic work related to the project, the Commission reserves the right to require the Licensee to conduct, at its own expense, any such work found necessary.

Article 32. The Licensee shall, to the satisfaction of the Commission's authorized representative, install and operate any signs, lights, sirens, or other safety devices that may reasonably be needed to warn the public of fluctuations in flow from the project and to protect the public in its recreational use of project lands and waters.

Article 33. Licensee shall implement, and modify when appropriate, the emergency action plan on file with the Commission designed to provide an early warning to upstream and downstream inhabitants and property owners if there should be an impending or actual sudden release of water caused by an accident to, or failure of, project works. That plan shall include: instructions to be provided on a continuing basis to operators and attendants for actions they are to take in the event of an emergency; detailed and documented plans for notifying law enforcement agents, appropriate federal, state, and local agencies, operators of water-related facilities, and those residents and owners of properties that could be endangered; actions that would be taken to reduce the inflow to the reservoir, if possible, by limiting the outflow from upstream dams or control structures; and actions to reduce downstream flows by controlling the outflow from dams located on tributaries to the stream on which the project is located. Licensee shall also maintain on file with the Commission a summary of the study used as a basis for determining the areas that may be affected by an emergency, including criteria and assumptions used. Licensee shall monitor any changes in upstream or downstream conditions which may influence possible flows or affect areas susceptible to damage, and shall promptly make and file with the Commission appropriate changes in the emergency action plan. The Commission reserves the right to require modifications to the plan.

Article 34. In the interests of protecting and enhancing the scenic, recreational, and other environmental values of the project, Licensee: (1) shall supervise and control the use and occupancy of project lands and waters; (2) shall prohibit, without further Commission approval, the further use and occupancy of project lands and waters other than as specifically authorized by this license; (3) may authorize, without further Commission approval, the use and occupancy of project lands and waters for landscape plantings and the construction,

operation, and maintenance of access roads, power and telephone distribution lines, piers, landings, boat docks, or similar structures and facilities, and embankments, bulkheads, retaining walls, or other similar structures for erosion control to protect the existing shoreline; (4) shall require, where feasible and desirable, the multiple use and occupancy of facilities for access to project lands and waters; and (5) shall ensure to the satisfaction of the Commission's authorized representative that all authorized uses and occupancies of project lands and waters (a) are consistent with shoreline aesthetic values, (b) are maintained in a good state of repair, and (c) comply with state and local health and safety regulations. Under item (3) of this article, Licensee may, among other things, institute a program for issuing permits to a reasonable extent for the authorized types of use and occupancy of project lands and waters. Under appropriate circumstances, permits may be subject to the payment of a fee in a reasonable amount.

Before authorizing the construction of bulkheads or retaining walls, Licensee shall: (a) inspect the site of the proposed construction, (b) determine that the proposed construction is needed, and (c) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site. If an authorized use of occupancy fails to comply with the conditions imposed by the Licensee for the protection of the environmental quality of project lands and waters, the Licensee shall take appropriate action to correct the violations, including, if necessary, cancellation of the authorization and removal of any non-complying structures or facilities. The Licensee's consent to an authorized use or occupancy of project lands and waters shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain any associated facilities.

Article 35. Licensee shall consult and cooperate with appropriate federal, state, and local agencies in the development of the project recreational resources to provide for optimum public use. Within one year after the water quality of the West Branch of the Penobscot River at the project is classified "Class C" by the State of Maine, the licensee shall file for Commission approval a revised Exhibit R conforming to Section 4.41 of the Commission's regulations.

Article 36. Within six months from the date of this order, the Licensee shall file for approval by the Director, Office of Electric Power Regulation, a revised Exhibit K (Sheets 1 and 2) correcting the failure to delineate clearly a continuous project boundary in the vicinity of the project tailwater.

Article 37. Within one year from the date this license issues, the Licensee shall prepare and file with the Commission a feasibility analysis of installing additional generating capacity at the Medway Project, taking into account, to the extent reasonable, all benefits that would be derived from the installation, including any contribution to the conservation of non-renewable natural resources.

(F) Within 90 days from the date of acceptance of this license, the Licensee shall file a statement under oath showing the gross amount of power generation for the project in kilowatt-hours for each calendar year commencing April 1, 1962, in accordance with the provisions of section 11.20(a)(4) of the Commission's regulations.

(G) This order shall become final 30 days from the date it is issued unless an application for rehearing is filed as provided in section 313(a) of the Act. Failure of the Licensee to file such an application shall constitute acceptance of the license for Project No. 2666. In acknowledgement of acceptance of the license and its terms and conditions, the license shall be signed for the Licensee and returned to the Commission within 60 days from the date this order is issued.

By the Commission.

Kenneth F. Plumb,
Secretary.

Federal Energy Regulatory Commission

Terms and Conditions of License for Constructed Major Project Affecting Navigable Waters of the United States

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: *Provided, however,* That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, of the Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall

acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: *Provided:* That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 9. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

Article 13. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. The Licensee shall, for the conservation and development of fish and

wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: *Provided,* That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 19. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 20. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 21. Material may be dredged or excavated from, or placed as fill in, project lands and/or whaters only in the prosecution of work specifically authorized under the license; in the maintenance of the project; or after obtaining Commission approval, as appropriate. Any such material shall be removed and/or deposited in such manner as to reasonably preserve the environmental values of the project and so as not to interfere with traffic on land or water. Dredging and filling in a navigable water of the United States shall also be done to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

Article 22. Whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with the project, the Licensee shall convey to the United States, free of cost, such of its lands and rights-of-way and such rights of passage through its dams or other structures, and shall permit such control of its pools, as may be required to complete and maintain such navigation facilities.

Article 23. The operation of any navigation facilities which may be constructed as a part of, or in connection with, any dam or diversion structure constituting a part of the project works shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army.

Article 24. The Licensee shall furnish power free of cost to the United States for the operation and maintenance of navigation facilities in the vicinity of the project at the voltage and frequency required by such facilities and at a point adjacent thereto, whether said facilities are constructed by the Licensee or by the United States.

Article 25. The Licensee shall construct, maintain, and operate at its own expense such lights and other signals for the protection of navigation as may be directed by the Secretary of the Department in which the Coast Guard is operating.

Article 26. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. the Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 27. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 28. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

In Testimony of its acknowledgement of acceptance of all provisions, terms and conditions of the foregoing order, Bangor Hydro-Electric Company this ——day of ————, 197—, has caused its corporate name to be signed below by ————, its Chairman of the Board of Directors and its Corporate Seal to be affixed below and attested by ————, its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the —— day of ————, 197—, a certified copy of the record of which is attached.

By ————

Chairman of the Board of Directors.

Attest:

————

Secretary

(Executed in Quadruplicate)

[Project No. 2666]

[FR Doc. 79-10633 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

California Department of Water Resources; Application for Transmission Line License

March 28, 1979.

Take notice that an application for a transmission line license—Project No.

2876—was filed on October 19, 1978, by the California Department of Water Resources (Applicant). The proposed transmission line would be located in Fresno County, California. Correspondence concerning the application should be sent to: Ronald B. Robie, Director, California Department of Water Resources, P.O. Box 388, Sacramento, California 95802.

Applicant proposes to construct a 0.8-mile-long, 230-kV, three-phase single-circuit transmission line, including three towers, from the proposed Pine Flat Powerhouse Switchyard to be constructed by Kings River Conservation District (Applicant for the Pine Flat Project No. 2741). The proposed transmission line would transmit power from the Pine Flat Powerhouse to Pacific Gas and Electric Company's (PG&E) existing Balch #2-McCall 230-kV transmission line. The transmission line would be a primary line as defined by Section 3(11) of the Federal Power Act, (16 U.S.C. 796(11)), and would be licensed as a project work under Section 4(e) of that Act, 16 U.S.C. 797(e). The three towers proposed are self-supporting square base lattice steel structures, varying in heights from approximately 79 to 112 feet. The required right-of-way would be 120 feet in width, and would occupy a total of 12.33 acres of land. The closest existing transmission right-of-way is PG&E's transmission line corridor south of the U.S. Corps of Engineers' Pine Flat Dam.

The energy transmitted over the transmission lines would be used to operate the pumping plants of the state water project.

Anyone desiring to be heard or to make any protest about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commision's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before May 28, 1979. The Commission's address is: 825 N. Captol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Project No. 2876]

[FR Doc. 79-10629 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Order Accepting for Filing and Suspending Revised Rates and PGA Rate Increase, Granting Wavier, Prescribing Conditions and Granting Interventions

March 28, 1979.

On February 28, 1979 Colorado Interstate Gas Company (CIG) filed revised tariff sheets [1] to be effective April 1, 1979, containing its suspended rates in Docket No. RP79-1 [2] as adjusted to reflect (1) a reduction of $1,629,122 due to the elimination of all costs associated with facilities not certificated and placed in service by April 1, 1979, (2) a reduction of $1,883,633 due to a reduction in the maximum federal corporate tax rate from 48% to 46%, (3) a reduction of $27,098 to reflect the actual balance of advance payments as of March 31, 1979, and (4) an increase of $55.3 million to reflect a proposed PGA increase of 24.17¢ per Mcf. On February 27, 1978, one day earlier, CIG filed revised tariff sheets,[3] also proposed to be effective April 1, 1979, which reflect CIG's RP79-1 rates with all of the above adjustments, except the proposed PGA adjustment. Certain of the revised tariff sheets,[4] in the filing of February 27, related to Volume No. 2 transportation rate schedules and are not subject to the PGA adjustment.

The proposed PGA increase consists of $12.9 million (10.81¢ per Mcf) in deferred purchased gas costs and $42.2 million in current gas costs. The $12.9 million in deferred purchased gas costs represents CIG's estimate of increased purchased gas costs during the four months ended March 31, 1979, resulting from the NGPA and is reflected as a special one time surcharge. The $42.4 million increase in current gas costs includes a $3.8 million increase from Northwest Pipeline Corporation (Northwest) [5] and a $38.6 million increase from its producer suppliers attributable solely to the NGPA.

Public notice of the February 27th filing was issued on March 6, 1979, providing for protests or petitions to intervene to be filed on or before March 14, 1979. Public notice of the February 28th filing was issued on March 9, 1979, providing for protests or petitions to intervene to be filed on or before March 20, 1979. On March 14, 1979, Public Service Company of Colorado (PSCC), Western Slope Gas Company (WSGC) and Cheyenne Light, Fuel and Power Company (CLFPC), which are affiliated companies, filed a joint petition to intervene in this proceeding. They state that they are uncertain if the purchased gas costs upon which CIG based its increased rates in the subject filing are in accordance with the NGPA and the Rules and Regulations of the Commission and, therefore, they request a one day suspension of the filing.

The proposed PGA adjustment is inconsistent with CIG's PGA clause, which does not provide for the adjustment of producer costs or the surcharge at any date other than October 1 of each year. However, deferring CIG's recovery of all increased producer costs under the NGPA until October 1, 1979, could result in large carrying charges and possible funding problems for CIG. We shall treat this filing as CIG's one time PGA adjustment to reflect NGPA costs pursuant to Section 154.38(d)(4)(x) of the Regulations.[6] Due to these circumstances and the fact that the Commission's Regulations permit two PGA rate adjustments per year, the Commission shall grant waiver of CIG's PGA clause and of Sections 154.38(d)(4)(iv)(*a*) and 154.38(d)(4)(x) of the Commission's Rules and Regulations to permit filing of the proposed PGA adjustment at this time.

The rates reflected in the proposed tariff sheets are based on underlying rates in Docket Nos. RP72-122 (PGA78-3), RP78-51 and RP79-1. Since a number of issues remain unresolved in the proceedings in those dockets, acceptance of the subject filing shall be suspended to be effective April 1, 1979, subject to the final disposition of those

[1] Second Substitute Third Revised Sheet Nos. 7 and 8 to CIG's FERC Gas Tariff, Original Volume No. 1.

[2] By Commission Order issued October 27, 1978, CIG's proposed rates in Docket No. RP79-1 were suspended to become effective subject to refund on April 1, 1979, and subject to CIG filing revised rates which (1) eliminate all costs associated with facilities not certificated and placed in service by April 1, 1979 and (2) reflect the actual balances of advance payments in Account 166 as of march 31, 1979.

[3] First Substitute Third Revised Sheet Nos. 7 and 8 to CIG's FERC Gas Tariff, Original Volume No. 1. First Revised Sheet Nos. 187, 251 and 330 to FERC Gas Tariff, Original Volume No. 2.

[4] First Revised Sheet Nos. 187, 251, and 330 to CIG's FERC Gas Tariff, Original Volume No. 2.

[5] Northwest's increase file in Docket No. RP72-154 (PGA79-1) also reflects costs from producer supplies attributable to the NGPA.

[6] See Order No. 18 issued December 1, 1978, in Docket No. RM79-7. This action is appropriate because of CIG's once a year adjustment date to reflect producer supplier rate changes.

proceedings, and subject to the further conditions set forth below.

The acceptance of CIG's filing should also be subject to revision to reflect the elimination of costs from producer suppliers not actually authorized under the NGPA. The Commission has usually accepted such filings subject to the condition that the pipelines refile, within 15 days of the date of the order, rates which reflect the elimination of costs from suppliers which the suppliers are not authorized to charge on the effective date of the rate change pursuant to the NGPA, the Natural Gas Act and the Regulations thereunder. CIG requests modification of this procedure to permit CIG's proposed rates to become effective April 1, 1979, subject to refund and subject to the condition that CIG refile, within 30 days of the Commission's order, rates to be effective April 1, 1979, which reflect any elimination of rates which the suppliers were not authorized to charge on or before that date. Upon acceptance by the Commission of CIG's refiled rates, CIG would refund to its customers the difference between the suspended rates and the refiled rates. CIG states that the reason for the requested modification is that when a retroactive filing condition is imposed, the Colorado Public Utility Commission (CPUC) will only allow CIG's customers to flow through CIG's PGA increase prospectively from the date an order is issued by this Commission accepting the refiled rates.

With the exception of a 15 day extension in the refiling of its rates, CIG's proposed method of acceptance accomplishes the same objective as previous Commission actions regarding other pipeline companies' PGA filings which included NGPA producer costs. Accordingly, the Commission shall waive the notice requirements, accept for filing Second Substitute Third Revised Sheet Nos. 7 and 8 and First Revised Sheet Nos. 187, 251 and 330, and suspend such sheets to be effective April 1, 1979, subject to refund and subject to the final disposition of the proceedings in Docket Nos. RP72-122 (PGA78-3), RP78-51, and RP79-1. Within 30 days of the issuance of this order, CIG shall be required to file revised rates to be effective April 1, 1979, which reflect the elimination of costs from producer suppliers which those suppliers are not authorized to charge CIG on or before April 1, 1979, pursuant to the Natural Gas Policy Act of 1978, the Natural Gas Act and the Regulations thereunder and which reflect the proper April 1st Northwest rates. As a part of this revised filing, CIG shall be required to provide the supporting data outlined in Appendix A to this order. Upon Commission acceptance of the refiled rates, CIG shall be required to refund the difference between the suspended April 1, 1979, rates and the refiled April 1, 1979, rates to its customers in the form of a cash refund concurrent with CIG's refund in Docket Nos. RP77-105, *et al.*[7] The Commission shall grant waiver of CIG's tariff provisions and the Commission's Rules and Regulations concerning PGA adjustments to the extent required herein. The action taken in this order renders CIG's First Substitute Third Revised Sheet Nos. 7 and 8 moot and of no force and effect. Finally, the Commission shall grant intervention to PSSC, WSGC and CLGPC.

The Commission orders:

(A) CIG's proposed Second Substitute Third Revised Sheet Nos. 7 and 8 to CIG's FERC Gas Tariff, Original Volume No. 1 and First Revised Sheet Nos. 187, 251, and 330 to CIG's FERC Gas Tariff, Original Volume No. 2 are accepted for filing, suspended, and waiver of notice requirements is granted such that the filing shall become effective on April 1, 1979, subject to refund and subject to the final disposition of Docket Nos. RP72-122 (PGA78-3), RP78-51, and RP79-1.

(B) Within 30 days of the issuance of this order, CIG shall be required to file revised rates to be effective April 1, 1979, which reflect the elimination of costs from producer suppliers which those suppliers are not authorized to charge CIG on or before April 1, 1979, pursuant to the Natural Gas Policy Act of 1978, the Natural Gas Act and the Regulations thereunder and which reflect the proper April 1st rates for Northwest Pipeline Corporation. This filing shall be accompanied by the data prescribed in Appendix A to this order.

(C) Upon Commission acceptance of the refiled rates, CIG shall be required to refund the difference between the suspended April 1, 1979, rates and the refiled April 1, 1979, rates to its customers in the form of a cash refund concurrent with CIG's refund in Docket Nos. RP77-105, *et al.*

(D) Waiver of Sections 154.38(d)(4)(iv)(*a*) and 154.38(d)(4)(x) of the Commission's Rules and Regulations and Section 21 of CIG's FERC Gas Tariff, Original Volume No. 1 is granted to the extent required by Ordering Paragraph (A) above.

(E) CIG's proposed First Substitute Third Revised Sheet Nos. 7 and 8 to CIG's FERC Gas Tariff, Original Volume No. 1 are hereby rendered moot and of no force and effect.

(F) Public Service Company of Colorado, Western Slope Gas Company and Cheyenne Light, Fuel and Power Company are permitted to intervene in the captioned proceeding subject to the Commission's rules and regulations; *provided, however,* that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission. Commissioner Holden voted present.

Kenneth F. Plumb,
Secretary.

Appendix A

The revised filing should clearly indicate the adjustments to the original submittal and for those sources of supply covered by maximum lawful prices prescribed under Sections 102, 103, 107 and 108 of NGPA and included in the revised rates, the following information should be provided for both the current adjustment and for amounts to be recouped through the surcharge:

(1) Identification of each source of supply, including the well indentification number or other information sufficient to identify the well and the contract date or rate schedule number where the gas was committed or dedicated to interstate commerce on November 8, 1978;

(2) Where multiple wells are metered through a common delivery point or where production from multiple wells is sold under single contract, identify each well where the gas is priced as new natural gas and certain OCS natural gas, natural gas from onshore production wells, high-cost natural gas or stripper well natural gas;

(3) Identify each source of supply being priced under the Commission's transitional rule and include statement, under oath, that to the best of pipeline purchaser's knowledge the filing requirements for collection of the price have been met;

(4) Identify each source of supply where a maximum lawful price is being paid pending determination of eligibility by the jurisdictional agency and provide date of receipt of producer filing under the interim collection procedure;

(5) Identify each source of supply where a jurisdictional agency determination has been made and provide date of receipt of notice from producer of election to collect the applicable price; and

(6) Describe basis for payment of the above prices and show for each source of supply whether payment is in response to area rate clause, clause related to Congressional action, contract amendment or other (explain).

For those prices escalated under Sections 104 and 106(a) of NGPA and included in the

[7] The Commission issued an order March 16, 1979, approving settlement of Docket Nos. RP77-105, *et al.* The order required CIG to file revised rates and make refunds within 45 days.

revised rates, the pipeline should provide explanation for the payment of these escalated prices. Where payment is in response to area rate clauses, clauses related to Congressional action, contract amendments or other agreements the explanation should so indicated.

[Docket Nos. FP72-122 (PGA79-1) and RP79-1]

[FR Doc. 79-10640 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Consolidated Gas Supply Corp.; Amendment to Petition

March 28, 1979.

Take notice that on March 15, 1979, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP73-288 an amendment to its petition to amend the Commission's order issued in said docket on May 9, 1974, pursuant to Section 7(c) of the Natural Gas Act, so as to delete entirely from the certificate authorization the additional 12,000 compressor horsepower planned to be installed at Lightburn Compressor Station, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.[1]

Consolidated states that on December 19, 1978, it specifically proposed to defer until December 31, 1984, the installation of 12,000 additional compressor horsepower at its Lightburn Compressor Station, and the drilling and completion of four new storage wells in Lost Creek Storage Pool. It is stated also that Consolidated proposed to defer the date by which four existing wells were to be reconditioned, due to delays caused largely by unanticipated title problems.

Consolidated requests the Commission to delete entirely from the certificate authorization previously issued, the additional 12,000 compressor horsepower. Consolidated states that the December 19, 1978, petition indicated that changing operating conditions on its system made it unlikely that Consolidated would soon require the full storage deliverability which the additional compressor facilities at Lightburn Station were designed to achieve. Consolidated asserts that it now appears that Consolidated's need for these additional compressor facilities is so remote that authorization for the construction and operation of these facilities should be deleted from the certificate authorization issued herein.

Consolidated states that it plans to recondition the three remaining existing wells and to drill one of the four remaining new storage wells by December 31, 1980. Consolidated further states that it proposes to delete the other three storage wells from the certificate authorizations. It is stated that the well to be drilled will be located on a tract on which Consolidated's right to operate the lease acreage for gas storage purposes expires on December 31, 1980, unless by that date Consolidated has drilled a storage well on the premises.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 19, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[Docket No. CP73-288]

[FR Doc. 79-10628 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Consolidated Gas Supply Corp.; Extension of Time

March 26, 1979.

On March 19, 1979, Consolidated Gas Supply Corporation filed a motion to defer the supplementary briefs due pursuant to Commission order issued February 23, 1979. The motion states that Consolidated expects that a settlement agreement will be finalized soon which will fully resolve the issues in this proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 25, 1979 for the filing of supplementary briefs and to and including June 11, 1979, for the filing of reply briefs.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP73-107, RP74-60, RP75-91 (Appalachian Production)]

[FR Doc. 79-10627 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

The Connecticut Light and Power Co.; Purchase Agreement

April 3, 1979.

Take notice that on March 30, 1979, The Connecticut Light and Power Company (CL&P), tendered for filing a proposed Purchase Agreement with Respect to Various Gas Turbine Units dated August 15, 1977 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO), and (2) Central Vermont Public Service Corporation (CVPSC).

CL&P states that the Purchase Agreement provides for a sale to CVPSC of a specified percentage of capacity and energy from twelve gas turbine generating units during the period from May 1, 1979 to October 31, 1985, together with related transmission service.

CL&P requests that the Commission, pursuant to Section 35.11 of its regulations, permit the rate schedule filed to become effective on May 1, 1979.

CL&P states that the capacity charge for the proposed service was developed on a cost-of-service basis, the monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which CVPSC is entitled to receive, reduced to give due recognition of the payments made by CVPSC for transmission services on intervening systems, and the variable maintenance charges were derived from historical costs.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts, Vermont Electric Power Company, Rutland, Vermont, and Central Vermont Public Service Corporation, Rutland, Vermont.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

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 Capital Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such

petitions or protests should be filed on or before April 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene.

Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-280]

[FR Doc. 79-10634 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Consolidated Gas Supply Corp.; Order Granting Rehearing for Purposes of Further Consideration

March 29, 1979.

On February 27, 1979 Consolidated Gas Supply Corporation (Consolidated) filed an application for rehearing and reconsideration of the Commission's order issued on January 30, 1979, to the extent that such order rejected Tenth Revised Sheet No. 16 to Consolidated's FERC Gas Tariff, Third Revised Volume No. 1.

In order to afford additional time for consideration of the issues raised in the application for rehearing it is appropriate and proper in the administration of the Natural Gas Act and in the public interest to grant rehearing of the order of January 30, 1979 to the extent requested. This action does not consititute a grant or denial of the application on its merits in whole or in part. As provided in Section 1.34(d) of the Commission's Rules of Practice and Procedure, no answers to the application for rehearing will be entertained by the Commission since this order does not grant rehearing on any substantive issues.

The Commission Orders:

(A) Rehearing of the order issued January 30, 1979 is hereby granted for the limited purpose of further consideration.

(B) As provided in § 1.34(d) of the Commission's Rules of Practice and Procedure, no answers to the application for rehearing will be entertained by the Commission since this order does not grant rehearing upon any substantive issues.

By the Commission.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP79-22 and RP78-52]

[FR Doc. 79-10628 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Duke Power Co., Supplement to Electric Power Contract

April 3, 1979.

Take notice that Duke Power Company (Duke Power) tendered for filing on March 30, 1979 a supplement to the Company's Electric Power Contract with the City of Newberry. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 268.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: Delivery Point No. 3 from 8,000 KW to 12,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of June 19, 1979.

According to Duke Power copies of this filling were mailed to the City of Newberry and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before April 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-278]

[FR Doc. 79-10635 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Eastern Shore Natural Gas Co.; Adjustment to Rates and Charges

March 30, 1979.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on March 26, 1979, tendered for filing the following revised tariff sheets:

To Be Effective March 1, 1979.

Substitute Tenth Revised Sheets No. 5 and No. 6.

Superseding Ninth Revised Sheets No. 5 and No. 6.

Substitute Tenth Revised Sheets No. 10, No. 11 and No. 12.

The revised tariff sheets listed above provide:

1. Tracking increase of a similar filing by Eastern Shore's supplier, Transcontinental Gas Pipe Line Corporation (Transco) on March 15, 1979 of $.211 per dekatherm. (RP72-134)

2. An increase of $.0343 per dekatherm to reflect curtailment credits. (RP75-46)

3. A decrease of $.0143 per dekatherm reflecting the amount in Eastern Shore's Account 191 from revenues received for the transportation of natural gas pursuant to Order No. 533 (RP77-17) and the cost of gas related to gas purchased purchased from Dover Exploration Company which is in excess of the commodity rate of Transco.

Copies of this filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP75-46, RP77-17, RP72-134]

[FR Doc. 79-10636 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

El Paso Natural Gas Co., Tariff Filing

April 3, 1979.

Take notice that on March 26, 1979, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, Twelfth Revised Sheet No. 1-D.1 to its FERC Gas Tariff, Third

Revised Volume No. 2. El Paso states that said tariff sheet contains a Statement of Rates applicable to special Rate Schedules F-1, F-2 and F-3[1] contained in said Volume No. 2 Tariff and, when accepted for filing and permitted to become effective, will reflect, among other things, the rates under special Rate Schedule F-2, filed by El Paso on December 28, 1978.

El Paso states that on December 28, 1978, it filed a notice of rate change under special Rate Schedule F-2 in order to increase the rates charged thereunder up to the maximum lawful prices permitted under Section 104(b)(1)(A) of the Natural Gas Policy Act of 1978 ("NGPA"), including periodic escalations permitted thereunder. Said notice of change was accompanied by an Affidavit with an Exhibit A, in the form and content specified in Section 154.94(h) of the Commission's Regulations Under the Natural Gas Act, as amended by Order No. 15 issued November 17, 1978, at Docket No., RM79-4, which identified the NGPA's Section 104 maximum lawful prices to be charged by El Paso under Rate Schedule F-2, commencing December 1, 1978. El Paso, however, did not include a revised Statement of Rates tariff sheet as a part of its December 28, 1978, filing reflecting the changes in rates under special Rate Schedule F-2 proposed therein. Therefore, El Paso tendered the subject Twelfth Revised Sheet No. 1-D.1 to its Volume No. 2 Tariff which reflects the maximum lawful rates under the NGPA, as of December 1, 1978, which rates are being collected by El Paso under special Rate Schedule F-2 in accordance with said December 28, 1978, notice of rate change.

El Paso states that the rates reflected on the tendered Statement of Rates tariff sheet applicable to special Rate Schedule F-2 are those authorized to be collected under the NGPA commencing on December 1, 1978. Therefore, El Paso has requested that the Commission grant all waivers of its rules and regulations as may be deemed necessary to permit the tendered tariff sheet to become effective on December 1, 1978.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before April 18, 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 any 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-56]

[FR Doc. 79-10637 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Special Rate Schedules F-1, F-2 and F-3 provide for the sale and delivery of natural gas by El Paso, at the wellhead, to Michigan Wisconsin Pipe Line Company ("Michigan Wisconsin") in Dewey County, Oklahoma. The sales rates thereunder are provided by contract and not subject to El Paso's purchased gas cost adjustment provision. Certificate authorization for services rendered under said rate schedules was granted by Federal Power Commission order issued October 15, 1975, at Docket No. CP75-290.

Florida Gas Transmission Co. et al.; Application

April 2, 1979.

Take notice that on March 15, 1979, Florida Gas Transmission Company (FGT), 1560 Orange Avenue, Winter Park, Florida 32790, South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792, and Southern Natural Gas Company (SNG), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-222, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain minor pipeline and appurtenant facilities which would be utilized to render emergency natural gas service to the City of Tallahassee, Florida (Tallahassee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT seeks authorization to construct a short length of pipeline and appurtenant facilities thereto in order to establish an emergency interconnection between FGT's interstate pipeline system and Tallahassee's distribution system. FGT states that pursuant to the agreement among the Applicants, it would own, construct, and operate the facilities necessary to make the interconnection. It is stated that the proposed service would be rendered only when South Georgia is confronted with an emergency situation which would threaten deliveries to its residential, small commercial, and human need type customers such as hospitals, nursing homes and schools. It is stated further that the proposed service would be rendered only if FGT determines that it can make the requested deliveries without impairing its ability to fulfill its service obligations to its customers. Applicants assert that pursuant to the agreement, FGT would not be required to deliver more than 6,000 Mcf of gas to Tallahassee in any given 24-hour period.

Applicants state that FGT would be repaid equivalent Btus to those delivered to South Georgia by SNG at FGT's and SNG's existing point of interconnection at Franklinton, Washington Parish, Louisiana. It is stated that SNG would then reduce deliveries to South Georgia at the existing point of interconnection between their respective systems in Lee County, Alabama in order to balance deliveries. The agreement provides that any imbalance in deliveries would be balanced within thirty days after the end of the month in which emergency deliveries have been made, it is stated.

Applicants state that the agreement is for a primary term of ten years and from year-to-year thereafter until terminated by written notice given at least ninety days prior to the end of the primary term or any yearly extension thereof.

It is asserted that the estimated cost of the facilities needed to render the proposed service is $13,800 which is to be financed out of internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 25, 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 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 Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-222]

[FR Doc. 79-10638 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Indiana & Michigan Electric Co. et al., Filing

March 26, 1979.

Take notice that Indiana & Michigan Electric Company and Illinois Power Company (the Companies) have on March 13, 1979, tendered for filing a Notice of Termination of Supplement No. 6 to Indiana & Michigan Electric Company Rate Schedule FERC No. 23; and Supplement No. 5 to Illinois Power Company Rate Schedule FERC No. 9, Service Schedule H-Fuel Conservation Power and Energy.

According to the Companies the agreement between Indiana & Michigan Electric Company and Illinois Power Company does not provide for any service under the Schedule after December 31, 1974; therefore, the Companies have requested that the Commission make the Notice of Termination effective any time after that date as provided in 18 CFR 35.15.

The Schedules involved provide only for service between the two Companies who have jointly filed, according to the Companies.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests and should be filed on or before April 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-248]

[FR Doc. 79-10646 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Iowa-Illinois Gas & Electric Co.; Filing of Interchange Amendment

April 3, 1979.

Take notice that Iowa-Illinois Gas and Electric Company (Company) on March 29, 1979, tendered for filing a First Amendment dated March 23, 1979, to an Interchange Agreement with Eastern Iowa Light and Power Cooperative (Cooperative).

Company states the Amendment deletes several service schedules as duplicative of Mid-Continent Area Power Pool (MAPP) schedules since the Company has been, and Cooperative has become, a signatory to the MAPP Agreement, and clarifies the remaining schedules of interconnection points and assoicated metering to reflect current circumstances on the systems of the parties. Company states that no new or modified jurisdictional facilities, are proposed or necessary to effectuate the Amendment, which, nevertheless, preserves the format of the Agreement for future additional use as the parties may agree. An effective date of June 1, 1979, is proposed.

Company states copies of the filing have been mailed to Cooperative, the Iowa State Commerce Commission, and the Illinois Commerce Commission.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 24, 1979. Protests will be considered by the Commission in determining the appropriate action be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-275]

[FR Doc. 79-10639 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Michigan Wisconsin Pipe Line Co.; Petition for Issuance of an Order, April 3, 1979

Take notice that on February 28, 1979, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed a Petition for Issuance of an Order pursuant to Section 16 of the Natural Gas Act as amended and Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR § 1.7) thereunder, to authorize it to continue rate base treatment of certain advance payments which it made to various producers during 1973 and 1974, all as more fully set forth in the petition which is on file with the Commission and available for public inspection.

The petition indicates that Michigan Wisconsin advanced an aggregate of $25,453,290 to various producers to obtain the dedication of gas reserves underlying High Island Area Blocks A-312, A-325, A-351, A-368, A-555, A-563, and A-564, all in offshore Texas. The petition further indicates that commencement of production for the aforementioned blocks has been delayed beyond the expiration of a five year period, and that absent the order requested by the instant petition, Michigan Wisconsin will be required to transfer the advances from Account No. 166 and cease rate base treatment thereof.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 10, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-36]

[FR Doc. 79-10640 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Oil Pipeline Matters; Designating New Docket Prefixes

April 2, 1979.

Take notice that jurisdiction over oil pipelines, as it relates to the establishment of rates or charges for the transportation of oil by pipeline or to the establishment of valuations for pipelines was transferred from the Interstate Commerce Commission (ICC) to the Federal Energy Regulatory Commission (FERC), pursuant to Sections 306 and 402 of the Department of Energy Organization Act (DOE Act), 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009, 42 FR 46267 (September 13, 1977). Section 17(2) of the Interstate Commerce Act authorizes the FERC to delegate any of its work, business, or functions to a Board and by Order No. 3, issued February 10, 1978, the Oil Pipeline Board (OPB) was established and in an administrative order issued February 23, 1978, members of the Oil Pipeline Board were designated by Commission Chairman Charles B. Curtis.

Take further notice that as a result of these orders the FERC has adopted two new docket prefixes to be assigned to certain oil pipeline matters brought before the OPB. To supplement the system established by the November 16, 1977 and March 3, 1978 Notices, the following docket prefixes are assigned:

FS—Fourth Section matters as it pertains to oil pipelines refers to Section 4, Part 1, of the Interstate Commerce Act which set forth the provisions for long and short haul charges; competition with water routes. Each Fourth Section matter will carry a docket number beginning with the two-letter prefix "FS", followed by the last two digits of the fiscal year in which the proceeding is initiated, and a number assigned in straight sequence beginning at "1" with the start of the fiscal year.

PD—Depreciation and related matters as it pertains to oil pipelines. Each depreciation Sub-order will carry a number beginning with the two-letter prefix "PD" followed by the last two digits of the fiscal year in which the Sub-order is issued, followed by a number assigned to a particular company for the life of the company, followed by an alphabetic letter indicating the issuance of all new depreciation rates. A number following the alphabetic letter indicates that some, but not all, rates are changed.

Should a petition for review of any matter decided by the employee Oil Pipeline Board be filed with the Commission, the matter will continue to carry the originally assigned "FS" or "PD" number.

This notice is issued for the information and aid of the public and practitioners before the Commission as an explanation of the docket prefixes used by the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-10655 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Middle South Services, Inc.; Filing

April 3, 1979.

Take notice that on March 30, 1979 Middle South Services, Inc. (Services) tendered for filing certain changes to the Agreement among Arkansas Power & Light Company, Arkansas-Missouri Power Company, Louisiana Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service, Inc., and Middle South Services, Inc., dated April 16, 1973, and the service schedules attached thereto. The proposed effective date is April 1, 1979 or, in the event that the Commission does not waive the requirement for a 60-day notice period, a date no later than June 1, 1979.

Services state that the changes are necessary to bring the pricing provisions of the service schedules for Capacity Equalization, Transmission Equalization, and Exchange of Electric Energy Among the Companies in line with current operation and maintenance expenses. In addition, a new Section 4.03, entitled Energy Purchases by Services is included for the purpose of allocating energy purchased under economic dispatch or emergency conditions to each company in proportion to its respective responsibility ratio.

Services state that the filing includes detailed work papers demonstrating the basis for making the proposed changes and also included billing summaries of the effects of the changes on the various companies to the Agreement.

Any person desiring to be heard or 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. in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before April 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ERT9-277]

[FR Doc. 79-10641 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Northern Natural Gas Co.; Proposed Change to FERC Gas Tariff

March 30, 1979.

Take notice that Northern Natural Gas Company (Northern) on March 21, 1979, filed Substitute Eighteenth Revised Sheet No. 4a to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective on April 1, 1979. This filing is being made by Northern to refund to its jurisdictional customers some $660,550 plus interest, of an overcollected surcharge that was effective April 28, 1978 through December 26, 1978. The surcharge was designed to recover storage charges and related transportation charges paid to Northern Illinois Gas Company and Natural Gas Pipeline Company of America, respectively, for emergency storage service rendered during the 1977–78 heating season.

It is proposed that the refund of 0.23¢ per Mcf be effective during the period April 1, 1979 through December 26, 1979. By refunding during this period Northern will avoid the uncertainties and administrative burdens resulting from multiple rate changes, since the commencement date of the storage refund is coincident with the commencement date for tracking the Louisiana First Use Tax and the termination date of the storage refund is coincident with the effective date of Northern's annual PGA adjustment.

Northern states that copies of its filing were served on all jurisdictional customers and affected State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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, 1.10). All such petitions or protests should be filed on or before April 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP78-46]

[FR Doc. 79-10642 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Panhandle Eastern Pipe Line Co.; Change in Tariff

March 30, 1979.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on March 23, 1979 tendered for filing Twenty-Ninth Revised Sheet No. 3-A and Sixth Revised Sheet No. 3-B to its FERC Gas Tariff, Original Volume No. 1. An effective date of May 1, 1979 is proposed.

Panhandle states that this filing is being made as a result of the Commission's Order No. 23 issued March 13, 1979 in Docket No. RM79-22; such order reflecting the Commission's current position on the applicability of NGPA prices. This filing reflects only Section 104 NGPA prices to be paid retroactively to December 1, 1978, with such increased costs to be recovered by a surcharge over the four month period May 1, 1979 to September 1, 1979.

Panhandle states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing 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 Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP73-36 (PGA 79-2)]

[FR Doc. 79-10643 filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Pennsylvania Electric Co. et al., Filing of Proposed Revised Schedules To Power Pooling Agreement

April 3, 1979.

Take notice that on March 30, 1979 the GPU Service Corporation tendered for filing, on behalf of the above listed utilities, Proposed Revision 5 of Schedule 4.01 and Revision 1 of Schedule 4.212 to the existing Agreement among them, dated July 21, 1969.

The GPU Service Corporation states that Schedule 4.01 defines the installed capacity obligations within GPU and sets forth the weekly rate per kilowatt on which payments shall be based for deficiency of capacity among the GPU System Companies. Schedule 4.212 reduces from six to three the numbers of years a unit is required to be in service before the historical forced outage rate of the unit is used without adjustment in determining its forced outage rate.

The GPU Service Corporation further states the revisions to these Schedules are proposed to conform with changes, approved by the FERC, in the Pennsylvania-New Jersey-Maryland Interconnection Agreement to which the GPU System Companies are signatories.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-276]

[FR Doc. 79-10644 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Solano Irrigation District et al.; Order Issuing Preliminary Permit and Denying Competing Application

March 29, 1979

On October 20, 1976, Solano Irrigation District ("SID") filed and application for a preliminary permit for the proposed Monticello Power Plant Project No. 2780. On November 24, 1976, the State of California Department of Water Resources ("DWR") filed a competing application for a preliminary permit for a project at the same site, designated Project No. 2783.

Description of the Proposed Projects

Both proposed projects would be located below the existing Monticello Dam located on Putah Creek in Solano, Napa, and Yolo Counties, California, about 50 miles northeast of San Francisco. The Monticello Dam is an irrigation storage dam owned by the Department of the Interior's bureau of Reclamation ("BOR");[1] the reservoir created by the dam is know as Lake Berryessa.

Except for a 1 megawatt difference in generating capacity, both proposed projects are essentially the same. Both would involve construction of a powerhouse below Monticello Dam, would use penstocks already embedded in the dam, and would require construction of approximately 4,000 feet of transmission line connecting to Pacific Gas and Electric Company's ("PG & E") existing transmission facilities.

SID proposes to use one of the penstocks, installing a single turbine to drive a generator with a capacity of 16,000 kW. DWR proposes to use both of the penstocks, installing two turbines and generators with a total capacity of 15,000 kW. Both proposed projects use flows now being released for irrigation. SID would use the power generated by its proposed project for the operational needs of the members of the Solano County Flood Control and Water Conservation District and would sell any remaining power to other public agencies and public utilities. DWR would deliver the power generated by its proposed project to PG & E for delivery to pumping plants of the State Water Project.

Petitions to Intervene and Agency Comments

After publication of notice of the applications, PG & E and the State of California, acting through its Department of Fish and Game ("DFG"), intervened in both proceedings.[2] Several

[1] Interior reported that the site might be preempted by federal development. In the last Congress, hearings were held on a bill that would have authorized Interior to install generation at the Monticello Dam. The 95th Congress did not act on that bill, however. In any event, any permittee takes the chance that Congress may act on its own to preempt non-federal development or that the Commission may reject an application for license and recommend federal development to Congress under subsection 7(b) of the Federal Power Act, 16 U.S.C. § 800(b) (1976).

[2] PG & E stated that it did not object to either project, but petitioned to intervene to insure coordination with either SID or DWR, because both intend to use PG & E's transmission facilities to carry the power produced by the proposed projects.

Footnotes continued on next page

agencies submitted comments, as well. Because the proposed projects are partically identical, we have treated comments directed to one application as if they were directed to both.

For the most part, recommendations of the intervenors and commenting agencies are satisfied by the articles included in this permit. Interior recommended that $50,000 be allotted for studies of effects on fish and wildlife resources in the area. Article 10 of this permit requires such studies to be developed in consultation and cooperation with Interior and other appropriate agencies. It is not necessary to allot a specific amount for studies now; the extent and cost of the studies will be determined as a result of consultation.

Competing Applications

In selecting a permittee from competing applicants, we give preference to the applicant whose plans are best adapted to develop, conserve, and utilize in the public interest the water resources of the region, considering the ability of the applicants to carry out their plans.[3] On the record here, we have no reason to conclude that either SID or DWR has any greater ability than the other to carry out its plans. Neither, however, can we conclude that one's plan is better adapted than the other's.

There are slight differences between SID's and DWR's proposals. SID anticipates using one penstock and turbine/generator unit with 16 MW of capacity; DWR expects to use two penstocks for two turbine/generators with 15 MW total capacity.[4] But at this stage, both plans must be considered quite flexible, and even speculative. The studies to be conducted during the permit term are for the very purpose of assessing (among other things) the number, type, and rating of units best suited to the head and flows available at the proposed powerplant site. A variety of combinations will have to be considered. Neither applicant has demonstrated that its plans are better adapted than the other's, given their current degree of generality. Nor do any agency comments indicate that one plan is superior to the other.

In these circumstances, we find that the plans of SID and DWR currently are equally well-adapted to develop, conserve, and utilize in the public interest the water resources of the region. The only fair way to choose between them, therefore, is on the basis of the dates that they filed acceptable applications.[5] Inasmuch as SID filed its application first, we are issuing it the preliminary permit for the contested site.

Effects of Preliminary Permit

Some of the concerns which have been raised address the potential effects of constructing the proposed project, not the effects of issuing a preliminary permit. The effects of the project itself will be the subject of studies under the permit. Articles 7, 8, 9, 10, and 11 require the permittee to study the possible effects of the proposed project on fish and wildlife, land and land use, water quality and use, recreational resources, and other resources. These articles also require the permittee to consult with appropriate agencies in conducting the necessary studies. Should the permittee find the project to be feasible and file an application for a license, all interested persons and agencies will be given notice and have an opportunity to review the application and present their concerns about the effects of the project.

The purpose of any preliminary permit is to maintain priority of application for a license. A permit does not authorize any construction, but enables the permittee to maintain its priority while conducting investigations and securing data necessary to determine the feasibility of the proposed project and to prepare an acceptable application for a license. In view of the limited field activities for the investigations required by this preliminary permit and the conditions included in it, its issuance does not constitute a major federal action significantly affecting the quality of the human environment.

The Commission orders:

(A) This preliminary permit is issued to Solano Irrigation District for the proposed Monticello Power Plant Project No. 2780, located on Putah Creek at the United States Bureau of Reclamation's Monticello Dam in Napa, Yolo, and Solano Counties, California, for a period of 36 months, effective the first day of the month in which this order is issued. This permit is subject to the terms and conditions of the Federal Power Act, which is incorporated by reference as part of the permit, and is subject to the regulations which the Commission issues under the provisions of the Act.

(B) This permit is also subject to Articles 1 through 6 in the attached Form P-1 (revised October, 1975), entitled "Terms and Conditions of Preliminary Permit," and is also subject to the following special conditions:

ARTICLE 7. The permittee, in the interest of protecting and developing the natural resources and other environmental values of the project area, shall consult with appropriate federal, state, and local agencies in their fields of responsibility and expertise, shall conduct its project investigations in a manner which protects the environmental integrity of the area, and shall fully explore all feasible alternatives to the project, and alternative project designs, taking into account impacts on natural resources and other environmental values. These resources and values include, but are not limited to, forests, land management and treatment, fish, wildlife, recreation and public use, water and air quality (including water supply, ground water, and waste treatment and disposal), public health and safety, archeology, historical and cultural sites, threatened or endangered flora and fauna, and scenic and aesthetic values. The permittee shall initiate and conduct at its expense such studies as may be necessary to determine the impact of the construction and operation of the proposed project on these natural resurces and values and measures needed to protect and develop them or to provide for their mitigation or replacement, including alternative designs and operational measures, and shall utilize the results of those studies in the preparation of Exhibits H, R, S, V, and W to accompany any application for a license to construct and operate the project. In connection with studies pertaining to archeological and historic and cultural sites, the permittee shall consult with the California State Historic Preservation Officer and the Heritage Conservation and Recreation Service of the U.S. Department of the Interior.

Footnotes continued from last page

DFG petitioned to intervene to insure evaluation of minimum flow from the Monticello Dam, which it believes should be increased to augment the magnitude and quality of the stream's fishery, and otherwise to protect fishery and wildlife resources.

[3] *See* Federal Power Act, § 7(a), 16 U.S.C. § 800(a) (1976). Moreover, since both SID and DWR are "municipalities" within the meaning of subsection 3(7) of the Act, neither has preference over the other simply by virtue of its governmental status.

[4] Although DWR asks for a permit period of only two years, and SID three, that too is a negligible difference. DWR's studies and preparation might actually prove to require an extension to the full three-year statutory period; or SID might be able to complete its activities in less than the time it requests.

[5] Our reliance on SID's first-to-file status in this case is consistent with our statement of proposed policy in Docket No. RM79-23 [Notice of Proposed Rulemaking, Regulations Prescribing General Provisions for Preliminary Permit and License Applications; Regulations Governing Applications for, Amendments to, and Cancellation of Preliminary Permits (issued March 5, 1979) (mimeo at 10-11, 23-25).]. In subsection 4.33(f)(2) of those proposed regulations we provide that the first-to-file criterion will be used where competing plans are equally well adapted (mimeo at 23). The policy underlying that rule applies here, even though the rule has not yet been incorporated in our regulations.

ARTICLE 8. The permittee shall submit, in triplicate, at the close of each six-month period from the effective date of this permit, to the Commission's Secretary, with a copy to the Commission's Regional Engineer, San Francisco, California, or to such other officer as the Commission may designate, and, if requested, a copy to any agency consulted, accurate statements of the progress of all investigations, consultations, and studies accomplished during the permit period and of work contemplated under this permit for the ensuing period.

ARTICLE 9. The permittee shall, for the purpose of assuring the cooperation required by the terms of the permit, designate a liaison officer to act for the permittee in keeping appropriate federal, state, and local agencies specified in this permit currently informed about the progress of the investigations throughout the term of the permit. The liaison officer shall communicate with those agencies within 60 days from the date of issuance of this permit.

ARTICLE 10. The permittee, by the end of the first year of this permit, shall: (1) have consulted with the National Marine Fisheries Service of the Department of Commerce, the Fish and Wildlife Service of the Department of the Interior, and the California Department of Fish and Game and arranged for the preparation of a study of any effects which the proposed project would have on fish and wildlife resources and facilities or measures needed to conserve or develop these resources; and (2) file with the Commission, and serve copies on the agencies consulted, an outline of the proposed study, including a cost estimate, and letters from each of the above agencies indicating the extent of consultation. The Commission reserves the right to require modification of the proposed study. During the remaining two years of the permit, the permittee shall fund or otherwise provide for that study. A copy of the report on the study shall be filed as part of the Exhibit S of any subsequent application for license.

ARTICLE 11. The permittee shall coordinate the studies for the proposed project authorized by this permit with the Regional Director of the Bureau of Reclamation of the U.S. Department of the Interior at Sacramento, California.

(C) The application for a preliminary permit for the proposed Monticello Powerplant Project No. 2783 filed by the Department of Water Resources of the State of California, is denied.

(D) This order shall become final 30 days from the date of its issuance unless an application for rehearing is filed as provided in subsection 313(a) of the Act.

By the Commission.

Kenneth F. Plumb,
Secretary.

Terms and Conditions of Preliminary Permit

Article 1. The Permittee shall make such engineering and other investigations, secure such data, and perform such acts as are necessary to determine the feasibility of the proposed project and, if said project is found to be feasible, to prepare an application for license for the project that will be in conformance with current rules and regulations of the Commission. In carrying out the requirements of this permit the Permittee shall:

A. Install as soon as practicable, and thereafter maintain, such stream gages and stream-gaging stations as the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region shall designate as necessary and best adapted for the purpose of determining the stage and flow of the stream or streams affected by the proposed project, and shall provide for the required reading of such gages and for the adequate rating of such stations. The number, design, location, and time of installation of gages and stations, the rating of such stations, and the determination of the flow of the affected stream or streams, shall be made under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging in the region of said project; and the Permittee shall advance to said Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Permittee shall, to the satisfaction of the Commission, keep accurate and sufficient records of the stage and flow of the affected stream or streams, and shall make such records available to the Commission at such time as the Commission may prescribe.

B. Sink such test pits or make such borings or other foundation explorations, and make such detailed geologic studies and tests on foundations and fill materials, as are necessary to support preliminary engineering designs and cost estimates.

C. Begin the required investigations within 60 days after acceptance of the permit, and thereafter prosecute said investigations in such manner and at such rate as in the judgment of the Commission will ensure their completion within the period of the permit.

D. Furnish with any application for license subsequently filed with the Commission copies of engineering and geologic reports, results of tests and analyses, and any other information secured in connection with the investigations, examinations and surveys conducted under this permit.

E. Exercise appropriate measures at all times during field studies to prevent irreparable damage to the environment of the proposed project. All test sites shall be restored as closely as possible to their original condition, and to the satisfaction of the Commission's authorized representative, or, where Federal lands are affected, to the satisfaction of the agency administering such lands.

Article 2. A license will be issued for the proposed project only if in the judgment of the Commission said project will be best adapted to a comprehensive plan for the improvement or development of a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power development, and for other beneficial public uses, including recreational purposes. In reaching a decision on the desirability of issuing a license, the Commission will consider, among other things:

A. Whether the maps, plans and specifications are such:

(1) That full, practicable utilization will be made of the water, storage possibilities, and head at the site to be developed;

(2) That the structures will be safe and constructed in accordance with good engineering practice; and

(3) That all unnecessary energy losses, whether in hydraulic works or in mechanical or electrical equipment, will be avoided.

B. Whether in relation to existing or probable future projects upon the same or adjacent streams, the potential for the fullest practicable utilization of the available water, storage possibilities, and head will be maintained.

C. Whether said project will be in general accord with the most beneficial utilization of the water for navigation, water power, irrigation, or other public uses, and for aiding flood control, reclamation, and similar developments.

D. Whether proper provision is made for present or future electrical interconnection with other projects or systems in order to take advantage of diversity of streamflow and of power demands

E. Whether the use to which the power will be devoted is, in general, in accord with the public interest.

F. Whether the applicant is financially able to carry out the development.

G. Whether the construction, maintenance, and operation of the proposed project works will interfere or be inconsistent with the purpose for which any reservation, as defined in the Federal Power Act, was created or acquired.

Article 3. The priority granted under the permit shall be lost if the Permittee fails to fulfill the requirements of the permit, if the permit is canceled by order of the Commission, or if the Permittee fails, on or before the expiration date of the permit, to file with the Commission or its designated agent an application for license for the proposed project in conformity with the Commission's rules and regulations then in effect.

Article 4. The Permittee shall keep accurate records of all expenditures made for the purposes authorized by the permit, together with all vouchers and other supporting data relating to such expenditures, which records and related materials shall be retained by the Permittee.

Article 5. The permit confers no authority upon the Permittee to undertake construction of the proposed project, or any part thereof, or to occupy or use lands or other property of the United States for the purposes of construction, unless specific permission is given by the Commission for such occupancy or use; and neither the granting of such authority nor the performance of construction work, whether with or without such authority, shall be deemed to have created any equities or to have established any rights with respect to issuance of a license for the proposed project, beyond what would have been created or established had such authority not been given or such work not been performed.

Article 6. The permit is not transferable and may be canceled by order of the Commission upon failure of the Permittee to begin in good faith, or to prosecute diligently, the investigations, examinations, and surveys contemplated under the permit, or to comply with any other conditions therein, or for any other good cause shown after notice and opportunity for hearing.

[Project Nos. 2780 and 2783]

[FR Doc. 79-10647 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Southern Natural Gas Co.; Filing of Cost and Revenue Data

April 3, 1979.

Take notice that on November 9, 1978, Southern Natural Gas Company (Southern) filed with the Commission cost of service and revenue data in accordance with Articles I, III and V of the Stipulation and Agreement in Docket No. RP77-31. The data includes revised Appendices A through D to the said Agreement reflecting the company's actual cost and rate experience for the 12 months ending July 31, 1978. Under the terms of the agreement, the Commission Staff is required to audit the filed data. Southern represents that it filed revised Appendices A through D on all parties to the proceeding.

Any person desiring to comment upon or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 18, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP77-31]

[FR Doc. 79-10648 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Filing of Stipulation and Agreement

March 30, 1979.

Take notice that on February 23, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) filed with the Commission a Stipulation and Agreement in this proceeding. The agreement, if approved by the Commission, will resolve all issues in the proceeding except for rate of return, income taxes and research and development.

Any person desiring to be heard or to protest the proposed settlement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before April 16, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken upon the settlement. Copies of the settlement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP77-62]

[FR Doc. 79-10649 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Transcontinental Gas Pipe Line Corp.; Application

March 27, 1979.

Take notice that on March 19, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-228 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for Consolidated Edison Company of New York, Inc. (Con Ed), for two years, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport gas which Con Ed has purchased from Consolidated Gas Supply Corporation (Consolidated). Applicant would receive up to 100,000 dt equivalent of gas per day from Consolidated at three existing points of delivery in Louisiana and the thermal equivalent of 71,548 Mcf of gas at an existing interconnection with Consolidated in Pennsylvania. Applicant would deliver gas to Con Ed at existing points of delivery. The proposed service would be interruptible and would be subordinate to Applicant's deliveries to Con Ed under Applicant's Rate Schedules CD, PS, GSS, and WSS.

Applicant would charge Con Ed initial rates of 24.34 cents per dt for service from Louisiana and 7.34 cents per dt for service from Pennsylvania. Both rates are said to include 0.34 cent per dt for Gas Research Institute general research and development funding units. Applicant would retain initially 4.4 percent of the gas transported from Louisiana and 0.6 percent of the gas transported from Pennsylvania for compressor fuel and line loss makeup.

The agreement among Applicant, Consolidated, and Con Ed provide that commencing May 8, 1979, the transported gas would be used solely at specified electric and/or stem generating stations which are or have been exempted from the provisions of the Powerplant and Industrial Fuel Use Act of 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 10, 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 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-228]

[FR Doc. 79-10650 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Transcontinental Gas Pipe Line Corp.; Revised Tariff Filing

March 30, 1979.

Take notice that on March 15, 1979, Transcontinental Gas Pipe Line Corporation (Transco) tendered a revised Purchased Gas Adjustment tracking filing reflecting an overall decrease of 1.2¢ per dekatherm (dt) as compared to Transco's January 29, 1979 filing in the referenced docket. Transco's revised filing states that it is being filed pursuant to a letter order issued February 28, 1979, by the Federal Energy Regulatory Commission. Transco's filing states that the 1.2¢ per dt decrease is applicable to the commodity or delivery charges of Transco's CD, G, OG, E, PS, S-2 and ACQ rate schedules.

The revised rates in Transco's filing are reflected in Substitute Thirteenth Revised Sheet No. 12 and Substitute Twelfth Revised Sheet No. 15 to Second Revised Volume No. 1 of Transco's FERC Gas Tariff, which sheets are to become effective March 1, 1979. Transco states that this rate reduction reflects the elimination of purchased gas costs which suppliers have not charged or been authorized to charge to Transco as of March 1, 1979, under the provision of the Natural Gas Policy Act (NGPA) and the Commission's Interim Regulations issued thereunder. The revised PGA filing also contains the information called for by the Commission's February 28, 1979 letter order, including details relating to those sources of supply covered by maximum lawful prices under Sections 102, 103, 107 and 108 of NGPA which are included in the revised rates and an explanation of the bases for prices escalated under Sections 104 and 106(a) of NGPA.

Transco states that copies of the revised tracking filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 9, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP73-3 (PGA 79-1)]

[FR Doc. 79-10651 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Utah Power and Light Co.; Application for New Major License

March 28, 1979.

Public notice is hereby given that an application for new major license was filed June 27, 1977, and revised August 30, 1978, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by Utah Power and Light Company (Applicant) for the Beaver Project, FERC Project No. 814. The project is located on the Beaver River, in Beaver County, Utah, near the municipalities of Beaver, Minersville, and Milford. The project affects lands of the United States within the Fishlake National Forest. Correspondence regarding the application should be sent to: Mr. S. G. Baucom and Mr. S. F. Chamberlain, Utah Power and Light Company, Post Office Box 899, Salt Lake City, Utah 84110.

The energy produced by the project would be used by the Applicant for public utility purposes.

The Beaver Project consists of: (1) a timber crib, rock-filled dam (Merchant Valley Dam), 160 feet long by 29 feet high on the Beaver River; (2) the East Fork, Dry Hollow Creek, and South Fork diversion works; (3) a 4,933-foot long penstock 20 to 30 inches in diameter; (4) a 28,769-foot long steel pipeline which branches to convey water from the East Fork, South Fork, and main stem of the Beaver River and from Dry Hollow Creek. The pipeline includes the Spring Line conduit which feeds into the South Fork conduit; (5) the LaBaron Dam and Reservoir (an agreement in force between the Applicant and the Utah Department of Wildlife Resources gives to the latter total control of the LaBaron Reservoir); (6) a powerhouse which contains two 1,200 kW turbine-generator units operating under a static head of 1,058 feet; (7) 44 kV transmission facilities; (8) appurtenant facilities; and (9) the Lower Beaver development of the project.

The Lower Beaver development included in the original license for Project 814 consists of: (1) an approximately 20-foot high and 115-foot wide timber-cribbed and rock-filled diversion structure; (2) a reservoir originally having an area of 4.65 acres and impounding a volume of 60 acre-feet. The dam impounds a cone of sediment, rock and gravel extending 200 feet upstream with a width of 70 feet; (3) 12,760 feet of wood and steel pipe; (4) 764 feet of riveted steel pressure pipe; (5) a powerhouse containing two units having a total installed capacity of 600 kW; and (6) appurtenant facilities.

The Applicant proposes that the Lower Beaver development be dismantled and excluded from any new license for Project No. 814.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely

files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before May 29, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[Project No. 814]

[FR Doc. 79-10652 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Western Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 3, 1979.

Take notice that on March 27, 1979 Western Transmission Corporation (Western) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1: Fifth Revised Sheet No. 4; Alternate Fifth Revised Sheet No. 4.

The proposed effective date of the tariff sheets is May 1, 1979.

Western's filing requests authorization to increase the charge for transportation of gas from the presently effective rate of 11.54 cents per Mcf to 15.79 cents per Mcf. In addition, Western proposes an increase in the margin over the average cost of gas purchased for resale to Colorado Interstate Gas Company from 11.54 cents per Mcf to 15.79 cents per Mcf. These proposed rates will, according to Western, result in additional revenues of $160,546.

The proposed Fifth Revised Tariff Sheet No. 4 is predicated in part upon costs and revenues attributable to facilities which are not presently certificated. Accordingly, Western has filed Alternate Fifth Revised Sheet No. 4, which excludes such volumes and revenues. The alternate tariff sheet provides for an increase from the presently effective rate of 11.54 cents per Mcf to 16.10 cents per Mcf, and for an increase in the margin over the average cost gas purchased for resale to CIG from 11.54 cents per Mcf to 16.10 cents per Mcf. These rates would, according to Western, provide additional revenues of $151,645 over the presently effective rates.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 13, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-55]

[FR Doc. 79-10653 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Wisconsin River Power Co.; Filing

April 2, 1979.

Take notice that Wisconsin River Power Company on March 2, 1979 tendered for filing a Petition For Order Declaring That Wisconsin River Power Company Is Not A Public Utility Under Part II of the Federal Power Act.

Any person desiring to be heard or to protest said filing 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. EL79-10]

[FR Doc. 79-10654 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement Between United States and Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan.

The subsequent arrangement to be carried out under the above mentioned agreement involves the sale of 6,000 kgs of heavy water, under Contract No. DE-SC09-79SR 10257, for use as moderator in the FUGEN reactor operated by the Power Reactor and Nuclear Fuel Development Corporation, Tsuruga, Japan.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than April 23, 1979.

For the Department of Energy.

Dated: March 27, 1979.

Harold D. Bengelsdorf,
Director for Nuclear Affairs International Programs.

[FR Doc. 79-10536 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of January 8 Through January 12, 1979

Notice is hereby given that during the week of January 8 through January 12, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeal

Eugene Endicott, Redmond, Oregon; DRA-0075, motor gasoline: aviation fuel

Eugene Endicott filed an Appeal from a Remedial Order which was issued to him by DOE Region X. The Remedial Order found that during the period November 1, 1973 through November 14, 1975, Endicott sold motor gasoline and aviation fuel to certain retailers in Oregon at prices which were in excess of those permitted by 6 CFR 150.359 and 10 CFR 212.93. Accordingly, the Remedial Order directed Endicott to refund the overcharges plus interest to each purchaser. In his Appeal, Endicott contended that the Regional Office had erred in classifying his customers for purposes of applying the price regulations. Endicott also contended that Region X should have included in its calculation of his May 15, 1973 weighted average prices for his lessee class of

purchaser certain sales transactions that occurred on May 10 and 11, 1973. In addition, Endicott contended that it was proper from him to add to his maximum lawful selling prices the amounts of competitive discounts that he discontinued after May 15, 1973. Finally, Endicott claimed that no interest should be charged on the overcharges because they were unintentional. In considering the Appeal, the DOE found that two of Endicott's customers leased their service stations from him and were therefore properly placed in a class of purchaser separate from those customers which were not lessees of Endicott. In addition, the DOE determined that since Endicott had sold all grades of motor gasoline to one member of his lessee class of purchaser on May 15, 1973, those transactions established the May 15, 1973 prices for all of the members of that class of purchaser. The DOE also found that the Regional Office did not err in refusing to permit Endicott to add discontinued competitive discounts to his maximum lawful selling prices. The DOE concluded that if Endicott were permitted to do so, the intention of 10 CFR 212.93(d) would be frustrated since the discounts would be effectively excluded from the computation of May 15, 1973 weighted average selling prices. Finally, the DOE determined that Endicott's intention with respect to the overcharges was irrelevant to the assessment of interest on the violation amount because the payment of interest compensated customers for the loss of the use of their money during the overcharge period, and was not intended to penalize Endicott. On the basis of these contentions, Endicott's Appeal was denied.

Requests for Exception

Atlantic Richfield Company, Los Angeles, California; FEE-4104, crude oil

The Atlantic Richfield Company (Arco) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit the firm to sell the crude oil produced from California State Lease PRC-1466 (the Rincon Island Lease) at upper tier ceiling prices. In considering the exception request, the DOE found that the operating costs of the Rincon Island Lease had increased to the point where Arco no longer had an economic incentive to continue production if the crude oil from the lease were subject to the lower tier ceiling price rule. The DOE also determined that if Arco abandoned its operations at the Rincon Island Lease, a substantial quantity of otherwise recoverable domestic crude oil and natural gas would not be produced. Based on these findings, the DOE issued a Proposed Decision and Order to Arco which would have allowed the firm to sell 28.5 percent of the crude oil produced for the benefit of the working interest owners from the Rincon Island Lease at upper tier ceiling prices. Because Arco refines the crude oil which it produces from the Rincon Island Lease, the amount of relief granted to Arco was calculated on the basis of the benefit Arco would receive from an increased entitlements sale obligation, rather than the difference between the applicable upper and lower tier ceiling prices. Arco filed a Statement of Objections to the Proposed Decision and Order in which the firm contended that the amount of exception relief allowed to it was erroneously reduced based upon the fact that it refined as well as produced the crude oil from the Rincon Island Lease. After reviewing Arco's Statement of Objections, the DOE concluded that the statutory basis for the DOE exceptions process and the general methodology of the *Great Southern* line of crude oil producer price exception relief cases justified the adjustment contained in the Proposed Decision and Order. However, the DOE noted that although the adjustment contained in the Proposed Decision and Order is theoretically correct, its use has been unduly complex, requiring inordinate administrative effort. Therefore, on the basis of *Union Oil Co. of Calif.*, 2 DOE Par. —— (December 1, 1978), the DOE determined that the amount of exception relief to be granted to Arco should be calculated as set forth in the general *Great Southern* formula. Accordingly, the DOE determined that Arco should be permitted to sell 37.97 percent of the crude oil produced and sold for the benefit of the working interest owners from the Rincon Island Lease at upper tier ceiling prices.

Beacon Oil Company, Hanford, California; DXE-1909, crude oil

Beacon Oil Company (Beacon) filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would result in the extension of exception relief previously granted to Beacon by reducing the firm's obligation to purchase entitlements under the provisions of the Entitlements Program. See *Beacon Oil Co.*, 2 DOE Par. 81,055 (1978). In considering the firm's request the DOE determined that the firm had already received an excessive measure of relief for its 1978 fiscal year. In reaching that determination, the DOE found that the level of exception relief afforded the firm during the 1978 fiscal year would place the firm in a net entitlements sales position and would also be greater than the level necessary to permit the firm to achieve its historical profit margin. Consequently, the DOE denied the firm's request for prospective exception relief. In addition, the DOE concluded that there was no justifiable basis for postponing until the completion of Beacon's 1978 fiscal year the requirement that the firm begin making restitution for the excessive exception relief benefits which it has realized. Accordingly, the DOE required Beacon to purchase $127,637 of entitlements per month during the twelve month period commencing January 1, 1979.

Champlin Petroleum Company, Lea County, New Mexico; DEE-1309, crude oil

The Champlin Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the working interest owners to sell the crude oil produced from the State of New Mexico's Lease Number 18 (State Lease) at upper tier ceiling prices. In considering the exception request, the DOE determined that Champlin is currently incurring an operating loss on each barrel of crude oil produced from the State Lease. On the basis of precedents involving similar factual situations, the DOE concluded that the application of the ceiling price rule with respect to the State Lease constitutes a gross inequity to the working interest owner of Lease Number 18. On the basis of the operating data which the firm submitted for its most recently completed six month fiscal period, Champlin was granted exception relief which permits the firm to sell at upper tier ceiling prices 81.21 percent of the crude oil produced for the benefit of the working interest owners from the State Lease during the next six months. This determination was issued as a Proposed Decision on September 25, 1978. The State of New Mexico filed a Statement of Objections on November 13, 1978. The Objections, if acted upon favorably, would have extended the exception relief granted to the working interest owners to the State of New Mexico, the royalty interest owner. In considering the Objections, the DOE determined that the interest owners were not experiencing a gross inequity and were therefore not entitled to exception relief. Accordingly, the Objections were found to be without merit.

DEPCO, Inc., Denver, Colorado; DEE-1453, DEE-1454, crude oil

DEPCO, Inc. filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Johnson #1 Lease and the Neshem #2 Lease located in the Lonetree Field in Ward County, South Dakota, at upper tier ceiling prices. In considering DEPCO's Applications, the DOE determined that the cost per barrel of producing crude oil from these leases has increased significantly and now exceeds the lower tier ceiling price which DEPCO is permitted to charge. The DOE therefore found that DEPCO no longer has an economic incentive to continue to operate the properties and if the leases are abandoned a considerable amount of otherwise recoverable crude oil would be lost. On the basis of precedents involving similar factual situations, the DOE concluded that the application of the lower tier ceiling price rule under these circumstances resulted in a gross inequity to DEPCO. Accordingly, on the basis of the operating data which the firm submitted for its most recently completed six month period, DEPCO was granted exception relief which permits the firm to sell at upper tier ceiling prices 38.06 percent of the crude oil produced and sold from the Johnson #1 Lease and 66.06 percent of the crude oil produced and sold from the Neshem #2 Lease for the benefit of the working interest owners.

Little America Refining Company, Washington, D.C.; FXE-4462, DXE-0495, Crude Oil

On August 1, 1977, the Little America Refining Company (LARCO) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program). On September 19, 1977, the Federal Energy Administration issued a Proposed Decision and Order which granted in part the LARCO exception request. On January 30, 1978, LARCO filed a further Application for

Exception requesting that the exception relief set forth in the September 19 proposed determination be continued for an additional period of time. On March 20, 1978 the Department of Energy issued a Proposed Decision and Order which granted in part the exception request filed by LARCO on January 30, 1978. On October 21, 1977, LARCO filed a Statement of Objections to the September 19 proposed determination. Subsequent to the LARCO Statement of Objections, Objections to the September 19 Proposed Decision were filed by the Exxon Company, U.S.A. (Exxon), Texaco, Inc. (Texaco), the Mobil Oil Corporation (Mobil), the Standard Oil Company of Indiana (Amoco), the Wyoming Refining Company (WRC), the National Congress of Petroleum Retailers (NCPR) and several independent retailers who claim to market refined petroleum products in competition with LARCO. Statements of Objection to the March 20 Proposed decision were filed by Exxon, Texaco, Mobil and WRC. LARCO did not formally object to the proposed determination which was set forth in the March 20 Order. Since the objections which the DOE received with respect to both the September 19 and March 20 Proposed Orders were almost identical, it was decided to consider the finalization of both proposed determinations within one consolidated proceeding.

In considering the LARCO exception requests and the Statements of Objection to the two Proposed Decisions and Orders issued in these cases, the DOE found that:

The factual data submitted by the Intervenors made a strong showing that LARCO has realized a significant increase in its share of the motor gasoline market during the period of time in which LARCO was enjoying considerable benefits with respect to its crude oil costs as a result of receiving exception relief from the Entitlements Program. The DOE concluded that there was considerable merit to the arguments presented by the Intervenors that LARCO is presently a financially prosperous business entity which is apparently not experiencing any current hardship or inequity attributable to the workings of the Entitlement Program. In arriving at this determination, the DOE noted that during the period of time it has been the recipient of entitlement exception relief LARCO has realized substantial increases in its net sales, dollar value of pre-tax profits, average invested capital, and return on average invested capital. The DOE concluded that there appears to be a substantial correlation between the increase in the level of exception relief accorded LARCO, the increase in the dollar value of the firm's profitability, and the increase in the firm's market share. The DOE further concluded that since the firm's financial posture and market share have improved significantly since the implementation of the Entitlements Program, and since the approval of increased levels of entitlement exception relief to LARCO has the effect of both increasing the cost of crude oil to all other domestic refiners and altering the competitive situation in LARCO's relevant marketing area, it is now appropriate to analyze any future request by LARCO for entitlement exception relief under the general serious hardship and gross inequity criteria rather than under the special criteria established in *Delta Refining Co.*, 2 FEA Par. 83,275 (1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (1976). However, the DOE noted that the equities involved in the present situation indicated that would be appropriate to "phase-in" LARCO's elimination from the application of the *Delta-Beacon* criteria over a 12-month period commencing with January 1979 and ending with December 1979.

O'Meara Brothers, New Orleans, Louisiana; DEE-2021, Crude Oil

O'Meara Brothers filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in the extension of exception relief previously approved and would permit O'Meara to continue to sell a portion of the crude oil produced from the Vinton Lease at upper tier ceiling prices. *O'Meara Brothers*, 1 DOE Par. 81,089 (1978). In considering the exception request, the DOE found that as a result of a substantial reduction in repair and workover expenses for the property O'Meara would be able to operate the lease on a profitable basis even if the crude oil is sold at the applicable lower tier price. Accordingly, the DOE determined that exception relief should not be extended for the Vinton Lease.

O'Meara Brothers, New Orleans, Louisiana; DXE-2013, crude oil

O'Meara Brothers filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in the extension of exception relief previously approved and would permit O'Meara to continue to sell a portion of the crude oil produced from the Louisiana State Lease at upper tier ceiling prices. *O'Meara Brothers*, 2 DOE Par. 81,046 (1978). In considering the exception request, the DOE found that the level of operating costs had continued to increase and that, in the absence of exception relief, O'Meara would have no economic incentive to maintain crude oil production from the property. In view of this determination and on the basis of the operating data which the firm submitted for the two most recently completed fiscal quarters, O'Meara was permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Louisiana State Lease for the benefit of the working interest owners for a six-month period.

Tipperary Oil and Gas Corporation, Midland, Texas; DEE-1354, crude oil

Tipperary Oil and Gas Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which if granted would permit the firm to sell the crude oil produced from the Peggy #1 well located on the Peggy lease in Lea County, New Mexico at exempt prices. In considering the exception request, the DOE found that, in the absence of exception relief, the firm would have no economic incentive to perform the well workover which would be required in order to resume extraction operations from the Peggy #1 well, and as a consequence, the nation would be deprived of 28,300 barrels of otherwise recoverable crude oil and 269 million cubic feet of otherwise recoverable gas. On the basis of the criteria applied in previous Decisions, the DOE determined that exception relief should be approved which would enable Tipperary to attain a 15 percent rate of return on the capital investment at the well and thus provide the firm with the economic incentive to perform the well workover. Accordingly, in order to attain a 15 percent rate of return on its new investment in the well, the DOE granted Tipperary exception relief which permits the firm to sell 100 percent of the crude oil produced from the Peggy #1 well for the benefit of the working interest owners at market prices which are not to exceed $14.88 per barrel.

Valley Oil Refining Company, Houston, Texas; DEE-1399

Southland Oil Company, Jackson, Mississippi; DEE-1670

Wesreco, Inc., Woods Cross, Utah; DEE-1671

Good Hope Refineries, Inc., Good Hope, Louisiana; DEE-2047

Nevada Refining Company, Bakersfield, California; DEE-2072, crude oil

In two recent proceedings, the DOE approved exception relief in order to provide two non-California refiners with an incentive to purchase certain low gravity California crude oils. *Commonwealth Oil Ref. Co., Inc.*, 2 DOE Par. 81,069 (1978); *Sentry Refining, Inc.*, 2 DOE Par. ——— (December 29, 1978). The five petitioners in this proceeding requested relief similar to that granted to Corco and Sentry. In considering the five requests the DOE observed that the overall market for California crude oil has recently improved and that it does not appear that additional exceptions of the type granted to Corco and Sentry are necessary at this time. In the *Sentry* Decision, the DOE did indicate that it might be willing to extend exception relief of this nature to a firm if detailed, documented evidence were submitted which established that specific California crude oil production would be shut-in in the absence of an exception. Since the submission in the five cases involved in this proceeding did not contain this type of data, the DOE concluded that each of these cases should be dismissed without prejudice to a refiling at a later date.

Remedial Order

Milltown Skelgas, Inc., Milltown, Wisconsin; DRO-0009 propane

Milltown Skelgas, Inc. filed an Objection to a Proposed Remedial Order issued to it by DOE Region V on February 24, 1978. In the proposed Remedial Order, Region V determined that Milltown had sold propane at prices which exceeded the maximum permissible selling prices under 6 CFR 150.359 and 10 CFR 212.93. In its Objection, Milltown maintained that a final Remedial Order would cause it to experience a serious hardship and gross inequity. In considering the Milltown Objection, the DOE noted that it had previously considered all of the firm's contentions in the context of an Application for Exception. *Milltown Skelgas, Inc.*, 2 DOE Par. —— (November 24, 1978). Since Milltown did not challenge the factual or legal basis of the Proposed Remedial Order, the DOE determined that the Objection

should be denied. Accordingly, the Proposed Remedial Order was issued in final form.

Requests for Stay

Ashland Oil, Inc./Clark Oil & Refining Corp., Washington, D.C.; DES-0255, crude oil

Ashland Oil, Inc. and Clark Oil & Refining Corp. filed an Application for Stay of the provisions of 10 CFR 211.67(i)(4) which reduce the value of an entitlement by 21 cents below the difference between the weighted average cost per barrel to refiners of old oil and of imported oil. The applicants requested the stay pending a determination on their Appeal of the August 1978 Entitlements Notice. In the Appeal Ashland and Clark argue that the 21 cents differential is invalid because it was promulgated in violation of FEA rulemaking procedures and because it fails to accomplish appropriate regulatory objectives. In considering the request for stay the DOE found that the continued use of the 21 cent differential in calculating the value of an entitlement would not interrupt the applicants' normal operations and that any undue adverse impact which they might experience during the pendency of their Appeal could be redressed through appropriate adjustments in their future entitlement obligations. In addition, the DOE found that since the granting of a stay would have a significant impact on all other refiners participating in the Entitlements Program the public interest would best be served by the preservation of the *status quo* pending a determination on the merits of the Appeal. Based on these considerations, the DOE denied the Application for Stay.

Dome Petroleum Corporation, Washington, D.C.; DST-0141, DES-0140, synthetic natural gas

Dome Petroleum Corporation filed an Application for Temporary Stay and an Application for Stay requesting that an Order issued to Consumers Power Company by the Economic Regulatory Administration be stayed pending a determination on the merits of an Appeal which Dome stated that it intended to file. In considering the dome request, the DOE noted that Dome had failed to pursue its rights of review of the action reflected in the Order for four months and that this detracted substantially from the firm's argument that it was experiencing an immediate injury as a result of the ERA Order. The DOE also pointed out that Dome had failed to submit any evidence in support of its claim that the firm would incur an irreparable injury in the absence of a Stay. Finally, the DOE determined that Dome had not demonstrated on the basis of the present record that it was likely to succeed on the merits of its Appeal. The Application for Temporary Stay and the Application for Stay were accordingly denied.

Schulze Processing, Inc., Talla Bena, Louisiana; DES-0143, crude oil

Schulze Processing, Inc. filed an Application for Stay of its obligation to purchase entitlements as specified in the Entitlements Notice for October 1978, pending a determination on the firm's Appeal of that Notice. In considering the request, the DOE found that on the basis of the financial records which Schulze had submitted, the firm apparently was not able to meet its entitlements obligations. Accordingly, the Application for Stay was granted.

Interim Order

Pennzoil Producing Company, Houston, Texas; DEN-0938, Crude Oil

On November 30, 1978 the Pennzoil Producing Company requested that it be permited to implement immediately the relief specified in an exception Decision that was issued to the firm in proposed form on November 15, 1978. In that Decision the DOE tentatively concluded that exception relief should be granted to the firm permitting it to sell certain quantities of crude oil produced from the Perry Sand Waterflood Unit at upper tier ceiling prices. Pennzoil then filed a Notice of Objection to the Proposed Decision. In considering Pennzoil's request for interim relief, the DOE determined that the level of exception relief granted the firm in the Proposed Decision and Order would only be increased if its objections were sustained. The DOE therefore approved the Pennzoil request and permitted the firm the implement the relief granted in the Proposed Decision pending a final resolution of its objections and the issuance of a final Decision and Order.

Motion for Discovery

C. K. Smith & Company, Inc., Worcester, Massachusetts; DRD-0061, No. 2 heating oil

C. K. Smith & Company, Inc., filed a Motion for Discovery in connection with a Statement of Objections to a Proposed Remedial Order issued on May 25, 1978. The DOE granted Smith discovery of all of the CLC-92 forms which the firm had filed with the DOE Region I, based on findings that Smith's only copies of these forms had been furnished to a DOE auditor and that Smith needed these forms to refute a material assertion in the Proposed Remedial Order. The DOE also held that discovery of certain price information compiled by the Office of Enforcement was necessary for Smith to challenge the validity of the rescission of a January 31, 1974 Agreement of Compliance between Smith and the Office of Enforcement. In this regard, the DOE rejected the Office of Enforcement's assertion that two schedules used to compute Smith's overcharges contained predecisional documents and were therefore entirely exempt from discovery. The DOE noted that while these schedules may contain specified doucments concerning which a valid claim of privilege could have been made, the Office of Enforcement had not described the contents of these schedules sufficiently to enable the DOE to sustain that position. Finally, the DOE allowed discovery of any worksheets or other documents not already furnished to Smith which described the actual calculation of the overcharges found in the Proposed Remedial Order. However, the DOE denied Smith access to preliminary findings and legal interpretations not incorporated into the Proposed Remedial Order or otherwise introduced into the record on the grounds that such material was irrelevant to its evaluation of the Proposed Remedial Order.

Motion for Evidentiary Hearing

Greene's Transport Company, Thomaston, Georgia; DRH-0012, propane

Greene's Transport Company filed a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order issued to the firm by DOE Region IV. In it Motion, Greene requested that it be permitted to challenge the Regional Office's determination to treat the parent corporation and its six subsidiaries as a single firm. Greene also contested the manner in which the Region applied the equal application provisions of 10 CFR 212.93(f). In considering the Motion, the DOE found that these two issues were legal rather than factual in nature, and therefore should not be the subject of a evidentiary hearing. Greene also sought to present testimony to show that it voluntarily charged prices below its maximum allowable prices and below the prevailing market prices in order to compensate its customers for past overcharges. The DOE found that this evidence was relevant to the firm's assertion that the undercharges should be netted against the overcharges specified in the Proposed Remedial Order. In addition, the DOE concluded that the evidence required to support Greene's contention could best be developed within the contest of an evidentiary hearing. The Motion for Evidentary Hearing was therefore granted in part and denied in part.

Dismissal

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Champlin Petroleum Company, Fort Worth, Texas; DXE-2001

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

March 30, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

[FR Doc. 79-10712 Filed 4-5-79; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of January 2 Through January 5, 1979

Notice is hereby given that during the week of January 2 through January 5, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the

Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Bob Adams, Washington, D.C.; DFA-0247, freedom of information

Mr. Bob Adams of the St. Louis Dispatch appealed from a denial by the DOE Director of the Office of Equal Opportunity of a Request for Information which Adams had submitted under the Freedom of Information Act. In his request, Adams sought the disclosure of EEO-1 forms and certain sections of the Affirmative Action Plans of nine firms located in the St. Louis, Missouri area. These documents contain information concerning the employment of minorities and women in the nine firms. The Director denied access to these documents citing Exemptions 4, 5 and 6 of the Freedom of Information Act. In reviewing these documents, the DOE found that they neither contained proprietary confidential information exempt from disclosure under Exemption 4 nor constituted intra-agency memorandum exempt from disclosure under Exemption 5. The DOE also determined that the EEO-1 forms contained no information that was properly withheld under Exemption 6 because its release would constitute an unwarranted invasion of personal privacy. Accordingly, the Appeal was granted.

Atlantic Richfield Company, Los Angeles California; DRA-0106, crude oil

The Atlantic Richfield Company (Arco) filed an Appeal of a Remedial Order which had been issued to the firm by DOE Region IX. In the Remedial Order, Region IX found that Arco had placed Waterbury Petroleum Productions, Inc. (Waterbury) in the wrong class of purchaser, and that Arco had consequently sold motor gasoline to Waterbury at prices which exceeded the maximum allowable ceiling price. On the basis of this finding, Region IX directed Arco to refund the amount of its overcharges and place Waterbury in the proper class of purchaser. In considering the Arco Appeal, the DOE rejected Arco's argument that Waterbury operates primarily as a retail dealer and should therefore be classified as part of Arco's retail class of purchaser. The DOE found that Waterbury has the facilities of a distributor and performs the same sevices for Arco as a distributor. Therefore, the fact that Waterbury supplies a portion of its motor gasoline to retail outlets which are controlled by Waterbury is irrelevant for the purpose of determining Arco's prices to Waterbury. The DOE also found that even after Arco's distributor contract with Waterbury was terminated, DOE regulations required Arco to continue to supply Waterbury in the proper class of purchaser as determined by the objective relationship between the two firms. Finally, the DOE determined that the Remedial Order contained sufficient findings of fact to support its conclusion and therefore did not violate due process of law. Accordingly, Arco's Appeal was denied.

Data Technology Industries, Riverdale, Maryland; DFA-0250, freedom of information

Data Technology Industries appealed from a partial denial by the Director of the Office of Procurement Operations of a request for information that the firm filed under the Freedom of Information Act (the Act). In its request for information the firm sought a copy of a technical proposal submitted by Sterling Systems, Inc. In response to this request the Director released portions of the technical proposal, however, he withheld the remainder on the ground that it was exempt from mandatory disclosure pursuant to Section 552(b)(6) of the Act. That Section protects from mandatory disclosure documents whose release would consititute a clearly unwarranted invasion of personal privacy. The DOE determined that the documents were improperly withheld under Section 552(b)(6). However, the DOE also found that disclosure of the withheld documents would be likely to cause substantial harm to Sterling's competitive position. The DOE therefore held that the documents were exempt from mandatory disclosure under the provisions of Section 552(b)(4) of the Act, which protects confidential commercial information.

Miller & Chevalier, Washington, D.C.; DFA-0267, freedom of information

Miller & Chevalier appealed from a partial denial of a request for information which the firm had submitted under the Freedom of Information Act (5 U.S.C. 552). In its Appeal, Miller & Chevalier requested that the DOE release seven documents which had been withheld under Exemption 5 of the Act and order the Division of Freedom of Information and Privacy Act Activities to search for additional documents responsive to the firm's request. In considering the Appeal, the DOE determined that the documents had been properly withheld pursuant to Exemption 5 since they consist of deliberative non-factual, predecisional intra-agency memoranda prepared by agency attorneys. In addition, the DOE determined that factual material in the documents should not be released since it is inextricably intertwined with opinion and analysis and is therefore not segregable. However, the DOE decided to release in their entirety six of the documents, which had been prepared in connection with an administrative rulemaking, and to release in part the seventh document on the grounds that disclosure of this material would not be contrary to the public interest. Finally, the DOE concluded that Miller & Chevalier's claim that the agency had not conducted an adequate search for records responsive to its request was premature since the Agency's search was continuing.

Requests for Exception

C&H Refinery, Inc., Lusk, Wyoming; FEE-4318, crude oil

C&H Refinery, Inc. (C&H) filed an Application for Exception from the provisions of 10 CFR 211.67(e)(2) which, if granted, would result in the issuance of additional entitlements to the firm for crude oil which C&H intended to have processed for its account by other refiners. On December 16, 1977, the Department of Energy issued a Proposed Decision and Order denying the C&H exception request. In considering the Statement of Objections to the Proposed Decision and Order, the DOE noted that the regulatory amendments to 10 CFR 211.67(e)(2) which eliminated the issuance of small refiner bias entitlements for crude oil processed for a small refiner's account made the C&H processing agreements unprofitable. However, the DOE also noted that it was unreasonable for C&H to have entered into long-term supply contracts for crude oil which the firm knew could not be processed in its own refinery, especially since the firm was aware of a DOE proposal to eliminate small refiner bias entitlements for crude oil refined under processing agreements. The DOE also found that the profitable operation of the proposed C&H refinery expansion was apparently contingent upon the firm continuing to receive small refiner bias benefits. The DOE therefore concluded that no showing had been made that the public interest would be served by a proposed refinery expansion program. Accordingly, C&H's Application for Exception was denied.

Chevron U.S.A., Inc., San Francisco, California; FEE-4788, DEE-0364, DEE-0365, crude oil

Chevron U.S.A., Inc. filed three applications for exception from the provisions of the FEA Buy/Sell Program. Chevron requested an exception from various regulations and directives which required Chevron to supply Plateau, Inc. with crude oil under the Program for the months of September 1977 through March 1978. In its Applications, Chevron asserted that it would experience a serious harship and a gross inequity as a result of the application to the firm of these requirements. In considering the Chevron applications, the DOE found that the Buy/Sell formulae which determine Chevron's sales obligations and Plateau's purchase opportunities failed to take into account a significant increase in Plateau's supply of crude oil during the allocation period. The DOE also found that Chevron would be adversely affected since the type of crude oil which Chevron was obligated to supply to Plateau under the Program was unique and in relatively short supply. In view of these considerations, the DOE determined that exception relief should be granted in order to reduce Chevron's supply obligation to Plateau. Therefore Chevron's supply obligation to Plateau for the period September 1977 through March 1978 was limited to a level which would maintain Plateau's supply of crude oil at the level which existed during the allocation period immediately prior to September 1977.

Chevron U.S.A., Inc., San Francisco, California; DEE-1820, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from State Lease PRC 1824 Main Zone (the Main Zone Lease) at market prices. In considering the exception request, the DOE found that Chevron's operating costs had

increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Main Zone Lease if the crude oil were subject to the ceiling price rules. The DOE also determined that if Chevron abandoned its operations at the Main Zone Lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous Decisions, the DOE concluded that the application to Chevron of the lower tier ceiling price rule resulted in a gross inequity and that exception relief should be granted. In calculating the appropriate level of relief for Chevron, the DOE found that inflation as well as increasing unit operating expenses subsequent to the current cost measurement period indicated that exception relief in addition to that generally granted in the *Great Southern* line of cases should be afforded to provide crude oil producers with a sufficient economic incentive for continued crude oil production from marginal operations. The DOE therefore stated that it would provide an additional amount of exception relief of $.50 per barrel to the working interest owners of those properties which earned net revenues of $10,000 or less during the second quarter of 1973. In addition, the DOE determined that in order to reduce the possibility that marginal wells could be shut in as a result of unfavorable financial developments during the pendency of an applicant's exception request, exception relief for initial Applications should be made effective as of the date an applicant submits all of the information required by the DOE in order to process the firm's exception request. Based on these considerations, the DOE permitted Chevron to sell all of the crude oil produced from the Main Zone Lease at market prices for a six month period of time.

L & M Oil Company, Indianapolis, Indiana; DEE-1480, crude oil

The L & M Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would permit the firm to sell a portion of the crude oil produced from the Allen 2A well, located in Lewisville County, Arkansas, at upper tier ceiling price levels. In considering the exception request, the DOE found that L&M was incurring a loss in the operation of the Allen 2A well, and that L&M would have no incentive to continue to produce crude oil from the property if it were required to sell the crude oil at the applicable lower tier ceiling price. Consequently, in accordance with the precedent established in a number of previous Decisions, the DOE determined that L&M should be permitted to sell at upper tier ceiling price levels 56.96 percent of the crude oil produced from the Allen 2A well for the benefit of the working interest owners during the period November 30, 1978 through May 31, 1979.

Martin Exploration Company, Metairie, Louisiana; FEE-4789, crude oil

The Martin Exploration Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell at market price levels the crude oil produced from the Wilcox B Sand Unit, a natural gas cycling crude oil recovery project in Beaureguard Parish, Louisiana. According to Martin, the DOE Mandatory Petroleum Price Regulations produced an incentive for the firm to discontinue the natural gas cycling process at the Wilcox Unit immediately in favor of selling the natural gas underlying the Unit. The firm stated that this course of action would cause crude oil production operations at the unit to be discontinued in 1982. If the cyclying process was to be continue, Martin stated that it would be able to continue crude oil production operations until 1987, thereby preventing the loss of substantial quantities of crude oil. In a Proposed Decision and Order issued to Martin on March 22, 1978, the DOE determined that if the firm were to sell the crude oil in accordance with the upper and lower tier ceiling price rules, its net discounted cash flow under the alternative of discontinuing the natural gas cycling process would be significantly greater than its net discounted net cash flow under the alternative of continuing the cycling process. Therefore, in the March 22 Proposed Decision, the DOE tentatively determined that exception relief should be granted to Martin in order to provide it an economic incentive to continue the cycling process. The exception relief proposed would have permitted the firm to sell at market price levels 93.1697 percent of the crude oil it anticipates it will produce during the ten year estimated life of the project.

Both Martin and the Crystal Oil Company, a purchaser of the crude oil produced from the Wilcox Unit, filed Statements of Objections to the Proposed Decision. In support of its Statement of Objections, Crystal submitted a detailed computer analysis of the Martin exception request, and contended that exception relief was not warranted since the firm's analysis, showed that an incentive existed for Martin to continue crude oil production operations until 1987 even in the absence of exception relief. In considering Crytal's contention, the DOE noted that the firm's analysis was based upon assumed rates of cost and revenue increases at the Wilcox Unit over its estimated productive life. The DOE pointed out that in previous cases the agency had based its analysis of proposed investment projects upon the assumption that operating costs and crude oil prices would escalate at the same rate. In the absence of any material showing that a different procedure was warranted the DOE found Crystal's contention to be without merit. In considering Martin's Statement of Objections, the DOE determined that the firm should not be required to comply with a provision of the Proposed Decision which required Martin to certify within 45 days of the issuance of a final decision that it had entered into contracts for the sale of the natural gas underlying the Wilcox Unit in the event of a national energy emergency. The DOE concluded in this regard that in the absence of an emergency Martin would have difficulty in finding a willing purchaser for the natural gas. The DOE also found that Martin had not yet constructed the cryogenic gas processing plant required to continue the natural gas cycling process at the property. The agency therefore concluded that the cost of the plant, which had been excluded from the calculation of the level of exception relief on the assumption that Martin had already completed construction of the plant, should be taken into account in calculating the appropriate level of exception relief.

After considering all the contentions raised by Martin and Crystal in their Statements of Objections, the DOE concluded that a Decision should be issued permitting Martin to sell at market prices 100 percent of the crude oil it anticipates it will produce during the estimated life of the investment project at the Wilcox Unit. In addition, the DOE extended the exception relief to the Hamilton Brothers Petroleum Corporation, which had purchased a majority working interest in the Wilcox Unit subsequent to the issuance of the Proposed Decision. The DOE determined that Hamilton's acquisition of the majority interest did not alter the factual basis upon which the Proposed Decision had been issued, and therefore relief should be extended to Hamilton as well as to Martin in order to provide the firms with an incentive to continue secondary crude oil recovery operations at the property.

Meason Operating Company, Natchez, Mississippi; DXE-1836, crude oil

Meason Operating Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of exception relief previously granted to Meason and would permit the firm to continue to sell the crude oil produced for the benefit of the working interest owners of the Arnold Perry Unit located in the East Kelly Hill Field, Wilkinson County, Mississippi at upper tier ceiling prices. *Meason Operating Co.*, 1 DOE Par. 81,126 (1978). In considering the exception application, the DOE found that Meason continued to incur increased operating expenses on the Arnold Perry Unit. The DOE also found that in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of these determinations, and on the basis of the operating data which Meason had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Meason to sell 100 percent of the crude oil produced from the Arnold Perry Unit for the benefit of the working interest owners at upper tier ceiling prices.

Mills Bennett Estate, Houston, Texas; DEE-1675, Crude Oil

Mill Bennett Estate filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell at upper tier ceiling prices the crude oil produced for the benefit of the working interest owners of the J. F. Barclay Lease located in South Marths Field, Liberty County, Texas and the Wilburn B Lease located in Barbers Hill Field, Chambers County, Texas. In considering the exception request, the DOE found that Mills Bennett's operating costs had increased to the point

where the firm no longer had an economic incentive to continue the production of crude oil from the J. F. Barclay and Wiburn B. Leases. The DOE also determined that if Mills Bennett abandoned its operations at the leases, a substantial quantity of domestic crude oil would not be recovered. On the basis of the criteria applied in previous Decisions, the DOE determined that Mills Bennett should be permitted to sell at upper tier ceiling prices 44.01 percent of the crude oil produced for the benefit of the working interest owners of the J. F. Barclay Lease and 66.95 percent of the crude oil produced for the benefit of the working interest owners of the Wilburn B Lease.

Request for Modification and/or Rescission

Western Avenue Properties, Laguna Hills, California; DMR-0037; Crude Oil

Western Avenue Properties (Western) filed an Application for Modification of a Decision and Order previously issued to the Terry Oil Company. *Terry Oil Co.*, 2 DOE Par. 81,039 (1978). The Application, if granted, would permit the exception relief granted to Terry to be transferred to Western after its purchase of the East Los Angeles Field. The DOE determined that the exception relief previously approved was designed to remove any obstacle that the crude oil pricing regulations presented to Terry's undertaking a capital investment program at the East Los Angeles Field. Since Western plans on continuing extraction operations in the same manner as Terry had, the DOE concluded that the exception relief should be transferred to Western. The DOE also determined however that Terry should remain subject to certain provisions of the prior Order. Accordingly, the DOE determined that the prior Order. Accordingly, the DOE determined that the prior Decision should be modified to allow Western to receive exception relief subsequent to its acquisition of Terry's ownership interest in the East Los Angeles Field.

Request for Stay

Hydrotherm, Inc., Los Angeles, California; DES-2091; other

Hydrotherm, Inc. requested a Stay of the Provisions of 10 CFR, Part 430 pending a determination on an Appplication for Exception which the firm has filed. The provisions of 10 CFR, Part 430 require manufacturers to apply certain energy-efficiency testing procedures to certain products. The stay request, if granted, would permit Hydrotherm to advertise the energy-efficient features of its new product, a home heating furnace known as the "pulse combustion boiler," without first applying the testing procedures required before such an advertising claim may be made. Hydrotherm contends in its Application for Exception that these testing procedures are inadequate and inappropriate to sue in testing the pulse boiler. The DOE determined that unless a stay were granted pending a decision on Hydrotherm's exception request Hydrotherm would be placed at a competitive disadvantage in marketing the pulse boiler. Hydrotherm's stay request was therefore granted permitting the firm to use alternative testing means pending the issuance of a final Decision and Order in its Application for Exception.

Request for Temporary Stay

Glenn Martin Heller, Boston, Massachusetts; DRT-0167, motor gasoline

Glenn Martin Heller filed an Application for Temporary Stay which, if granted, would stay the provisions of an Interim Remedial Order for Immediate Compliance which the ERA issued to him on December 22, 1978 pending a determination on an Application for Stay which heller intends to file. The Interim Remedial Order for Immediate Compliance required Heller to immediately lower the price that he charges at the retail sales outlet that he operates in Boston, Massachusetts. In considering the Heller temporary stay request, the DOE concluded that Heller could incur an irreparable injury if required to comply immediately with the provisions of the Interim Remedial Order. Consequently, the Application for Temporary Stay was granted.

Supplemental Order

Mohawk Petroleum Corporation, Inc., Los Angeles, California; DEX-0135, crude oil

On December 6, 1978, the DOE issued a Proposed Decision and Order to the Mohawk Petroleum Corporation, Inc. which granted in part the firm's request for an exception from the provisions of 10 CFR 211.67 (the Entitlements Program). In a Decision and Order issued to the firm on December 14, 1978, the DOE granted a stay which implemented the exception relief proposed for Mohawk in the December 6 determination on an interim basis. Subsequent to the issuance of the December 14 Decision and Order the DOE discovered that a discrepancy existed between the dollar amount of exception relief approved in the December 6 Proposed Decision and the dollar amount of exception relief specified in the December 14 stay. The DOE therefore on its own motion issued a Supplemental Order to correct the error in the December 14 Stay Order.

Motion for Evidentiary Hearing

Oahu Gas Service, Inc., Ewa Beach, Hawaii; DEH-0041, propane

Oahu Gas Service, Inc. (OGS) filed a Motion for Reconsideration of a Decision and Order which the Department of Energy issued to the firm on September 20, 1978. *Oahu Gas Service, Inc.*, 2 DOE Par. 80,141 (1978). In connection with that petition, OGS requested on December 14, 1978 that the DOE convene a hearing in order to receive testimony regarding the findings and the conclusions reached in the September 20 Order. OGS and Gasco, Incorporated are the only resellers of propane in the State of Hawaii. In the September 20 Order, the DOE concluded that the approval of an increased propane allocation to OGS would not significantly enhance competition in the Hawaiian propane market. However, after reviewing the OGS Motion for Reconsideration, the DOE concluded that the earlier exception proceeding should be reopened and that a further analysis of the Hawaiian propane market should be conducted. In accordance with this finding, the DOE concluded that a hearing should be convened in order to receive testimony regarding the nature of competition in and the competitive structure of the Hawaiian propane market.

Dismissals

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Louis Kahan, Washington, D.C.; DEE-2101
Pyrofax Gas Corp., Houston, Texas; DSG-0037

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

Acomi Corporation, Marblehead, Maryland; DEE-1821
Oswego Oil Service Corp.; Hempstead, New York; DEE-1956
S&S Oil & Propane Company, Inc.; Emporia, Kansas; DEE-1326

The following submissions were dismissed on the grounds that the Proposed Remedial Order was rescinded:

Bill's Enco; DRO-0036
Brownfield Oil Co., Jefferson City, Missouri; DRO-004
F-M Oil Company, Cinnaminson, New Jersey; DRA-0206
Finch Oil Company, Maysville, Kentucky; DRO-0037
Spott Oil Company, Oliphant, Pennsylvania; DRA-0079

The following submissions were dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Clark Oil and Refining Company, Washington, D.C.; DFA-0270
Dallee Oil Co., Rhodes Oil Co. and Veach Oil Co., Alexandria, Virginia; DSG-0039

The following submissions were dismissed on the grounds that the relief requested was no longer necessary:

Aladdin Oil Development Co., Springfield, Illinois; DRO-0050
Jacobus Co., Milwaukee, Wisconsin; DEE-0454
T. P. Parten, Houston, Texas; DRD-0129
Peterson Oil Co., Inc., Hastings, Nebraska; DRO-0033
Webber Oil Co., Bangor, Maine; DEA-0168

The following submissions were dismissed on the grounds that recent regulatory changes have eliminated the need for the exception relief requested:

Belcher Co. of N.Y., Inc., Maspeth, New York; DPI-0028
Central Petroleum Corp., Bronx, New York; DPI-0032
Exxon Co. U.S.A., Houston, Texas; DPI-0030
Northville Industries Corporation, Huntington Station, New York; DPI-0029
Swann Oil Co., Bala Cynwyd, Pennsylvania; DPI-0027
Trammo Petroleum Corp., Washington, D.C.; DPI-0031

Copies of the full text of these Decisions and Orders are available in

the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

March 30, 1979.

[FR Doc. 79-10713 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

Objections Filed; Week of March 19 Through March 25, 1979

Notice is hereby given that during the week of March 19 through March 23, 1979 the Notices of Objection to a Proposed Remedial Order listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before April 26, 1979, any person who wishes to participate in any of the proceedings which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate, pursuant to 10 CFR 205.194 (44 Fed. Reg. 7926, February 7, 1979). On or before May 7, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in these proceedings, and will prepare official service lists which it will mail to all persons who filed requests to participate in the proceeding. Persons may also be placed on the official service list as nonparticipants for good cause shown. All requests regarding these proceedings shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C., March 30, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

Delta Refining Company (a subsidiary of Earth Resources Company of Dallas), Dallas, Texas; DRO-0185, crude oil

On March 22, 1979, the Delta Refining Company, a subsidiary of Earth Resources Company of Dallas, filed a Notice of Objection to a Proposed Remedial Order which the DOE National Office of Enforcement issued to the firm on March 8, 1979. In the Proposed Remedial Order, the Office of Enforcement found that during the period November 1974 through December 1976 Delta Refining Company had included in its crude oil runs to stills on its refiner's monthly report volumes of natural gas liquids (NGL's) which were not permitted by 10 CFR, Part 211. According to the Proposed Remedial Order Delta Refining Company's violations of the provisions of 10 CFR, Part 211 resulted in the firm receiving $404,465.71 in excess entitlement benefits. Delta's mailing address is: Delta Refining Company, 1200 One Energy Square, Dallas, Texas 75206.

Glenn Martin Heller, Boston, Massachusetts; DRO-0184, motor gasoline

On March 21, 1979, Glenn Martin Heller d/b/a Beacon Hill Gulf filed a Notice of Objection to a Proposed Remedial Order that the DOE Region I Office issued to him on March 6, 1979. In the Proposed Remedial Order, the Regional Office found that during the period from August 18, 1976 to the present, Heller sold and is selling motor gasoline to customers at his Boston, Massachusetts retail sales outlet at prices which were and continue to be in excess of the ceiling price levels specified in 10 CFR, Part 212. According to the Proposed Remedial Order, Heller's violations of the provisions of 10 CFR, Part 212 resulted in overcharges to his customers of $77,406.22 during the period December 1, 1976 through December 6, 1978. Since December 7, 1978, the Regional Office found that Heller has increased his selling prices and is likely to be in further violation of 10 CFR, Part 212. Heller's address is: Beacon Hill Gulf, 358 Cambridge Street, Boston, Massachusetts 02114.

McCormick Oil and Gas Corporation, Houston, Texas; DRO-0186, crude oil

On March 22, 1979, McCormick Oil and Gas Corporation filed a Notice of Objection to a Proposed Remedial Order which the DOE Region VI Office issued to the firm on March 12, 1979. The Proposed Remedial Order tentatively determined that during the period September 1, 1973 through December 31, 1975, McCormick violated 6 CFR 150.354 and 10 CFR 212.73 by selling crude oil at prices which were in excess of the ceiling price. According to the Proposed Remedial Order the violations found to exist resulted in overcharges to McCormick's customers of $78,277.22. McCormick's mailing address is: McCormick Oil and Gas Corporation, 1204 Tenneco Building, Houston, Texas 77002.

[FR Doc. 79-10711 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Cases Filed; Week of March 2 Through March 9, 1979

Notice is hereby given that during the week of March 2, 1979 through March 9, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be April 6, 1979, or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

March 29, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

Appendix.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Mar. 2, 1979 through Mar. 9, 1979]

Date	Name and Location of Applicant	Case No.	Type of Submission
Mar. 2, 1979	Amoco Oil Company, Chicago, Ill	DES-0338; DEST-0338; DEA-0338.	Request for stay; Request for temporary stay; appeal of ERA decision and order. If granted: The ERA's February 21, 1979 decision and order regarding Amoco Oil Co.'s supply obligations to Rock Island Refining Corp. would be rescinded. Amoco oil Co. would receive a temporary stay and stay of the decision and order pending a final determination on its appeal.
Do	Commonwealth Oil & Refining Co., Inc., Puerto Rico.	DEE-2245 and DES-2245.	Price exception (sec. 212.83); request for stay. If granted: Commonwealth Oil & Refining Co., Inc. would be permitted to increase its selling price of gasoline on the basis of the cost of naphtha and crude oil used in the production of that product. A stay would be granted pending a final determination on the application for exception.

Appendix.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Mar. 2, 1979 through Mar. 9, 1979]

Date	Name and Location of Applicant	Case No.	Type of Submission
Do	Diamond Gas & Fuel Co., Englewood, Colo	DEE-2248	Allocation exception. If granted: Diamond Gas & Fuel Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Harrison Oil & Gas, Los Angeles, Calif	DES-0160 and DEE-2548.	Stay request; allocation exception. If granted: Harrison Oil & Gas would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Ken Warbrick Chevron, Corona, Calif	DEE-2249 and DES-2249.	Allocation exception. If granted: Ken Warbrick Chevron would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Richard Levy, Alexandria, Va	DFA-0339	Appeal of an information request denial. If granted: Richard Levy would receive access to certain DOE documents regarding the class of purchaser determinations.
Do	Richard Levy, Alexandria, Va	DFA-0341	Appeal of an information request denial. If granted: Richard Levy would receive access to certain DOE documents regarding the FEA/DOE price and allocation regulations.
Do	Floyd Miller, Jr., Detroit, Mich	DEE-2242	Allocation exception. If granted: Floyd Miller Jr. would receive an adjustment in its base period allocation of motor gasoline.
Do	Office of Special Counsel, Washington, D.C	DFF-0001	Refund exception. If granted: The Office of Hearings and Appeals would implement the special refund procedures set forth in 10 CFR, Part 205, Subpart V for the disposition and distribution of refunds made by the Gulf Oil Corp.
Do	Pilot Petroleum Associates, Inc., New York, N.Y	DEE-2243; DES-2243; DEST-2243.	Allocation exception; request for stay; request for temporary stay. If granted: Pilot Petroleum Associates, Inc., would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Joe E. Smith, Austin, Tex	DRS-0162	Request for stay. If granted: Joe E. Smith would receive a stay of the refund obligations specified in Case No. 610C00359.
Do	Joe E. Smith, Austin, Tex	DEE-2246	Price exception (Sec. 212.73). If granted: Joe E. Smith would be permitted to sell the crude oil produced from the L. Tortoris Lease, located in Hardin County, Tex., at stripper well prices.
Do	Southland Oil Co./VGS Corp., Jackson, Miss	DEE-2247	Allocation exception. If granted: Southland Oil Co./VGS Corp. would receive an exception from the provisions of 10 CFR 211.67 regarding its entitlement purchase obligations.
Do	Stechschulte Oil & Gas Co., Alexandria, Va	DST-0015	Request for temporary stay. If granted: Stechschulte Oil & Gas Co. would receive a temporary stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	West Haven Auto Trans, Inc., Orange, Conn	DFA-0340	Appeal of information request denial. If granted: West Haven Auto Trans, Inc., would receive access to certain DOE data related to a 1973 ruling concerning motor gasoline allocation.
Mar. 5, 1979	Belco Petroleum Corp., Uintah County, Utah	DXE-2251	Extension of relief granted in *Belco Petroleum Corp.* 2 DOE Par. —— (Nov. 24, 1978). If granted: Belco Petroleum Corp. would be permitted to sell crude oil produced from the White River unit, located in Uintah County, Utah, at upper tier ceiling prices.
Do	Cuatro Petroleum Co., Wewoka, Okla	DEE-2276	Exception from reporting requirements. If granted: Cuatro Petroleum Co. would not be required to file Form EIA-23.
Do	Dalee Oil Co., Okawville, Ill	DEE-2241, DST-2241.	Allocation exception; request for temporary stay. If granted: Dalee Oil Co. would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Exxon Corp., Houston, Tex	DFA-0342	Appeal of an information request denial. If granted: The DOE's Feb. 1, 1979, information request denial would be rescinded and Exxon Corp. would be granted access to certain DOE documents as specified in the DOE's Nov. 1, 1978, decision and order (Case No. DFA-0216).
Do	J. E. DeWitt, Inc., South El Monte, Calif	DEE-2253 and DES-2253.	Allocation exception; request for stay. If granted: J. E. DeWitt, Inc., would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Kerr-McGee Corp., Houston Tex	DEE-2244	Allocation exception. If granted: Kerr-McGee Corp., would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	King & King Enterprises, Inc., Kansas City, Mo	DEE-2240 and DST-2240.	Allocation exception. If granted: King & King Enterprises, Inc., would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Lucia Lodge, Monterey, Calif	DRD-0162	Motion for discovery. If granted: Lucia Lodge would be granted discovery with respect to the objections submitted in response to the proposed remedial order issued by the DOE in Case No. DRO-0162.
Do	Priam Trading Co., Inc., Dallas, Tex	DES-0164 and DSG-0048.	Petition for special redress; request for stay. If granted: The Office of Hearings and Appeals would review the application to quash a subpena submitted by Priam Trading Co., Inc. A stay of the subpena would be granted pending a determination on the petition for special redress.
Do	Rachles Gasoline Co., Clifton, N.J	DEE-2258	Allocation exception. If granted: Rachles Gasoline Co. would receive a exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Trans Oil Co., Statesboro, Ga	DEE-2258	Allocation exception. If granted: Trans Oil Co., would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Trzynka Automotive, Fort Wayne, Ind	DEE-2250	Exception to change supplier. If granted: Trzynka Automotive would be granted a new supplier of motor gasoline to replace its present base period supplier, Smith Petroleum, Inc.
Do	Wells Petroleum Co., Chicago, Ill	DEE-2252	Allocation exception. If granted: Wells Petroleum Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

Appendix.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Mar. 2, 1979 through Mar. 9, 1979]

Date	Name and Location of Applicant	Case No.	Type of Submission
Mar. 6, 1979	Action Gas Co., Sullivan, Ind	DEE-2260 and DST-2260.	Allocation exception; request for temporary stay. If granted: Action Gas Co. would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Amoco Oil Co., Chicago, Ill	DEE-2257	Allocation exception. If granted: Amoco Oil Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Bagwell Oil Co., Onancock, Va	DEE-2267	Allocation exception. If granted: Bagwell Oil Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Barnes & Rogers, Long Beach, Calif	DST-0020	Request for temporary stay. If granted: Barnes & Rogers would receive a temporary stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Central Florida Gas Corp., White Haven, Fla	DEE-2270	Exception to reporting requirements. If granted: Central Florida Gas Corp. would not be required to file Form EIA-8.
Do	Craig Oil Co., Macon, Ga	DEE-2466; DST-2466; DES-0131.	Application for exception; request for temporary stay; request for stay. If granted: Craig Oil Co. would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Devon Corp./D'Arbonne Energy Corp., Louisiana	DES-0165	Request for stay. If granted: Devon Corp./D'Arbonne Energy Corp. would receive a stay of the requirement to file Form P110.
Do	Duncan Oil Co., Xenia, Ohio	DEE-2259; DES-2259; DST-2259.	Allocation exception; request for stay; request for temporary stay. If granted: Duncan Oil Co. would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Earman Oil Co., Inc., Vero Beach, Fla	DEE-2264 and DST-2264.	Allocation exception; request for temporary stay. If granted: Earman Oil Co., Inc., would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Gish Oil Co., Valdosta, Ga	DEE-2280	Allocation exception. If granted: Gish Oil Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Gottlieb Corp., Kansas City, Mo	DEE-2269; DES-2269; DST-2269.	Allocation exception; request for stay; request for temporary stay. If granted: Gottlieb Corp. would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Gulf Oil Corp., houston, Tex	DEE-2271	Price exception (Sec. 212.73). If granted: Gulf Oil Corp. would be permitted to sell the crude oil produced from the South Liberty Field located in Liberty County, Tex., at upper tier ceiling prices.
Do	Charles F. Haas, San Patricio County, Tex	DEE-2273	Price exception (Sec. 212.73). If granted: Charles F. Haas would be permitted to sell the crude oil produced from the Taft Field, G. W. Pullin Lease, located in San Patricio County, Tex., at upper tier ceiling prices.
Do	J. Austin Oil Co., Flint, Mich.	DEE-2255	Allocation exception. If granted: J. Austin Oil Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	J. H. Williams Oil Co., Inc., Plant City, Fla	DST-0017	Request for temporary stay. If granted: J. H. Williams Oil Co., Inc., would receive a temporary stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Kerr McGee Corp., Oklahoma City, Okla	DES-2244 and DST-2244.	Request for temporary stay; request for stay. If granted: Kerr McGee Corp. would receive a temporary stay and stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Marcum Oil Co., Savannah, Mo	DEE-2263; DST-2263; DES-2263.	Allocation exception; request for temporary stay; request for stay. If granted: Marcum Oil Co. would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Murray Oil Co. Ash Grove, Mo	DEE-2284; DST-2284; DES-2284.	Allocation exception; request for temporary stay; request for stay. If granted: Murray Oil Co. would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Nelson Oil Co., Long Beach, Calif	DST-0021	Request for temporary stay. If granted: Nelson Oil Co. would receive a temporary stay of the activation of the standby petroleum product allcoation regulations with respect to motor gasoline.
Do	Northlake Chevron, Tucker, Ga	DST-0019	Request for temporary stay. If granted: Northlake Chevron would receivbe a temporary stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Pogge Oil Co., Tallahassee, Fla	DST-0018	Request for temporary stay. If granted: Pogge Oil Co. would receive a temporary stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Priebe Brothers Oil Co., Benton Harbor, Mich	DEE-2266	Allocation exception. If granted: Priebe Brothers Oil Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

Appendix.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Mar. 2, 1979 through Mar. 9, 1979]

Date	Name and Location of Applicant	Case No.	Type of Submission
Do	Publix Oil Co., Inc., Morristown, Tenn	DEE-2254 and DST-2254.	Allocation exception; request for temporary stay. If granted: Publix Oil Co., Inc., would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Red Rock Petroleum Co., Inc., Oklahoma City, Okla	DEE-2277	Allocation exception. If granted: Red Rock Petroleum Co., Inc., would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Riverdale Chevron, Riverdale, Ga	DEE-2285	Allocation exception. If granted: Riverdale Chevron would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Service Oil Co., Belleville, Ill	DEE-2261 and DST-2261.	Allocation exception; request for temporary stay. If granted: Service Oil Co. would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Southland Royalty Co., Fort Worth, Tex	DXE-2274 and DXE-2275.	Price exception (Sec. 212.73). If granted: Southland Royalty Co. would be permitted to sell the crude oil produced from the House Creek Federal 12-1 and the Joss Federal Lease at upper tier ceiling prices.
Do	Stubbs Oil Co., Inc., Savannah, Ga	DEE-2268	Allocation exception. If granted: Stubbs Oil Co., Inc. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Sun Co., Inc., Dallas, Tex	DEE-2272	Price exception (Sec. 212.73). If granted: Sun Co., Inc. would be permitted to sell the crude oil produced from the Southwest Nena Lucia Unit, located in Nolan County, Tex., at upper tier ceiling prices.
Do	James Tidwell, Nipomo, Calif	DEE-2398 and DES-2398.	Allocation exception; request for stay. If granted: James Tidwell would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Frank L. Toole, Jr., Macon, Ga	DST-0016	Request for temporary stay. If granted: Frank L. Toole, Jr. would receive a temporary stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Mar. 7, 1979	Akin, Gump, Hauer & Feld, Washington, D.C	DFA-0343	Appeal of an information request denial. If granted: The DOE's February 6, 1979, information request denial would be rescinded and Akin, Gump, Hauer, & Feld would receive access to certain DOE data related to various proposals to amend the entitlements program and the mandatory oil import program.
Do	Central City Shell Ferguson, Mo	DEE-2281 and DES-2281.	Allocation exception; request for stay. If granted: Central City Shell would receive a stay of and an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Cole & Myers Inc., Bethany, Mo	DEE-2313 and DES-2313.	Allocation exception; request for stay. If granted: Cole & Myers Inc., would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Deacon Corner, Clearwater, Fla	DEE-2278 and DST-2278.	Allocation exception; request for temporary stay. If granted: Deacon Corner would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Devon Corp./D'Arbonne Energy Corp., Louisiana	DEE-2315	Price exception. If granted: Devon Corp./D'Arbonne Energy Corp. would be permitted to calculate their increased costs of natural gas shrinkage on a plant-by-plant rather than on a firmwide basis.
Do	Myers Oil Co., Inc., Statesville, N.C	DEE-2265	Allocation exception. If granted: Myers Oil Co., Inc. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Nu-Way Service, Inc., St. Louis, Mo	DEE-2283; DES-2283; DST-2283.	Allocation exception; request for stay; request for temporary stay. If granted: Nu-Way Service, Inc., would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Pro Oil, Inc., Sidney, Nebr	DEE-2279 and DES-2279.	Allocation exception; request for stay. If granted: Pro Oil, Inc., would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	St. Johns Oil Co., Inc., St. Augustine, Fla	DEE-2262 and DES-2262.	Allocation exception; request for stay. If granted: St. Johns Oil Co., Inc., would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Stadium Oil Sales, Inc., Williamsburg, Va	DEE-2286; DES-2286; DST-2286.	Allocation exception; request for temporary stay; request for stay. If granted: Stadium Oil Sales, Inc., would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Standish Oil Co. and Osceola Refining Co., Standish, Mich.	DEE-2288	Allocation exception. If granted: Standish Oil Co. and Osceola Refining Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Trueblood Oil Co., Cameron, Mo	DEE-2282 and DES-2282.	Allocation exception; request for stay. If granted: Trueblood Oil Co. would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Zarda Brothers Dairy, Inc., Kansas	DEE-2287; DES-2287; DST-2287.	Allocation exception; request for temporary stay; request for stay. If granted: Zarda Brothers Dairy, Inc., would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

Appendix.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Mar. 2, 1979 through Mar. 9, 1979]

Date	Name and Location of Applicant	Case No.	Type of Submission
Mar. 8, 1979	Bag-Mor Food, Rome, Ga	DEE-2298; DST-2298; DES-2298.	Allocation exception; request for temporary stay; request for stay. If granted: Bag-Mor Food would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Beall Oil Co., Lenoir, N.C.	DEE-2289	Allocation exception. If granted: Beall Oil Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	C. M. Spiegel Oil Co., St. Louis, Mo	DEE-2308; DST-2308; DES-2308.	Allocation exception; request for temporary stay; request for stay. If granted: C. M. Spiegel Oil Co. would receive a temporary stay, stay and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Coffin's Corner, Grand Island, Neb	DEE-2311	Allocation exception. If granted: Coffin's Corner would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Emery Oil Co., Inc., Cincinnati, Ohio	DEE-2292	Allocation exception. If granted: Emery Oil Co., Inc., would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Eversole-Jay, Inc., Monroe, Mich	DEE-2299	Allocation exception. If granted: Eversole-Jay, Inc., would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Gas-Way Inc., Indianapolis, Ind	DEE-2304 and DES-2304.	Allocation exception request for stay. If granted: Gas-Way Inc. would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Gurley Oil Co., Memphis, Tenn	DEE-2296	Allocation exception. If granted: Gurley Oil Co. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	H & H Oil Co., Inc., Dickson, Tenn	DEE-2302	Allocation exception. If granted: H & H Oil Co., Inc., would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Holland Oil Co., Valdosta, Ga	DEE-2305 and DST-2305.	Allocation exception; request for temporary stay. If granted: Holland Oil Co. would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Huskey Budget Fuel, Springville, Utah	DEE-2314 and DES-2314.	Allocation exception; request for stay. If granted: Huskey Budget Fuel would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	J.W. Smith Lumber Co., Inc., Williamsburg, Ohio	DEE-2307	Allocation exception. If granted: J.W. Smith Lumber Co., Inc., would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Kimberly Gas Mart, Kimberly, Idaho	DEE-2291 and DST-2291.	Allocation exception; request for temporary stay. If granted: Kimberly Gas Mart would receive a temporary stay of and exception from the activation of standby petroleum product allocation regulations with respect to motor gasoline.
Do	Leon's Shopping Center, Wyandotte, Okla	DEE-2294	Allocation exception. If granted: Leon's Shopping Center would receive an exception from the activation of standby petroleum product allocation regulations with respect to motor gasoline.
Do	M & B Oil Co., Monmouth, Ill	DEE-2297	Allocation exception. If granted: M & B Oil Co. would receive an exception from the activation of standby petroleum product allocation regulations with respect to motor gasoline.
Do	Mike's Save-On Handi Shop, Sarasota, Fla	DEE-2293 and DST-2293.	Allocation exception; request for temporary stay. If granted: Mike's Save-On Handi Shop would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	New York Petroleum Corp., New Orleans, La	DRS-0170	Request for stay. If granted: New York Petroleum Corp. would be granted a stay of the provisions of the remedial order issued to the firm on July 29, 1977, as affirmed on appeal in the DOE's January 19, 1979, decision and order pending resolution of the action filed on March 7, 1979, in the U.S. District Court for the Southern District of Mississippi.
Do	Parramore Oil Co., Quincy, Fla	DEE-2306 and DST-2306.	Allocation exception; request for temporary stay. If granted: Parramore Oil Co. would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Phillips Petroleum Co., Bartlesville, Okla	DEE-2310	Price exception (Sec. 212.73). If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from the Government A Lease, located in Golden Valley County, N. Dak., at upper tier ceiling prices.
Do	Phillips Petroleum Co., Bartlesville, Okla	DEE-2317 and DES-2317.	Exception to the entitlements program; request for stay. If granted: Phillips Petroleum Co. would receive an exception from the provisions of 10 CFR 211.67, insofar as they apply to entitlements for naphtha imported into Puerto Rico. The firm would also be granted a stay pending a determination on the application for exception.
Do	Pioneer Oil Co., Inc., Bradenton, Fla	DEE-2295 and DST-2295.	Allocation exception; request for temporary stay. If granted: Pioneer Oil Co., Inc., would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

Appendix.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Mar. 2, 1979 through Mar. 9, 1979]

Date	Name and Location of Applicant	Case No.	Type of Submission
Do	Preway Inc., Wisconsin Rapids, Wis.	DEE-2316	Exception from appliance energy conservation program test procedures (10 CFR, Part 430). If granted: Preway, Inc., would be granted an exception from the appliance energy conservation program test procedure requirements applicable to vented gas and oil space heaters.
Do	Sheridan Oil Co., Inc., Bloomingdale, Ill.	DEE-2290 and DES-2290.	Allocation exception; request for stay. If granted: Sheridan Oil Co., Inc., would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Smith Service Oil Co., Savannah, Ga	DEE-2331	Allocation exception. If granted: Smith Service Oil Co., would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	R.C. Strother, Bogalusa, La.	DEE-2301 and DES-2301.	Allocation exception; request for stay. If granted: R.C. Strother would receive a stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Thomas Oil Co., Gainesville, Fla.	DEE-2312 and DST-2312.	Allocation exception; request for temporary stay. If granted: Thomas Oil Co. would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Tom McDonald Oil Co. Inc., Tampa, Fla.	DEE-2309	Allocation exception. If granted: Tom McDonald Oil Co., Inc. would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Toney Petroleum, Inc., Terre Haute, Ind.	DEE-2303 and DST-2303.	Allocation exception; request for temporary stay. If granted: Toney Petroleum, Inc., would receive a temporary stay of and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Town & County Markets Inc., Wichita, Kans.	DES-0169	Request for stay. If granted: Town & Country Markets Inc. would receive a stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Do	Valley Car Wash, Rosemead, Calif.	DES-0168	Request for stay. If granted: Valley Car Wash would receive a stay of the activation of the standby petroleum product allocation regulations with respect to motor gasoline.
Mar. 9, 1979	Rally Oil Co., Linden, N.J.	DEE-2542, DST-0022, DES-2542.	Allocation exception; request for temporary stay; request for stay. If granted: Rally Oil Co. and would receive a temporary stay, stay, and exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Mar. 2, 1979	Triangle Shell, Baltimore, Md	DEO-0180
Mar. 6, 1979	Laketon Asphalt Refining, Inc., Laketon, Ind	DXE-2113
Mar. 5, 1979	Rhodes Petroleum Corp., Texas	DRO-0181

[FR Doc. 79-10743 Filed 4-5-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Fuels and Fuel Additives: Gasohol; Marketability

AGENCY: Environmental Protection Agency.

ACTION: Notice is hereby given that, effective December 16, 1978, a waiver of the prohibitions and limitations of section 211(f) of the Clean Air act (Act), 42 U.S.C. 7545(f), as amended, was granted for Gasohol, a fuel consisting of 90% unleaded gasoline and 10% ethyl alcohol, by operation of the Act.

SUMMARY: Section 211(f)(1) states that "[e]ffective upon March 31, 1977, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for general use in light duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 [of the Act]." Section 211(f)(3) states that "[a]ny manufacturer of any fuel or fuel additive which prior to March 31, 1977, and after January 1, 1974, first introduced into commerce or increased the concentration in use of a fuel or fuel additive that would otherwise have been prohibited under [section 211(f)(1)] if introduced on or after March 31, 1977 shall, not later than September 15, 1978, cease to distribute such fuel or fuel additive in commerce * * *"

Section 211(f)(4) provides that the Administrator of the Environmental Protection Agency (EPA), "* * * upon application of any manufacturer of any fuel or fuel additive may waive the prohibitions [of section 211(f)], * * * if he determines that the applicant has established that such fuel or fuel additive * * * will not cause or

contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to section 206 [of the Act]. If the Administrator has not acted to grant or deny an application within [180] days of receipt of such application, the waiver * * * shall be treated as granted."

An application for a section 211(f)(4) waiver for Gasohol was received on June 19, 1978, from "Gas Plus", Inc. and the Illinois Department of Agriculture. The expiration of the 180 day review period was December 16, 1978.

Since the Administrator elected not to act to grant or deny the waiver request by December 16, 1978, the waiver was granted by operation of the statute as provided in section 211(f)(4) of the Act. Therefore, as of December 16, 1978, introduction into commerce of Gasohol is not subject to the prohibitions of section 211(f) of the Act.

FOR FURTHER INFORMATION CONTACT: Thomas E. Moore, Attorney-Advisor, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 755-2816.

Dated: March 29, 1979.

Marvin B. Durning,
Assistant Administrator for Enforcement.

[FRL-1095-3]

[FR Doc. 79-10727 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

Idaho and Montana Departments of Agriculture; Issuance of Specific Exemption to Use Metribuzin to Control Cheatgrass in Winter Wheat

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA Has issued specific exemptions to the Idaho and Montana Departments of Agriculture (hereafter referred to as the "Applicants" collectively and "Idaho" and "Montana" individually) to use metribuzin to control cheatgrass in winter wheat. Idaho's specific exemption ends on April 15, 1979; Montana's specific exemption ends on June 15, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

SUPPLEMENTARY INFORMATION: According to the Applicants, cheatgrass (downy brome) is an annual grass weed found in the northern counties of Idaho and in central and eastern Montana. Cheatgrass infestation of winter wheat is a problem every year, but the problem is particularly severe this year due to increased moisture that has produced favorable conditions for seed germination. Idaho estimated that losses of winter wheat due to competition with cheatgrass could reach a high of 85% if an effective herbicide was not applied; Montana estimated a loss of up to 75% of the seriously infested acreage.

Atrazine is registered for cheatgrass control; however, atrazine should not be applied post-emergence and the winter wheat is presently emerging. Therefore, the Applicants proposed a single post-emergence application of metribuzin, distributed under the trade names of Sencor and Lexone. A maximum of 70,000 acres in the following counties of Idaho may require treatment: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenar, Latah, Lewis, and Nez Perce. A maximum of 160,000 acres in the following counties of Montana may require treatment: Cascade, Chouteau, Fergus, Hill, Ponderosa, Stillwater, Teton, and Yellowstone.

Residues from the proposed use are not likely to exceed levels which have been determined by EPA to be adequate to protect the public health. Application of metribuzin to wheat in these two States is expected to pose minimal hazard to the environment.

After reviewing the applications and other available information, EPA determined that (a) pest outbreaks of cheatgrass on winter wheat have occurred; (b) there is no effective pesticide presently available for use to control cheatgrass in Idaho and Montana; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the cheatgrass is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until April 15, 1979 in Idaho and June 15, 1979 in Montana, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. A single post-emergence application of Lexone 50WP (EPA Reg. No. 352-375) or Sencor 50WP (EPA Reg. 3125-277) may be made at a rate of 0.25 to 0.50 pound active ingredient per acre;

2. Applications will be made with ground or air equipment;

3. Spray mixture volumes of 10-40 gallons per acre will be applied by ground equipment or 5-10 gallons by aircraft;

4. A maximum of 70,000 acres in the Idaho counties named above and 160,000 acres in the Montana counties named above may be treated;

5. All applications will be made by qualified growers or by State-licensed commercial applicators. Information on rates and timing will be furnished by the manufacturers and University of Idaho Extension personel in Idaho and by the Montana Department of Agriculture, Montana State university specialists, Experiment Station personnel, and county agents in Montana;

6. Precautions will be taken to avoid spray drift to non-target areas;

7. Residue levels of metribuzin and its triazinone metabolites are not expected to exceed 0.75 part per million (ppm) in or on wheat grain, 1.0 ppm in or on wheat straw, and 2.0 ppm in or on wheat forage. Wheat grain and straw with residues which are not in excess of these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Treated fields may not be grazed for 14 days following application;

9. All applicable directions, restrictions, and precautions on the EPA-registered lable must be followed:

10. Idaho and Montana are responsible for ensuring that all of the provisions of these specific exemptions are met, and and must submit reports of summarizing the results of these programs by August 30, 1979 in Idaho, and by September 30, 1979 in Montana; and

11. The EPA shall be immediately informed of any adverse effects resulting from the use of metribuzin in connection with these exemptions.

Statutory Authority: Section 18 of the Federal Insecticide, fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 2, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FRL 1095-5; OPP-180275]

[FR Doc. 79-10728 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

Pesticide Programs; Approval of Application to Register Pesticide Product Containing New Active Ingredients

On January 24, 1979, notice was given (44 FR 4999) that Abbott Laboratories, North Chicago, IL 60064, had filed an application (EPA File Symbol 275–GE) with the Environmental Protection Agency to register the pesticide product PROMALIN containing the active ingredients *N*-(phenylmethyl)-*IH*-purine-6-amine at 1.8% (w/w) and giberellins A_4 A_7 at 1.8% (w/w) which have not been included in any previously registered pesticide product. As stated in the January 24, 1979 notice, the applicant proposed that the pesticide be used as a plant regulator on Red Delicious apples. Additionally, pursuant to 40 CFR 162.8(a)(3), the company has requested, and the Agency has granted, waivers on environmental chemistry, environmental safety, and chronic hazard assessment data for the active ingredients. The active ingredients are naturally occurring compounds and levels detected in untreated apples were the same as, or higher than, those detected in treated apples.

This application was approved March 9, 1979, and the product has been assigned the EPA Registration No. 275–32. PROMALIN is classified for general use. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Program Support Division (TS–757), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St., SW, Washington DC 20460. The data and other scientific information used to support registration, except for the material scientifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in accordance with Section 3(c)(2) of FIFRA, within 30 days after the registration date of March 9, 1979. Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW, Washington DC 20460. Such requests should: 1) identify the product by name and registration number and 2) specify the data or information desired.

Dated April 2, 1979.

Edwin L. Johnson
Deputy Assistant Administrator for Pesticide Programs.

[FRL 1095–4; OPP–30158A]

[FR Doc. 79–10729 Filed 4–5–79; 8:45 am]

BILLING CODE 6560–01–M

Proposed Emergency Exemption for Use of Ferriamicide to Control Fire Ants in Eight Southern States; Additional Comment Period

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Proposed emergency exemptions; extension of additional comment period.

SUMMARY: EPA is providing an additional formal opportunity for public comment on the proposed emergency exemptions to permit use of the pesticide Ferriamicide to control fire ants in eight states: Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, and Texas.

DATE: Comments are due by April 16, 1979.

ADDRESS: Send comments to the **Federal Register** Section, Program Support Division (TS–757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy A. Gardner, Product Manager 15 (PM–15), Registration Division (TS–767), Office of Pesticide Programs, EPA, Room 229, East Tower, at the above address. Telephone: 202–426–9426.

SUPPLEMENTARY INFORMATION: The Agency's position is that emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) are not subject to the notice and comment provisions of 5 U.S.C. Section 553. However, the Agency has provided two additional comment periods concerning the section 18 application of the eight states mentioned above. The first additional comment period was published in the October 18, 1978 edition of the **Federal Register** (43 FR 48012) and closed November 15, 1978. The second additional comment period was published in the January 25, 1979 edition of the **Federal Register** (44 FR 5198) and closed February 5, 1979. Subsequently, EPA has received additional toxicological information on photomirex, a Ferriamicide degradation product. Consequently, EPA has decided to provide an opportunity for formal comment on this information *only*. The additional information which has been received has been placed in the public file on this matter. This file is located in Room 229, East Tower, at the address given above. The public file may be inspected during normal business hours. Any comments which interested persons desire to submit on the new information must be submitted by April 16, 1979.

Dated: April 2, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FRL 1093–8; OPP–180172]]

[FR Doc. 79–10728 Filed 4–5–79; 8:45 am]

BILLING CODE 6560–01–M

ENVIRONMENTAL PROTECTION AGENCY

Availability of Environmental Impact Statements

AGENCY: Office of Federal Activities, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of March 26 to March 30, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from April 6, 1979 and will end on May 21, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA for further information.

BACK COPIES OF EIS'S Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Federal Activities, A-104, Environmental

Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of March 26 to March 30, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix I sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: April 3, 1979.

Peter L. Cook,
Acting Director, Office of Federal Activities.

Appendix I

EIS's Filed With EPA During the Week of March 26 to 30, 1979

Department of Agriculture

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250 (202) 447-3965.

Forest Service

Draft

Alsea Planning Unit, Siuslaw National Forest, Benton, Lane, and Lincoln Counties, Oreg. March 27: Proposed is a land management plan for the Alsea Planning Unit if the Siuslaw National Forest, Benton, Lane, and Lincoln Counties, Oregon. The preferred alternative for the 232,903 acre area commits approximately: 6,900 acres to older forest communities on a 300-year rotation and 1,700 acres to an unregulated basis for older forest production; 126,500 acres to general forest management; 2,300 acres to decidous/conifer mixed stands; 14,300 acres to non-forest use; and 81,200 acres to special management. Also, 3,812 acres of the Drift Creek roadless area will be retained in an unroaded condition with balance being allocated to general forest management. (USDA-FS-DES-06-12-79-08) (EIS Order No. 90318).

Renewable Resources, assessment/program directions, programmatic, March 27: Proposed are five alternatives for program directions of the Forest and Rangeland Renewable Resources Planning Act of 1974, in conjunction with the assessment of national renewable resources on forest system lands. The alternatives consider a range of programs for cooperative and assistance programs with state and private landowners, and for research. The alternatives also consider: Combinations of high, low, moderate and non-market levels of output, on combinations of national forest system, State, private forest, and range lands. (USDA-FS-DEIS-79-07) (EIS Order No. 90315).

Final

Timber Sale Plan, Tongass National Forest, Alaska, March 30: Proposed is a timber sale plan concerning the Tongass National Forest between the U.S. 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 U.S. and LPC. Five alternatives are considered. (USDA-FS-10-05-79-01). Comments made by: EPA, DOI, FERC, TREA, DOC, USDA, HUD, DOT, State and local agencies, groups, individuals and businesses (EIS Order No. 90336).

1979 Maine Spruce Budworm Suppression Project, Several counties, Maine, March 28: Proposed is the application of insecticides to 3.5 million acres of spruce fir forest in 1979 to suppress an outbreak of the eastern spruce budworm in Hancock, Franklin, Washington, Piscataquis, Penobscot, Somerset and Aroostook Counties in Maine. The insecticides proposed for use are: Sevin 4 Oil, Dylox 4, and Orthene Forest Spray. The following applications have been proposed: (1) Seven 4 Oil on 3,220,000 acres, (2) Dylox 4 on 107,000 acres, (3) Orthene Forest Spray on 95,000 acres, (4) Thuricide 16B on 38,000 acres, and (5) Thuricide 23B on 2,000 acres. (USDA-FS-NA-79-01-A) Comments Made by: HUD, EPA, DOC, DOT, USDA, STAT, DOI, State and local agencies, groups, individuals and businesses (EIS Order No. 90321).

Department of Commerce

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

National Oceanic and Atmospheric Administration

Draft

North Carolina Coastal Zone Management Program, amendments, North Carolina, March 28: Proposed are amendments to the North Carolina coastal zone Management program. The amended elements of the program are: (1) the shorefront access and protection planning process, (2) the energy facility siting planning process, and (3) the shoreline erosion mitigation planning process (EIS Order No. 90322).

South Carolina Coastal Zone Management Program, South Carolina, March 30: Proposed is a coastal zone management program for South Carolina. The program will provide for: (1) the Establishment of a permanent South Carolina coastal council; (2) the development and administration of a comprehensive coastal zone management program; (3) a permit process for activities on tidelands, coastal waters, beachs, and primary ocean front sand dunes; and (4) a mechanism for consistency of the coastal zone management program by State and local agencies (EIS Order No. 90330).

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, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693-6795.

Draft

White River navigation, Batesville to Mississippi River, several Arkansas counties, March 27: Proposed is a navigation project for the White River from Batesville to the Mississippi River in the counties of Arkansas, White, Woodruff, Praire, Monroe, Jackson, and Phillips, Arkansas. The navigation channel would have a depth of 9 feet available 95 percent of the time and a bottom width of 200 feet. Dredging would be required at 154 locations along 56 miles of the 244 miles of the waterway. Channel stabilization measures would include: 36 stone dikes totaling 9,150 feet; and stone bank paving at 9 locations totaling 4.7 miles (Memphis district) (EIS Order No. 90317).

Fourche Bayou Basin, flood control, Little Rock, Pulaski county, Ark., March 29: Proposed is a flood control project for the Fourche Bayou Basin in the vicinity of Little Rock, Pulaski county, Arkansas. The plan would include: channel clearing, bank shaping, highway bridge alterations, and alteration of railway bridges on lower Fourche Creek. Rock Creek and Grassy Flat Creek improvements both include bridge alterations and construction of a channel. The plan also examines the acquisition of 1,750 acres of flood plain, the development of a 20-acre nature appreciation area, and recreational trails along portions of Rock Creek (Little Rock district) (EIS Order No. 90326).

Draft

Harry S. Truman Parkway, Savannah, permit, Chatham County, Ga. March 27: Proposed is the issuance of a permit to authorize various activities associated with

the construction of the Harry S. Truman Parkway in Savannah, Chatham County, Georgia. The Parkway would be an 11-mile toll road. Major construction activities include: dredging; discharge of dredged or fill material into the Vernon River and several wetland areas; and relocation of segments of the Casey Canal and embankment construction in the existing canal; construction of a pump station; and placement of a temporary pipeline across the Savannah River (Savannah district) (EIS Order No 90316).

Great Lakes/St. Lawrence Seaway, fiscal year 1979 season, programmatic proposed is an extension of the navigation season on the Great Lakes and St. Lawrence seaway. Described are various activities and improvement which are considered necessary to achieve year-round navigation through the Welland Canal—Lake Ontario—St. Lawrence River portion of the system. Twenty-six operational measures are considered necessary for extended season operation, such as: dredging; ice—control structures, breaking requirements, and data collection; vessel waste discharge; vessel traffic control; shoreline protection; and others (Detroit district) (EIS Order No. 90314).

Mississippi River flood control, Bushley bayou area, Catahoula and La Salle counties, La. March 26: Proposed is the provision of backwater flood protection to the Bushley bayou area in Catahoula and La Salle parishes, Louisiana. Project means include: a loop levee, gravity floodgate, an internal drainage canal, and a 300-cubic-foot-per-second pumping station. Also recommended is the acquisition and management of 1,400 acres of suitable wildlife lands to mitigate project induced wild-life losses, and construction of water supply and control facilities in Teu and Wallace Lakes to reduce project-induced fishery losses. This revised draft statement replaces a draft EIS, No. 71100, filed 9-6-77 (Vicksburg district) (EIS Order No. 90312).

Department of Defense, Army

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.

Draft

U.S. Army Nuclear, Biological and Chemical School, Harford County, Md., Calhoun and Madison Counties, Ala., March 30: Proposed is the establishment of an Army nuclear, biological, and chemical school on one of three alternative sites: Fort McClellan, Calhoun County, Alabama; Redstone Arsenal, Madison County, Alabama or Aberdeen Proving Ground (APG), Harford County, Maryland. The fourth alternative addresses the maintenance of the current, limited training programs at Redstone Arsenal and APG (EIS Order No. 90331).

Environmental Protection Agency

Contact: Mr. Bernard Stoll, Office of Solid Waste, WH564, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9116.

Draft

Landfill Disposal of Solid Waste, Guidelines, National, March 30: Proposed are guidelines for the landfill disposal of solid waste under the Resource Conservation and Recovery Act of 1976. The proposed action presents recommended considerations and practices for the location, design, construction, operation, and maintenance of solid waste landfill disposal facilities. Identification of various approaches and technologies which may be implemented are presented for site selection, design, leachate control, runoff control, landfill operation, and production monitoring (EIS Order No. 90337).

Contact: Mr. Paul Wilson, Office of Mobile Source, Air Pollution Control (ANR-455), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-0596.

Gaseous Emission Regulations, 1983, Regulatory, March 26: Proposed are gaseous emission regulations for 1983 and later model year heavy-duty engines. The subject regulations propose a 90-percent reduction from baseline levels in hydrocarbon and carbon monoxide emissions by the 1983 model year. Also proposed are complimentary control strategies such as: Transient testing procedures; Idle HC and CO emission standards; redefinition of useful life; establishment of a production compliance auditing and non-conformance penalty system; a NOX emission standard of equivalent stringency to the current level; and others (EIS Order No. 90320).

Contact: Mr. Wallace Stickney, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Room 2203, Boston, Massachusetts 02203, (617) 223-4635.

Final

Boston Sludge Management Plan, Suffolk County, Mass., March 30: Proposed is the granting of funds to design and eventually construct all necessary facilities and equipment to collect and dispose of the primary sludge generated by the metropolitan sewerage district for the city of Boston, Suffolk County, Massachusetts. The project would provide for pumping and piping of sludges to Deer Island by means of two high-head, non-clog centrifugal pumps and by extending the existing sludge outfall pipe and building a completely new pipe. At Deer Island the sludge would be chemically treated, vacuum filtered and incinerated (EIS Order No. 90335).

Contact: Mr. Clinton Spotts, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2716.

Draft

WWT Facilities, Water Supply, Crownpoint, Grant, McKinley County, N. Mex., March 26: Proposed is the awarding of grant funding for improving the sewerage and water supply system in Crownpoint, McKinley County, New Mexico. The project consists of two phases. First, two new aerated lagoons would be constructed northeast of the existing plant, connected to the present system by 7000 feet of gravity sewer; the existing facility would be abandoned. Secondly, two additional lagoons would be built and 12 miles of sewer line added to the present system. The project will also include a new 1.5 million gallon water tank, a new well, and the rehabilitation of three existing wells; adding a chlorinator; and adding 10 miles of well collection and distribution lines (EIS Order No. 90313).

Department of HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.

Draft

Lakewood Planned Community, Boise, Ada County, Idaho, March 30: Proposed is the issuance of HUD home mortgage insurance for Lakewood planned residential community in Boise, Ada County, Idaho. The project would be located on approximately 265 acres consisting of approximately 1,575 dwelling units and a neighborhood commercial center (HUD-R10-EIS-79-3D), (EIS Order No. 90332).

Final

Amhurst Subdivision, Mortgage Insurance, Harris County, Tex., March 26: Proposed is the issuance of HUD home mortgage insurance for the Amhurst subdivision located in Harris County, Texas. The subdivision encompasses approximately 340 acres and when completed, will contain approximately 1,672 single family homes. Recreational facilities will be provided to serve the subdivision. Three alternatives are considered (HUD-R06-EIS-12F). Comments made by: EPA, COE, AHP, DOT, DOI, USDA, State and local agencies, groups (EIS Order No. 90309).

Section 104(H)

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 executive. Copies are not available from HUD.

Draft

South End Urban Renewal Project, Boston, Suffolk County, Mass., March 30: Proposed is an urban renewal project for the south end of the city of Boston, Suffolk County, Massachusetts. The remaining activities to be carried out include the conveyance of 112 parcels of land for redevelopment and various project improvements. The 112 parcels may be conveyed subject to the controls and objectives of the modified plan, entirely or partially deleted from acquisition; or with modified or altered plans for reuse (EIS Order No. 90334).

Final

Lechmere Canal and Triangle Development Project, Middlesex County, Mass., March 29: Proposed is the Lechmere Canal and Triangle Area Development Project located in Cambridge, Middlesex County, Massachusetts. Plan implementation calls for the restoration of the Lechmere Canal and establishment of a bordering park; conversion of the Cambridge Parkway area to

a park along the Charles River; open-space walkways from the development areas to the new parks; street widening; relocation of the Lechmere Square MBTA Station; and the development of housing, retail and office centers (HUD-ROI-EIS-77-01-D). Comments made by: EPA, DOE, COE, DOT, State and local agencies, businesses (EIS Order No. 90279).

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

Beaufort Sea Oil and Gas Lease Sale, Alaska, March 30: Proposed is a Federal/State oil and gas lease sale in the Beaufort Sea off the coast of Alaska. The tracts extend from the Canning River on the east to the Kuparuk River on the west and generally seaward from the coast to the 66 foot isobath. Ownership involves 347,318 acres of State tracts, 89,167 acres of Federal tracts, and 77,707 acres which are under dispute, a total of 514,193 acres (EIS Order No. 90329).

Heritage Conservation and Recreation Service

Final

Mill Creek Metropark, Land Acquisiton, Washtenaw County, Mich., March 27: Proposed is the awarding of funds for the acquisition of 3,501 acres of land in Lima and Freedom Townships, Washtenaw County, Michigan. Future development, not included as part of the proposed funding, will include intensive, multiple-activity, daytime recreational use focused around a 618-acre impoundment on Mill Creek. The alternatives considered include: no action; alternate locations with potential for water-oriented recreation; and location and development of the park within the Waterloo or Pinckney Recreation Areas (FES-79-16). Comments made by: USDA, COE, EPA, DOI, DOT, State and local agencies, groups and businesses (EIS Order No. 90319).

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 Highway Administration

Draft

CA-92 Gap Closure, CA-92 and Ca-101 Interchange, San Mateo County, Calif., March 29: Proposed is the reconstruction of the CA-92/101 Interchange and the closure of a 0.7 mile Freeway Gap on CA-92 in the city and county of San Mateo, California. The work includes constructing direct freeway-to-freeway connectors, reconstructing portions of the existing interchange which are now temporary construction, constructing two new bridges across Marina Lagoon, and constructing additional roads for local service (FHWA-CA—EIS—79-01-D), (EIS Order No. 90325).

Going Street Noise Mitigation Project, Portland, Multnomah County, Oreg., March 26: Proposed is a noise mitigation project for the Going Street area in Portland, Multnomah County, Oregon. The purpose of the project is to reduce the sound levels which impact existing land uses in the Going Street study area. Going Street extends east to west from I-5 to Swan Island Industrial Park. The alternatives considered are: 1) no build, and 2) build alternatives consisting of a noise barrier, soundproofing, and nonstructural strategy (EIS Order No. 90311).

TN-34 Relocation, from TN-34 to TN-44, Sullivan County, Tenn., March 29: Proposed is a relocation of TN-34 from the existing TN-34 to a 22 foot section west of TN-44 in Sullivan County, Tennessee. The project length is 4.26 miles long and will be a typical cross section of two 24-foot lanes divided by a 48-foot median with 12-foot shoulders and 18-foot ditches, all within a minimum of 250 feet of right-of-way. The alternatives considered are: Two alignments for relocation, postponing the action, lower level of service and/or a reduced facility design, and public transportation (FHWA-TN-EIS-78-04-D), (EIS Order No. 90327).

Noti-Veneta, Florence-Eugene Highway, TN-126, Lane County, Tenn., March 29: Proposed is the replacement of the Noti-Veneta section of Florence-Eugene Highway 126. This project would replace the existing facility on a new alignment, reducing the length from 8.16 to 7.16 miles, and include modern standards. The alternatives considered include: No build, and build which consists of two units, the east and west and two design options. This project is located in Lane County, Tennessee (FHWA-OR-EIS-79-01-D), (EIS Order No. 90328).

NW Expressway Ext. and Old Forest Blvd. Construction, Campbell County, Va., March 30: Proposed is the extension of the Northwest Expressway and the construction of Old Forest Boulevard, both in the city of Lynchburg, Campbell County, Virginia. The NW Expressway will ultimately be a four-lane divided facility with partially controlled access and a 40 foot depressed median, for a total length of 4.10 miles. The Old Forest Boulevard will also be a four-lane divided facility, with partially controlled access and a 40 foot depressed median, for a total length of 2.69 miles (EIS Order No. 90333).

Final

I-40, I-85 to I-40, Durham, Durham and Orange County, N.C., March 26: Proposed is the construction of 21.4 miles of I-40 in Durham and Orange Counties, North Carolina. The segment will extend from I-85 west of Durham to the existing I-40 southeast of Durham as a four-lane freeway, with full control of access, and an approximate right-of-way width of 400 feet (FHWA-NC-EIS-73-07-F). Comments made by: USDA, COE, EPA, HEW, DOI, DOT, State and local agencies, groups and individuals (EIS Order No. 90310).

Veterans and Administration

Contact: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Veterans' Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389-2526.

Draft

VA Administration Medical Center, Camden, Camden County, N.J., March 29: Proposed is the construction of a veterans medical center in Camden City and County, New Jersey. Construction of the medical center is intended to better serve the veterans in the southern New Jersey region and to relieve the demand of an overburdened facility in Philadelphia. The center will contain a maximum, possibly, of 480 beds, and approximately 312,225 net square feet of floor area. Three alternatives are considered (EIS Order No. 90323).

VA Medical Center, Hospital Addition, Seattle, King County, Wash., March 29: Proposed is the construction of a 515-bed hospital as an addition to the Seattle VA Medical Center in King County, Washington. Alternative 1 proposes remodeling and new construction as follows: 1) major remodeling/complete utilization of existing facilities plus limited additional new space, 2) minimal remodeling/complete utilization of existing facilities plus limited additional new space, and 3) partial abandonment/minimal remodeling of existing space plus major addition of new space. Alternative 2 involves replacement of existing facilities and new construction (EIS Order No. 90324).

EIS's Filed During the Week of March 26 to 30, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. agency No.
Alabama	Calhoun	Draft	U.S. Army Nuclear, Biological and Chemical School	90331	03-30-79	USA
	Madison	Draft	U.S. Army Nuclear, Bilogical and Chemical School	90331	03-30-79	USA
Alaska		Draft	Beaufort Sea Oil and Gas Lease Sale	90329	03-30-79	DOI
		Final	Timber Sale Plan, Tongass NF	90336	03-30-79	USDA
Arkansas	Several	Draft	White River Navigation, Batesville to Mississippi River.	90317	03-27-79	COE
	Pulaski	Draft	Fourche Bayou Basin, Flood Control, Little Rock	90326	03-29-79	COE
California	San Mateo	Draft	CA-92 Gap Closure, CA-92 and CA-101 Interchange.	90325	03-29-79	DOT

EIS's Filed During the Week of March 26 to 30, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. agency No.
Georgia	Chatham	Draft	Harry S Truman Parkway, Savannah, Permit	90316	03-27-79	COE
Idaho	ADA	Draft	Lakewood Planned Community, Boise	90332	03-30-79	HUD
Louisiana	Catahoula	Draft	Mississippi River Flood Control, Bushley Bayou Area.	90312	03-26-79	COE
	La Salle	Draft	Mississippi River Flood Control, Bushley Bayou Area.	90312	03-26-79	COE
Maine	Several	Final	1979 Maine Spruce Budworm Suppression Project	90321	03-28-79	USDA
Maryland	Harford	Draft	U.S. Army Nuclear, Biological and Chemical School	90331	03-30-79	USA
Massachusetts	Middlesex	Final	Lechmere Canal and Triangle Development Project.	90279	03-29-79	HUD
	Suffolk	Draft	South End Urban Renewal Project, Boston	90334	03-30-79	HUD
		Final	Boston Sludge Management Plan	90335	03-30-79	EPA
Michigan	Washtenaw	Final	Mill Creek Metropark, Land Acquisition	90319	03-27-79	DOT
National		Draft	Landfill Disposal of Solid Waste, Guidelines	90337	03-30-79	EPA
New Jersey	Camden	Draft	VA Administration Medical Center, Camden	90323	03-29-79	VA
New Mexico	McKinley	Draft	WWT Facilities, Water Supply, Crownpoint, Grant	90313	03-26-79	EPA
North Carolina		Draft	NC Coastal Zone Management Program, amendments.	90322	03-28-79	DOC
	Durham	Final	I-40, I-85 to I-40, Durham	90310	03-26-79	DOT
	Orange	Final	I-40, I-85 to I-40, Durham	90310	03-26-79	DOT
Oregon	Benton	Draft	Alsea Planning Unit, Siuslaw National Forest	90318	03-27-79	USDA
	Lane	Draft	Alsea Planning Unit, Siuslaw National Forest	90318	03-27-79	USDA
	Lincoln		Alsea Planning Unit, Siuslaw National Forest	90318	03-27-79	USDA
	Multnomah	Draft	Going Street Noise Mitigation Project, Portland	90311	03-26-79	DOT
Programmatic		Draft	Great Lakes/St. Lawrence Seaway, Fiscal Year 1979 Season.	90314	03-27-79	COE
		Draft	Renewable Resources, Assessment/Program Directions.	90315	03-27-79	USDA
Regulatory		Draft	Gaseous Emission Regulations, 1983	90320	03-26-79	EPA
South Carolina		Draft	South Carolina Coastal Zone Management Program	90330	03-30-79	DOC
Tennessee	Lane	Draft	Noti-Venet, Florence-Eugene Highway, TN-126	90328	03-29-79	DOT
	Sullivan	Draft	TN-34 Relocation, From TN-34 to TN-44	90327	03-29-79	DOT
Texas	Harris	Final	Amhurst Subdivision, Mortgage Subdivision	90309	03-26-79	HUD
Virginia	Campbell	Draft	NW Expressway Ext. and Old Forest Blvd. construction.	90333	03-30-79	DOT
Washington	King	Draft	VA Medical Center, Hospital addition, Seattle	90324	03-29-79	VA

Appendix II.—*Extension/waiver of review periods on EIS's filed with EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
Department of Defense, Air Force					
Dr. Carlos Stern, Deputy for Environment and Safety, Department of the Air Force, Room 4C885, Pentagon, Washington, D.C. 20330, (202) 697-9297.	Flight Operations in the Sells Airspace.	Draft 90150	02/20/79	Extension	04/16/79

Appendix III.—*EIS's filed with EPA which have been officially withdrawn by the originating agency*

Federal agency contract	Title of EIS	Filling status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of official retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
Department of Housing and Urban Development				
Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6306.	Lechmere Canal and Triangle Development Project.	Final 90279	03/26/79	Distribution of the final EIS was not made when the notice of availability was published in the "Federal Register" 03/26/79 and the FEIS was refiled March 29,1979.

Appendix V.—*Availability of reports/additional information relating to EIS's previously filed with EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in Register"	Correction!
None.				

[FRL 1095-2]

[FR Doc. 79-10580 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

Safe Drinking Water Act; Review of Variances and Exemptions

Pursuant to Sections 1415(a)(1)(F) and 1416(d) of the Safe Drinking Water Act, as amended through November 1977, Pub. L. 95-190 (42 U.S.C. 300f et seq.) and 40 CFR 142.22 (July 1, 1977 ed) National Interim Primary Drinking Water Regulations, this notice is issued for publication.

These foregoing regulations require the U.S. Environmental Protection Agency, Region III to conduct a comprehensive review of all variances and exemptions (and schedules of compliance issued pursuant thereto) granted during the period June 24, 1971 to June 23, 1978 by the State of Delaware Division of Public Health, State of Maryland Department of Health and Mental Hygiene, the Commonwealth of Virginia Department of Health, and the State of West Virginia Department of Health.

(a) Written documentation has been received by EPA, Region III, from the State of Delaware Division of Public Health, State of Maryland Department of Health and Mental Hygiene, and the State of West Virginia Department of Health that there were no variances or exemptions granted in the period June 24, 1977 to June 23, 1978.

Therefore, notice is given that, in the absence of any State-issued variances or exemptions during the statutory time period, the review mandated by Sections 1415(a)(1)(F) and 1416(d) is not required and will not be conducted by the U.S. Environmental Protection Agency, Region III.

(b) Written documentation has been received by EPA Region III, from the Commonwealth of Virginia Department of Health that a variance from the fluoride maximum contaminant level was requested by, and issued to, a community water supply. The Commonwealth of Virginia issued such variance upon the findings that the variance will not result in an unreasonable risk to the health of the consumers and that characteristics of the raw water source cannot meet the requirements respecting the maximum contaminant levels of the drinking water regulations despite application of the best available technology. The variance under consideration was issued in the period June 24, 1977 to June 23, 1978.

Section 1415(a)(1)(F) of the Safe Drinking Water Act and 40 CFR 142.22 require the Administrator to review the issuance of a variance and to publish notice of such review. The Commonwealth of Virginia notification of variance and supportive data respecting the variance is available from the Water Supply Branch of Region III, pursuant to Section 1415(a)(1)(F)(i) of the Act.

Interested parties may submit comments to the variance reviewed and on the continuance of said variance, pursuant to section 1415(a)(1)(F)(ii) of the Act. Upon completion of such review, the Administrator shall publish the results of the review together with findings responsive to comments submitted in connection with such review.

Inquiries regarding any question in the foregoing, or, comments regarding the issuance of the variance and its subsequent review may be directed to Ramon G. Lee, Chief, Water Supply Branch, U.S. Environmental Protection Agency, Philadelphia, Pennsylvania 19106 (215)597-8227.

Dated: February 28, 1979.

A. R. Morris,

Acting Regional Administrator, Region III, EPA.

[FRL 1085-5]

[FR Doc. 79-10730 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

Administrator's Toxic Substances Advisory Committee Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of Open Meeting.

SUMMARY: There will be a meeting of the Administrator's Toxic Substances Advisory Committee from 9:00 a.m. to 5:00 p.m. on Tuesday, April 24, 1979. The meeting will be held in Room 1041, ROB Auditorium, Government Services Administration, 7th and D Streets, S.W., Washington, D.C. and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Vogt, Executive Secretary, Administrator's Toxic Substances Advisory Committee, Office of Toxic Substances (TS-793), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Toll free telephone number (800) 424-9065. In Washington, D.C. call 755-4880.

SUPPLEMENTAL INFORMATION: The purpose of this meeting is to discuss matters related to EPA's implementation of the Toxic Substances Control Act (Pub. L. 94-469). The agenda includes discussion of:

1. EPA Proposed Premanufacture Testing Policy and Technical issues.
2. EPA plans and programs regarding asbestos control.
3. Office of Toxic Substances Information Systems and capabilities.
4. Other matters concerning the implementation of the Toxic Substances Control Act.

The meeting will be open to the public and time will be set aside for public comments. Any member of the public wishing to present an oral or written

statement should contact Ms. Susan Vogt at the address or phone numbers listed above.

Dated March 30, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

[FRL 1094-4]

[FR Doc. 79-10731 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:00 a.m. to 4:30 p.m. on Wednesday, and from 9:00 a.m. to 6 p.m. on Thursday, April 25 and 26, 1979. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, at the above address (Telephone: 703/557-7560).

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact of regulatory actions under sections 6(b) and 25(a) on health and the environment prior to implementation. On the agenda for this meeting are:

1. Completion of review action for conclusion of the Rebuttable Presumption Against Registration (RPAR) of products containing benomyl and thiophanate-methyl;
2. Review of Section 24(c) Draft Regulations on Special Local Needs;
3. Presentation of the decision options being considered by the Agency to conclude the RPAR on products containing ethylene dibromide (EDB); and
4. Completion of Panel review on Section 6(b)(2) action on dibromochloropropane (DBCP);
5. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents pertaining to items 1, 3, and 4 may be obtained by contacting Dr. William Wells, Acting Director, Special Pesticide Review Division (TS-791), Room 447, East Tower, EPA, 401 M Street, S.W., Washington, D.C. 20460 (Telephone: 202/755-5687); and for item 2 contact Mr. Philip Gray, Operations Division (TS-770), Room E-507 at the same address (Telephone: 202/755-7014).

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm that the Panel will review all of the agenda items. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than April 20, 1979.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to submit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is May 9, 10, and 11, 1979.

(Section 25(d) of FIFRA, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C.136) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: April 2, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP-00091; FRL 1093-4]

[FR Doc. 79-10733 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

Louisiana Department of Health and Human Resources: Crisis Exemption To Use DDT To Suppress Flea Vectors of Murine Typhus

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the Louisiana Department of Health and Human Resources (hereafter referred to as "Louisiana") availed itself of a crisis exemption to use DDT to eliminate ectoparasites prior to rat killing to prevent flea vectoring of murine typhus. The crisis exemption has expired.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

SUPPLEMENTARY INFORMATION: Louisiana confirmed a human case of murine typhus in Shreveport, Louisiana, and reported that the time element was so critical that there was no time to request a specific exemption. Back-tracking from that case led to an industrial site where a significant rat infestation was verified. Blood samples from nine rats were all positive for murine typhus at high titres. No other site was involved. The pest control company, with which the suspect premises had a contract, immediately applied a spray containing carbaryl. Rats trapped between 24 and 36 hours following this application were found to remain infested with ectoparasites. On January 29, 1979, 25 pounds of 50% DDT wettable powder were applied by the contractor as a 5% spray mixture to rat burrows and trails mostly on the exterior of the one premises implicated as the transmission site. Applications were supervised by a biologist from the Caddo-Shreveport Health Unit. Subsequent investigation indicated that rat killing could proceed with safety; rat trapping and collecting continue. Monitoring is being expanded throughout Caddo Parish (county).

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 2, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP-180278; FRL 1094-3]

[FR Doc. 79-10732 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

Minnesota Department of Agriculture: Issuance of Specific Exemption to Use Benomyl to Control Fungus on Cabbage, Cauliflower, Broccoli, and Brussels Sprout Seeds

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use benomyl on commercial cabbage, cauliflower, broccoli, and brussels sprout seeds to control infestations of the fungus *Phoma lingam*, which causes the plant disease

called "blackleg." The specific exemption ends on July 1, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

SUPPLEMENTARY INFORMATION: According to the Applicant, *Phoma lingam*, the causal agent of blackleg disease in these crucifers (plants of the family *Cruciferae*), is frequently present on seed, but epidemic outbreaks depend on the weather conditions in seed growing, transplant and food production areas. The organism, which may remain viable on plant debris for up to four years, can be introduced into new fields by seed transmission. In 1973, a disastrous outbreak of cabbage blackleg occurred in eastern growing states. The organism causing the outbreak was traced to seed grown in western Washington. During 1973, damage caused by blackleg and black rot was estimated at ten percent of the nation's crop.

The Applicant stated that the seed to be treated was grown in Washington and transported to Minnesota for treatment. Although the State of Washington was granted a specific exemption to apply benomyl in a crucifer seed treatment program, the Applicant claimed that one of the Washington seed producer companies does not possess seed treatment in Washington and consequently shipped the seed to its facility in Minnesota where treatment equipment is located. Most of the treated seed will be shipped back to Washington for planting, but some seed may be sold to other states. According to the Applicant, the seed is valued at $25 per pound and the commercial crop to be grown from seed is valued at between $200 and $600 per acre, depending on growing conditions; the seeds will be unmarketable if not treated. This could result in an estimated loss of $500,000 in seed and between $1 million and $6 million in crops.

This specific exemption requested treatment of up to 20,000 pounds of crucifer seed; treatment will be dependent on confirmation of the presence of the organism. Benomyl (Benlate 50% Wettable Powder, EPA Reg. No. 352-354) will be applied at the rate of eight ounces Benlate formulation in sufficient water for seed coverage per hundred pounds of seed. A single Benlate application will be made on seed produced in 1978 for the 1979 commercial acreage; personnel of seed companies or seed contractors will make the applications. The Applicant stated that other pesticides and cultural practices have been unsuccessful in controlling the disease. Residue levels of benomyl from this use are not expected to exceed levels which EPA has determined are adequate to protect the public health.

It should be noted that a rebuttable presumption against registration of pesticide products containing benomyl was published on December 6, 1977 (42 FR 61788); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the fungus *Phoma lingam*, has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control the fungus in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fungus is not controlled; and (e) the time available for action to mitigate the problem posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 1, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A benomyl product Benlate 50% Wettable Powder (EPA Reg. 352-354), will be used;

2. Benlate will be applied at a maximum rate of eight ounces formulation (four ounces active ingredient) in sufficient water to treat one hundred pounds of seeds;

3. Each seed lot may receive no more than a single application of benomyl;

4. Application of benomyl will be restricted to seeds on which infections have been confirmed or to seeds from areas where *Phoma lingam*, is known to be present;

5. A maximum of 20,000 pounds of seeds may be treated;

6. Treated seeds will not be used for food, feed, or any other use except planting, and all shipments of seed must be so labeled;

7. EPA has determined that residues of benomyl resulting from this use are not likely to exceed 0.20 part per million (ppm) in cabbage and cauliflower and 0.40 ppm in broccoli and brussels sprouts; cabbage, cauliflower, broccoli, and brussels sprouts with residues not exceeding these levels may be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Only seeds intended for commercial planting may be treated with benomyl. Benomyl-treated seed will be clearly labeled as such;

9. The Applicant is responsible for insuring that the restrictions of this specific exemption are met, and must submit a report summarizing the results of this program by October 1, 1979;

10. All applicable directions, restrictions, and precautions on the EPA registered label must be followed;

11. The EPA shall be immediately informed of any adverse effects resulting from use of benomyl in connection with this exemption; and

12. All applications will be made by seed treating personnel of the seed companies or seed contractors. Personnel of these companies must be certified and must wear dust masks when treating crucifer seeds with benomyl.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: April 2, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[OPP-180281; FRL 1094-1]

[FR Doc. 79-10735 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M %

New York State Department of Environmental Conservation: Issuance of Specific Exemption to Use Benomyl to Control Fungus on Cabbage, Cauliflower, Broccoli, and Brussels Sprout Seeds

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the New York State Department of Environmental Conservation (hereafter referred to as the "Applicant") to use benomyl on commercial cabbage, cauliflower, broccoli, and brussels sprout seeds to control infestations of the fungus *Phoma lingam*, which causes the plant disease called "blackleg." The specific exemption ends on April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room E-315, Washington, D.C. 20460, Telephone: 202/755-4851.

SUPPLEMENTARY INFORMATION: According to the Applicant, *Phoma lingam*, the causal agent of blackleg disease in these crucifers (plants of the family *Cruciferae*), is frequently present on seed, but epidemic outbreaks depend on the weather conditions in seed growing, transplant, and food producion areas. The organism, which may remain viable on plant debris for up to four years, can be introduced into new fields by seed transmission.

In 1973, a disastrous outbreak of cabbage blackleg occurred in eastern growing states, and New York lost ten percent of its cabbage crop valued at $1.6 million. This acreage could not be planted back to cruciferous crops for three years. A specific exemption was granted to Washington State to treat crucifer seeds with Benlate to control *P. lingam*. Washington State grows approximately 80% of U.S. cabbage seed. The Applicant stated that some of their crucifer seed does not originate from Washington. In addition, some seed from Washington, brought into New York for curing, processing, and treating, has not been treated under Washington's specific exemption.

This specific exemption requested treatment of up to 30,000 pounds of seed; treatment will be dependent on laboratory determination of the presence of the organism. Benomyl (Benlate 50% Wettable Powder, EPA Reg. No. 352–354) will be applied at a rate of eight ounces Benlate formulation in sufficient water for seed coverage per hundred pounds of seed. A single Benlate application will be made on seed produced for commercial planting; personnel of seed companies or seed contractors will make the applications. EPA has determined that residue levels of benomyl from this use should be adequate to protect the public health. The Applicant stated that other pesticides and cultural practices have been unsuccessful controlling the disease.

It should be noted that a rebuttable presumption against registration of pesticide products containing benomyl was published on December 6, 1977 (42 FR 61788); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the fungus *Phoma lingam*, has occurred; (b) there is no pesticide presently registered and available for use to control the fungus in New York State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fungus is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A benomyl product, Benlate 50% Wettable Powder (EPA Reg. 352–354), will be used;

2. Benomyl will be applied at a maximum rate of eight ounces of the product (four ounces active ingredient) in sufficient water to treat one hundred pounds of seeds;

3. Each seed lot may receive no more than a single application of benomyl;

4. Application of benomyl will be restricted to seeds on which infection has been confirmed or to seeds from areas where *Phoma lingam*, is known to be present;

5. A maximum of 30,000 pounds of seeds may be treated;

6. Treated seeds will not be used for food, feed, or any other use except planting, and all shipments of seed must be so labeled;

7. EPA has determined that residues of benomyl resulting from this use are not likely to exceed 0.20 part per million (ppm) in cabbage and cauliflower and 0.40 ppm in broccoli and brussels sprouts; cabbage, cauliflower, broccoli, and brussels sprouts with residues not exceeding these levels may be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Only seeds intended for commercial planting may be treated with benomyl. Benomyl-treated seed will be clearly labeled as such;

9. The Applicant is responsible for insuring that the restrictions of this specific exemption are met and must submit a report summarizing the results of this program by October 30, 1979;

10. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

111. The EPA shall be immediately informed of any adverse effects resulting from use of benomyl in connection with this exemption; and

12. All applications will be made by seed treating personnel of the seed companies or seed contractors. Personnel of these companies must be certified and must wear dust masks when treating crucifer seeds with Benomyl.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136 *et seq.*))

Dated April 2, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[OPP-180280; FRL 1094-2]

[FR Doc. 79-10736 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

Pesticide Use and Production by Veterinatians; Applicability of the Federal Insecticide, Fungicide, and Rodenticide Act

Correction

In FR Doc. 79–7903 appearing at page 15768 in the issue of March 15, 1979, the following correction should be made.

In the first full paragraph, third column, page 15768, the third sentence should read as follows: "Such supervision requires, unless the pesticide labeling specifies otherwise, that the employee be a competent individual, acting under the supervision and control of a veterinarian who is available if and when needed, even though the veterinarian is not physically present at the time [Section 2(e)(4) of FIFRA]."

Dated: April 2, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[OPP-00086-A; FRL 1093-7]

[FR Doc. 79-10734 Filed 4-5-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing

Adopted: March 27, 1979.

Released: April 2, 1979.

Notice is hereby given pursuant to §§ 1.572(c) and 1.573(d) of the Commission's rules, that on May 18, 1979, the TV and FM translator applications listed in the attached Appendix below 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 May 17, 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 May 17, 1979.

Any party in interest desiring to file pleadings concerning any pending TV or FM 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.

Appendix

UHF TV Translator Applications

BPTT-781027IB (New), Poppet Flats, Silent Valley and Banning Rural, California, Silent Valley Club, Inc. Req: Channel 59, 740-746 MHz, 1 watt. Primary: KABC-TV, Los Angeles, California.
BPTT-781130IB (New), Northome and Rural Areas, Minnesota, County of Koochiching. Req: Channel 55, 716-722 MHz, 100 watts. Primary: WIRT-TV, Hibbing, Minnesota.
BPTT-781130IC (New), Northome and Rural Areas, Minnesota, County of Koochiching. Req: Channel 57, 728-734 MHz, 100 watts. Primary: KDAL-TV, Duluth, Minnesota.
BPTT-781227IE (New), Bowling Green, Ohio, Bowling Green State University. Req: Channel 27, 548-554 MHz, 1000 watts. Primary: WBGU-TV, Lima, Ohio.
BPTT-781228IA (New), Friona and Bovina, Texas, Stanley Marsh 3, Tom F. Marsh, Michael Marsh and Estelle Marsh Watlington (Limited Partner), a partnership d.b.a. Marsh Media, Ltd. Req: Channel 57, 728-734 MHz, 100 watts. Primary: KVII-TV, Amarillo, Texas.
BPTT-7901080105IB (New), Martin, South Dakota, Martin TV Club, Inc. Req: Channel 58, 734-740 MHz, 100 watts. Primary: KIVV-TV, Lead, South Dakota.
BPTT-79IE (New), Baker Valley, Baker, Oregon, Blue Mt. Translator District. Req: Channel 46, 662-668 MHz, 100 watts. Primary: KXLY-TV, Spokane, Washington.
BPTT-790108IF (New), Baker Valley, Baker, Oregon, Blue Mt. Translator District. Req: Channel 48, 674-680 MHz, 100 watts. Primary: KTVB-TV, Boise, Idaho.
BPTT-790108IG (New), Baker Valley, Baker, Oregon, Blue Mt. Translator District. Req: Channel 50, 686-692 MHz, 100 watts. Primary: KREM-TV, Spokane, Washington.

UHF TV Translator Applications

BPTT-781023IT (New), Big Park Valley Area, Village of Oak Creek, Jacks Canyon and Valley Vista Estates, Arizona, Bell Rock TV Club, Inc. Req: Channel 47, 668-674 MHz, 10 watts. Primary: KTVK-TV, Phoenix, Arizona.
BPTT-781023IU (New), Big Park Valley Area, Village of Oak Creek, Jacks Canyon and Valley Vista Estates, Arizona, Req: Channel 49, 680-686 MHz, 10 watts. Primary: KPHO-TV, Phoenix, Arizona.
BPTT-781023IV (New), Big Park Valley Area, Village of Oak Creek, Jacks Canyon and Valley Vista Estates, Arizona, Req: Channel 51, 692-698 MHz, 10 watts. Primary: KAET-TV, Phoenix, Arizona.
BPTT-781023IW (New), Big Park Valley Area, Village of Oak Creek, Jacks Canyon and Valley Vista Estates, Arizona, Bell Rock TV Club, Inc. Req: Channel 53, 704-710 MHz, 10 watts. Primary: KOOL-TV, Phoenix, Arizona.
BPTT-781023IX (New), Big Park Valley Area, Village of Oak Creek, Jacks Canyon and Valley Vista Estates, Arizona, Bell Rock TV Club, Inc. Req: Channel 55, 716-722 MHz, 10 watts. Primary: KTAR-TV, Phoenix, Arizona.
BPTT-781127IO (K70DF), Running Springs, California, San Bernardino County Superintendent of Schools. Req: Change frequency to Channel 62, 758-764 MHz.
BPTT-7810201IA (New), Hailey, Idaho. The KLIX, Corporation. Req: Channel 6, 82-88 MHz, 1 watt. Primary: KMVT-TV, Twin Falls, Idaho.

VHA TV Translator Applications

BPTT-781205IA (New), Pony, Montana, Pony Homecoming Club. Req: Channel 7, 174-180 MHz, 1 watt. Primary: KXLF-TV, Butte, Montana.
BPTTV-781212ID (New), Long Lake, New York, Town of Long Lake. Req: Channel 8, 180-186 MHz, 1 watt. Primary: WEZF-TV, Burlington, Vermont.
BPTTV-781212IE (New), Long Lake, New York, Town of Long Lake. Req: Channel 13, 210-216 MHz, 1 watt. Primary: WCFE-TV, Plattsburgh, New York.
BMPTTV-781218IA (K08IO), Wells, Nevada, Washoe Empire. Req: Decrease output power to 1 watt, change primary TV station to KTVN-TV, Channel 2, Reno, Nevada.
BPTTV-790105IA (New), Martin, South Dakota, Martin TV Club, Inc. Req: Channel 6, 82-88 MHz, 10 watts. Primary: KIVV-TV, Lead, South Dakota.

FM Translator Applications

BPFT-781005IK (New), St. George, Utah, Southern Utah Broadcasting Company. Req: Channel 272, 102.3 MHz, 10 watts. Primary: KSUB-FM, Cedar City, Utah.
BPFT-781013IE (W265AB), Ironwood, Michigan and Hurley, Wisconsin, Marvin E. Marks. Req: Change frequency to Channel 276, 103.1 MHz.
BPFT-781017IB (New), Anchor Point, Alaska, Alaska Village Missions, Inc. Req: Channel 296, 107.1 MHz, 10 watts. Primary: KHVN-FM, Anchorage, Alaska.
BPFT-781023IO (New), St. George, Utah, New Era Broadcasting Co. Req: Channel 265, 100.9 MHz, 10 watts. Primary: KBRE-FM, Cedar City, Utah.

[FR Doc. 79-10533 Filed 4-5-79; 8:45 am]
BILLING CODE 6712-01-M

New Broadcasting Corp. and Island View Broadcasting Corp.; Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: March 21, 1979.

Released: March 23, 1979.

In re applications of New Broadcasting Corp., Charlevoix, Michigan, BC Docket No. 79-51, File No. BPH-10,092, Req: 105.9 MHz, Channel 290 100 kW (H&V), 534 feet; Island View Broadcasting Corporation, Charlevoix, Michigan, BC Docket No. 79-52, File No. BPH-10,369, Req: 105.9 MHz, Channel 290 100 kW (H&V), 590 feet; for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by New Broadcasting Corporation (BPH-10,092) and Island View Broadcasting Corporation (BPH-10,369)

New Broadcasting Corporation (New Broadcasting) has failed to comply with the Commission's *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1501 (1971). Evaluation of the applicant's list of community leaders in light of the demographic information submitted shows that no identifiable leader of a significant Charlevoix group, the elderly, has been consulted. *Voice of Dixie, Inc.*, 45 FCC 2d 1027, 29 RR 2d 1124 (1974). Furthermore, the applicant has not provided a sufficient description of the methodology it employed in its survey of the general public for the Commission to determine whether a genuinely random sample was achieved, in compliance with Question and Answer 13(b) of the *Primer*. Finally, New Broadcasting has failed to specify in what respective time segments it will broadcast the programs that it has proposed responsive to the community problems ascertained by its survey. Such information is required by Question and Answer 29 of the *Primer*. Accordingly, an ascertainment issue will be specified.

3. Island View Broadcasting Corporation (Island View) also has failed to comply with the *Primer*. Question and Answer 9 requires that applicants show that they have determined the composition of their community by submitting "such data as is necessary to indicate the minority, racial, or ethnic breakdown of the community, its economic activities, governmental activities, public service organizations, and any other factors or activities that make the community distinctive." Island View has failed to supply such information relating to Charlevoix, its proposed community of license. Also, as Island View has provided no information as to who conducted the additional interviews of community leaders performed during August and September, 1978, the Commission cannot determine whether those interviews were conducted by proper individuals as required by Question and Answer 11(a) of the *Primer*. Thus, an ascertainment issue will also be specified for Island View.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by New Broadcasting Corporation to ascertain the community needs and interests of the area to be served and the means by which it proposes to meet those needs and interests.

2. To determine the efforts made by Island View Broadcasting Corporation to ascertain the community needs and interests of the area to be and the means by which it proposes to meet those needs and interests.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either of the applications for a construction permit should be granted.

6. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

7. It is further ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Federal Communications Commission.

Wallace E. Johnson,

Chief, Broadcast Bureau.

[BC Docket Nos. 79-51, 79-52; File Nos. BPH-10,092, BPH-10,369]

[FR Doc. 79-10532 Filed 4-5-79; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meeting is as follows:

Executive Committee Meeting

A Special Executive Committee Meeting will be held on Monday, April 23, 1979, beginning at 9:00 a.m., in the International Room, Jack Tar Hotel, Van Ness at Geary, San Francisco, California.

Agenda

1. Administrative matters.
2. Approval of new membership applications.

1979 Annual Meeting of the RTCM Assembly; Monday, April 23, 1979—9:30 a.m., International Room, Jack Tar Hotel, Van Ness at Geary, San Francisco, Calif.

Agenda

1. Introductory remarks.
2. Status Report: RTCM Organizational Developments.
3. Election of Assembly Member applicants.
4. Election of Chairman.
5. Committee Reports.
(a) Executive Committee.
(b) Special Committees.
6. Report of the Executive Secretary.
7. Future Assembly Meetings.
8. Presentation of citations.
9. Other business.

Special Committee No. 73, "Minimum Performance Standards (MPS)—Marine Omega Receiving Equipment".

Notice of 6th meeting, Thursday, April 26, 1979—9 a.m., Telegraph Hill Room, Jack Tar Hotel, Van Ness at Geary, San Francisco, Calif.

Agenda

1. Call to order; chairman's report.
2. Administrative matters.
3. Reports of working groups.
4. Review of draft MPS specification.

M. H. Carpenter, co-chairman, CDR T. P. Nolan, co-chairman, Maritime Institute of Technology & Graduate Studies, Linthicum Heights, Md. 21090. Phone: (301) 636-5700.

Executive Committee Meeting

The next Executive Committee Meeting will be on Thursday, May 17, 1979, 9:30 a.m., Conference Room 8440, Nassif Building, 400 Seventh Street, S.W. (at D Street), Washington, D.C.

Agenda

1. Administrative matters.
2. Acceptance of quarterly financial statements.
3. Appointment of budget/finance working group.
4. Discussion on organizational developments.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-10534 Filed 4-5-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Angel Alfredo Romero—Independent Ocean Freight Forwarder Application and Foreign Freight Forwarders, Inc.; Order of Investigation and Hearing

Angel Alfredo Romero has filed with the Commission an application as a sole proprietorship for a license as an independent ocean freight forwarder. During the course of the Commission's investigation of Mr. Romero's application, it was discovered that Mr. Romero was the owner and president of a corporation, Foreign Freight Forwarders, Inc., which has apparently engaged in unlicensed ocean freight forwarding activities on at least 217 occasions during the period from December, 1976 through September, 1978, although Mr. Romero had been warned not to carry on the business of forwarding without a license on April 6, 1977 and subsequent thereto. Moreover, Mr. Romero did not reveal his connection with Foreign Freight Forwarders, Inc. to the Commission on his license application.

Section 44(b) of the Shipping Act, 1916, requires that applicants be found to be fit, willing and able to properly carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916 and the requirements, rules and regulations of the Commission issued thereunder. Otherwise, such application shall be denied. The applicant's conduct would appear to reflect adversely upon his qualifications to be licensed.

For the foregoing reasons, by letter of August 7, 1978, the Commission notified Mr. Romero of its intention to deny his application for a license unless he asked for a hearing on the intended denial within 20 days in accordance with Part 510.8(a) of General Order 4 (46 CFR 510.8(a)). Mr. Romero failed to respond to the Commission's letter of intent to deny, and by letter of September 18, 1978 Mr. Romero was advised that his application was thus denied.

Subsequenty, Mr. Romero requested that the Commission waive the requirement of Part 510.8(a) that a hearing be requested within 20 days and now seeks an opportunity to show at an expedited hearing that such denial is unwarranted.

Now, therefore, it is ordered, That the requirement of Part 510.8(a) of General Order 4 that Angel Alfredo Romero request a hearing within 20 days of the Commission's issuance of a letter of intent to deny Mr. Romero's application for an independent ocean freight forwarder license is hereby waived and the Commission's letter of September 18, 1978 denying said application is hereby rescinded;

It is further ordered, That pursuant to sections 22 and 44 (46 U.S.C. 821 and 841(b)) of the Shipping Act, 1916, and § 510.8 of the Commission's General Order 4 (46 CFR 510.8) a proceeding is hereby instituted to determine:

1. Whether Foreign Freight Forwarders, Inc. and/or Angel Afredo Romero, as President and majority stockholder of Foreign Freight Forwarders, Inc., violated section 44(a), Shipping Act, 1916 by engaging in unlicensed forwarding activities;

2. Whether, on his application for a license as an independent ocean freight forwarder, Angel Alfredo Romero willfully concealed both his connection with Foreign Freight Forwarders, Inc. and the functions performed by him in regard to the activities of Foreign Freight Forwarders, Inc.;

3. Whether, in light of the evidence adduced pursuant to the foregoing issues, together with any other evidence adduced, Angel Alfredo Romero is fit, willing and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder;

It is further ordered, That Foreign Freight Forwarders, Inc. and Angel Alfredo Romero be named Respondents in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the proceeding shall initially be limited to the submission of affidavits of fact and memoranda of law;

It is further ordered, That the following schedule be adhered to: May 4, 1979—Opening memoranda of law and affidavits of fact from Respondents; April 20, 1979—Petitions to Intervene; May 25, 1979—Memoranda of law and affidavits of fact from Hearing Counsel and any intervenors;

It is further ordered, That within three weeks following the submission of the affidavits of fact and memoranda of law of Hearing Counsel and intervenors, the parties will submit to the Administrative Law Judge a joint written statement identifying the issues of fact and of law and specifying the type of procedure they feel is best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order establishing the procedure for their resolution. However, any additional procedure shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That any persons other than Respondents and Hearing Counsel who desire to become parties to this proceeding and to participate therein shall file a Petition to Intervene pursuant to Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72);

It is further ordered, That a notice of this Order be published in the **Federal Register** and that a copy thereof be served upon Respondents and Hearing Counsel;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,
Secretary.

[Docket No. 79-29]

[FR Doc. 79-10589 Filed 4-5-79; 8:45 am]

BILLING CODE 6730-01-M

Ikeda International Corp.; Order of Investigation

Ikeda International Corporation (Ikeda), 10-10 34th Avenue, Long Island City, New York, was issued independent ocean freight forwarder license No. F.M.C. 1321 on April 28, 1971.

Information has been developed which indicates that Ikeda is apparently operating in violation of §§ 510.5(c), 510.23(i), 510.23(k) and 510.23(l) of the Commissions's General Order 4 and of section 18(b)(1) of the Shipping Act, 1916 (46 U.S.C. § 817(b)(1)). Ikeda's apparent disregard for the governing statute and the rules and regulations of the Commission, as well as other conduct possibly involving incompetency, negligence, misrepresentation, and malpractice appear to render licensee unfit to carry on the business of forwarding.

Pursuant to § 510.23(1), the Commission's staff has made numerous attempts to inspect the records and books of account of Ikeda. Section 510.23(k) requires that each licensee maintain in an orderly, systematic, and convenient manner all records and books of account relating to the carrying on of the business of forwarding. Section 510.23(1) provides that the licensee shall make such records and books of account prompty available for inspection upon the request of an authorized representative of the Commission. Despite repeated requests by the Commission's staff, Ikeda has failed to furnish the relevant records and books of account. It appears highly doubtful that Ikeda actually maintains the records and books of account designated in § 510.23(k).

The Commission's staff has recently experienced considerable difficulty in contacting Ikeda in order to conduct compliance checks. Section 510.5(c) requires that the licensee submit to the Commission each change of business address within 30 days after such change occurs. Ikeda has failed to notify the Commission of a recent change in the firm's business address. The Office of Freight Forwarders has warned Ikeda in writing regarding a prior violation of § 510.5(c).

Ikeda also appears to have violated § 510.23(i). It is unclear whether Ikeda has been issuing bills of lading in its own name or mere receipts for cargo. If it is determined that the relevant documents are receipts for cargo, they have not been specifically identified as such and have not been distinguishable from bills of lading. Section 510.23(i) requires that receipts issued for cargo by a licensee be clearly identified as

"Receipts for Cargo" and in a form readily distinguishable from bills of lading.

In addition to its ocean freight forwarding activities, Ikeda apparently has been operating as a nonvessel operating common carrier by water. Ikeda appears to have been soliciting cargo for and actually undertaking to provide ocean transportation. Section 18(b)(1) of the Shipping Act, 1916 requires that every common carrier by water in foreign commerce file with the Commission tariffs showing all the rates and charges of such carrier for transportation. Although it is apparently assuming common carriage responsibility for the goods it handles, Ikeda has neither filed nor maintained with the Commission a tariff showing its rates and charges.

Moreover, the Commission's staff has received a number of complaints from the shipping public directed against Ikeda. These complaints include allegations of incompetency, negligence, misrepresentation and malpractice on the part of Ikeda in the performance of its duties. In addition Ikeda is apparently the object of a number of outstanding debts, suits, judgments and liens.

Therefore it is ordered, pursuant to sections 18, 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 817, 822 and 841b) that a proceeding be hereby instituted to determine:

1. Whether Ikeda has violated § 510.21(i) of General Order 4 by failing to clearly identify receipts issued for cargo and distinguish such receipts from bills of lading.

2. Whether Ikeda has violated § 510.23(k) of General Order 4 by failing to maintain records and books of account in the required manner.

3. Whether Ikeda has violated § 510.23(l) of General Order 4 by failing to make its records and books of account promptly available for inspection upon the request of the Commission investigative staff.

4. Whether Ikeda has violated § 510.5(c) of General Order 4 by failing to notify the Commission of a recent change of the firm's business address within 30 days after the occurrence of the change.

5. Whether Ikeda has violated section 18(b)(1) of the Shipping Act, 1916 by performing as a nonvessel operating common carrier by water without having filed with the Commission a tariff showing its rates and charges.

6. Whether Ikeda's independent ocean freight forwarder license should be revoked or suspended pursuant to:

a. Section 510.9(a) of General Order 4 for violation of a provision of the Shipping Act, 1916;

b. Section 510.9(b) of General Order 4 for failure to comply with the lawful inquiries, rules, regulations or orders of the Commission;

c. Section 510.9(e) of General Order 4 for conduct which renders the licensee unfit to carry on the business of forwarding.

It is further ordered, That Ikeda International Corporation be made the respondent in this proceeding and that the matter be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, shall commence on or before October 2, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue are such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered, That notice of this order be published in the **Federal Register** and a copy thereof and notice of hearing be served upon respondent, Ikeda International Corporation.

It is further ordered, That any person other than respondents and Hearing Counsel having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 5(I) (46 CFR 502.72) of the Commission's rules of practice and procedure.

It is further ordered, That all future notices issued by or on behalf of the Commission, including notice of time and place of hearing, or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,
Secretary.

[Docket No. 79-28: Independent Freight Forwarder License No. 1321]

[FR Doc. 79-10588 Filed 4-5-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 2, 1979.

A. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (finance and insurance support activities; California): to engage, through its subsidiary, FinanceAmerica Thrift Corporation, in the activities of a finance company to the extent of providing management facilities and related services to FinanceAmerica Corporation and FinanceAmerica VIP Service Corporation, both corporations engaged in finance company activities under the California Personal Property Broker's Law, including management facilities and related services in connection with

their insurance agency activities. These activities would be conducted from offices in Anaheim, Huntington Beach, Laguna Hills, and Santa Ana, California, and the geographic areas to be served are California (with respect to FinanceAmerica VIP Service Corporation, Santa Ana office) and (with respect to all four offices) the geographic areas within Orange, Los Angeles, and Riverside Counties, California, served by FinanceAmerica Corporation.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, April 2, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-10672 Filed 4-5-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statment of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than April 30, 1979.

A. *Federal Reserve Bank of Chicago,* 230 South LaSalle Street, Chicago, Illinois 60690:

SJV Corporation, Elkhart, Indiana (finance and insurance activities; Indiana): to engage through its subsidiary, St. Joseph Valley Finance Corp., in making or acquiring loans and other extensions of credit, including secured and unsecured consumer loans, such as would be made by a mortgage or finance company; and selling as agent life and accident and health insurance directly related to its extensions of credit. These activities would be conducted from an office in Lafayette, Indiana, and the geographic area to be served is the greater metropolitan area of that city.

B. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

1. Seafirst Corporation, Seattle, Washington (investment advisory activities; Alaska, Idaho, Oregon, Washington): to engage, through its subsidiary, Seafirst Investment Advisors, Inc., in providing portfolio investment advice. This activity would be conducted from an office in Seattle, Washington, and the geographic areas to be served are Alaska, Idaho, Oregon and Washington. Comments on this application must be received by the Federal Reserve Bank of San Francisco by April 25, 1979.

2. Wells Fargo & Company, San Francisco, California (finance and leasing activities; national): to engage through its subsidiaries, Wells Fargo Leasing Corporation, Wells Fargo Transport Leasing Corporation, Wells Fargo Equipment Leasing Corporation, and Wells Fargo Equipment Credit Corporation, in making or acquiring loans and other extensions of credit; and leasing personal or real property or acting as agent, broker, or advisor in leasing such property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Charlotte, North Carolina, and the geographic areas to be served are primarily Georgia, Florida, North Carolina, and South Carolina, and throughout the United States.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, March 30, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-10673 Filed 4-5-79; 8:45 am]

BILLING CODE 6210-01-M

Board of Governors; Rules of Organization

The Secretary of the Board has approved an amendment to the Board's Rules of Organization to reflect recent organizational changes. The amendment will bring up to date descriptions of the functions of the various offices and divisions of the Board.

Effective October 17, 1978, section 3 of the Rules of Organization is amended as follows:

1. A new paragraph (c) is added to read as follows:

Sec. 3. Central Organization. The Board's central organization consists of the following Offices, Divisions and officials:

* * * * *

(c) *Office of Staff Director for Federal Reserve Bank Activities* is responsible for overseeing the Divisions of Federal Reserve Bank Operations and Federal Reserve Bank Examinations and Budgets, assisting the Board's Committee on Federal Reserve Bank Activities, and coordinating the functions of other Board Divisions that relate to Federal Reserve Bank matters.

2. Paragraphs (c) through (p) are redesignated as (d) through (q).

3. Renumbered paragraphs (i) and (j) are amended as follows:

Sec. 3. Central Organization. * * *

* * * * *

(i) *Division of Federal Reserve Bank Operations,* * * * provides an appraisal of Reserve Bank communication and automation plans and proposals and recommendations to the Board in such areas and maintains liaison with various interested parties on payments mechanism matters.

(j) *Division of Federal Reserve Bank Examinations and Budgets* * * * and provides certain centralized financial accounting services. The Division also coordinates the printing and distribution of Federal Reserve notes and is jointly responsible with the Bureau of the Mint for the production and distribution of coin. * * *

Board of Governors of the Federal Reserve System, March 29, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-10676 Filed 4-5-79; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding available of information,

notice is given that on January 15, 1979, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $3 billion to $5 billion (and subsequently on January 26, 1979 to $6 billion) the limit on changes between Committee meetings in System Account holdings of U.S. Government and Federal Agency securities, effective for the period ending with the close of business February 6, 1979. Action was taken on February 6, 1979 to set the limit at $5 billion for the coming period until the next meeting scheduled for March 20, 1979.

Note.—For paragraph 1(a) of the authorization see 36 FR 22697.

By order of the Federal Open Market Committee, March 29, 1979.

Murray Altmann,
Secretary.

[FR Doc. 79-10675 Filed 4-5-79; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Foreign Currency Operations

In accordance with the Committee's rules regarding availability of information, notice is given that at its meeting held on March 20, 1979, paragraphs 1 and 4(c) of the Foreign Currency Directive were amended to delete the word "proposed" preceding the references to IMF Article IV. The paragraphs were amended, effective March 20, 1979, to reflect the fact that Article IV has been put in place since the Committee had last conducted its annual review of its continuing authorizations.

Note.—For paragraphs 1 and 4(c) of the directive see 42 FR 1071.

By order of the Federal Open Market Committee, March 29, 1979.

Murray Altmann,
Secretary.

[FR Doc. 79-10674 Filed 4-5-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of May 1979:

National Advisory Mental Health Council

May 9–11; 9:30 a.m., Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
OPEN—May 9.
CLOSED—Otherwise.
Contact: Ms. Zelia Diggs, Room 11–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4333.
Purpose: The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.
Agenda: On May 9 the meeting will be open for discussion of NIMH policy issues. These will include current administrative, legislative and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact person listed above. Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Paul Sirovatka, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15–105, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4536.

Dated: April 2, 1979.

Michele W. Harvey,
Extramural Programs Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-10595 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-88-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Establishment of Advisory Committees

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces approval and certification by the Secretary of Health, Education, and Welfare, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committees:

Designation: Alcohol Abuse Prevention Review Committee.

Purpose: The Alcohol Abuse Prevention Review Committee shall advise the Secretary and the Director, National Institute on Alcohol Abuse and Alcoholism, concerning project grant applications and cooperative agreements relating to alcohol abuse prevention, in such areas as youth education and the development of innovative models. These applications include demonstrations which focus on a specific alcohol problem and develop prevention and intervention strategies directly related to the solution of the problem area, and studies relating to public policy such as the impact of alcoholic beverage advertising or changes in alcoholic beverage control laws. The Committee shall make recommendations on applications also to the National Advisory Council on Alcohol Abuse and Alcoholism.

Expiration Date: December 31, 1980.

Designation: Alcohol Biomedical Research Review Committee (abolishes Alcohol Research Review Committee).

Purpose: The Alcohol Biomedical Research Review Committee shall advise the Secretary and the Director, National Institute on Alcohol Abuse and Alcoholism, concerning applications for research grant projects and cooperative agreements, research center grants, research scientist awards, fellowships, institutional research training grants and research contract projects in the areas of physiology, pharmacology, neurology, biochemistry, genetics, endocrinology, behavior and other related areas as they pertain to biomecical alcohol research. The Committee shall make recommendations on applications also to the National Advisory Council on Alcohol Abuse and Alcoholism.

Expiration Date: December 31, 1980.

Designation: Alcohol Psychosocial Research Review Committee.

Purpose: The Alcohol Psychosocial Research Review Committee shall advise the Secretary and the Director, National Institute on Alcohol Abuse and Alcoholism, concerning applications for research grant projects and cooperative agreements, research center grants, research scientist awards, fellowships, institutional research training grants, and research contract projects in the areas of epidemiological, behavioral, psychological, and social factors related

to alcohol abuse and alcoholism, and the diagnosis and treatment of alcoholism. The Committee shall make recommendations on applications also to the National Advisory Council on Alcohol Abuse and Alcoholism.

Expiration Date: December 31, 1980.

Designation: Basic Psychopharmacology and Neuropsychology Research Review Committee (abolishes Preclinical Psychopharmacology Research Review Committee *and* Neuropsychology Research Review Committee).

Purpose: The Basic Psychopharmacology and Neuropsychology Research Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications for research grants, cooperative agreements, post-doctoral research fellowships, and research and development contract projects relating to basic psychopharmacology and neuropsychology. Basic psychopharmacology research includes preclinical studies of the mechanisms of action and behavioral effects of psychoactive drugs, the development of better psychotropic drugs and drug screening methods. Neuropsychology research includes studies dealing with effects of alteration of the nervous system on various behavioral processes including sleep, learning memory, performance and motivation. The Committee shall make recommendations on applications also to the National Advisory Mental Health Council.

Expiration Date: June 30, 1980.

Designation: Community Processes and Social Policy Review Committee (abolishes Metropolitan Mental Health Problems Review Committee).

Purpose: The Community Processes and Social Policy Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning research grants, cooperative agreements, postdoctoral research fellowships, clinical/services training grants, and research and development contract projects involving community environments and their impact on individual and family mental health; ways various social groups adapt to and cope with social and psychological stress arising in community environments; and the impact of social planning and policy on community, family, and individual mental health. The Committee shall make recommendations on applications also to the National Advisory Mental Health Council.

Expiration Date: November 30, 1980.

Designation: Drug Abuse Biomedical Research Review Committee (abolishes Drug Abuse Research Review Committee).

Purpose: The Drug Abuse Biomedical Research Review Committee shall advise the Secretary and the Director, National Institute on Drug Abuse, concerning applications for research grants, program projects and conference grants, cooperative agreements, research fellowships, research training grants, and research scientist awards dealing with the basic biomedical aspects of narcotic addiction and drug use. These include applications for basic and applied biomedical research on the effects, sites and mechanisms of action of abused drugs, and other abused psychoactive substances, such as inhalants and tobacco. The Committee shall make recommendations on applications also to the National Advisory Council on Drug Abuse.

Expiration Date: December 31, 1980.

Designation: Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee.

Purpose: The Drug Abuse, Clinical, Behavioral, and Psychosocial Research Review Committee shall advise the Secretary and the Director, National Institute on Drug Abuse, concerning applications for research grants, program project and conference grants, cooperative agreements, research fellowships, research training grants, and research scientists awards concerned with the clinical, behavioral, psychosocial and social aspects of narcotic addiction and drug abuse. These include applications for basic and applied clinical and neuro-behavioral research on the effects and mechanisms of action of abused drugs and other substances, particularly studies of the basic behavioral, psychiatric, social and psychological mechanisms that underlie drug dependence and other behavior that may be related to the addictive process. The Committee shall make recommendations on applications also to the National Advisory Council on Drug Abuse.

Expiration Date: December 31, 1980.

Designation: Drug Abuse Resource Development Review Committee (abolishes Drug Abuse Training Review Committee).

Purpose: The Drug Abuse Resource Development Review Committee shall advise the Secretary and the Director, National Institute on Drug Abuse, concerning grant and cooperative agreement applications for demonstration, training, treatment, rehabilitation, prevention and education projects related to the field of drug abuse. The Committee shall make recommendations on applications also to the National Advisory Council on Drug Abuse.

Expiration Date: December 31, 1980.

Designation: Epidemiologic and Services Research Review Committee (abolishes Epidemiologic Studies Review Committee *and* Mental Health Services Research Review Committee).

Purpose: The Epidemiologic and Services Research Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications for research grants, cooperative agreements, research fellowships, institutional research training grants, and research and development contract projects relating to mental health epidemiology, quantitative mental health services research, and services development, evaluation methodology, and knowledge transfer. The Committee shall make recommendations on applications also to the National Advisory Mental Health Council.

Expiration Date: June 30, 1980.

Designation: Life Course Review Committee (abolishes Developmental Problems Research Review Committee and Social Problems Research Review Committee).

Purpose: The Life Course Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications for research grants, cooperative agreements, postdoctoral research fellowships, clinical/services training grants, and research and development contract projects relating to child and family mental health and the mental health of the aging. The Committee shall make recommendations on applications also to the National Advisory Mental Health Council.

Expiration Date: November 30, 1980.

Designation: Mental Health Services Manpower Development Review Committee (abolishes Continuing Education Review Committee *and* Experimental and Special Training Review Committee).

Purpose: The Mental Health Services Manpower Development Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications for grants, cooperative agreements, and contract projects relating to the development of manpower to meet priority mental health service delivery needs. These include projects to develop the capacity of State and sub-State agencies to plan, implement and evaluate manpower systems, and projects to improve the knowledge base

and technology for solution of mental health manpower and training problems through research and demonstration activities and innovative education programs. The Committee shall make recommendations on applications also to the National Advisory Mental Health Council.

Expiration Date: March 1, 1980.

Designation: Mental Health Research Education Review Committee (abolishes Biological Sciences Training Review Committee; Psychological Sciences Fellowship Review Committee *and* Social Sciences Training Review Committee).

Purpose: The Mental Research Education Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications for individual and institutional National Research Service Awards, cooperative agreements, and research and development contract projects relating to the biological sciences, the psychological sciences, the social sciences and social problems areas. These include research training activities in the following areas: behavioral genetics, biological anthropology, the neurobehavioral sciences, psychoneuropharmacology, and ethology; child, developmental, and personality psychology; ecological psychology; sensory processes, perception, cognition, human learning and performance; anthropology, sociology, social psychology (mental health) economics, political science, and social problem areas relevant to mental health. The Committee shall make recommendations on applications also to the National Advisory Mental Health Council.

Expiration Date: November 30, 1980.

Designation: Psychopathology and Clinical Biology Research Review Committee (abolishes Clinical Projects Research Review Committee).

Purpose: The Psychopathology and Clinical Biology Research Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications for research grants and cooperative agreements, research fellowships, institutional research training grants, and research and development contract projects relating to psychopathology and clinical biology. These include activities in the following areas: problems of etiology, description, diagnosis, and classification of mental disorders; proposals designed to study natural and experimental designs and models, data reduction and analytic procedures; biological, familial, and environmental risk factors; biological and genetic mechanisms; environmental, group and family processes and factors, and long-term course and prevention of mental disorders. The Committee shall make recommendations on applications also the the National Advisory Mental Health Council.

Expiration Date: June 30, 1980.

Designation: Treatment Development and Assessment Research Review Committee (abolishes Clinical Program-Projects Research Review Committee *and* Clinical Psychopharmacology Research Review Committee).

Purpose: The Treatment Development and Assessment Research Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications for research grants, cooperative agreements, research fellowships, institutional research training grants, and research and development contract project applications relating to treatment development and assessment research. These include research and research education on: psychological, psychosocial and/or behavioral treatments of affective and behavioral disturbances, neuroses, psychophysiological and psychotic disorders; and studies to develop and assess psychopharmacological, biological and physical treatment for the range of mental disorders and serious pathological reactions to stress. The Committee shall make recommendations on applications also to the National Advisory Mental Health Council.

Expiration Date: June 30, 1980.

Authority for these committees will expire on the above dates, unless the Secretary formally determines that continuance is in the public interest.

Dated: March 30, 1979.

Gerald L. Klerman,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-10538 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-88-M

Renewal of Advisory Committees

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announces the renewal by the Secretary of health, Education, and Welfare, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committees:

	Expiration Date
Alcohol Training Review Committee	2/28/81.
Basic Behavioral Processes Research Review Committee (formerly, Experimental Psychology Research Review Committee)	6/30/80.
Basic Sociocultural Research Review Committee (formerly, Social Sciences Research Review Committee)	6/30/80.
Cognition, Emotion, and Personality Research Review Committee (formerly, Personality and Cognition Research Review Committee)	6/30/80.
Community Alcoholism Services Review Committee	2/28/81.
Criminal and Violent Behavior Review Committee (formerly, Crime and Delinquency Review Committee	11/30/80.
Mental Health Small Grant Review Committee (formerly, Mental Health Small Grant Committee)	11/30/80.
Minority Group Mental Health Review Committee (formerly, Minority Group Mental Health Programs Review Committee)	11/30/80.
Paraprofessional Education Review Committee (formerly, Paraprofessional Manpower Development Review Committee)	3/1/80.
Psychiatric Nursing Education Review Committee Psychiatry Education Review Committee	3/1/80.
Psychology Education Review Committee	3/1/80.
Research Scientist Development Review Committee	11/30/80.
Social Work Education Review Committee	3/1/80.

Authority for these committees will expire on the above dates, unless the Secretary formally determines that continuance is in the public interest.

Dated: March 30, 1979.

Gerald L. Klerman, M.D.,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-10537 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-88-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Philips Roxane, Inc.; Sernylan; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine withdraws approval of a new animal drug application (NADA) providing for intramuscular use of Sernylan (phencyclidine hydrochloride) as an immobilizing agent for nonhuman primates only. The sponsor, Philips Roxane, Inc., requested this action.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Louis L. Nangeroni, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, is sponsor of NADA 41-954, which provides for the intramuscular injection of phencyclidine hydrochloride (20 or 100 milligrams per milliliter) in nonhuman primates for the pharmacological depression of the central nervous system and for the reduction of response to stimuli. The NADA also provides for the use of the drug in inducing catalepsis and local analgesia in several species. The NADA was originally approved July 25, 1969.

The Drug Enforcement Administration/Bureau of Narcotics and Dangerous Drugs reclassified phencyclidine hydrochloride from a Schedule III to a Schedule II drug. In a letter dated August 11, 1978, Philips Roxane advised FDA that the company could not comply with the security requirements for a Schedule II drug. Accordingly, Philips Roxane requested in the letter that approval of the NADA be withdrawn. Manufacturing and marketing of the drug has been suspended.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 41-954 and all supplements for Sernylan is hereby withdrawn, effective April 6, 1979.

Dated: March 30, 1979.

William B. Bixler,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-10400 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Investigation of Drugs in Humans; Availability of Clinical Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency announces the availability of six clinical guidelines that outline procedures and standards for investigating various classes of drugs in humans to determine the drugs' safety and effectiveness. The guidelines are intended to inform interested persons of what the agency's Bureau of Drugs views as acceptable procedures and standards for conducting clinical investigations of these drug classes.

ADDRESS: Written to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Harold C. Krcma, Bureau of Drugs (HFD-102), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4330.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is making available a series of guidelines on the investigation of drugs in humans. The guidelines have been prepared by the Bureau of Drugs with assistance from FDA scientific advisory committees and other consultants to the agency. These guidelines contain current acceptable approaches to the study of specific classes of investigational drugs in humans.

This notice of availability of guidelines is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for use of guidelines to outline procedures or standards of geneal applicability that are acceptable to FDA for a subject matter that falls within the laws administered by the Commissioner of Food and Drugs. Although these guidelines are not legal requirements, a person may be assured that in following an agency guideline the procedures and standards will be acceptable to FDA. The investigator may also choose to use alternative procedures or standards for which there is scientific rationale, even though they are not provided for in the guideline. A person who chooses to use procedures or standards not in a guideline may nonetheless discuss the matter further with the agency to prevent an expenditure of money and effort on work that FDA may later determine to be unacceptable.

The guidelines subject to this notice are as follows:

HEW (FDA) No. and guideline title	GPO Stock No.	Cost
78-3065 Guidelines for the Clinical Evaluation of Antacid Drugs.	(017-012-00261-7)	$0.90
78-3066 Guidelines for the Clinical Evaluation of G.I. Motility-Modifying Drugs.	(017-012-00262-5)	.90
78-3067 Guidelines for the Clinical Evaluation of G.I. Motility-Modifying Drugs.	(017-012-00262-5)	.90
78-3067 Guidelines for the Clinical Evaluation of Laxative Drugs.	(017-012-00263-3)	.90
79-3073 Guidelines for the Clinical Evaluation of Bronchodilator Drugs.	(017-012-00271-4)	$0.80
79-3074 Guidelines for the Clinical Evaluation of Drugs td Prevent, Control, and/or Treat Periodontal Disease.	(017-012-00272-2)	.80
79-3075 Guidelines for the Clinical Evaluation of Drugs to Prevent Dental Caries.	(017-012-00273-1)	.90

The guidelines are available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk. Copies of the guidelines can be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402, at the cost listed for each document. Orders for copies should include the GPO stock number.

Interested persons may submit written comments on the guidelines to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Such comments will be considered in determining whether further amendments to or revisions of the guidelines are warranted. Comments should be in four copies (except that individuals may submit single copies) identified with the Hearing Clerk docket number found in brackets in the heading of this document. The guidelines and received comments may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 2, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 78D-0070]

[FR Doc. 79-10592 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Agricultural Processing Corp. Monensin, Monensin With Roxarsone; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine withdraws approval of two new animal drug applications (NADA's) for monensin and monensin with roxarsone. The sponsor, Agricultural Processing Corp., has requested this action.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health,

Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATON: Agricultural Processing Corp., 225 Alabama St., P.O. Box 845, Salem, VA 24153, is the sponsor of NADA's 93–532V and 93–599V, which provide for the use of monensin or monensin with roxarsone premixes in the manufacture of a complete broiler feed. The feed is used as an aid in the prevention of certain forms of coccidiosis, and with roxarsone, for growth promotion, feed efficiency, and improved pigmentation. These applications were originally approved May 15, 1974, and June 25, 1974, respectively.

On June 9, 1978, and September 29, 1978, the agency received notification from the firm that these premixes are no longer in production and have not been for several years. The firm requested withdrawal of approval of the applications.

In a final published elsewhere in this issue of the **Federal Register**, § 558.355 *Monensin* is amended to delete those portions of the regulation that reflect approval of these NADA's.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 93–532V, 93–599V, and all supplements thereto is hereby withdrawn, effective April 6, 1979.

Dated: March 21, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[79-94]

[FR Doc. 79-10255 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

Central Soya Co., Inc.; Certain Master Mix Feed Concentrates and Premixes for Chickens; Withdrawal of Approval of New Animal Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Director of the Bureau of Veterinary Medicine withdraws approval of eight new animal drug applications (NADA's) providing for safe and effective use of certain Master Mix feed concentrates and premixes containing certain single and combination drugs. The concentrates and premixes are used to formulate complete feeds for broiler and replacement chickens. This action was requested by the sponsor, Central Soya Co., Inc.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: Adraino R. Gabuten, Bureau of Veterinary Medicine (HFV–149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Central Soya Co., Inc., 1300 Ft. Wayne Bank Bldg., Ft. Wayne, IN 46802, is sponsor of NADA's for the following medicated feed articles:

Drug(s); article name	NADA No.
Zoalene: Master Mix Chick Starter and Grower Super Concentrate 193-04P	35-168
Zoalene: Master Mix Super Chick Premix 191-04Y.	35-168
Zoalene: Master Mix Super Grower Premix 196X-04Z	35-168
Amprolium, ethopabate, penicillin: Master Mix Broiler Finisher Concentrate 375C-18E	35-599
Amprolium, ethopabate: Master Mix Pullet Concentrate 163-18E; Master Mix Broiler Finisher Concentrate 370CY-22D	37-985
Clopidol, roxarsone: Master Mix Broiler Finisher Concentrate 370CY-O9J	43-430
Clopidol: Master Mix Broiler Finisher Concentrate 370CY-08D	91-815
Decoquinate: Master Mix Broiler Finisher Concentrate 370CY-53C	91-913
Zoalene and pencillin: Master Mix Broiler Starter Concentrate 3934X-04J	91-913
Zoalene and pencillin: Master Mix Broiler Finisher Concentrate 3935X-04T	98-705

Applications for these medicated feed articles were approved to provide for their use in formulating complete feeds for broiler and replacement chickens. The resultant feeds essentially prevent and/or control coccidiosis, with the multiple drug formulations adding the various combination effects of growth promotion, feed efficiency, and improved pigmentation. By letter of November 14, 1978, the firm requested that approval of the NADA's be withdrawn because the articles are no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 35–168, 35–599, 37–985, 43–430, 91–815, 91–913, 94–295, and 98–705 and all supplements for the feed articles listed above is hereby withdrawn, effective April 6, 1979.

Published elsewhere in this issue of the **Federal Register** is a final rule amending those sections of the regulations (21 CFR 558.175 and 558.195) codifying NADA's 43–430, 91–815, and 91–913 to reflect withdrawal of approval of these applications.

Dated: March 21, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc 79-10256 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

Panel on Review of Miscellaneous External Drug Products; Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Panel on Review of Miscellaneous External Drug Products meeting announced by notice in the **Federal Register** of March 16, 1979 (44 FR 16037) for April 29 and 30, 1979, has been changed to 9 a.m., May 18 and 19, 1979, in Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, MD (May 18) and the Pennsylvania Room, Holiday Inn, Bethesda, MD (May 19).

FOR FURTHER INFORMATION CONTACT: John T. McElroy, Bureau of Drugs (HFD–513), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960.

Dated: March 29, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-10254 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

Safety of Certain Food Ingredients; Opportunity for Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces an opportunity for public hearing on the safety of carbon dioxide, casein and certain caseinates, certain gases, hydrogen peroxide, lecithin, and nickel to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction. This action accords with procedures of a comprehensive safety review that the agency is conducting. Interested persons are invited to give their views on the safety of these substances.

DATE: Requests to make oral presentations at the public hearing must be postmarked on or before May 7, 1979.

ADDRESSES:: Written requests to the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, and to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1973 (38 FR 20053), the Food and Drug Administration (FDA) issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee), about the safety of ingredients used in food to determine whether they are GRAS or subject to a prior sanction.

The Commissioner now announces that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients: carbon dioxide for direct food use; casein for direct food use and for paper and paperboard products; calcium caseinate and sodium caseinate for direct food use; nitrogen, helium, propane, *n*-butane, *iso*-butane, and nitrous oxide gases for direct food use; hydrogen peroxide for direct food use and for cotton and cotton fabrics in dry food packaging; lecithin and lecithin bleached with hydrogen peroxide for direct food use; and elemental nickel as a catalyst in the hydrogenation of edible vegetable oils. The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person(s) to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing under notices publishd in the **Federal Register** of July 26, 1973 (38 FR 20051, 20053), April 17, 1974 (39 FR 13798), and March 28, 1978 (43 FR 12941).

The Select Committee has reviewed all the available data and information on the categories of food ingredients listed above and has reached one of the five following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner now practiced, uncertainties exist requiring that additional studies be conducted. (This finding does not apply to the substances covered by this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This finding does not apply to the substances covered by this notice.)

5. The information available is not sufficient to make a tentative conclusion. (This finding does not apply to the substances covered by this notice.)

The following table lists each ingredient, the Select Committee's tentative conclusion (Keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions:

Substance	Select Committee tentative conclusion	Scientific literature review (order No.; price code; price †) Animal study report (order No.; price code; price †)
Carbon Dioxide:		
Direct food use	1	PB-241-959/AS; A10; $9.25.

Other information (order No.; price code; price †)

1. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized As Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB-221-920 for the set); E99; $173.00.
2. Weitzman, D. O., J. A. S. Kinney and S. M. Luria, 1969. Report No. 566. Effect on vision of repeated exposure to carbon dioxide. U.S. Naval Submarine Medical Center, Groton, CN.
3. Glatte, H. A., Jr., G. T. Motsay and B. E. Welsh, 1967. Report No. SAM-TR-67-77. Carbon dioxide tolerance studies. USAF School of Aerospace Medicine, Brooks Air Force Base, TX.
4. Stein, S. N., R. E. Lee, J. H. Annegers, S. A. Kaplan, and D. G. McQuarrie, 1959. Research Report No. NM 24 01 00.01.01. The effects of prolonged inhalation of hypermormal amounts of carbon dioxide I. Physiological effects of 3 percent CO_2 for 93 days upon monkeys. Naval Medical Research Institute, Bethesda, MD.
5. Faucett, R. E. and P. P. Newman, 1953. Report No. 228. Operation hideout. U.S. Naval Medical Research Laboratory, New London, CN.

Casein and caseinates:		PB-234-902/AS; A07; $7.25.
Direct food use:		
Casein	*1	
Calcium caseinate	*1	
Sodium caseinate	*1	
Casein:		
Paper and paperboard	1	

Other information (order No.; price code; price †)

1. Edible rennet casein. 1977. New Zealand Dairy Board, Wellington, New Zealand.
2. Staff report on casein. 1977. Economic Research Service, USDA.
3. Letter, dated August 22, 1978, from N. J. Walker, New Zealand Milk Product, Inc., Rosemont, IL.
4. Letter, dated September 9, 1977 from D. H. Waggle, Ralston Purina Co., St. Louis, MO.
5. Human intake data taken from "A comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized As Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB-221-920 for the set); E99; $173.00.
6. Food consumption, prices, expenditures. 1976. Supplement for 1976 to Agricultural Economic Report No. 138, USDA.
7. Karayiannis, N. I., 1976 Lysinoalanine formation in alkali treated proteins and their biological effects. Ph.D. thesis,. University of California, Berkeley, CA.

Gases in Foods:		PB-241-953/AS; A07; $7.25.
Direct food use:		
Nitrogen gas	1	
Helium gas	1	PB-275-750/AS; A03; $4.50.
Propane	1	
n-Butane	1	
iso-Butane	1	
Nitrous oxide	1	

Other information (order No.; price code; price †)

Substance	Select Committee tentative conclusion		
1. Walker, W. S. How Nitrogen protects the quality of foods. Food Industries, September, 1949.			
2. Human intake data taken from "A comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized As Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB-221-920 for the set); E99; $173.00.			
3. Letter, dated November 9, 1973, from W. D. Dugger, Instrument Corp., Huntington Station, NY.			
4. Letter, dated June 22, 1978, from M. A. Johnsen, Peterson/Puritan, Inc., Danville, IL.			
5. Letter, dated June 12, 1973, from M. A. Johnsen, Peterson/Puritan, Inc., Danville, IL.			
6. Letter, dated December 30, 1977, from M. A. Johnsen, Peterson/Puritan, Inc., Danville, IL.			
7. Memorandum, April 4, 1978, from G. W. Irving, FASEB, Bethesda, MD.			
8. Memorandum, April 12, 1978, from M. J. Wade, FASEB, Bethesda, MD.			
9. Committee on GRAS List Survey (Phase III). 1978. 1975 Resurvey of the Annual Poundage of Food Chemicals Generally Recognized As Safe (GRAS), available from the National Technical Information Service (PB-288-081/AS); A03; $4.50.			
Hydrogen Peroxide:		PB-241-957/AS; A07; $7.25.	
Direct food use	2		
Cotton and cotton fabrics in dry food packaging.	1		
Other information (order No.; price code; price †)			
1. Letter, dated February 17, 1960, from E. T. Wulfsberg, FDA, Washington, DC.			
2. Letter, dated May 17, 1978, from L. F. Mansor, FDA, Washington, DC.			
3. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized As Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB-221-920 for the set); E99; $173.00.			
4. Letter, dated April 21, 1978, from R. D. Harris, Anderson Clayton Foods, Richardson, TX.			
5. Letter, dated April 12, 1978, from J. T. Hutton, Foremost Foods Co., San Francisco, CA.			
6. Sullivan, D. R. and B. F. Szuhaj. Commercial lecithin: types, properties and uses. Presented April 1975, at the National Meeting of the American Oil Chemists' Society, Dallas, TX.			
7. Letter, dated May 16, 1973, from E. F. Sipos, Central Soya Co., Inc., Chicago, IL.			
8. Attachment H to letter, Dated July 25, 1960, from M. F. Markel, Markel & Hill, Washington, DC.			
9. Verrett, M. J., 1975. Investigations of the toxic and teratogenic effects of GRAS substances to the developing chick embryo: lecithin, double-bleached. FDA in-house report.			
10. Smith, L. L., 1976. Meeting on "Biological significance of various cholesterol derivatives," Bethesda, MD.			
11. Letter, dated July 11, 1978, from J. T. Hutton, Foremost Foods Co., San Francisco, CA.			
Lecithin:		PB-241-970/AS; A08; $8.00.	1. Teratoligic evaluation of FDA 71-88 (lecithin) in mice, rats and rabbits, by Food and Drug Research Laboratories, Inc., under FDA contract (PB-234-874/AS); A03; $4.50.
Direct Food use:			
Lecithin	1		
Lecithin bleached with hydrogen peroxide.	1	PB-275-751/AS; A02; $4.00.	2. Mutagenic evaluation of compound MX8002435, lecithin (71-88), by Litton Bionetics, Inc., under FDA contract (PB-245-478/AS); A03; $4.50.
Other information (order no.; price code; price †)			
1. Sullivan, D. R. and B. F. Szuhaj. Commercial lecithin: types, properties and uses. Presented April 1975, at the National Meeting of the American Oil Chemists' Society, Dallas, TX.			
2. Letter, dated February 17, 1960, from E. T. Wulfsberg, FDA, Washington, DC.			
3. Letter, dated May 15, 1978, from E. F. Sipos, Central Soya Co., Inc., Chicago, IL.			
4. Letter, dated November 7, 1962, from W. R. Moses, FDA, Washington, DC.			
5. Select Committee on GRAS Substances. 1975. Evaluation of the health aspects of chloride chloride and choline bitartrates as food ingredients, available from the National Technical Information Service (PB-262-654/AS); A02; $4.00.			
6. Select Committee on GRAS Substances. 1975. Evaluation of the health aspects of inositol as a food ingredient, available from the National Technical Information Service (PB-262-660/AS); A02; $4.00.			
7. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized As Safe (GRAS)," available from the National Technical Information Service (PB Nos. 221-921 through 221-949; PB-221-920 for the set); E99; $173.00.			
8. West, E., 1955. A discoursive review of the present knowledge of lecithin and related substances. Central Soya Co., Inc., Chicago, IL.			
9. Letter, dated November 9, 1977, from H. T. Slover, USDA, Beltsville, MD.			
10. Verrett, M. J., 1975. Investigations of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo: lecithin, double-bleached. FDA in-house report.			
11. Attachment H to letter, dated July 25, 1970, from M. F. Markel, Markel & Hill, Washington, DC.			
Nickel:	1	PB-241-972/AS; A10; $9.25.	
Other information (order no.; price code; price †)			
Elemental nickel as a catalyst in the hydrogenation of edible vegetable oils.			
Other information (order No.; price code; price †)			
1. Letter, dated September 1, 1960, from F. A. Cassidy, FDA, Washington, DC.			
2. Committee on GRAS List Survey (Phase III), 1978. Use level data for "Federal Register" substances. Prepared under DHEW Contract No. FDA 223-77-2025.			
3. Consolazio, C. F., R. A. Nelson, L. O. Matoush, R. C. Hughes and P. Urone. 1964. Report No. 284. The trace mineral losses in sweat. U.S. Army Medical Research and Nutrition Laboratory, Fitzsimmons General Hospital, Denver, CO.			

† Prices are subject to change.

*Provided specifications for the food grade product are developed including acceptable levels of lysinoalamine, nitrite, and nitrosamines.

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, their reviews with specific information from specialized sources as announced in a previous hearing opportunity notice published in the **Federal Register** of September 23, 1974 (39 FR 34218).

The Select Committee's tentative report on (1) carbon dioxide for direct food use; (2) casein for direct food use and for paper and paperboard products, calcium caseinate and sodium caseinate for direct food use; (3) nitrogen, helium, propane, *n*-butane, *iso*-butane, and nitrous oxide gases for direct food use; (4) hydrogen peroxide for direct food use and for cotton and cotton fabrics in dry food packaging; (5) lecithin and lecithin bleached with hydrogen peroxide for direct food use; and (6) elemental nickel as a catalyst in the hydrogenation of edible vegetable oils are available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 C St. SW., Washington, DC 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review at the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the amount of time requested to give their views. Accordingly, and interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing addressed to: The Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each such request shall be sent to the Hearing Clerk, address noted above, and all requests shall be placed on public display in that office. Any such request must be postmarked on or before May 7, 1979, shall state the substance(s) on which an opportunity to present oral views is requested, and shall state how much time is requested for the presentation. Requests should

specify the docket number found in brackets in the heading of this notice. As soon as possible after the request deadline, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the **Federal Register.**

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substance listed above. Information already contained in the scientific literature reviews and in the tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Because of time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views identified with the docket number found in brackets in the heading of this notice, shall be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will be placed on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration.

Dated: March 27, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 79N-0032]

[FR Doc. 79-10257 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

National Institute of Education

National Assessment of Educational Progress (NAEP) Grant Competition; Announcement

Correction

In FR Doc. 79-10072, appearing at page 19039, in the issue of Friday, March 30, 1979, on page 19040, the point values were inadvertently deleted in the following paragraphs:

(A) In the first column, paragraph B.2.a. should read:

a. *Selection Criterion 1: Establishing the Advisory Committee: 10 points*

(B) In the middle column, paragraph c. should read:

c. *Selection Criterion 3: Understanding of NAEP and Technical Approach: 45 points*

(C) In the third column, paragraph d. should read:

d. *Selection Criterion 4: Management Plant: 30 points*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

Federal Education Data Acquisition Council; Meeting change

Notice is hereby given that the first meeting of the Federal Education Data Acquisition Council (FEDAC) originally scheduled for April 10, 1979 in the **Federal Register** of (March 23, 1979) (FR Doc. 79-8808) on page 17793 has been changed.

The new meeting date will be April 26, 1979. The time and place remains the same (9:00 a.m. to 5:30 p.m., Room 3000 (Education Division Conference Room), Federal Office Building No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202).

Dated: April 5, 1979.

Mary F. Berry,
Assistant Secretary for Education.

[FR Doc. 79-10971 Filed 4-5-79; 12:17 pm]

BILLING CODE 4110-89-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Alaska Native Claims Selection

On November 14, 1974, Emmonak Corporation filed selection application F-14856-A, as amended, under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (Supp. V, 1975)), for the surface estate of lands located in the Emmonak area. Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that village selections shall be made from lands withdrawn by Sec. 11(a).

As to the lands described below, the application submitted by Emmonak Corporation, as amended, is properly filed, and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 121,943.46 acres, is considered proper for acquisition by Emmonak Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Lot 14, Block 6, Tract B, U.S. Survey No. 4402, Townsite of Emmonak, Alaska located at Emmonak, Alaska on the right bank of Kwiguk Pass (a distributary of the Yukon River).

Containing 4.95 acres.

U.S. Survey No. 5011, Alaska, situated at Emmonak, Alaska on the right bank of Kwiguk Pass (a distributary of the Yukon River).

Containing 279.51 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 29 N., R. 79 W.
Sec. 1, excluding Yukon River (Kwikluak Pass) and unnamed sloughs;
Secs. 2 and 12, excluding Yukon River (Kwikluak Pass).

Containing approximately 705 acres.

T. 30 N., R. 79 W.
Sec. 2, excluding Takwaklanuk Slough;
Sec. 3, all;
Sec. 4, excluding unnamed slough;
Sec. 5, excluding Yukon River (Kwikluak Pass), Aproka Pass and unnamed sloughs;
Sec. 6, excluding Yukon River (Kwikluak Pass), and Aproka Pass;
Secs. 7 and 8, excluding Yukon River (Kwikluak Pass);
Sec. 9, excluding Yukon River (Kwikluak Pass);
Sec. 10, all;
Sec. 11, excluding Takwaklanuk Slough;
Sec. 13, excluding Naringolapak Slough;
Sec. 14, excluding Takwaklanuk Slough;
Sec. 15, excluding Native allotment F-18654 Parcel B, and Takwaklanuk Slough;
Sec. 16, excluding Yukon River (Kwikluak Pass), and Takwaklanuk Slough;
Sec. 17, excluding Yukon River (Kwikluak Pass);
Sec. 23, excluding Naringolapak Slough;
Sec. 24 and 25, excluding Naringolapak Slough and unnamed slough;
Sec. 26, excluding Yukon River (Kwikluak Pass) and Naringolapak Slough;
Sec. 27, excluding Yukon River (Kwikluak Pass);
Sec. 35, excluding Native allotment F-18691 Parcel D, Yukon River (Kwikluak Pass) and Naringolapak Slough;
Sec. 36, excluding Native allotment F-18405 parcel A, and Naringolapak Slough.

Containing approximately 10,433 acres.

T. 31 N., R. 79 W.
Sec. 34, all.

Containing approximately 640 acres.

T. 30 N., R. 80 W.
Sec. 1, excluding Yukon river (Kwikluak Pass) and Aproka Pass;

Sec. 2, excluding Yukon River (Kwikluak Pass) and Bugomowik Pass;
Sec. 3, excluding Native allotment F-18604 parcel D, Yukon River (Kwikluak Pass), Bugomowik Pass, Iumkrarak Slough and Utakaht Slough;
Sec. 4, excluding Yukon River (Kwikluak Pass) and Utakaht Slough;
Sec. 5, excluding Native allotment F-18346 Parcel A, Yukon River (Kwikluak Pass), Utakaht Slough and unnamed slough;
Sec. 6, excluding Yukon River (Kwikluak Pass), Utakaht Slough and unnamed slough.

Containing approximately 2,165 acres.

T. 30 N., R. 81 W.
Sec. 1, excluding Yukon River (Kwikluak Pass) and Lamont Slough;
Sec. 2, excluding Lamont Slough;
Sec. 3, excluding Native allotments F-18316, F-18327 Parcel B, F-18354 Parcel A and Lamont Slough;
Sec. 4, excluding Native allotments F-18327 Parcel B, F-18603 Parcel A, F-18607 Parcel A, Yukon River (Kwikluak Pass), and Lamont Slough;
Sec. 5, excluding Yukon River (Kwikluak Pass);
Sec. 6, excluding Yukon River (Kwikluak Pass) and Tunuigak Slough;
Sec. 7, excluding Native allotment F-18609 Parcel C and Yukon River (Kwikluak Pass);
Sec. 8, Excluding Yukon River (Kwikluak Pass);
Sec. 9, all;
Sec. 10, excluding Lamont Slough;
Sec. 11, excluding Native allotment F-18719 Parcel B and Lamont Slough;
Sec. 12, excluding Yukon River (Kwikluak Pass), Sunshine Bay and Lamont Slough.

Containing approximately 5,563 acres.

T. 31 N., R. 81 W.
Sec. 1, all;
Secs. 2 and 3, excluding Bugomowik Pass;
Sec. 4, excluding Native allotment F-18365 Parcel D;
Sec. 5, all;
Sec. 6, excluding Emmonak Slough;
Sec. 7, excluding Tract B of U.S. Survey No. 4402 and Emmonak Slough;
Sec. 8, excluding Tract B of U.S. Survey No. 4402, U.S. Survey No. 5011 and Emmonak Slough;
Sec. 9, excluding U.S. Survey No. 5011;
Secs. 10 and 11, excluding Bugomowik Pass;
Sec. 12, excluding Native allotment F-18329 Parcel C, and Bugomowik Pass;
Sec. 13, excluding Native allotment F-18329 Parcel C and Bugomowik Pass;
Secs. 14 and 15, all;
Sec. 16, excluding Tract A of U.S. Survey No. 4402, U.S. Survey No. 5011, Native allotment F-18334 Parcel B, Kwiguk Pass and Kaoledoly Slough;
Sec. 17, excluding Tracts A and B of U.S. Survey No. 4402, U.S. Survey No. 5011, ANCSA Sec. 3(e) application AA-22475, Native allotments F-18365 Parcel C, F-18464 Parcel A, F-18629 Parcel C, Emmonak Slough and Kwiguk Pass;
Sec. 18, excluding Tract B of U.S. Survey No. 4402, Native allotments F-18334 Parcel C, F-18464 Parcel A, Kwiguk Pass, and Emmonak Slough;
Sec. 19, excluding Native allotment F-18468 Parcel B, Kwiguk Pass and Anuzukanuk Pass;
Sec. 20, excluding Native allotment F-18365 Parcel C and Kwiguk Pass;
Sec. 21, excluding Native allotments F-18334 Parcel B, F-18362 Parcel B, F-18468 Parcel C, Kwiguk Pass, and Kaoledoly Slough;
Sec. 22, excluding Kaoledoly Slough;
Sec. 23,excluding Native allotment F-18619 Parcel A and Yukon River;
Sec. 24, all;
Sec. 25, excluding Yukon River (Kwikluak Pass) and Utakaht Slough;
Sec. 26, excluding Native allotment F-18619 Parcel A and Yukon River (Kwikluak Pass);
Sec. 27, excluding Yukon River (Kwikluak Pass) and Kaoledoly Slough;
Sec. 28, excluding Native allotments F-18619 Parcel C, F-18630 Parcel A, F-18718 Parcel A, Yukon River (Kwikluak Pass), and Kwiguk Pass;
Sec. 29, excluding Native allotments F-18362 Parcel C, F-18630 Parcel A, Yukon River (Kwikluak Pass), Kwiguk Pass and Anuzukanuk Pass;
Sec. 30, excluding Anuzukanuk Pass;
Sec. 31, excluding Native allotments F-18481 Parcel C, F-18619 Parcel B and Yukon River (Kwikluak Pass);
Sec. 32, excluding Native allotments F-18620 Parcel B, F-18718 Parcel B, Yukon River (Kwikluak Pass) and Lamont Slough;
Sec. 33, excluding Native allotment F-18619 Parcel C, Yukon River (Kwikluak Pass), and Lamont Slough;
Sec. 34, excluding Yukon River (Kwikluak Pass);
Sec. 35, excluding Native allotment F-18619 Parcel D and Yukon River (Kwikluak Pass);
Sec. 36, excluding Native allotment F-18477 Parcel D, and Yukon River (Kwikluak Pass).

Containing approximately 17,053 acres.

T. 32 N., R. 81 W.
Secs. 7 to 18, inclusive all;
Secs. 19 and 20, excluding Bugomowik Pass;
Secs. 21 to 24, inclusive, all;
Sec. 25, excluding Native allotment F-18630 Parcel B;
Secs. 26 and 27, all;
Secs. 28 and 29, excluding Bugomowik Pass;
Sec. 30, excluding Native allotment F-18617 Parcel D, Bugomowik Pass; and Emmonak Slough;
Sec. 31, excluding Bugomowik Pass; and Emmonak Slough;
Sec. 32, excluding Bugomowik Pass;
Secs. 33 to 35, inclusive, excluding Bugomowik Pass;
Sec. 36, all.

Containing approximately 18,043 acres.

T. 33 N., R. 81 W.
Sec. 3, all;
Secs. 4 and 5, excluding unnamed slough;
Sec. 6 (fractional), excluding unnamed slough;
Secs. 7 and 8, all;
Sec. 9 and 10, excluding unnamed slough;
Sec. 15, excluding unnamed slough;
Sec. 16, all;
Sec. 17, all;
Sec. 18, excluding Native allotments F-18473 Parcel A, and F-18486 Parcel A;
Sec. 19, excluding Native allotment F-18473 Parcel A, and Bugomowik Pass;
Sec. 20, excluding Bugomowik Pass;
Sec. 21, all;
Sec. 22, excluding unnamed slough;
Sec. 28, excluding Bugomowik Pass;
Sec. 29, excluding Native allotment F-18483 Parcel C, and Bugomowik Pass;
Sec. 30, excluding Native allotment F-18483 Parcel C;
Sec. 31, excluding unnamed slough;
Sec. 32, excluding Bugomowik Pass; and unnamed slough.

Containing approximately 11,940 acres.

T. 31 N., R. 82 W.
Sec. 1, excluding Kakahkituli Pass and Emmonak Slough;
Sec. 2, excluding Kakahkituli Pass;
Secs. 3 and 4, excluding Kakahkituli Pass and Kangokakli Pass; ch
Secs. 5 and 6, excluding Kangokakli Pass;
Sec. 7, excluding Native allotments F-18361 Parcel A, F-18467, F-18487 Parcel B, F-18615 Parcel A and Kwiguk Pass;
Sec. 8, excluding Native allotments F-18364 Parcel C, F-18615 Parcel A, Kwiguk Pass, and Aknokivik Slough;
Sec. 9, excluding Aknokivik Slough and Kangokakli Pass;
Sec. 10, excluding Kangokakli Pass, Kakahkituli Pass and Aknokivik Slough;
Sec. 11, excluding Kakahkituli Pass and Aknokivik Slough;
Sec. 12, excluding Kakahkituli Pass;
Sec. 13, excluding Native allotments F-18334 Parcel A, F-18362 Parcel A, F-18468 Parcel A, and Kwiguk Pass;
Sec. 14, excluding Native allotment F-18691 Parcel C, Kwiguk Pass, and Akanuklinuk Slough;
Sec. 15, excluding Akanuklinuk Slough;
Sec. 16, excluding Native allotment F-18364 Parcel C, and Kwiguk Pass;
Sec. 17, excluding Native allotments F-18338, F-18364 Parcel C, and Kwiguk Pass;
Sec. 18 and 19, all;
Secs. 20 and 23, inclusive, excluding Kwiguk Pass;
Sec. 24, excluding Native allotment F-16758 Parcel A, and Kwiguk Pass;
Secs. 25 and 26, excluding Anuzukanuk Pass;
Sec. 27, excluding Native allotment F-18696 Parcel C, Kwiguk Pass, and Anuzukanuk Pass;
Sec. 28, excluding Kwiguk Pass;
Sec. 29, all;
Sec. 30, excluding Native allotment F-18749 Parcel D.

Containing approximately 16, 819 acres.

T. 32 N., R. 82 W.
Sec. 3, excluding Bugomowik Pass and unnamed slough;
Sec. 4, excluding Bugomowik Pass, Emmonak Slough and unnamed slough;
Sec. 5, excluding Emmonak Slough;
Secs. 6 to 8, inclusive, excluding Emmonak Slough;
Sec. 9, excluding Native allotment F-18720 Parcel B, and Emmonak Slough;
Sec. 10, excluding Native allotment F-18632 Parcel C, and Bugomowik Pass;
Sec. 11, excluding Bugomowik Pass;
Sec. 12, excluding Native allotment F-18632 Parcel D and Bugomowik Pass;
Sec. 13, excluding Bugomowik Pass;
Secs. 14 to 17, inclusive, excluding Emmonak Slough;
Secs. 18 to 20, inclusive, all;
Secs. 21 to 23, inclusive, excluding Emmonak Slough;
Sec. 24, excluding Bugomowik Pass and Emmonak Slough;
Secs. 25 and 26, excluding Emmonak Slough;
Sec. 27, all;
Secs. 28 and 29, excluding Kakahkituli Pass;
Sec. 30, excluding Kakahkituli Pass;
Sec. 31, excluding Kangokakli Pass;
Sec. 32, excluding Kangokakli Pass;
Sec. 33, excluding Kakahkituli Pass and Kangokakli Pass;

Secs. 34 and 35, excluding Kakahkituli Pass;
Sec. 36, excluding Emmonak Slough.

Containing approximately 19,971 acres.

T. 33 N., R. 82 W.
Sec. 1 (fractional), all;
Sec. 12, (fractional), excluding Native allotments F-18576 Parcel B, and F-18632 Parcel A;
Sec. 13, excluding Native allotments F-18476 Parcel C, F-18489, F-18617 Parcel C, F-18632 Parcel B, F-18716 Parcel C, F-19059 Parcel A, and Bugomowik Pass;
Sec. 14 (fractional), excluding Native allotment F-18489;
Sec. 23 (fractional), all;
Sec. 24, excluding Bugomowik Pass;
Sec. 25, excluding Bugomowik Pass;
Sec. 26 (fractional), excluding unnamed slough;
Sec. 27 (fractional), all;
Secs. 34 and 35 (fractional), excluding Emmonak Slough;
Sec. 36, excluding unnamed slough.

Containing approximately 4,139 acres.

T. 31 N., R. 83 W.
Sec. 1, excluding Native allotment F-18337 and Kwiguk Pass;
Sec. 2, excluding Native allotments F-18364 Parcel D, F-18443 Parcel A, and Kwiguk Pass;
Sec. 3, excluding Native allotment F-18364 Parcel D, F-18477 Parcel B, F-18575 Parcel B, F-18617 Parcel B, F-18624 Parcell A, and Kwiguk Pass;
Sec. 4 (fractional), excluding Native allotments F-18329 Parcel A, F-18693 Parcel A, Kwiguk Pass and Kawokhawik Pass;
Sec. 5 (fractional), all;
Sec. 8 (fractional), excluding Kawokhawik Pass;
Sec. 9 (fractional), excluding Native allotments F-18443 Parcel B, F-18720 Parcel C, Kawokhawik Pass and Elongozhik Slough;
Sec. 10, excluding Native allotments F-18574 Parcel A, F-18617 Parcel A, F-18624 Parcel B, Kwiguk Pass and Kawokhawik Pass;
Sec. 11, excluding Native allotment F-18473 Parcel B and Kwiguk Pass;
Sec. 12, excluding Native allotments F-18337, F-18361 Parcel A, Kwiguk Pass and Kawokhawik Slough;
Secs. 13 and 14, excluding Kawokhawik Slough;
Sec. 15, excluding Kawokhawik Slough and Elongozhik Slough;
Sec. 16 (fractional), excluding Native allotment F-18323 Parcel D, Kawokhawik Pass, Kawokhawik Slough and Elongozhik Slough.

Containing approximately 4,493 acres.

T. 32 N., R. 83 W.
Sec. 1, excluding Emmonak Slough;
Sec. 2 (fractional), excluding Emmonak Slough;
Sec. 3 (fractional), all;
Sec. 10 (fractional), all;
Secs. 11 to 13, inclusive, all;
Sec. 14, excluding Native allotments F-18329 Parcel B and F-18575 Parcel A;
Sec. 15 (fractional), excluding Native allotment F-18474;
Sec. 21 (fractional), all;
Sec. 22 (fractional), excluding Native allotments F-18358 Parcel A, F-18474, F-18487 Parcel A, and Kakahkituli Pass;
Sec. 23, excluding Native allotments F-18358 Parcel A, F-18716 Parcel D, and Kakahkituli Pass;
Sec. 24, excluding Kakahkituli Pass;
Sec. 25, excluding Kakahkituli Pass, and Kangokakli Pass;
Sec. 26, excluding Native allotments F-18332 Parcel A, F-18358 Parcel A, F-18475 Parcel A, F-18477 Parcel A, F-18716 Parcel D, F-18721 Parcel C, Kakahkituli Pass and Kangokakli Pass;
Sec. 27, excluding Native allotment F-18358 Parcel A, Kakahkituli Pass and Kangokakli Pass;
Sec. 28 (fractional), all;
Sec. 33 (fractional), excluding Native allotment F-18720 Parcel A;
Sec. 34 (fractional), excluding Native allotment F-18720 Parcel A;
Sec. 35, excluding Native allotments F-18332 Parcel A, F-18574 Parcel B, F-18721 Parcel C and Kangokakli Pass;
Sec. 36, excluding Kangokakli Pass.

Containing approxiately 9,695 acres.

Aggregating approximately 121,943.45 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C5, M) An easement for an existing access trail twenty-five (25) feet in width from Chuloonawick southwesterly to Alakanuk. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

b. (EIN 2 D9) A one (1) acre site easement upland of the mean high tide line in Sec. 18, T. 31 N., R. 81 W., Seward Meridian, on the north shore of Kwiguk Pass, immediately to the west of and adjacement to the townsite. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 4 D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Hamilton southwesterly to Alakanuk. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688; 43 U.S.C. 1601) (Supp. V, 1975)), any valid existing right recognized by said act shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

4. Airport lease F-034619, containing 279.51 acres (U.S. Survey No. 5011), lying within Secs. 8, 9, 16 and 17, T. 31 N., R. 81 W., Seward Meridian, issued to the State of Alaska, Division of Aviation (now the Department of Transportation and Public Facilities), under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214 (1970)).

Emmonak Corporation is entitled to conveyance of 138,240 acres of land selected pursuant to Sec. 12(a) of Alaska Native Claims Settlement Act. To date approximately 121,943.46 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 16,296.54 acres will be conveyed at at later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above will be granted to Calista Corporation at the same time conveyance is granted to Emmonak Corporation for the surface estate and shall be subject to the same conditions as the surface conveyance.

The following inland waterbodies within the lands described are considered to be navigable and tidally influenced throughout the selection:

Yukon River (Kwikluak Pass), Kwiguk Pass, Lamont Slough, Takwaklanukm Slough, Naringolapak Slough, and Aproka Pass.

The following water bodies are subject to tidal influence:

Bugomowik Pass, Anuzukanuk Pass, Iumkrarak Slough, Kaoledoly Slough, Utakaht Slough, Aknokivik Slough, Kawokhawik Slough, Kangokakli Pass, Kakahkituli Pass, Emmonak Slough, Akanuklinuk Slough,

Sunshine Bay, Elongozhik Slough, Kawokhawik Pass, and Tunuigak Slough.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in both the Anchorage Times and the Tundra Drums. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until May 7, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the parties to be served are: Emmonak Corporation, Emmonak, Alaska 99581; and Calista Corporation, 516 Denali Street, Anchorage, Alaska 99501.

To avoid summary dismissal of the appeal there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Willa May Shore,
Acting Chief, Branch of Adjudication.

[F 14856-A]

[FR Doc. 79-10547 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

On February 20, 1974 and October 8, 1974, Levelock natives, Limited filed selection applications AA-6678-A through AA-6678-J under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)) (ANCSA), for the surface estate of certain lands in the Levelock area.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands so not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 86, 783 acres, is considered proper for acquisition by Levelock Natives, Limited and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act

Lots 2, 3, 4, 5, 6, 8, 9, 11, and 13, U.S. Survey No. 3529 situated at Kvichak, Alaska (Levelock Post Office).

Containing 16.04 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 10 S., R. 43 W.
Secs. 26, 27, 34 and 35, all.

Containing approximately 2,560 acres.

T. 11 S., R. 43 W.
Secs. 2, and 3, all.
Secs. 7 to 12, inclusive, all;
Sec. 13, excluding the Kvichak River;
Sec. 14, all;
Secs. 15 to 17, inclusive, excluding the Kvichak River;
Sec. 18, all;
Sec. 19, excluding Native allotment AA-8056 Parcel A and the Kvichak River;
Secs. 20, 21, and 22, excluding the Kvichak River;
Sec. 23, excluding Native allotment AA-7841 and the Kvichak River;
Sec. 24, excluding the Kvichak River;

Containing approximately 11,994 acres.

T. 10 S., R. 44 W.
Sec. 34, all.

Containing approximately 640 acres.

T. 11 S., R. 44 W.
Secs. 2, 3 and 4, all.
Secs. 9 to 14, inclusive, all;
Sec. 15 excluding Native allotment AA-6074;
Secs. 16, 21 and 22, all ;
Secs. 23, 24 and 25, excluding the Kvichak River;
Sec. 26, excluding Native allotment AA-8056 Parcel B and the Kvichak River;
Secs. 27 to 29, inclusive, all;
Sec. 30, excluding Native allotment A-054751;
Sec. 31, excluding Native allotment A-054751 and the Kvichak River;
Secs. 32 and 33, excluding the Kvichak River;
Sec. 34, all ;
Sec. 35, excluding the Kvichak River;
Sec. 36, excluding Native allotment AA-6448 Parcel A and the Kvichak River;

Containing approximately 15, 701 acres.

T. 12 S., R. 44 W.
Sec. 1, excluding Native allotment AA-6448 Parcel A and the Kvichak River;
Secs. 2, and 3, excluding the Kvichak River;
Sec. 4, excluding Native allotment AA-6467 Parcel B and the Kvichak River;
Secs. 5, 6 and 7, excluding the Kvichak River;
Sec. 8, all;
Sec. 9, excluding Native allotment AA-6467 Parcel B and the Kvichak River;
Secs. 10 and 11, excluding the Kvichak River;
Sec. 12, all.

Containing approximately 6,279 acres.

T. 13 S., R. 44 W.
Sec. 2 excluding the Alagnak River;
Secs. 9 to 12 inclusive, excluding the Alagnak River;
Sec. 13, 14 and 15, all;
Sec. 16, excluding the Alagnak River;
Secs. 17, and 18, all;
Sec. 19, excluding the Alagnak River;
Sec. 20, excluding Native allotment AA-8273 and the Alagnak River;
Sec. 21, excluding the Alagnak River;
Sec. 29, excluding Native allotment AA-8273 and AA-6470 Parcel B and the Alagnak River;
Sec. 30, excluding Native allotment AA-6470 Parcel B and the Alagnak River;

Containing approximately 9,342 acres.

T. 11 S., R. 45 W.
Secs. 25, and 26, all;
Secs. 34, 35, and 36, all.

Containing approximately 3,200 acres.

T. 12 S., R. 45 W.
Sec. 1, excluding the Kvichak River;
Secs. 2 to 11, inclusive, all;
Secs. 12 and 13, excluding the Kvichak River;
Sec. 14, excluding U.S. Survey 537 and the Kvichak River;
Secs. 15 to 20, inclusive, all;
Sec. 21, excluding U.S. Survey 1537, U.S. Survey 3139, U.S. Survey 3193, U.S. Survey 3529 and U.S. Survey 4877 Tracts A and C;
Sec. 22, excluding U.S. Survey 1537, U.S. Survey 3529 and the Kvichak River;
Sec. 23, excluding Native allotment AA-6735 Parcel A and the Kvichak River;
Sec. 24, excluding the Kvichak River;
Secs. 25 and 26, all;
Sec. 27, excluding U.S. Survey 914, U.S. Survey 1537 and the Kvichak River;
Sec. 28, excluding U.S. Survey 895, U.S. Survey 914, U.S. Survey 1537, U.S. Survey 2444, U.S. Survey 3138, U.S. Survey 3139, U.S. Survey 3529, U.S. Survey 4877 and the Kvichak River;
Sec. 29, excluding U.S. Survey 4877 Tract B;
Sec. 30, all;
Sec. 31, excluding Native allotment AA-7839 Parcel A;
Sec. 32, all;
Sec. 33, excluding U.S. Survey 4877 Tract A and the Kvichak River;
Sec. 34, excluding the Kvichak River;
Secs. 35 and 36, all.

Containing approximately 20,284 acres.

T. 13 S., R. 45 W.
Secs. 6 and 7, excluding the Kvichak River;
Secs. 13 and 14, excluding Native allotment AA-6470 Parcel A;
Secs. 15 and 17, all;
Sec. 18, excluding the Kvichak River;
Sec. 19, excluding U.S. Survey 538 and the Kvichak River;
Secs. 20 and 22, all;
Secs. 23 and 24, excluding Native allotment AA-6470 Parcel A and the Alagnak River;
Secs. 26 and 27, excluding the Alagnak River;
Secs. 28 and 29, excluding Native allotment A-054760 and the Alagnak River;
Sec. 30, excluding the Kvichak River;
Sec. 31, excluding U.S. Survey 523, U.S. Survey 577 and the Alagnak River;
Sec. 32, excluding U.S. Survey 913, Native allotment A-054760 and the Alagnak River;
Secs. 33 and 34, excluding the Alagnak River.

Containing approximately 10,797 acres.

T. 13 S., R. 46 W.
Sec. 1, excluding the Kvichak River;
Secs. 2 and 11, all;
Secs. 12 and 13, excluding the Kvichak River;
Sec. 14, all;
Sec. 23, excluding Native allotment AA-6735 Parcel B;
Secs. 24 and 25, excluding the Kvichak River;
Sec. 26, excluding Native allotment AA-6735 Parcel B and the Kvichak River;
Sec. 35, excluding the Kvichak River;
Sec. 36, excluding the Kvichak and Alagnak Rivers.

Containing approximately 5,970 acres.

Aggregating approximately 86,783 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6678-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1b D9, C6) A one (1) acre site easement upland of the mean high tide line in Sec. 19, T. 11 S., R. 43 W., Seward Meridian, on the right bank of the Kvichak River. The site is for camping, staging and vehicle use.

b. (EIN 1c C6, D1, D9, L) A one (1) acre site easement upland of the mean high tide line in Sec. 36, T. 11 S., R. 44 W., Seward Meridian, on the left bank of the Kvichak River. The site is for camping, staging and vehicle use.

c. (EIN 1d, D1, D9, L) A one (1) acre site easement upland of the mean high tide line in Sec. 13, T. 12 S., R. 45 W., Seward Meridian, on the left bank of the Kvichak River. The site is for camping, staging and vehicle use.

d. (EIN 1f D9, C6) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 1b D9, C6, in Sec. 19, T. 11 S., R. 43 W., Seward Meridan, extending northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

e. (EIN 1g C6, D1, D9, L) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 1c C6, D1, D9, L, in Sec. 36, T. 11 S., R. 44 W., Seward Meridian, extending easterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

f. (EIN 1h D1, D9, L) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 1d D1, D9, L in Sec. 13, T. 12 S., R. 45 W., Seward Meridian, extending easterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

g. (EIN 2a D1, D9, L) A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks of the Alagnak River from Sec. 12, T. 13 S., R. 44 W., Seward Meridian, to the uppermost extent of tidal influence in Sec. 23, T. 13 S., R. 45 W., Seward Meridian. Purpose is to provide public use of waters having highly significant present recreational use.

h. (EIN 2e C4) An easement for a proposed access trail twenty-five (25) feet in width from the right bank of the Alagnak River in Sec. 28, T. 13 S., R. 45 W., Seward Meridian, extending northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

i. (EIN 8b C6, D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 20, T. 13 S., R. 44 W., Seward Meridian, on the left bank of the Alagnak River. The easement is one (1) acre in size with an additional twenty-five (25) foot wide extension on the bed of the Alagnak River along the entire waterfront of the site. The site is for camping, staging and vehicle use.

j. (EIN 8c C4) An easement for a proposed access trail twenty-five (25) feet in width from site easement EIN 8b C6, D9 in Sec. 20, T. 13 S., R. 44 W., Seward Meridian, extending southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

k. (EIN 9 C) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

l. (EIN 10 C) The right of the United States to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

m. (EIN 12b E) An easement for a proposed access trail twenty-five (25) feet in width starting on the right bank of the Kvichak River in Sec. 31, T. 11 S., R. 44 W., Seward Meridian, extending northerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

n. (EIN 13 E) An easement for an existing access trail twenty-five (25) feet in width paralleling the right bank of the Kvichak River throughout the selection. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

o. (EIN 14 E) An easement for an existing access trail twenty-five (25) feet in width beginning at a point on the left bank of the Kvichak River, across from the village of Levelock, southerly paralleling the river to public land in Sec. 6, T. 14 S., R. 45 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

p. (EIN 15a C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 31, T. 11 S., R. 44 W., Seward Meridian, on the right bank of Kvichak River. The site is for camping, staging and vehicle use.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978 and published as final rulemaking on November 27, 1978, 43 FR 55326. Conformance will be made at a later date in accordance with the terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Bristol Bay Native Corporation, the Levelock Natives, Limited and other Bristol Bay village corporations.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those

created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

4. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Bristol Bay Native Corporation, Levelock Natives, Limited and other Bristol Bay village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Levelock Natives, Limited, serialized AA-6678-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Levelock Natives, Limited, is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, 86,783 acres of this entitlement have been approved for conveyance; the remaining entitlement of 5,377 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Levelock Natives, Limited for the surface estate, and shall be subject to the same conditions as the surface conveyance.

The following inland water bodies within the described lands are considered to be navigable:

The Kvichak River and the Alagnak River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until May 7, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Levelock Natives, Limited or Bristol Bay Native Corporation objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must the filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are: Levelock Natives, Limited, Levelock, Alaska 99625; and Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Judith A. Kammins,
Chief, Division of ANCSA Operations.

[AA-6678-A through AA-6678-J]

[FR Doc 79-10548 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Order Providing for Opening of Lands in California

March 28, 1979.

By virtue of the authority contained in Section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818 (1970), and in accordance with the authority delegated to me by the State Director, California State Office, Bureau of Land Management, dated January 13, 1977 (42 FR 3901), as amended, and pursuant to the determination of the Federal Energy Regulatory Commission in DA 1129 California, May 31, 1978, it is ordered as follows:

1. In DA 1129 California, the Federal Energy Regulatory Commission determined that the power withdrawal, as it affects that portion of the following described land within Power Project No. 2124, is no longer needed for power purposes and is vacated:

Mount Diablo Meridian

T. 21 N., R. 7 E.,
Sec. 24, Lots 2 and 5

The area aggregates approximately 29.16 acres in Plumas County, California.

2. The land shall be made immediately available for consummation of a pending Forest Service exchange, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law.

Joan B. Russell,
Chief, Lands Section Branch of Lands and Minerals Operations.

[CA-3871]

[FR Doc. 79-10543 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-84-M

Montana: Right-of-Way Applications for Pipeline

March 30, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 185) Kansas-Nebraska Natural Gas Company, Inc., 300 N. St. Joseph Avenue, Hastings, Nebraska 68901, has filed eight (8) applications for rights-of-way for 4" and 6" natural gas pipelines for the Bowdoin Gathering System approximately 11.95 miles across the

following public lands in Phillips County:

PRINCIPAL MERIDIAN, MONTANA

T. 36 N., R. 30 E.,
Sec. 4, Lots 3 and 4; and
Sec. 6, Lots 2 and 3.
T. 37 N., R. 30 E.,
Sec. 1, S½NW¼;
Sec. 4, NW¼SW¼;
Sec. 5, NE¼SE¼;
Sec. 9, S½NE¼;
Sec. 10, S½N½;
Sec. 11, SW¼NW¼; and
Sec. 32, SE¼SW¼ and W½SE¼.
T. 34 N., R. 31 E.,
Sec. 14, E½SW¼.
T. 35 N., R. 31 E.,
Sec. 2, Lot 3 and SE¼NW¼.
T. 36 N., R. 31 E.,
Sec. 25, S½NE¼ and SE¼NW¼; and
Sec. 35, SW¼NW¼, W½SW¼, and SE¼SW¼.
T. 37 N., R. 31 E.,
Sec. 15, SW¼SW¼;
Sec. 22, W½NW¼;
Sec. 26, NW¼NW¼, SE¼NW¼, and NE¼SW¼; and
Sec. 27, N½N½.
T. 34 N. R. 32 E.,
Sec. 3, S½NW¼ and N½SW¼.
T. 35 N., R. 32 E.,
Sec. 29, N½NW¼ and SW¼NW¼;
Sec. 30, E½NE¼;
Sec. 32, N½S½; and
Sec. 33, NW¼SW¼.
T. 36 N., R. 32 E.,
Sec. 19, SE¼NW¼ and E½SW¼; and
Sec. 31, NW¼NE¼ and NE¼SW¼.
T. 31 N., R. 33 E.,
Sec. 23, N½SW¼.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipelines will pass and to convey it to the applicant's customers.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Airport Road, Drawer 1160, Lewistown, Montana 59457.

Roland F. Lee,
Chief, Branch of Lands and Minerals Operations.

[M 34079 B through M 34079 I]

[FR Doc. 79-10544 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Wilderness Inventory; Oregon and Washington

The proposed initial wilderness inventory of public lands in Oregon and Washington is available for public review and comment until July 6, 1979.

Copies of a report on the proposed initial inventory decisions can be obtained by writing to Bureau of Land Management, Office of Public Affairs (912), P.O. Box 2965, Portland, Oregon 97208.

Public meetings will be held to explain the proposed initial inventory and receive comments. The inventory report includes instructions on how people who cannot attend one of the meetings may submit comments directly to the offices which administer the lands being inventoried.

Meetings will be held at the following locations:

Lakeview, Oreg.

Wednesday, May 9, 7:00 p.m., Lakeview Community Center basement, 11 North "G" Street.

Klamath Falls, Oreg.

Monday, May 14, 7:00 p.m., County Library, 126 South 3rd.

Burns, Oreg.

Saturday, May 19, 10:00 a.m. to 2:00 p.m. BLM District Office, 74 South Alvord.

Vale, Oreg.

Tuesday, May 22, 1:30 p.m. and 7:30 p.m., BLM District Office, 365 "A" Street West.

Jordan Valley, Oreg.

Wednesday, May 23, 7:30 p.m., Lion's Den, U.S. Highway 95.

McDermitt, Nev.

Thursday, May 24, 7:30 p.m., Community Hall, U.S. Highway 95.

Fossil, Oreg.

Saturday, April 28, 9:30 a.m., Wheeler County Courthouse, Circuit Courtroom.

Paulina, Oreg.

Saturday, May 5, 9:30 a.m., Paulina Elementary School.

Grass Valley, Oreg.

Saturday, May 12, 9:30 a.m., South Sherman Elementary School.

Bend, Oreg.

Saturday, May 19, 9:30 a.m., Pilot Butte Junior High School Cafetorium, 1500 N.E. Penn Avenue.

Baker, Oreg.

Tuesday, May 22, 7:30 p.m., Community Center, 2610 Grove Street.

Portland, Oreg.

Wednesday, May 16, 3:00 p.m. and 7:30 p.m., BLM State Office basement conference room, 729 N.E. Oregon Street

Salem, Oreg.

Wednesday, May 16, 1:30 to 4:30 p.m. and 7:00 to 9:30 p.m., Salem Heights Hall, 3505 Liberty Road South.

Eugene, Oreg.

Thursday, May 17, 7:30 p.m., Lane County Extension Service Auditorium, 930 West 13th.

Roseburg, Oreg.

Monday, May 7, 7:30 p.m., BLM District Office Auditorium, 777 N.W. Garden Valley Boulevard.

Grants Pass, Oreg.

Wednesday, May 9, 7:00 p.m., Josephine County Courthouse, 500 Sixth Street.

Coos Bay, Oreg.

Wednesday, May 16, 9:00 a.m., Southwestern Oregon Community College, Tioga Hall, Empire Lakes.

Pasco, Wash.

Tuesday, May 15, 7:00 p.m., Franklin County Public Utility District Auditorium, 1411 West Clark.

Okanogan, Wash.

Thursday, May 17, 7:00 p.m., Okanogan County Public Utility District Auditorium, 1331 North Second.

Friday Harbor, Wash.

Monday, May 21, 7:00 p.m., San Juan County High School, Blair and Guard Streets.

March 29, 1979.

Murl W. Storms,
State Director.

[FR Doc. 79-10677 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Coal Land Classification Order Utah No. 121

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31),

and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

Salt Lake Meridian, Utah

Coal Lands:

T. 20 S., R. 19 E.,
Sec. 7, lot 4, SE¼SW¼, and S½SE¼;
Sec. 8, SW¼SW¼;
Sec. 13, NE¼NE¼, S½NE¼, and S½;
Sec. 14, S½SW¼, and SE¼;
Sec. 15, S½SE¼;
Sec. 16, NW¼SW¼, and S½SW¼;
Sec. 17, NW¼NE¼, S½NE¼, NW¼, and S½;
Secs. 18 to 30, inclusive;
Sec. 31, N½NE¼, SE¼NE¼, and E½NW¼;
Sec. 32, N½NW¼, and SW¼NW¼;
Sec. 33, NE¼, N½NW¼, AND S½;
Secs. 34 to 36, inclusive.
T. 21 S., R. 19 E.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1 to 4, inclusive, S½SW¼, and SW¼SE¼;
Sec. 5, lot 1, and SE¼SE¼;
Sec. 8, E½NE¼;
Sec. 9, NW¼, and N½SW¼;
Secs. 10 and 11;
Sec. 12, N½, SW¼, and NW¼SE¼;
Sec. 13, NW¼NW¼;
Sec. 14, N½;
Sec. 15, NE¼, and E½NW¼.
T. 20 S., R. 20 E.,
Secs. 1 and 2;
Sec. 3, SE¼;
Sec. 7, SE¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 8, NE¼, NE¼NW¼, and S½NW¼, and S½;
Sec. 9, S½NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 10, NE¼, S½NW¼, AND S½;
Secs. 11 to 13, inclusive;
Sec. 14, N½ and SE¼;
Secs. 17 to 20, inclusive;
Secs. 24 and 25;
Sec. 26, lots 1, 2, 9, and 10, S½NE¼, and N½SE¼;
Sec. 29, W½, and S½SE¼;
Secs. 30 to 32, inclusive;
Secs. 35 and 36.
T. 21 S., R. 20 E.,
Sec. 1, lots 1 to 4, inclusive;
Sec. 5, lots 1 to 4, inclusive, and N½SW¼;
Sec. 6, lots 3 to 6, inclusive, and NE¼SW¼.
T. 20 S., R. 21 E.,
Sec. 5, lot 4, S½NW¼, and SW¼;
Secs. 6 and 7;
Sec. 8, SW¼NE¼, NW¼, and SW¼SW¼;
Sec. 17, NW¼, and S½;
Secs. 18 and 19;
Sec. 20, NW¼NE¼, S½NE¼, NW¼, and S½;
Sec. 21, SW¼NW¼, NW¼SW¼, and S½SW¼;
Sec. 28, W½NE¼, NW¼, and W½SW¼;
Sec. 29;
Sec. 30, lots 1 to 4, inclusive, NE¼, E½W½, N½SE¼, and SW¼SE¼;
Sec. 31, lots 1, 2, and 4, W½NE¼, SE¼NE¼, E½NW¼, and SE¼SW¼;
Sec. 32, W½NE¼, and NE¼NW¼;
Sec. 33, NW¼NW¼.

Reclassified Coal Lands from Noncoal Lands

Prior classification of the following lands as noncoal lands is hereby revoked and the lands are reclassified as coal lands:

T. 20 S., R. 19 E.,
Sec. 31, lots 1 and 2, and SW¼NE¼.
T. 21 S., R. 19 E.,
Sec. 8, NE¼SE¼.
T. 20 S., R. 20 E.,
Sec. 28, W½SW¼, and SW¼SE¼SW¼;
Sec. 33, NE¼NE¼, that part in the SW¼NW¼NE¼, W½NW¼, and SW¼SW¼;
Sec. 34, SE¼NW¼, and S½NW¼SE¼.
T. 21 S., R. 20 E.,
Sec. 4, lot 4;
Sec. 5, NW¼SE¼;
Sec. 7, lots 1 and 2.
T. 20 S., R. 21 E.,
Sec. 8, N½SW¼, and NW¼SE¼;
Sec. 27, W½SW¼;
Sec. 28, SE¼NE¼, N½SE¼, and SE¼SE¼;
Sec. 30, SE¼SE¼;
Sec. 31, lot 3.

Reclassified Noncoal Lands From Coal Lands

Prior classification of the following lands as coal lands is hereby revoked and the lands are reclassified as noncoal lands:

T. 21 S., R. 20 E.,
Sec. 2, lot 4.

Noncoal Lands

T. 20 S., R. 19 E.,
Sec. 32, NE¼NE¼;
Sec. 33, S½NW¼.
T. 21 S., R. 19 E.,
Sec. 8, NE¼SE¼.
T. 21 S., R. 20 E.,
Sec. 1, NE¼SE¼.
T. 20 S., R. 21 E.,
Sec. 8, SE¼SW¼;
Sec. 17, SW¼NE¼;
Sec. 32, NW¼NW¼.

The area described aggregates 38,517 acres (15,588 ha), more or less, of which about 37,116 acres (15,021 ha) are classified coal lands, about 1,063 acres (430 ha) which were formerly classified noncoal lands are reclassified coal lands, about 17 acres (7 ha) which were formerly classified coal lands are reclassified noncoal lands, and about 321 acres (130 ha) are classified noncoal lands.

Dated: March 28, 1979.

J. S. Cragwall, Jr.,
Acting Director.

[FR Doc. 79-10605 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-31-M

Coal Land Classification Order Wyoming No. 155

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

Sixth Principal Meridian, Wyoming

Coal lands

T. 16 N., R. 100½ W.,
T. 13 N., R. 101 W.,
Sec. 2, lots 6 to 8 inclusive, S½NW¼, and NW¼SW¼;
Secs. 3 to 9, inclusive;
Sec. 10, NW¼NE¼, and W½;
Sec. 15, W½;
Secs. 16 to 21 inclusive;
Sec. 22, lot 1, NW¼, N½SW¼, and SE¼SW¼;
Sec. 27, lots 1 to 3, inclusive;
Sec. 28, lots 1 to 3, inclusive, SW¼NE¼, and NW¼;
Sec. 29, N½;
Sec. 30, lots 5 to 8, inclusive, NE¼, E½NW¼, NE¼SW¼, and N½SE¼; tracts 37 to 42 inclusive.
T. 14 N., R. 101 W.,
Sec. 1, S½SW¼;
Secs. 2 to 23, inclusive;
Sec. 24, N½, SW¼, NE¼SE¼, and W½SE¼;
Sec. 25, W½NE¼, and W½;
Secs. 26 to 35, inclusive;
Sec. 36, W½NW¼, and NW¼SW
T. 15 N., R. 101 W.,
Sec. 2, lots 5 to 8, inclusive, S½N½, SW¼, and W½SE¼;
Secs. 3 to 10, inclusive;
Sec. 11, NW¼NE¼, NW¼, and NW¼SW¼;
Sec. 15, W½E½ and W½;
Secs. 16 to 21, inclusive;
Sec. 22, NW¼NE¼, S½NE¼, NW¼, and S½;
Sec. 23, SW¼SW¼;
Sec. 26, NW¼NW¼, S½NW¼, and SW¼;
Secs. 27 to 35, inclusive.
T. 16 N., R. 101 W.,
Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.
T. 13 N., R. 102 W.,
Secs. 1 to 15, inclusive;
Sec. 16, E½E½;
Sec. 22, NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Secs. 23 to 25, inclusive;
Sec. 26, N½, and N½SE¼;
Sec. 27, NE¼NE¼;
Tracts 37, 38, 53, and 54.
T. 14 N., R. 102 W.,
T. 13 N., R. 103 W.,

Secs. 1 to 12, inclusive;
Sec. 14, N½;
Sec. 15, lot 1, NE¼, NE¼NW¼, and S½NW¼;
Sec. 16, lots 1 to 4, inclusive and NW¼;
Sec. 17, N½;
Sec. 18, lots 5 and 6, NE¼, and E½NW¼;
Sec. tracts 50 to 54 inclusive, and 56.

T. 14 N., R. 103 W.,
Sec. 1;
Sec. 13, NE¼, S½NW¼, and S½;
Sec. 14, S½NE¼, SE¼SW¼, and SE¼;
Sec. 19, lots 9 to 11, inclusive, SW¼NE¼, and SE¼NW¼, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 20, lots 5 and 6;
Sec. 21, SW¼NE¼, S½NW¼, and S½;
Sec. 22, E½NE¼, S½SW¼, and SE¼;
Secs. 23 to 28, inclusive;
Sec. 29, NE¼NE¼, S½NE¼, NW¼, and S½;
Secs. 30 to 36, inclusive.

T. 15 N., R. 103 W.,
Sec. 36, SE¼SW¼, and S½SE¼.

T. 13 N., R. 104 W.,
Sec. 1 and 2;
Sec. 3, lots 5 to 11, inclusive, SW¼NE¼, S½NW¼, E½SW¼, and W½S¼;
Sec. 4, lots 5 to 8, inclusive, and S½NE¼;
Sec. 10, lots 1 and 2, and W½NE¼,
Secs. 11 and 12;
Sec. 13, NE¼, and N½NW¼;
Sec. 14, NE¼NE¼;
Tracts 43 to 45, inclusive, and 56.

T. 14 N., R. 104 W.,
Sec. 7, lots 9, 10, and 13, and SW¼SE¼;
Sec. 8;
Sec. 9, NW¼SW¼, and S½SW¼;
Sec. 15, lots 2 to 7, inclusive, and W½W½;
Secs. 16 and 17;
Sec. 18, lots 8 and 9, NE¼, E½SW¼, and W½SE¼;
Sec. 19, lots 5, 8, and 9, W½E½, E½W½, and SE¼SE¼
Secs. 20 to 22, inclusive;
Sec. 23, lots 1 to 5, inclusive, and W½NE¼;
Sec. 24, lots 6 to 8, inclusive;
Secs. 25 to 29, inclusive;
Sec. 30, NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 31, NE¼NE¼;
Sec. 32, N½, NE¼SW¼, and SE¼;
Sec. 33 to 36, inclusive;
tracts 39 to 48, inclusive, and 50, 51, and 56.

T. 15 N. R. 104 W.,
Sec. 30, lots 7 and 8;
Sec. 31, lot 5.

Reclassified Coal Land From Noncoal Land

Prior classification of the following subdivisions as noncoal is hereby revoked and the land is reclassified as coal land:

T. 17 N., R. 101 W.,
Sec. 5, NE¼SW¼, S½SW¼, and W½SE¼
Sec. 6, SE¼SE¼;
Sec. 7, E½NE¼, and SE¼;
Sec. 8, NW¼NE¼, and NW¼;
Sec. 18, lot 2, N½NE¼, and NE¼NW¼.

T. 18 N., R. 101 W.,
Sec. 14, SW¼SW¼;
Sec. 15, SE¼SE¼;
Sec. 22, W½NE¼, and NE¼SW¼;
Sec. 27, W½NW¼;
Sec. 28, SE¼NE¼, and NE¼SE¼;
Sec. 33, NE¼SW¼.

T. 19 N., R. 101 W.,
Sec. 11, SW¼NE¼, NW¼, and S½;
Sec. 24, SW¼NE¼, NW¼, and N½SW¼.

T. 15 N., R.102W.,
Sec. 5, lots 3 and 4;
Sec. 6, SE¼NE¼ and W½SE¼;
Sec. 7, W½E½, and E½NW¼;
Sec. 18, SE¼SE¼;
Sec. 20, SE¼SW¼.

T. 16 N., R. 102 W.,
Sec. 3, lot 4, and W½SW¼;
Sec. 4, lot 1, SE¼SW¼, and SE¼;
Sec. 8, SE¼SE¼;
Sec. 9, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 10, NW¼NW¼;
Sec. 16, NW¼NE¼, NW¼, N½SW¼, and SW¼SW¼;
Sec. 17, E½;
Sec. 20, NE¼, SE¼NW¼, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 21, NW¼NW¼;
Sec. 29, W½E½, and E½W½;
Sec. 32, W½E½, and E½W½.

T. 17 N., R. 102 W.,
Sec. 13, SE¼NE¼, NE¼SE¼, and SW¼SE¼;
Sec. 26, NW¼NE¼, E½NW¼, and W½SW¼;
Sec. 35, NW¼NW¼.

T. 21 N., R. 102 W.,
Sec. 31, lot 4.

T. 14 N., R. 103 W.,
Sec. 9, S½SE¼;
Sec. 10, S½SW¼;
Sec. 12;
Sec. 13, N½NW¼;
Sec. 14, N½NE¼, N½SW¼, and SW¼SW¼;
Sec. 15, W½;
Sec. 16;
Sec. 17, lots 1 to 5, inclusive;
Sec. 18, lots 10 to 12, inclusive, SE¼SW¼, and W½SE¼;
Sec. 19, lots 5 to 8, inclusive, NW¼NE¼, and NE¼NW¼;
Sec. 20, lots 1 to 4, inclusive, and SE¼SE¼;
Sec. 21, N½N½ and SE¼NE¼;
Sec. 22, W½NE¼, NW¼, and N½SW¼;
Sec. 29, NW¼NE¼;
tract 42.

T. 15 N., R. 103 W.,
Sec. 36, SW¼SW¼.

T. 14 N., R. 104 W.,
Sec. 13, lots 1 to 5, inclusive, S½N½, N½SW¼, and SW¼SW¼;
Sec. 14;
Sec. 15, lot 1;
Sec. 23, E½NE¼;
Sec. 24, lots 1 to 5, inclusive, and W½NW¼;
tracts 37, 38, and 49.

T. 15 N., R. 104 W.,
Sec. 19, lots 5 to 8, inclusive, SE¼NW¼, E½SW¼, NW¼SE¼, and S½SE¼;
Sec. 29, W½NW¼, and NW¼SW¼;
Sec. 30, lots 5 and 6, E½, and E½W½;
Sec. 31, NE¼NW¼.

T. 15 N., R. 105 W.,
Sec. 24, E½NE¼, and NE¼SE¼.

T. 18 N., R. 105 W.,
Sec. 24, lots 1, 2, 8, 9, and 16;
Sec. 25, lots 1 and 8.

T. 19 N., R. 105 W.,
Sec. 5, lot 8, SW¼NW¼, and W½SW¼;
Secs. 6 and 7;
Sec. 8, W½W½;
Sec. 17, W½W½;
Sec. 18;
Sec. 19, lots 5 to 7, inclusive, NE¼, E½NW¼, and NE¼SW¼;
Sec. 20, W½NW¼.

T. 20 N., R. 105 W.,
Sec. 7, lots 7 and 8;
Sec. 18, lots 5 to 8, inclusive, SE¼NW¼, and E½SW¼;
Sec. 19, lots 5 to 8, inclusive, W½E½ and E½W½;
Secs. 30 and 31;
Sec. 32, W½SW¼.

Noncoal Lands

T. 15 N., R. 103 W.,
Sec. 36, NE¼SE¼.

The area classified totals 153,112 acres (61,964 ha), more or less of which 135,294 acres (54,753ha) are coal land and 17,778 acres (7,195 ha) which were formerly classified as noncoal are classified as coal land and 40 acres (16 ha) are classified as noncoal land.

Dated: March 28, 1979.

J. S. Cragwall, Jr.,
Acting Director.

[FR Doc. 79-10606 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

Availability of Final Environmental Statement on Proposed Development of Coal Resources in Eastern Powder River Basin of Wyoming

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Department of the Interior, has prepared a final environmental statement on the possible development of coal resources in the Eastern Powder River Basin of Wyoming.

The final statement analyzes environmental impacts that would result from development of one (1) site-specific surface coal mine. The statement further analyzes the cumulative regional impacts of potential coal development and other regional developments through 1990 in parts of Campbell and Converse counties of Wyoming and presents two additional regional coal development scenarios (low level and high level), for comparison with the most probable level (proposed action). Public comments and responses are included in the final statement.

Single copies of the final environmental statement can be obtained from the State Director (952), Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O.

Box 1828, Cheyenne, Wyoming 82001. Copies of the final statement are also available for inspection at the Bureau of Land Management Offices, college or public libraries in the following cities: Buffalo, Casper, Douglas, Gillete, Lusk, Newcastle, Sheridan, Sundance and Wheatland, Wyoming. This statement is also available for inspection at the Coe Library, University of Wyoming, Laramie, Wyoming and at the Washington Office of Public Affairs, Bureau of Land Management, Room 5623, 18th and C Streets, NW, Washington, DC 20240.

Arnold E. Petty,
Acting Associate Director, Bureau of Land Management.

Approved:
Larry E. Meierotto,
Assistant Secretary of the Interior.

[INT FES 79-17]

[FR Doc. 79-10581 Filed 4-5-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances in Schedule II; Proposed 1979 Revised Aggregate Production Quotas

Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On November 29, 1978, a notice of the final aggregate production quotas for these substances was published in the **Federal Register** (43 FR 55828). Also indicated in this notice was that pursuant to Title 21 Code of Federal Regulations, § 1303.23(c), the Administrator of the Drug Enforcement Administration would in early 1979 adjust these quotas based upon a review of 1978 end of year inventory and 1978 disposition data as submitted by quota applicants, as well as other information which would be available to DEA at this time.

Based upon consideration of the end of year inventory figures and the actual disposition data submitted by applicants, as well as estimates of the medical needs of the United States submitted to the Drug Enforcement Administration by the Food and Drug Administration, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, does hereby propose the following changes of the aggregate production quotas for 1979 for the below listed controlled substances expressed in grams of anhydrous acid or base:

Basic class	Previously finalized 1979 aggregate production quota	Proposed revised 1979 aggregate production quota
Alphaprodine	59,000	67,000
Amobarbital	7,498,000	6,295,000
Amphetamine	3,245,000	2,715,000
Codeine (for sale)	50,473,000	55,827,000
Codeine (for conversion)	2,962,000	3,500,000
Desoxyephedrine	[1]2,572,000	[2]2,104,000
Dihydrocodeine	1,023,000	1,160,000
Fentanyl	2,000	2,500
Levorphanol	8,000	10,100
Meperidine	11,382,000	10,723,000
Methaqualone	16,023,000	9,631,000
Methylphenidate	1,632,000	1,185,000
Morphine (for sale)	815,000	867,000
Morphine (for conversion)	59,571,000	68,348,000
Opium (for tinctures, extracts, etc., expressed in terms of USP powdered opium in morphine content)	2,334,000	2,393,000
Phenmetrazine	3,084,000	1,123,000
Secobarbital	4,596,000	4,135,000
Thebaine (for sale)	2,660,000	2,676,000
Thebaine (for conversion)	1,617,000	1,368,000

[1] 2,213,000 g for 1-desoxyephedrine and 359,000 g for methamphetamine.
[2] 1,914,000 g for 1-desoxyephedrine and 190,000 g for methamphetamine.

When establishing the above listed proposed revised 1979 aggregate production quotas, the following factors influenced DEA's determination to propose either raising or lowering the previously finalized quotas for 1979:

a. Relative to alphaprodine, codeine (for sale), dihydrocodeine, fentanyl, levorphanol, morphine (for sale) and opium—Increased sales, combined with inventories which had been overestimated in the derivation of the initially established quotas are primarily responsible for the proposed increases in these quotas. Data submitted by the bulk and dosage manufacturers of codeine, alphaprodine and levorphanol substantiated the comments made by Mallinckrodt, Inc. of St. Louis, Missouri, relative to codeine, and Hoffmann-LaRoche, Inc. of Nutley, New Jersey, relative to alphaprodine and levorphanol, that increased quotas for these substances were needed. These comments were summarized in the **Federal Register** notice of November 29, 1978.

b. Relative to amobarbital, amphetamine, desoxyephedrine, meperidine, methaqualone, methylphenidate, phenmetrazine and secobarbital—Lower than expected sales which resulted in inventories which had been underestimated in the derivation of the initially established quotas are primarily responsible for the proposed reduction in these quotas.

c. Relative to codeine (for conversion), morphine (for conversion), thebaine (for sale) and thebaine (for conversion)—The proposed revision for these substances are directly related to the controlled substances derived from them.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. A person may object or comment on the proposals relating to any one or more of the above mentioned substances without filing comments or objections regarding the others. Comments and objectives should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention DEA

Federal Register Representative and must be received by May 7, 1979. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrants a full adversary-type hearing, the Administrator shall order a public hearing in the **Federal Register** summarizing the issues to be heard and setting the time for the hearing.

Dated: April 2, 1979.

Peter B. Bensinger,

Administrator.

[FR Doc. 79-10568 Filed 4-5-79; 8:45 am]

BILLING CODE 4410-09-M

Law Enforcement Assistance Administration

Notice of Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant to identify the range of prosecutorial and court responses to various types of non-stranger violence cases, to identify criteria currently used by prosecutors and judges in deciding among case processing and dispositional alternatives, and to identify specific problems or issues faced by victims, defendants and criminal justice system professionals in such cases. The research should also identify alternative approaches which appear promising or worthy of further research experimentation or evaluation.

The solicitation asks for the submission of preliminary proposals. In order to be considered, all proposals must be postmarked *no later than June 10, 1979.* The project is scheduled to run for an 18 to 21 month period and the funding will be up to $200,000.00.

Copies of the solicitation and additional information may be obtained by contacting: National Criminal Justice Reference Service, Program Solicitation No. 79-109, "Non-Stranger Violence: The Criminal Court Response", P.O. Box 6000, Rockville, Maryland 20850.

Blair G. Ewing,

Acting Directdor, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 79-10607 Filed 4-5-79; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Consolidation Coal Co. Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, R.D. 3, Box 304 A, Washington, Pa. 15301, has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Westland Mine in Washington County, Pa. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The borehole of an abandoned gas well (designated by the petitioner as No. 81) penetrates the coal seam the petitioner intends to mine.

2. A barrier of coal around the well as required by the standard would interfere with the petitioner's longwall mining plan and be less efficient and secure than other methods available to prevent well gas leaks.

3. As an alternative, the petitioner proposes to plug and mine through the borehole using a proven technique developed through the cooperation of the U.S. Bureau of Mines, the Energy Research and Development Administration and MSHA, and the coal industry.

4. The petition details the steps of this technique which includes the use of a mechanical bridge plug, expanding cement and SF_6 as a tracer.

5. The petitioner states that this alternative will guarantee no less than the same measure of protection afforded miners at its mine by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before May 7, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 29, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-34-C]

[FR Doc. 79-10701 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-43-M

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, Grant Town, West Virginia 26574, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its Federal No. 1 Mine in Marion County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

1. The petitioner uses short-wall mining in the Number 23 section of its mine.

2. The petitioner states that the use of cabs or canopies on its electric face equipment engaged in short-wall mining would result in a diminution of safety to the miners affected for the following reasons:

a. Because of undulations in the coal seam, canopies cannot be installed in such a manner as to prevent them from striking roof support chocks and canopies and possibly dislodging and destroying the roof support.

b. By allowing sufficient space between canopy and roof support, too little room would remain between the machine frame and the canopy to insure the operator an adequate field of vision. To gain an adequate view, the operator would be forced to lean out from under the canopy, subjecting himself to possible injuries to the head and upper body.

c. Extreme operator fatigue would result from sitting in a cramped position under a canopy for extended periods of time, increasing the potential for accident.

d. Should power go out while an operator's compartment is up against a short-wall chock, a canopy close to the machine frame could trap the operator inside. In other emergencies, the operator's efforts to escape would be hindered also.

3. The petitioner contends that practical technology is not available to permit the petitioner to design and install canopies on its equipment for safe use in its short-wall section.

Request for Comments

Persons interested in this petition may furnish written comments on or before May 7, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: March 29, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-41-C]

[FR Doc. 79-10700 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-43-M

G & A Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

G & A Coal Company, Box 69 Keyrock Road, Pineville, West Virginia 24874, has filed a petition to modify the application of 30 CFR 75.1710 (canopies), to its No. 2 Deep Mine, located in Wyoming County, West Virginia. This petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petition concerns the use of canopies on electric face equipment in the petitioner's mine.

2. The petitioner is mining in coal seam heights of 44 to 50 inches. The bottom is uneven, causing clearance to vary.

3. Due to the uneven bottom, canopies catch and tear loose straps and roof bolts, damaging the roof support.

4. Canopies impair the equipment operator's vision, hindering his view of other miners in the area.

5. To gain adequate vision, the operator leans his head out of the cab, exposing himself to possible injury.

6. For these reasons, the petitioner believes the use of canopies on its face equipment will result in a diminution of safety to its miners.

Request for Comments

Persons interested in this petition may furnish written comments on or before May 7, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: March 29, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-79-17-C]

[Doc. 79-10699 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-43-M

Mountain Energy, Inc.; Petition for Modification of Application of Mandatory Safety Standards

Mountain Energy Inc., Route 2, Box 85C, LaFollette, Tennessee 37766, has filed a petition to modify the application of 30 CFR 77.1605k (berms) to its No. 1 Mine located in Campbell County, Tennessee. This petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The petitioner contends that it cannot construct berms on its haulage road because of the road's unfavorable topography and geology.

2. As an alternative, the petitioner proposes to comply with the following conditions:

a. Daily inspection of all coal-hauling vehicles will be made and defects will be corrected before placing the vehicle in service.

b. Load trucks will have the right-of-way on the highwall side of the haulage road regardless of their direction of travel.

c. All rules of the road will be posted on bulletin boards throughout the mine area, and such rules will be made part of the mine's training and retraining programs.

d. Two-lane roads will be maintained with a minimum width of 24 feet; where widths of less than 24 feet are provided, the roads will be designated as single-lane.

e. In areas of single-lane traffic, a minimum of 16 feet will be maintained with passing points provided at intervals of not more than 1,000 feet; if visibility is obscured by brush or other materials, passing points will not be more than 500 feet apart.

f. Warning and stop signs will be posted in appropriate areas.

g. Passing of one vehicle by another while both are traveling in the same direction will be prohibited.

h. All haulage vehicles will have original manufacturer's brakes and an emergency braking system.

i. All equipment operators will be trained in the area of haulage equipment and safety of vehicles on haulage roads.

j. Where abrupt drop-offs are present along the outer banks, elevation will be provided to cause vehicles to gravitate toward the highwall side of the road.

k. Roadway surfaces will be kept free of debris, excessive water and ice, and maintained as free as practicable of washboarding.

l. Adequate supplies of crushed stone or other suitable materials will be stored at appropriate locations for use on slippery road surfaces.

m. Truck speeds will be consistent with roadway conditions; however, trucks operating on any descending grade will not exceed 10 miles per hour.

Request for Comments

Persons interested in this petition may furnish written comments on or before May 7, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: March 29, 1979.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

[Docket No. M-78-111-C]

FR Doc. 79-10698 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Indiana State Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On March 6, 1974, notice was published in the **Federal Register** (39 FR 8611) of the approval of the Indiana plan and the adoption of Subpart Z of Part 1952 containing the decision.

The Indiana plan provides that the Indiana Occupational Standards Commission may promulgate an emergency temporary standard if it determines that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful and that such emergency standard is necessary to protect employees from such danger. The emergency temporary standard shall be published in a newspaper of general circulation published in Marion County, Indiana, at least ten (10) days prior to the filing with the Secretary of State. The standard shall take effect immediately upon its filing with the Secretary of State (I.C. 22–8–1.1–16.1).

On January 17, 1978, the Occupational Safety and Health Administration (OSHA) adopted pursuant to section 6(c) of the Act an emergency temporary standard for occupational exposure to acrylonitrile (vinyl cyanide) (Volume 43, No. 11 of the **Federal Register**, pages 2586 through 2621). On February 17, 1978, the Indiana Occupational Standards Commission determined that a temporary emergency standard was

necessary for occupational exposure to this substance and thus caused to have published on February 23, 1978, in a newspaper of general circulation, a notice announcing its adoption. On March 6, 1978, the standard was filed with Larry A. Conrad, Indiana Secretary of State. The standard applies to all occupational exposures to acrylonitrile in Indiana.

2. Decision

Having reviewed the State submission in comparison with the Federal standard it has been determined that the State standard is identical to the Federal standard and accordingly should be approved.

3. Location of Supplement for Inspection and Copying.

A copy of the Indiana emergency temporary standard, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 S. Dearborn Street, Chicago, Illinois 60604; State of Indiana Division of Labor, 1013 State Office Building, Indianapolis, Indiana 46204; and the Office of the Directorate of Federal Compliance and State Programs, 2100 M Street, N.W., Washington, D.C. 20210.

4. Public Participation.

29 CFR 1953.22(b)(1) provides that emergency temporary standards which are identical to or "at least as effective as" the comparable Federal standards may be approved effective upon publication under the Administrative Procedure Act requirements for good cause, 5 U.S.C. 553(b)(3)(B), for the following reasons:

1. The standard was adopted in accordance with the procedural requirements of State law which authorizes promulgation without public participation for emergency standards and participation at the Federal level would be impracticable.

2. The emergency nature of the standard requires that its approval be implemented immediately.

This decision is effective April 6, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Chicago, Illinois this 3rd day of April 1978.

Barry J. White,

Regional Administrator.

[FR Doc. 79-10706 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-26-M

Indiana State Standards; Notice of Approval

1. Background.

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On March 6, 1974, notice was published in the **Federal Register** (39 FR 8611) of the approval of the Indiana plan and the adoption of Subpart Z to Part 1952 containing the decision.

The Indiana plan provides for the adoption of Federal standards as State standards after public hearing. By letter dated July 14, 1978, from William H. Lanam, Commissioner, Indiana Division of Labor, to Jay Arnoldus, Project Manager, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted State standards comparable to: 29 CFR 1910.1044, 1, 2-Dibromo-3-Chloropropane, as published in the **Federal Register** (43 FR 19584), dated May 5, 1978.

This standard, which is contained in the Indiana Occupational Safety and Health Standards, was promulgated after public comment was requested on April 7, 1978, by a notice published in a newspaper of general circulation within the State. A public hearing was held on May 5, 1978, at which time the standard was adopted. The Attorney General approved its legality on June 28, 1978, the Governor approved it on July 6, 1978, it was filed with the Secretary of State on July 7, 1978, and it was registered with the Legislative Council on July 7, 1978, pursuant to the Indiana Administrative Adjudication Act.

2. Decision.

Having reviewed the State submission in comparison with the Federal standard it has been determined that the State standard is identical to the Federal standard and accordingly should be approved.

3. Location of supplement for inspection and copying.

A copy of the Indiana standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; State of Indiana, Division of Labor, 1013 State Office Building, Indianapolis, Indiana 46204; and the Office of the Directorate of Federal Compliance and State Programs, Room 149, 2100 M Street, N.W., Washington, D.C. 20210.

4. Public participation.

Under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Indiana State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard is identical to the Federal standard and is therefore deemed to be at least as effective.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 6, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Chicago, Illinois this 29th day of November 1978.

Ronald J. McCann,

Acting Regional Administrator.

[FR Doc. 79-10705 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-26-M

Indiana State Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been

approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On March 6, 1974, notice was published in the **Federal Register** (39 FR 8611) of the approval of the Indiana plan and the adoption of Subpart Z to Part 1952 containing the decision.

The Indiana plan provides for the adoption of Federal Standards as State standards after public hearing. By letter dated October 3, 1978, from William H. Lanam, Commissioner, Indiana Division of Labor, to Ronald J. McCann, Deputy Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted a State standard comparable to: 29 CFR 1910.1018 and Appendices A, B and C, Occupational Exposure to Inorganic Arsenic, as published in the **Federal Register** (43 FR 19584), dated Friday, May 5, 1978.

This standard, which is contained in the Indiana Occupational Safety and Health Standards, was promulgated after public comment was requested on June 24, 1978, by a notice published in a newspaper of general circulation within the state. A public hearing was held on July 28, 1978, at which time the standard was adopted. The Attorney General approved its legality on September 27, 1978, the Governor approved it on September 29, 1978, it was filed with the Secretary of State on September 29, 1978, and it was registered with the Legislative Council on September 29, 1978, pursuant to the Indiana Administrative Adjudication Act.

2. Decision

Having reviewed the state submission in comparison with the Federal standard it has been determined that the state standard is identical to the Federal standard and accordingly should be approved.

3. Location of Supplement for Inspection and Copying.

A copy of the Indiana standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; State of Indiana, Division of Labor, 1013 State Office Building, Indianapolis, Indiana 46204; and the Office of the Directorate of Federal Compliance and State Programs, Room 149, 2100 M Street, N.W., Washington, D.C. 20210.

4. Public Participation.

Under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Indiana State plan as a proposed change and making the regional Administrator's approval effective upon publication for the following reasons:

1. The standard is identical to the Federal standard and is therefore deemed to be at least as effective.

2. The standard was adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 6, 1979.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Chicago, Illinois this 29th day of November 1978.

Ronald J. McCann,

Acting Regional Administrator.

[FR Doc. 79–10704 Filed 4–5–79; 8:45 am]

BILLING CODE 4570–26–M

Kentucky Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 31, 1973, notice was published in the **Federal Register** (38 FR 20322) of the approval of the Kentucky plan and the adoption of Subpart Q to Part 1952 containing the decision.

The Kentucky plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "where any alteration in The Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

The State has submitted by letters dated June 1, 1978, June 8, 1978, August 2, 1978, September 20, 1978, and September 26, 1978 from James R. Yocum, Commissioner, Kentucky Department of Labor, to R. A. Wendell, Regional Administrator, and incorporated as a part of the plan amended State standards comparable to amendments to Federal standards. The State submission in addition to updating State standards includes the repromulgation of all previously approved State standards. The updated standards covered by this notice are comparable to amended Federal Standards: 29 CFR 1910.1044, 1,2-dibromo-3-chloropropane, dated March 17, 1978; 29 CFR 1910.1028 Amendment to Benzene, dated March 28, 1978; 29 CFR 1910.1020 Amendments to Benzene, dated March 31, 1978; 29 CFR 1910.19 Special Provision dated March 31,1978; 29 CFR 1910.1000 Amendments to Air Contaminants, dated March 31, 1978; 29 CFR 1910.1028 Amendments to Benzene, dated March 31, 1978; 29 CFR 1910.1028 Amendments to Benzene, dated April 4, 1978; 29 CFR 1910.19 Special Provision Air Contaminants, dated May 5, 1978; 29 CFR 1910.1000 Air Contaminants, dated May 5, 1978; 29 CFR 1910.1018 Inorganic Arsenic, dated May 5, 1978; 29 CFR 1910.19 Special Provisions, dated June 23, 1978; 29 CFR 1910.1000 Air Contaminants, dated June 23, 1978; 29 CFR 1910.1043 Cotton Dust, dated June 23, 1978; 29 CFR 1910.1046(a) Cotton Dust in Cotton Gins, dated June 23, 1978; 29 CFR 1928.21 Cotton Dust in Cotton Gins, dated June 23, 1978; 29 CFR 1910.1028 Benzene Amendment, dated June 27, 1978; 29 CFR 1910.1043 Corrections to Cotton Dust, dated June 30, 1978; 29 CFR 1928.21 Cotton Dust in Cotton Gins, dated June 30, 1978; 29 CFR 1928.113 Toxic and Hazardous Substances, dated June 30, 1978; 29 CFR 1910.20 Preservation Records, dated July 19, 1978; 29 CFR 1910.1043 Correction to Cotton Dust, dated August 8, 1978; 29 CFR 1928.21 Cotton Dust, dated August 8, 1978; 29 CFR 1910.43 Cotton Dust, Suspension, dated September 1, 1978; 29 CFR 1910.19 Special Provisions, dated October 3, 1978; 29 CFR 1910.1000 Air Contaminants, dated October 3, 1978; 29 CFR 1910.1045 Acrylonitrile, dated October 3, 1978.

The Kentucky plan also provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act. The State has promulgated standards related to subject matter which is not covered by Federal Standards. These State Standards are: General Industry,

Protective Equipment for Structural Fire Fighters, Construction Roof Guarding.

These standards were promulgated by Standards Board Meetings on May 14, 1978, August 14, 1978, and October 9, 1978, and filed with the Legislative Research Commission on June 1, 1978, September 1, 1978, and November 1, 1978, for publication in the Kentucky Administrative Register on July 1, 1978, October 1, 1978, and December 1, 1978; pursuant to the Kentucky Occupational Safety and Health Act and Chapter 13, Kentucky Revised Statutes.

2. Decision.

Having reviewed the State submission in comparison with the Federal standards, it has been determined that (1) those standards previously approved on November 17, 1975 (41 FR 1980), January 13, 1976, February 24, 1977 (42 FR 33814), April 20, 1977 (42 FR 33815), November 1, 1977 (42 FR 57182), December 8, 1978 (43 FR 57672; (2) updated standards are identical to the Federal standards; and (3) that State developed standards related to subjects not covered by Federal standards.

The State standards are hereby approved.

3. Location of supplement for inspection and copying.

A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, Kentucky Department of Labor, Capital Plaza Towers, 12th Floor, Frankfort, Kentucky 40601; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309 and Office of the Director of Federal Compliance and State Programs, Room N3603, 200 Constitution Avenue, N.W., Washington. D.C. 20210.

4. Public participation.

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe altrernative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the Kentucky State Plan as a proposed change and in making the regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

The decision is effective April 6, 1979.

(Sec. 18, Pub. L. 91-596; 84 Stat. 1608 (29 U.S.C. 667)

Signed at Atlanta, Georgia this 26th day of February, 1979.

R. A. Wendell,
Regional Administrator.

[FR Doc. 79-10710 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-26-M

South Carolina Standards; Notice of Approval

1. Background.

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(e) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.41 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated September 7, 1978 and November 22, 1978, from Edgar L. McGowan, Commissioner, South Carolina Department of Labor to Robert A. Wendell, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to OSHA Standards 29 CFR Part 1910 which were revoked, Selected General and Special (Cooperage and Laundry Machinery, and Bakery Equipment) Industry Safety and Health Standards—Revocation, dated October 24, 1978 with corrections dated November 7, 1978.

These standards were promulgated after public hearings held on December 20, 1978, and filing with the South Carolina Secretary of State on January 2, 1979, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

2. Decision.

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to or as effective as the Federal Standards.

The State standards are hereby approved.

3. Location of supplement for inspection and copying.

A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; and Director of Federal Compliance and State Programs, Room N-3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. Public participation.

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 6, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)

Signed at Atlanta, Georgia, this 7th day of March, 1979.

R. A. Wendell,
Regional Administrator.

[FR Doc. 79-10707 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-26-M

South Carolina Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(e) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.41 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated May 11, 1978, May 19, 1978, and July 19, 1978, from Edgar L. McGowan, Commissioner, South Carolina Department of Labor to Robert A. Wendell, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to OSHA standards 29 CFR Part 1910 and 29 CFR Part 1926: A new § 1910.1044, 1,2, dibromo-3-chloropropane, dated March 17, 1978; § 1910.1045, Emergency Temporary Standard Acrylonitrile, with amendments to §§ 1910.19, 1910.1000, dated January 17, 1978; § 1910.1018 Inorganic Arsenic with amendments to §§1910.19 and 1910.1000, dated June 5, 1978. The State amended the following standards to make them compatible with the 1978 National Electric Code and NFPA N033–1973: § 1910.94 Ventilation, § 1910.107 Spray Finishing, § 1910.66 Powered Platforms, § 1910.68 Manlifts, § 1910.103 Hydrogen, § 1910.143 Nonwater Carriage Disposal Systems, § 1910.178 Powered Industrial Trucks, § 1910.308 Electrical, § 1910.309 Electrical, § 1926.151 Fire Protection, § 1926.351 Welding, § 1926.400 Electrical, § 1926.401 Grounding and Bonding, § 1926.404 Hazardous Locations, § 1926.803 Compressed Air.

These standards were promulgated after public hearings held on May 11, 1978, May 17, 1978, July 28, 1978, and filing with the South Carolina Secretary of State on May 11, 1978, May 17, 1978, and July 28, 1978, respectively, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40–261 through 40–274 South Carolina Code of Laws, 1962).

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to or as effective as the Federal Standards.

The State standards are hereby approved.

3. Location of supplement for inspection and copying

A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; and Director of Federal Compliance and State Programs, Room N–3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. Public participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 6, 1979.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 11th day of August, 1978.

Robert A. Wendell,
Regional Administrator.

[FR Doc. 79-10708 Filed 4-5-79; 8:45 am]
BILLING CODE 4510-26-M

South Carolina Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(e) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR 25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.41 of 29 CFR provides that "Where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to the State plan shall be required." By letter dated September 7, 1978 and November 22, 1978, from Edgar L. McGowan, Commissioner, South Carolina Department of Labor to Robert A. Wendell, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to OSHA standards 29 CFR Part 1910 and 29 CFR Part 1926: 29 CFR 1910.19 Special Provisions for Air Contaminants, dated June 23, 1978; 29 CFR 1910.1000 Air Contaminants, dated June 23, 1978; 1910.1043 Cotton Dust, dated June 23, 1978; 29 CFR 1910.1046A Exposure to Cotton Dust in Cotton Gins, dated June 23, 1978; 29 CFR 1928.21 Agriculture, dated June 23, 1978; 29 CFR 1910.19 Special Provisions for Air Contaminants, dated June 30, 1978; 29 CFR 1910.1043 Corrections to Cotton Dust, dated June 30, 1978; 29 CFR 1910.1046 Corrections to Cotton Dust in Cotton Gins, dated June 30, 1978; 29 CFR 1928.21 Agriculture

deleted, dated June 30, 1978; 29 CFR 1928.113 a new subpart F "Toxic and Hazardous Substances", Exposure to Cotton Dust in Cotton Gins, dated June 30, 1978; 29 CFR 1910.1000 Toxic Substances amended, dated October 5, 1978; 29 CFR 1910.1045 Acrylonitrile, dated October 5, 1978.

These standards were promulgated after public hearings held on November 21, 1978 and December 20, 1978, and filing with the South Carolina Secretary of State on September 21, 1978 and November 21, 1978, respectively, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (Sections 40–261 through 40–274 South Carolina Code of Laws, 1962).

2. Decision.

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to or as effective as the Federal Standards.

The State standards are hereby approved.

3. Location of supplement for inspection and copying.

A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309; and Director of Federal Compliance and State Programs, Room N3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. Public participation.

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective April 6, 1979.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)

Signed at Atlanta, Georgia, this 29th day of January, 1979.

R. A. Wendell,
Regional Administrator

[FR Doc. 79–10709 Filed 4–5–79; 8:45 am]
BILLING CODE 4510–26–M

Office of the Secretary

Allied Chemical Corp., Specialty Chemicals Division, South Point, Ohio; Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–4553: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 22, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing chemical ammonia, urea, formaldehyde, and urea-formaldehyde concentrate at the South Point, Ohio Specialty Chemicals Division plant of Allied Chemical Corporation. The investigation revealed that workers at the plant produce various ammonia based products.

The Notice of Investigation was published in the **Federal Register** on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Allied Chemical Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of anhydrous ammonia increased from 730,000 tons in 1976 to 1,078,000 tons in 1977 and increased to 1,054,000 tons in the first three quarters of 1978 compared to 831,000 tons in the first three quarters of 1977. Anhydrous ammonia is the principal product produced at the plant from which most other products are produced.

The primary use of ammonia produced at the plant was in the production of urea at the plant. The principal use of the urea produced was in the production of melamine.

U.S. imports of melamine increased to 25,417,000 lbs. in the first 11 months of 1978 compared to 3,337,000 lbs. in the same period of 1977. Melamine accounted for a larger portion of the South Point plant's total dollar sales than any other product.

A significant portion of the anhydrous ammonia produced at the plant was "sold" to other Allied Chemical Corporation plants for the production of various other products. Allied Chemical did not import anhydrous ammonia in 1976 or 1977. Allied Chemical imported anhydrous ammonia in 1978 and plans to significantly increase its imports of anhydours ammonia in 1979 since the closing of the South Point plant.

Customers of Allied Chemical Corporation who were surveyed indicated that they had decreased their purchases of melamine and anhydrous ammonia from Allied Chemical and increased their purchases of imports of these products.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with various ammonia based products produced at the South Point, Ohio Specialty Chemicals Division plant of Allied Chemical Corporation contributed importantly to the decline in sales or production and to the total or partial separation or workers of that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of the South Point, Ohio Specialty Chemicals Division plant of Allied Chemical Corporation who became totally or partially separated from employment on or after August 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 30th day of March 1979.

James F. Taylor,
Director, Office of Management Administration and Planning.

[TA–W–4553]

[FR Doc. 79–10680 Filed 4–5–79; 8:45 am]
BILLING CODE 4510–28–M

Aileen, Inc., Buckingham, Va.; Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA–W–4564: investigation regarding

certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 2, 1979, in response to a worker petition received on December 20, 1978 which was filed on behalf of workers and former workers producing knit spectator outerwear for ladies and children at the Buckingham, Virginia plant of Aileen, Incorporated. The investigation revealed that the plant produces women's, misses' and children's blouses.

The Notice of Investigation was published in the **Federal Register** on January 9, 1979 (44 FR 2033). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Genesco, Incorporated, Courtland Manufacturing Company, Incorporated, Aileen, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligiblity to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that Aileen, Incorporated closed the Buckingham, Virginia plant in December 1978 in order to eliminate excess production capacity.

Aileen, Incorporated had purchased the Buckingham plant in April 1978 for the purpose of expanding its production capabilities in anticipation of increased demand for women's blouses. When the projected increase in its sales of blouses did not occur, Aileen, Incorporated closed the Buckingham plant in December 1978.

The predecessor firm had purchased the Buckingham plant in January 1978 as a part of a package deal which included eleven plants. Management at that firm never intended to operate all eleven plants and sold the least utilized facilities, including the Buckingham plant.

Prior to January 1978, the Buckingham plant produced women's misses' and children's dresses and pantsuits as part of an apparel division of a major manufacturer. Total production of women's, misses' and children's dresses and pantsuits by the Division which included Buckingham increased in value from 1976 to 1977. Employment of production workers and hours worked at the Buckingham plant increased from 1976 to 1977.

Conclusion

After careful review, I determine that all workers of the Buckingham, Virginia plant of Aileen, Incorporated, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[TA-W-4564]

[FR Doc. 79-10678 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

American Latex Corp., Sullivan, Ind.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 7, 1979 in response to a worker petition received on March 2, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers producing latex rubber pharmaceutical products, medical aids used for kidney functions, and blood pressure equipment at American Latex Corporation, Sullivan, Indiana.

The Notice of Investigation was published in the **Federal Register** on March 20, 1979 (44 FR 16972). No public hearing was requested and none was held.

The International Representative for the petitioner requested termination of the investigation of the petition. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of March, 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[TA-W-4694]

[FR Doc. 79-10682 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

APCO Manufacturing Co., Inc., Brodhead, Wisconsin; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4752: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 29, 1979, in response to a worker petition received on January 22, 1979, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing sport clothes, T-shirts and golf shirts (knit pullovers) at APCO Manufacturing Company, Incorporated, Brodhead, Wisconsin. The investigation revealed that the plant produces men's knit sport shirts.

The Notice of Investigation was published in the **Federal Register** on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of APCO Manufacturing Company, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' knit sport and dress shirts excluding T-shirts increased from 66.2 million units in 1975 to 74.0 million units in 1976 to 75.2 million units in 1977 and to 107.5 million units in 1978. The ratio of imports to domestic production was 19.7 percent in 1977; the import-to-domestic production ration is not available for 1978.

A Departmental survey was conducted of customers of APCO Manufacturing Company, Incorporated. The survey revealed that customers increased their purchases of imported men's knit sport shirts and decreased their purchases from APCO Manufacturing Company in 1977 as compared to 1976 and in 1978 as compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's knit

sport shirts produced at APCO Manufacturing Company, Incorporated, Brodhead, Wisconsin contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of APCO Manufacturing Company, Incorporated, Brodhead, Wisconsin who became totally or partially separated from employment on or after January 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 30th day of March 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA-W-4752]

[FR Doc. 79-10683 Filed 4-5-79; 8:45 am]
BILLING CODE 4510-28-M

Galaxy Costume Corp., New York, New York; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4788: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 9, 1979, in response to a worker petition received on February 6, 1979, which was filed by the Amalgamated Ladies' Garment Cutters' Union on behalf of workers and former workers producing ladies' coats and jackets at Galaxy Costume Corporation, New York, New York. The investigation revealed that the Amalgamated Ladies' Garment Cutters' Union is Local 10 of the International Ladies' Garment Workers' Union.

The Notice of Investigation was published in the **Federal Register** on February 23, 1979 (44 FR 10800). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Galaxy Costume Corporation, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The ladies' coats and jackets manufactured by Galaxy Costume Corporation are included in the import and production category Women's, Misses', and Children's Coats and Jackets. U.S. imports in this category increased absolutely and relative to domestic production in 1977 compared to 1976. Imports increased absolutely in 1978 to 1977.

The Department conducted a survey of major customers who purchased ladies' coats and jackets from Galaxy Costume Corporation. The survey revealed that customers, who represented a significant portion of Galaxy Costume Corporation's sales, decreased purchases of domestically produced ladies' coats and jackets, and increased purchases of imported ladies' coats and jackets, in the period January-September 1978 compared to the same period in 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with ladies' coats and jackets manufactured at Galaxy Costume Corporation, contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of Galaxy Costume Corporation, New York, New York, who became totally or partially separated from employment on or after September 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 30th day of March 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[TA-W-4788]

[FR Doc. 79-10685 Filed 4-5-79; 8:45 am]
BILLING CODE 4510-28-M

Gregg Division, Graniteville Co., Graniteville, South Carolina; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4774: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 1, 1979, in response to a worker petition received on January 30, 1979, which was filed on behalf of workers and former workers finishing greige fabric at the Gregg Division, Graniteville Company, Graniteville, South Carolina.

The Notice of Investigation was published in the **Federal Register** on February 9, 1979 (44 FR 8381). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Graniteville Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric (bleached, dyed and printed) declined from 464 million square yards in 1976 to 454 million square yards in 1977. Imports increased from 454 million square yards in 1977 to 500 million square yards in 1978. Despite this increase in finished fabric imports from 1977 to 1978, imports represent a small percentage of the fabric consumed in the United States. The ratio of imports of finished fabric to domestic production was less than two percent in 1976 and 1977. The highly capital-intensive nature of finished fabric production as well as the timeliness required by apparel manufacturers in staying abreast of fashion trends contribute to the low level of import penetration in the U.S. market.

The Department conducted a survey of the major customers of Graniteville Company who represented the major portion of Graniteville's total sales decline from 1977 to 1978. Most customers did not purchase imports. Other customers reported decreased purchases of imported finished fabric from 1977 to 1978.

Conclusion

After careful review, I determine that all workers of the Gregg Division of Graniteville Company, Graniteville, South Carolina are denied eligibility to apply for adjustment assistance under

Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of March 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4774]

[FR Doc. 79-10686 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M]

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 16, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 16, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of March 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers, of—	Location	Date received	Date of petition	Petition No.	Articles produced
Allen Group, Allen Testproducts Division (workers).	Kalamazoo, Mich	Mar. 26, 1979	Mar. 21, 1979	TA-W-5,050	Engine analyzers, related cast equipment also main heads and curcuit boards.
Bailey Glass (A.F.G.W.U.)	Morgantown, W. Va	Mar. 27, 1979	Mar. 20, 1979	TA-W-5,051	Illuminating lighting glassware and blown glassware.
Delco-Remy (IUE)	New Brunswick, N.J	do	Mar. 23, 1979	TA-W-5,052	Automobile batteries.
Pulverizing Service Inc. (Teamsters)	Moorestown, N.J	do	Mar. 21, 1979	TA-W-5,053	Chemical and allied products (dry chemical powder and insecticides).
Schick, Inc. (company)	Lancaster, Pa	Mar. 23, 1979	Mar. 19, 1979	TA-W-5,054	Hair dryers, curling irons, hair curler sets, facial suanas, electric shavers and other personal care appliances.
Schick, Inc., Service Center (company)	Philadelphia, Pa	do	do	TA-W-5,055	Selling and repair service for personal care appliances.
Schick, Inc., Service Center (company)	Los Angeles, Calif	do	do	TA-W-5,056	Selling and repair service for personal care appliances.
Schick, Inc., Service Center (company)	Hempstead, Long Island, N.Y	do	do	TA-W-5,057	Selling and repair service for personal care appliances.
Schick, Inc., Service Center (company)	Chicago, Ill	do	do	TA-W-5,058	Selling and repair service for personal care appliances.
Schick, Inc., Sevice Center (company)	Dallas, Tex	do	do	TA-W-5,059	Selling and repair service for personal care appliances.
Schick, Inc., District Sales Office (company)	North Attleboro, Mass	do	do	TA-W-5,060	Sales office.
Schick, Inc., District Sales Office (company)	Decatur, Ga	do	do	TA-W-5,061	Sales office.
Schick, Inc., District Sales Office (company)	Oak Brook, Ill	do	do	TA-W-5,062	Sales office.
Schick, Inc. District Sales Office (company)	Overland Park, Kans	do	do	TA-W-5,063	Sales office.
Schick, Inc., District Sales Office (company)	Lafayette, Calif	do	do	TA-W-5,064	Sales office.
Schick, Inc., District Sales Office (company)	Laguna Niguel, Calif	do	do	TA-W-5,065	Sales office.
The Great Six Co. (workers)	Minneapolis, Minn	Mar. 22, 1979	do	TA-W-5,066	Women's dress coats.
North Country Outerwear (workers)	Brainerd, Minn	do	do	TA-W-5,067	Women's dress coats.

[FR Doc. 79-10679 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of

a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 16, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 30th day of March 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Heat Reclaiming Corp. (IUE)	Lykens, Pa.	Mar. 30, 1979	Mar. 26, 1979	TA-W-5,084	Spiral heat exchangers, plant heat exchangers and welding sheet steel.
Berkshire Foods (Dairy Employees Union)	Chicago, Ill.	Mar. 29, 1979	do	TA-W-5,085	Process butter for government agencies.
Bethlehem Steel Corp. (workers)	Bethlehem, Pa.	Mar. 28, 1979	Mar. 23, 1979	TA-W-5,086	Sales office.
Buffalo Mining Co. (workers)	Lorado, W. Va.	Mar. 26, 1979	Mar. 14, 1979	TA-W-5,087	Mining of coal.
Continental Forest Industries, Corrugated Group (workers).	Cambridge, Mass.	Mar. 23, 1979	Mar. 20, 1979	TA-W-5,088	Corrugated cartons and displays.
Eagle Knitting Mills (workers)	Milwaukee, Wis.	Mar. 29, 1979	Mar. 26, 1979	TA-W-5,089	Knitted headwear.
Essex Group, Inc., Wire Assembly Unit (I.A.M.A.W.).	Lafayette, Ind.	Mar. 26, 1979	Mar. 20, 1979	TA-W-5,090	Wire harnesses for automobiles.
Greene Manufacturing Corp. (workers)	West Orange, N.J.	Mar. 30, 1979	Mar. 23, 1979	TA-W-5,091	Household rubber gloves.
Interpace, Inc., Lock Joint Products (Teamsters Union).	East Brunswick, N.J.	Mar. 28, 1979	Mar. 19, 1979	TA-W-5,092	Concrete sewer pipes.
Kay Fashions, Inc. (workers)	Lodi, N.J.	Mar. 30, 1979	Mar. 21, 1979	TA-W-5,093	Ladies' dresses, skirts and suits.
Little Boy's Clothing (workers)	New York, N.Y.	Mar. 27, 1979	Mar. 16, 1979	TA-W-5,094	Sales contractor of children's clothing.
Robton Process Co. (workers)	Paterson, N.J.	Mar. 29, 1979	Mar. 26, 1979	TA-W-5,095	Tanning rabbit skins.
Specialty Leather Goods Co., Inc. (Leather Goods, Plastics, Handbags and Novelty Workers' Union).	New York, N.Y.	Mar. 26, 1979	Mar. 21, 1979	TA-W-5,096	Men's and Women's wallets and french purses.
Solitaire, Inc. (workers)	New York, N.Y.	Mar. 27, 1979	Mar. 16, 1979	TA-W-5,097	Children's outwear.
Tamroy Mining Inc. (U.M.W.A.)	Mt. Hope, W. Va.	do	Mar. 23, 1979	TA-W-5,098	Mining of coal.
V and R Finishing, Inc. (workers)	Ridgewood, N.Y.	Mar. 30, 1979	Mar. 26, 1979	TA-W-5,099	Women's sweaters.
Worth Sports Co., (workers)	Tullahoma, Tenn.	Mar. 29, 1979	Mar. 16, 1979	TA-W-5,100	Baseballs and softballs.

[FR Doc. 79-10681 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 16, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of March 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ceil Ainsworth, Ltd. (company)	New York, N.Y.	Mar. 28, 1979	Mar. 22, 1979	TA-W-5,068	Girl's dresses & sportswear
Bardstown Manufactors (ILGWU)	Bardstown, Ky.	Mar. 22, 1979	Mar. 16, 1979	TA-W-5,069	Women's suits, dresses, blouses, skirts & slacks
Belva Coal Co. (U.M.W.A.)	Man, W. Va	Mar. 27, 1979	Mar. 23, 1979	TA-W-5,070	Mining of coal
Consolidated Coal Co. Beechfork No. 10 (U.M.W.A.).	Amonate, Va	do	Mar. 22, 1979	TA-W-5,071	Mining of coal
Elfskin Corp. (workers)	Cherry Valley, Mass	do	do	TA-W-5,072	Vinyl coated fabrics, flocked fabrics & sueded fabrics
Gulton Industries, Inc., Piezo Products Division (Int'l Union of Electrical Radion & Machine Workers).	Metuchen, N.J.	Mar. 26, 1979	Mar. 20, 1979	TA-W-5,073	Phonograph elements used in phonographs, miniature chassis used in watches & c.b. elements used in c.b. radions & burglar alarms
Lloyd's Electronics, Inc. (workers)	Edison, N.J.	do	Mar. 23, 1979	TA-W-5,074	Stereo receivers, speaker boxes, turntables also tape players, portable radios & clock radios
The Van Heusen Co. (company)	Aquadilla, P.R	Mar. 27, 1979	do	TA-W-5,075	Men's woven dress shirts
The Van Heusen Co. (company)	Ozark, Ala.	do	do	TA-W-5,076	Men's pajamas & leisure wear
The Van Heusen Co. (company)	Clio, Ala	do	do	TA-W-5,077	Men's sports shirts
The Van Heusen Co. (company)	Clayton, Ala.	do	do	TA-W-5,078	Men's knit dress shirts
The Van Heusen Co. (company)	Hartford, Ala.	do	do	TA-W-5,079	Men's woven dress shirts
The Van Heusen Co. (company)	Opp, Ala.	do	do	TA-W-5,080	Men's knit dress shirts
The Van Heusen Co. (company)	Geneva, Ala	do	do	TA-W-5,081	Men's knit dress shirts
The Van Heusen Co. (company)	Des Arc, Ark.	do	do	TA-W-5,082	Men's woven sport shirts
Wyoming Valley Garment Co., Inc., (ACTWU)	Wilkes Barre, Pa	do	Mar. 19, 1979	TA-W-5,083	Men's trousers.

[FR Doc. 79-10684 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

Jones and Laughlin Steel Corp., Hill Annex Mine, Calumet, Minn.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4728: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 22, 1979, in response to a worker petition received on January 15, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers producing iron ore concentrates at LTV Corporation, Hill Annex Mine and Plant, Calumet, Minnesota. The investigation revealed that the Hill Annex Mine was owned by Jones and Laughlin Steel Corporation.

The Notice of Investigation was published in the **Federal Register** on January 30, 1979 (44 FR 5953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Jones and Laughlin Steel Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the Hill Annex Mine of Jones & Laughlin Steel Corporation sells its iron ore to basic steel making facilities owned by Jones & Laughlin and to manufacturers not affiliated with Jones & Laughlin. All mining operations at Hill Annex ceased at the end of the 1978 mining season.

Imports of iron ore, pellets and sinter decreased absolutely from 1976 to 1977 and from 1977 to 1978. The ratio of imported iron ore, pellets and sinter to domestic production increased from 1976 to 1977 as a result of a decrease in domestic production caused by the iron ore strike. The ratio then decreased from 1977 to 1978.

In 1977, while imports of iron ore, pellets and sinter increased relative to domestic production compared to 1976, shipments by the Hill Annex Mine to manufacturing facilities other than Jones & Laughlin's basic steelmaking facilities increased in both quantity and value compared to shipments in 1976.

Total shipments by the Hill Annex Mine increased in both quantity and value from 1976 to 1977 and from 1977 to 1978.

Since the Hill Annex Mine was owned by Jones & Laughlin Steel Corporation, the mining operation could be considered part of the integrated production process for steel. The decision to not reopen the mine in the spring of 1979 was, however, not based on a decline in demand for iron ore by Jones & Laughlin's basic steelmaking facilities or an increased reliance by Jones & Laughlin on imported iron ore. By the end of 1978, the Hill Annex Mine was effectively exhausted of its supply of iron ore. Officials of Jones & Laughlin decided that all ore that was economically justified to mine had been taken from the site. In addition, shipments of imported iron ore to the basic steelmaking facilities of Jones and Laughlin decreased from 1977 to 1978.

Conclusion

After careful review, I determine that all workers of Jones and Laughlin Steel Corporation, Hill Annex Mine and Plant, Calumet, Minnesota are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of March 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4728]

FR Doc. 79-10687 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

Kellwood Co., Larchmont Group, Lingerie Division, Alamo, Tenn.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4721: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 18, 1979, in response to a worker petition received on January 15, 1979, which was filed on behalf of workers and former workers producing bras and girdles at the Alamo Division of the Kellwood Company, Alamo, Tennessee. The investigation revelaed that in January 1979 the Kellwood Company reorganized the Alamo, Tennessee plant under the Lingerie Division of its Larchmont Group.

The Notice of Investigation was published in the **Federal Register** on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Kellwood Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes and bandeaux and U.S. imports of corsets and girdles increased absolutely and relatively in 1977 compared with 1976. Imports in both product categories increased absolutely in the first three quarters of 1978 compared with the like period of 1977.

The Department surveyed the Alamo, Tennessee, plant's major customers. Customers accounting for the major proportion of the subject plant's sales of bras and girdles decreased purchases of both products from the plant in 1978 compared with 1977 while increasing purchases of imports of these articles.

The Lingerie Division of Kellwood Company began importing bras in December 1978. Future increases in company imports of bras are anticipated.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the bras and girdles produced at the Alamo, Tennessee plant of the Lingerie Division, Larchmont Group, Kellwood Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Alamo, Tennessee plant of the Lingerie Division, Larchmont Group of the Kellwood Company who became totally or partially separated from employment on or after January 10, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 30th day of the March 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4721]

[FR Doc. 79-10688 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

Lilli Ann Corp., San Francisco, Calif.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4187: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 20, 1978 in response to a worker petition received on September 8, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's suits and coats at Lilli Ann Corporation, San Froncisco. California. Investigation revealed that the firm also produced women's sportswear (skirts, blouses, and jackets.)

The Notice of Investigation was published in the **Federal Register** on October 31, 1978 (43 FR 50758). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Lilli Ann Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requiremetns of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' coats increased absolutely and relative to domestic production from 1976 to 1977.

U.S. imports of women's and misses' suits increased absolutely in the first nine months of 1978 compared to the first nine months of 1977.

U.S. imports of women's and misses' blouses increased absolutely in 1977 compared to 1976, and in the first nine months of 1978 compared to the first nine months of 1977.

U.S. imports of women's and misses' skirts increased absolutely in the first nine months of 1978 compared to the first nine months of 1977.

Company imports of women's coats increased in 1977 compared to 1976, and in the first nine months of 1978 compared to the first nine months of 1977.

Several customers of Lilli Ann were surveyed. Aggregate results of that survey revealed increasing purchases of imported women's coats, suits, blouses, and skirts by the customers relative to purchases from Lilli Ann.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's suits, coats, and sportswear produced at Lilli Ann Corporation, San Francisco, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Lilli Ann Corporation, San Francisco, California who became totally or partially separated from employment on or after August 31, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 19th day of March 1979.

Gloria S. Pratt,

Director, Office of Foreign Economic Policy.

[TA-W-4187]

[FR Doc. 79-10688 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

Monroe Auto Equipment, Hartwell, Ga.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4648: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 10, 1979 in response to a worker petition received on January 3, 1979 which was filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing automotive shock absorbers at the Hartwell, Georgia plant of Monroe Auto Equipment, a division of Tenneco Automotive.

The Notice of Investigation was published in the **Federal Register** on January 19, 1979 (44 FR 4039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Monroe Auto Equipment, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of shock absorbers designed for use on U.S. model cars and light trucks increased annually in dollar value from 1976 through 1978. The ratio of imports to domestic shock absorber production increased from 4.3 percent in 1977 to 6.6 percent in 1978.

The Department's investigation revealed that corporate imports by Monroe of finished shock absorbers designed for use on U.S. model automobiles increased yearly from 1976 through 1978. A Department survey revealed that a major customer of Monroe reduced purchases of shock absorbers from Monroe and increased purchases of imports.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with automotive shock absorbers produced at the Hartwell, Georgia plant of Monroe Auto Equipment contributed impotantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Hartwell, Georgia plant of Monroe Auto Equipment who became totally or partially separated from employment on or after March 26, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 30th day of March 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[TA-W-4648]

[FR Doc. 79-10690 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

N. L. Industries, Inc., Doehler Jarvis Casting Division, Batavia, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4833: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 22, 1979 in response to a worker petition received on February 12, 1979 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing magnesium dye castings at the Doehler Jarvis Casting Division of N. L. Industries, Incorporated, Batavia, New York.

The Notice of Investigation was published in the **Federal Register** on March 2, 1979 (44 FR 11865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of N. L. Industries, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of customers which accounted for a major proportion of N. L. Industries' sales in 1978. The survey revealed that none of the customers which decreased purchases from N. L. Industries purchased imported magnesium dye castings.

Imports of magnesium dye castings are insignificant. The ratio of imports to domestic production for magnesium dye castings has remained below one percent since 1974.

Conclusion

After careful review, I determine that all workers of the Batavia, New York plant of the Doehler Jarvis Casting Division of N. L. Industries, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of March 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-10691 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

National Music String Co., New Brunswick, N.J.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 15, 1979, in response to a worker petition received on March 12, 1979, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing musical strings at the National Music String Company, New Brunswick, New Jersey.

The Notice of Investigation was published in the **Federal Register** on March 23, 1979 (44 FR 17833). No public hearing was requested and none was held.

The Department received a letter from the petitioning group of workers requesting withdrawal of the petition. On the basis of the withdrawal,

continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington D.C., this 2nd day of April 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[TA-W-4956]

FR Doc. 79-10692 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

River Street Sportswear Corp., Lowell, Mass.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4715: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979, in response to a worker petition received on January 12, 1979, which was filed on behalf of workers and former workers producing ladies' blouses, pants, jackets and blazers at River Street Sportswear Corporation, Lowell, Massachusetts. The investigation revealed that the plant also produced skirts.

The Notice of Investigation was published in the **Federal Register** on January 26, 1979 (44 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of River Street Sportswear Corporation, its customers, (manufacturers), customers of the manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's suits decreased from 408,000 dozen units in 1976 to 384,000 dozen units in 1977 and then increased from 201,000 dozen units during the first three quarters of 1977 to 318,000 dozen units during the same period in 1978.

U.S. imports of women's, misses' and children's blouses and shirts increased from 30,273,000 dozen units in 1976 to 30,849,000 dozen units in 1977 and to 35, 823,000 dozen units in 1978.

U.S. imports of women's and misses' slacks and shorts increased from 11,040,000 dozen units in 1976 to 11,622,000 dozen units in 1977 and increased from 9,080,000 dozen units during the first three quarters of 1977 to 11,431,000 dozen units during the same period in 1978.

U.S. imports of women's, misses, and children's coats and jackets increased from 2,252,000 dozen units in 1976 to 2,723,000 dozen units in 1977 and to 3,036,000 dozen units in 1978.

U.S. imports of women's, misses' and children's skirts decreased from 791,000 dozen units in 1976 to 654,000 dozen units in 1977 and then increased from 442,000 dozen units during the first three quarters of 1977 to 1,068,000 dozen units during the same period in 1978.

A survey of manufacturers for whom River Street Sportswear Corporation did contract work and who decreased purchases from the subject firm revealed that certain of those manufacturers experienced a decrease in their overall level of sales. Customers of those manufacturers reported that they increased their reliance upon foreign sources for products like or directly competitive with ladies' blouses, pants, jackets, blazers and skirts produced at River Street Sportswear Corporation.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses, pants, jackets, blazers and skirts produced at River Street Sportswear Corporation, Lowell, Massachusetts, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of River Street Sportswear Corporation, Lowell, Massachusetts, who became totally or partially separated from employment on or after January 10, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 30th day of March 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA-W-4715]

[FR Doc. 79-10693 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

Sheroff-Green Co., Inc., Metuchen, N.J.; Negative Determination Regarding Application for Reconsideration

On February 22, 1979, one of the petitioners requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of Sheroff-Green Co., Inc., Metuchen, New Jersey. The determination was published in the **Federal Register** on February 2, 1979, (44 FR 6810).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner states that increased imports of shoe and clothing contributed importantly to the decline in sales and production and to the separation of workers producing machinery at the Sheroff-Green Co., Inc., Metuchen, New Jersey. The petitioner, in effect, asserts that the Department should allow a broader interpretation of "like or directly competitive" products to allow a finding that increased imports of shoes and clothing contributed importantly to separations of workers producing machinery used in the production of shoes and clothing.

The basis for the Department's denial is that increases of imports of articles "like or directly competitive," as that term is used in the Trade Act of 1974, with articles produced by the firm have not contributed importantly to the separations and to the decline in sales and production at Sheroff-Green.

Imports of tooling (machinery) must be considered in determining import injury to workers producing tooling (machinery) for the shoe and clothing industries. The Department's investigation revealed that imports of tooling (machinery) for use in the shoe and clothing industries are negligible.

Shoes or clothing cannot be considered like or directly competitive with the machinery produced by Sheroff-Green used in the shoe and clothing industries.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 30th day of March 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[TA-W-4434]

[FR Doc. 79-10694 Filed 4-5-79; 8:45 am]
BILLING CODE 4510-28-M

Stouffer's Management Food Service, Inc., Youngstown, Ohio; Negative Determination Regarding Application for Reconsideration

On March 8, 1979, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers of the Stouffer's Management Food Service, Inc., Youngstown, Ohio. The determination was published in the **Federal Register** on February 27, 1979, (44 FR 11156).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner cites that separations from work at the food service are affected by layoffs at the Youngstown, Ohio, facility of Youngstown Sheet and Tube Company (TA-W-1464) whose workers are currently certified eligible to apply for adjustment assistance. The basis for the Department's denial is that services are not "articles" within the meaning of Section 222 of the Trade Act of 1974 and that an independent firm for which Stouffer's Management Food Service, Inc., provides food services cannot be considered the "workers' firm."

The Department has earlier determined that services, such as transportation services, are not "articles" within the meaning of Section 222(3) of the Act (see Notice of Negative Determination, Pan American World Airways, Inc., TA-W-153, 40 FR 54639). Further, the Department has determined that a firm for which such services are provided and which is independent of the petitioners' firm cannot be considered to be the "workers' firm" within the meaning of the Act (see Notice of Negative Determination, Nu-Car Driveaway, Inc., TA-W-393, 41 FR 12749).

The Department's investigation has revealed that Stouffer's Management Food Service, Inc., is not corporately affiliated with Youngstown Sheet and Tube Company. All workers at the food service are employed by Stouffer's and are not under supervision of Youngstown Sheet and Tube Company. Further, all personnel actions and payroll transactions are controlled by Stouffer's. Thus, Stouffer's Management Food Service, Inc., must be considered the "workers' firm."

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 30th day of March 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA-W-4655]

[FR Doc. 79-10695 Filed 4-5-79; 8:45 am]
BILLING CODE 4510-28-M

Stressteel Corp., Wilkes-Barre, Pa.; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on January 26, 1979, applicable to all workers of Stressteel Corporation, Wilkes-Barre, Pennsylvania. The Notice of Certification was published in the **Federal Register** on February 2, 1979, (44 FR 6811).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The review of the case revealed that at least one layoff occurred at one of Stressteel's sales offices before the impact date contained in the initial certification. Under the circumstances, the original impact date of July 22, 1978, contained in the initial certification has been moved forward to November 10, 1977, a full year prior to the date on the petition dated November 10, 1978.

The intent of the certification is to cover all workers of Stressteel Corporation who were affected by the decline in production of high strength steel bars at the Wilkes-Barre, Pennsylvania, plant related to import competition. The certification, therefore, is revised to include all workers at the Wilkes-Barre, Pennsylvania, plant and at the following sales offices of the Stressteel Corporation, Wilkes-Barre, Pennsylvania.

The revised certification applicable to TA-W-4388 is hereby issued as follows:

"All workers at the Stressteel Corporation, Wilkes-Barre, Pennsylvania, and sales offices located at Emoryville, California; Norwalk, California; Memphis, Tennessee; and New Rochelle, New York, separated from employment on or after November 10, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 30th day of March 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[TA-W-4388]

[FR Doc. 79-10696 Filed 4-5-79; 8:45 am]
BILLING CODE 4510-28-M

Tobin Hamilton Company, Inc., Mansfield, Mo., Birch Tree, Mo.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W- 4779 and 4974: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on February 1, 1979, and March 16, 1979, in response to worker petitions received on January 30, 1979, and March 13, 1979, which were filed by the United Shoe Workers of America on behalf of workers and former workers producing children's shoes at the Mansfield, Missouri, plant and the Birch Tree, Missouri, plant respectively of the Tobin Hamilton Company, Incorporated

The Notices of Investigation were published in the **Federal Register** on Feburary 9, 1979 (44 FR 8381) and on March 23, 1979 (44 FR 17832). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Tobin Hamilton Company, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

The Notice of Investigation for TA-W-4974 incorrectly stated that the petition was filed for workers employed at the Mansfield, Missouri, plant. The petition (TA-W-4974) was filed for workers employed at the Birch Tree, Missouri, plant.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers producing shoe uppers at both the Mansfield and Birch Tree, Missouri, plants, it is concluded that all of the requirements have been met.

U.S. imports of shoe uppers increased from 1977 to 1978.

Tobin Hamilton Company, Incorporated, began importing shoe uppers in March 1978. The company's imports of uppers increased in the third and fourth quarters of 1978 compared with the previous quarters respectivley.

With respect to workers at both the Mansfield and Birch Tree, Missouri, plants not engaged in the production of shoe uppers, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Evidence developed in the course of the investigation revealed that sales and production of finished children's and infants' shoes at the Tobin Hamilton Company, which includes both the Mansfield and Birch Tree, Missouri, plants, increased from 1977 to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the shoe uppers produced at the Mansfield and Birch Tree, Missouri, plants of Tobin Hamilton Company, Incorporated, contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers engaged in the production of shoe uppers at the Mansfield, Missouri, and Birch Tree, Missouri, plants of Tobin Hamilton Company, Incorporated, who became totally or partially separated from employment on or after July 22, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 30th day of March 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[TA-W-4779 and 4974]

[FR Doc. 79-10697 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-28-M

Secretary's Committee on Veterans' Affairs; Meeting

Announcement is made of the following Committee meeting:

Name: Department of Labor Secretary's Committee on Veterans' Affairs.

Date: May 1, 1979.

Place: Secretary's Conference Room, S2508 (South

Time: 1600.

Proposed agenda:

Introduction of Deputy Assistant Secretary for Veterans' Employment.

Review the functions of the Committee.

Overview of veterans employment, reemployment, unemployment and training programs.

Statistical report on veterans activities.

Role of DOL in Veterans Federal Coordinating Committee.

Vietnam Veterans Week, May 28–June 3, 1979.

Agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the Secretary's meeting.

Purpose of meeting: The Committee will review the Secretary's establishing order, receive reports on veterans employment and training programs, examine DOL's role in the Veterans Federal Coordinating Committee, and discuss DOL plans for Vietnam Veterans Week, May 28–June 3, 1979.

Meeting of the Secretary's Committee on Veterans' Affairs is open to the public.

Any member of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairperson may allow public presentation of oral statements at the meeting.

All communications regarding this Committee should be addressed to Dr. Dennis R. Wyant, Deputy Assistant Secretary for Veterans' Employment, Room 10008, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

For the Secretary of Labor.

Dennis R. Wyant,

Deputy Assistant Secretary for Veterans' Employment, Vice Chairperson, Secretary's Committee on Veterans' Affairs.

April 2, 1979.

[FR Doc. 79-10703 Filed 4-5-79; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

Employee Benefit Plans; Exemption from the Prohibitions for Certain Transactions Involving the Chicago Title and Trust Company Employees Savings and Investment Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits certain past loans by the Chicago Title and Trust Company (the Employer) to Fund C under the Chicago Title and Trust Company Employees Savings and Investment Plan (Savings Plan).

FOR FURTHER INFORMATION CONTACT: Ivan Strasfeld of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 202-523-7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 16, 1979 notice was published in the **Federal Register** (44 FR 10141) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a)(1) and 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1974 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code for transactions described in an application filed by the Employer and trustee of the Savings Plan. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no request for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a

fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable for certain other provisions of the Act and the Code. These provisions include any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act, nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

Effective from January 1, 1975, until December 31, 1978, the restrictions of section 406(a)(1) and 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the loans made by the Employer to Fund C, as described in the notice of February 16, 1979. The availability of this exemption is subject to the express conditions that the material facts and representations continued in the application are true and complete and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 2nd day of April, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[Prohibited Transaction Exemption 79-11]

[FR Doc. 79-10565 Filed 4-3-79; 12:43 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

Study of Nuclear Power Plant Construction During Adjudication; Meetings

The Nuclear Regulatory Commission's advisory committee on nuclear power plant construction during adjudication held its fourth meeting on Friday, March 23, 1979 at NRC Headquarters, 1717 H Street, N.W., Washington, DC, 20555. As previously announced, the group's fifth meeting will be held on Friday, April 6, 1979 at NRC Headquarters. That meeting will begin at 9:30 a.m. At the fourth meeting the group continued work on its interim report, which is tentatively scheduled to be presented to the Commission in an open Commission meeting at a date to be scheduled in April, 1979. At the April 6 meeting the group will consider the draft interim report and it intends to approve the report for submission to the Commission.

Members of the public are invited to attend the group's meetings and there will be a limited amount of time available during each meeting for members of the public to make oral statements to the study group. Written comments, addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch, will be accepted for one week after each meeting. The Chairman of the study group is empowered to conduct the meetings in a manner that, in his judgment, will facilitate the group's work, including, if necessary, continuing or rescheduling meetings to another day.

A file of documents relevant to the group's work, including a complete transcript of each meeting, memoranda exchanged between group members, public comments and other documents, is available for inspection and copying at the Commission's Public Document Room at 1717 H Street, N.W., Washington, DC, 20555. The Secretary of the NRC maintains a mailing list for persons interested in receiving notices of the group's meetings and actions. Anyone wishing to be on that list should write to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch.

The study group will provide its final report to the Commission by November 1, 1979. For further information on the study group's mission, please call Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission, (202) 634-3224.

Dated at Washington, DC, this 3rd day of April, 1979.

Gary Milhollin,

Chairman.

[FR Doc. 79-10625 Filed 4-5-79; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

Public Service Co. of New Hampshire, et al. (Seabrook Station, Units 1 and 2); Request for Order To Show Cause

Notice is hereby given that by petition dated March 12, 1979, the Seacoast Anti-Pollution League filed a request for an Order to Show Cause why Construction Permit Nos. CPPR-135 and CPPR-136 should not be suspended or revoked because the alleged lack of financial qualification of the lead applicant, Public Service Company of New Hampshire, and the lack of review of the financial qualifications of other companies that are being solicited as potential purchasers of Public Service Company's share in the Seabrook facility. In accordance with the procedures specified in 10 CFR § 2.206, appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the local public document room for the Seabrook Station at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883.

Dated at Bethesda, Maryland this 28th day of March 1979.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[Docket Nos. 50-443; 50-444]

[FR Doc. 79-10554 Filed 4-5-79; 8:45 am]

BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting; Cancellation

The Nuclear Regulatory Commission regional meeting scheduled for April 11 and 12, 1979 in the Travis Room at the Sheraton-Dallas Hotel, Southland Center, Dallas, Texas for the State liaison officers in Montana, Idaho, North and South Dakota, Nebraska, Utah, Wyoming, Colorado, Kansas, New Mexico, Oklahoma, Arkansas, Louisiana and Texas has been cancelled. The meeting will be rescheduled.

Dated at Bethesda, Maryland this 2nd day of April, 1979.

For the Nuclear Regulatory Commission.

Robert G. Ryan,

Director, Office of State Programs.

[FR Doc. 79-10553 Filed 4-5-79; 8:45 am]

BILLING CODE 7590-01-M

Vermont Yankee Nuclear Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 52 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corporation which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to incorporate the limiting conditions for operation associated with operation at the end of Cycle 6.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission had made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated March 5, 1979, (2) Amendment No. 52 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 30th day of March 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[Docket No. 50-271]

[FR Doc. 79-10555 Filed 4-5-79; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974: Proposed Minor Amendments to System of Records

In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an individual identifier. The notices were published as a document subject to publication in the annual compilation of Privacy Act documents.

The proposed amendments set forth below would clarify and update the information contained in the Systems of Records, including "System name," "System location," "Categories of individuals covered by the system," "Categories of records in the system," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Retrievability," "Safeguards," "Retention and disposal," "System manager(s) and address," "Record access procedures," and "Record source categories." These proposed amendments do not include any substantive changes. Systems NRC-14 and 35 are revoked. At the time the NRC Systems of Records were established, it was expected that NRC-14, Medical Records, would become a separate file. These records are sealed, and have been retained as part of NRC-11, General Personnel Records. In view of the relatively few such records retained by the NRC, NRC-14 has been deleted, and NRC-11 has been amended to reflect where the records are actually stored.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 552a of Title 5 of the United States Code, as amended, notice is hereby given that adoption of the following amendments to the NRC Systems of Records is contemplated. All interested persons who desire to submit written comments or suggestions for consideration 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 Branch by May 7, 1979. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. For further information concerning this notice contact:

Ellen Whitlow, FOI/PA Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492-8133.

1. The paragraphs of NRC-1 entitled "System location," "Categories of records in the system," "Authority for maintenance of the system," "Routine uses of the system, includind categories of users and the purposes of such uses," "Retrievability," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC-1

* * * * *

SYSTEM LOCATION:

Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains personnel qualification statements, vacancy announcements, applications for vacancies, selection certificates, the results of reference checks on employees, performance appraisals, and related records. The records pertain to specific announced vacancies which have been posted in accordance with the NRC Vacancy Announcement System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 1302 (1976);

b. Section 161(d), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To prepare reports for the Office of Personnel Management and Merit Systems Protection Board;

b. By the Office of Personnel Management and Merit Systems Protection Board to resolve complaints and grievances regarding employment and promotion selection;

c. For audit and review by the Office of Personnel Management and Merit Systems Protection Board; and

d. For any of the routine uses specified in the Prefatory statement.

* * * * *

RETRIEVABILITY:

Information is accessed by vacancy announcement number, and by name within the individual vacancy announcement folders.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 2 years from date of selection, then destroyed by shredding.

* * * * *

2. The paragraphs of NRC–2 entitled "System location," "Authority for maintenance of the system," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC–2

* * * * *

SYSTEM LOCATION:

Office of Public Affairs, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Sections 201, 203(a), 204(a), 205(a), 209, Energy Reorganization Act of 1974, 42 U.S.C. 5841, 5843(a), 5844(a), 5845(a), 5849 (1976);

b. Section 191, Atomic Energy Act of 1954, as amended, 42 U.S.C. 2241 (1976).

* * * * *

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until updated or association with NRC is discontinued, then destroyed through regular trash disposal system.

* * * * *

3. The paragraphs of NRC–3 entitled "System location," "Authority for maintenance of the system," "Storage," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC–3

* * * * *

SYSTEM LOCATION:

Primary system—Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplcate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 2, and the NIH computer facility, Bethesda, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 161(o), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(o) (1976).

* * * * *

STORAGE:

Maintained on paper, index cards, computer tapes and printouts, microfilm, and mag cards.

* * * * *

SAFEGUARDS:

Maintained in unlocked file cabinet under visual control of files supervisor. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are continuously changed or amended as new information is developed or individual licenses are cancelled or terminated; license files are transferred to Federal Records Center in Suitland, Maryland when they become inactive or terminated. Obsolete data, except for record copy maintained at Federal Records Center, is destroyed quarterly through regular trash disposal system.

* * * * *

4. The paragraphs of NRC–4 entitled "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purpose of such uses," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC–4

* * * * *

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, 1717 H Street, N.W., Washington, DC.

Duplicate System—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 18 U.S.C. 201 (1976);

b. E.O. 11222, May 8, 1965.

Routine uses of records maintained in the system including categories of users and the purposes of such uses: Information in these records may be used:

a. General biographical data (i.e., name, birthdate, home address, position title, home and business telephone, citizenship, educational history, employment history, professional society membership, honors, fellowships received, publications, licenses, and special qualifications);

b. To provide the U.S. Department of Justice, the Office of Personnel Management and Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department or the Office concerning potential violations of Federal law;

c. Determination (i.e., no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

d. Information pertaining to appointment (i.e., proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for proposed pay, description of expenses to be reimbursed and dollar limitation, and description of government-owned property to be in possession of appointee).

* * * * *

SAFEGUARDS:

Maintained in locked file cabinets.

Retention and disposal: Retained in office file for 2 years after employee leaves position in which statement is required, or for 2 years after separation, whichever is earlier, then forwarded to the Federal Records Center, Suitland, Maryland.

* * * * *

5. The paragraphs of NRC–5 entitled "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Retrievability," "Safeguards," "Retention and disposal," and "Record access procedures" are amended to read as follows:

NRC–5

* * * * *

SYSTEM LOCATION:

Primary system—Division of Contracts, NRC, 7915 Eastern Avenue, Silver Spring, Marland.

Duplicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 and 2.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Sections 31 and 161, Atomic Energy Act of 1954, as amended, 42 U.S.C. 2051 and 2201 (1976);

b. Section 205, Energy Reorganization Act of 1974, 42 U.S.C. 5845 (1976).

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to Department of Health, Education and Welfare, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement.

* * * * *

RETRIEVABILITY:

Accessed by contract number and purchase order number, cross-referenced with the name of the consultant, contractor, or vendor. Safeguards: Maintained in unlocked conserver files. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Contracts greater than $10,000 are destroyed 6 years and 6 months after final payment; $10,000 or less—3 years after final payment. Records are destroyed through regular trash disposal system, except for confidential business (proprietary) information which is destroyed by shredding.

* * * * *

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

* * * * *

6. The paragraphs of NRC–6 entitled "System location," "Authority for maintenance of the system" "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Retention and disposal," and "System manager(s) and address" are amended to read as follows:

NRC–6

* * * * *

SYSTEM LOCATION:

Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2000e (1976);

b. Section 401, Energy Reorganization Act of 1974, 42 U.S.C. 5871 (1976);

c. E.O. 11478, August 8, 1969.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To prepare reports for transmittal to the Office of Personnel Management and Merit Systems Protection Board;

b. For any of the routine uses specified in the Prefatory Statement.

* * * * *

RETENTION AND DISPOSAL:

Active records retained indefinitely. Inactive records are sent to the national Personnel Records Center within 30 days of the date of the employee's separation from the Federal service and records of non-selected applicants retained up to 1 year, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

DARE Program Coordinator, Division of Organization and Personnel, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

7. The paragraphs of NRC–7 entitled "System location," "Authority for maintenance of the system," "Storage," and "Retention and disposal" are amended to read as follows:

NRC–7

* * * * *

SYSTEM LOCATION:

Primary system-Division of Technical Information and Document Control, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 (a), (b), (e) and (g).

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Section 161(d), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(d) (1976);

b. 31 U.S.C. 21, 22, 24, 49, 54, and 66a (1976).

* * * * *

STORAGE:

Maintained on paper and log sheets.

* * * * *

RETENTION AND DISPOSAL:

Records are retained in office files for two years, and then destroyed by regular trash disposal system.

* * * * *

8. The paragraphs of NRC–8 entitled "System location," "Categories of individuals covered by the ssytem," "Categories of records in the system," "Authority for maintenance of the system," "Routine uses of the records maintained in the system, including categories of users and the purposes of such uses," "Safeguards," "Retention and disposal," and "Record source categories" are amended to read as follows:

NRC–8

* * * * *

SYSTEM LOCATION:

Primary system-Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at locations listed in Addendum I, Part 1(e).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed complaints or initiated grievance or appeal proceedings as a result of a determination made by the NRC, the Office of Personnel Management and Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to grievances, arbitrations, negative determinations regarding within-grade salary increases and exit interviews. It contains information relating to determinations affecting individuals made by the NRC or the Office of Personnel Management and Merit Systems Protection Board. The records consist of the initial appeal or complaint, letters or notices to the individual, record of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 161(d), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to the Office of Personnel Management and Merit Systems Protection Board pursuant to applicable requirements relative to grievances and appeals;

b. To provide appropriate data to union representatives and third parties in connection with grievances, arbitration actions and appeals. Third parties may include the Federal Service Impasses Panel and Federal Labor Relations Authority; and

c. For any of the routine uses specified in the Prefatory Statement.

* * * * *

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of thes records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained 3 years after case is closed, then destroyed by shredding.

* * * * *

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains; NRC and/or Office of Personnel Management and Merit Systems Protection Board officials; affidavits or statemens from employees, union representatives, or other persons; testimony of witnesses; and official documents relating to the appeal, grievance, or complaint; Official Personnel Folder; and other Federal agencies.

9. The paragraphs of NRC–9 entitled "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Retention and disposal," and "Record source categories" are amended to read as follows:

NRC–9

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 42 U.S.C. 2000e (1976);

b. Section 401, Energy Reorganization Act of 1974, 42 U.S.C. 5891 (1976);

c. Executive Orders 11246, Sept. 24, 1965; 11375, Oct. 13, 1967; and 11478, Aug. 8, 1969.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information relative to EEO matters to the Office of Personnel Management and Merit Systems Protection Board in accordance with applicable requirements;

b. For any of the routine uses specified in the Prefatory Statement.

* * * * *

STORAGE:

Maintained in file foldes, binders, index cards, and on computer tapes (minority code only).

* * * * *

RETENTION AND DISPOSAL:

a. Cases resolved in-house: destroyed by shredding 4 years after resolution of case.

b. Cases resolved by court or Office of Personnel Management and Merit Systems Protection Board: controlled by CSC records schedule.

* * * * *

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, NRC and/or the Office of personnel Management and Merit Systems Protection Board officials, affidavits or statements from employees, testimony of witnesses, and official documents relating to the complaints.

10. The paragraphs of NRC–10 entitled "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Retrievability," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC–10

* * * * *

SYSTEM LOCATION:

Primary system-Division of Rules and Records, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 and Part 2 and at the TERA computer facility, Bethesda, Maryland

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 552 (1976);

b. 5 U.S.C. 552a (1976).

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. If an appeal or Court suit is filed with respect to any records denied;

b. For preparation of annual reports required by 5 U.S.C. 552 and 5 U.S.C. 552a;

c. For any of the routine uses specified in the Prefatory Statement;

d. Most of the FOIA records are placed in the NRC Public Document Room and made available to the public.

* * * * *

RETRIEVABILITY:

Accessed by chronologically assigned number and individual name.

SAFEGUARDS:

Privacy Act records are maintained in locked file cabinets. Access to and use

of these records are limited to those persons whos official duties require such access. Copies of most of the FOIA records are publicly available in the NRC Public Document Room.

RETENTION AND DISPOSAL:

Retained 2 years from date of reply if request is granted, 5 years if denied, and 4 years if appealed. Except for classified, proprietary, and other sensitive information which is destroyed by shredding, records are disposed of through regular trash disposal system.

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11. The pragraphs of NRC–11 entitled "System location," "Categories of records in the system," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Safeguards," "Retention and disposal," and "Record source categories" are amended to read as follows:

NRC–11

* * * * *

SYSTEM LOCATION:

Primary system-Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system-duplicate systems exists, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and at the Department of Energy computer facility, Germantown, Maryland. The duplicate systems maintained in a particular office, division, or branch may contain information of specific applicability to employees in that organization in addition to that information contained in the primary system.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about an individual's birth date, social security account number, veteran preference status, tenure, physical handicaps, past and present salaries, grades, position titles, training, test performance, minority group designator, life insurance, health benefits, beneficiaries, personnel performance appraisals, the results of reference checks, probationary period appraisals, and awards. Some folders in the primary system may contain medical records in sealed brown envelopes (i.e. participation in occupational health services program, capability to perform position duties, etc.). This system also contains letters of commendation and reprimand, documentation of charges and decisions on charges, notices of reductions-in-force, locator files; information related to personnel actions, including but not limited to appointment, reassignment, demotion, detail, promotion, transfer, and separation; and data documenting the reasons for personnel actions or decisions made about an individual related to the status of the individual. Some duplicate records may also contain office-related employee performance evaluations, office-specific applications, personnel qualification statements (SF–171), resumes and applicant evaluations and conflict of interest correspondence, and other related personnel records in addition to those contained in the primary system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Section 161(d), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(d) (1976);

b. E.O. 10561, September 15, 1954;

c. 5 U.S.C. 7901 (1976);

d. 42 U.S.C. 4561 (1976);

e. 21 U.S.C. 1180 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and Merit Systems Protection Board for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information is transferred to such agency;

c. To update the following Office of Personnel Management systems: Federal Automated Career Systems (FACS), Executive Inventory File and security investigations index hires, and to update adverse actions and terminations records of the Merit Systems Protection Board;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and Merit Systems Protection Board for review and audit purposes;

f. To provide members of the public with the names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. Medical records may be used for providing information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsible for Federal benefit programs administered by the Department of Labor (Office of Workmen's Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement.

* * * * *

SAFEGUARDS:

Maintained in locked and unlocked file cabinets and electromechanical file organizer. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

The Official Personnel Folder is sent to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service. Some records such as letters of reprimand, indebtedness, and vouchers are maintained for two years or destroyed by shredding when an individual resigns, transfers, or is separated from the Federal service. SF–7, "Service Record Card", retained indefinitely after separation or transfer.

* * * * *

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, is derived from information supplied by that individual, or is provided by agency officials, other Federal agencies, or persons, including references, private and Federal physicians, and medical insititutions.

12. The paragraphs of NRC–12 entitled "System location," "Authority for maintenance of the system," "Storage," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC–12

* * * * *

SYSTEM LOCATION:

Primary system-Building and Operations Support Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 2.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 40 U.S.C. 491 (1976);

b. E.O. 10579, December 1, 1954.

* * * * *

STORAGE:

Maintained on index cards and on paper in file folders.

* * * * *

SAFEGUARDS:

Maintained in locked file cabinets under control of supervisors. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 3 years or until cancellation of individual license, whichever comes first, then destroyed through regular trash disposal system.

* * * * *

13. The paragraphs of NRC-13 entitled "System location," "Categories of individuals covered by the system," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Safeguards," "Retention and disposal," and "Record source categories" are amended to read as follows:

NRC-13

* * * * *

SYSTEM LOCATION:

Primary system—Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 2. Categories of individuals covered by the system: NRC employees who merit special recognition for achievements either within or outside the employee's job responsibilities and for length of service to the Government. Awards include both NRC awards and awards of other agencies and organizations for which NRC employees are eligible.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 4501-4506 (1976);

b. 5 U.S.C. 5336 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and Merit Systems Protection Board to process and approve nominations or awards;

b. By the Office of the Attorney General and the President of the United States in reviewing recommended awards;

c. To make reports to the Office of Personnel Management and Merit Systems Protection Board;

d. By other government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an NRC employee affects the functions or responsibilities of the agencies; and

e. For any of the routine uses specified in the Prefatory Statement.

* * * * *

STORAGE:

Maintained on paper in file folders.

* * * * *

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 2 years, then destroyed by shredding.

* * * * *

RECORD SOURCE CATEGORIES:

Supervisors of employees, individuals submitting suggestions, evaluators of suggestions, Division of Organization and Personnel staff, Office of Personnel Management and Merit Systems Protection Board, Official Personnel Folders, and other Federal agencies.

14. System NRC-14 is revoked.

15. The paragraphs of NRC-15 entitled "Safeguards" and "Retention and disposal" are amended to read as follows:

NRC-15

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SAFEGUARDS:

Maintained in unlocked file cabinet.

RETENTION AND DISPOSAL:

Updated when information is out of date. The information is retained until the person is no longer a member of the committee or no longer an NRC employee, whichever occurs first. Destroyed by computer deletion.

* * * * *

16. The paragraphs of NRC-16 entitled "System location," "Authority for maintenance of the system," "Storage," "Safeguards," "Retention and disposal," "System manager(s) and address," and "Record source categories" are amended to read as follows:

NRC-16

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SYSTEM LOCATION

Primary system—Operating Licensing Branch, Division of Project Management, Office of Nuclear Reactor Regulation, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the Department of Energy, Germantown, Maryland.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 107, 161(i), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2137 and 2201(i) (1976).

* * * * *

STORAGE:

Maintained on index cards and on paper in file folders.

* * * * *

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Reactor Operator Licensees Records:

a. Medical information: retained for 4 years after the individual's license expires, then destroyed;

b. Examination and examination results: retained for 2 years after the issuance of a license or denial letter. A summary report is retained until 4 years after the individual's license expires;

c. Other information: destroyed when it becomes 2 years old;

d. Docket information: destroyed 4 years after an individual's latest license expires.

Records are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operator Licensing Branch, Division of Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

* * * * *

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the facility manager, a licensed physician, members of the Operator Licensing Branch, and contractor personnel.

17. The paragraphs of NRC–17 entitled "System location," "Categories of individuals covered by the system," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC–17

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SYSTEM LOCATION:

Primary system—Building and Operations Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the location listed in Addendum I, Part 1(c).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who report an occupational injury or illness.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 29 U.S.C. 657(c) (1976);

b. E.O. 11807, September 28, 1974.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the NRC Safety Officer and/or Branch supervisor, to prepare periodic statistical reports on employees' health and injury status and health and safety hazards in NRC physical structures, all for transmission to and review by the Department of Labor;

b. For transmittal to the Secretary of Labor or his authorized representative in accordance with duly promulgated regulations;

c. For transmittal to the Office of Personnel Management and Merit Systems Protection Board as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement.

* * * * *

STORAGE:

Maintained on paper in file folders.

* * * * *

SAFEGUARDS:

Maintained in locked file cabinet under visual control of section employees. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 5 years after date of report, then destroyed by shredding.

* * * * *

18. The paragraphs of NRC–18 entitled "System location," "Authority for maintenance of the system," "Safeguards," "Retention and disposal," and "Record access procedures" are amended to read as follows:

NRC–18

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SYSTEM LOCATION:

Office of Inspector and Auditor, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Section 25(c), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2035 (1976);

b. Section 201(f), Energy Reorganization Act of 1974, 42 U.S.C. 5841(f) (1976).

* * * * *

SAFEGUARDS:

Maintained in classified safes; under visual control during normal working hours.

RETENTION AND DISPOSAL:

Retained 10 years in NRC storage, then destroyed by shredding.

* * * * *

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12065 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

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19. The paragraphs of NRC–19 entitled "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Safeguards," "Retention and disposal," "System manager(s) and address," and "Record source categories" are amended to read as follows:

NRC–19

* * * * *

SYSTEM LOCATION:

Primary system—Management Development and Training Staff, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate system—duplicate systems, in whole or in part, at the locations listed in Addendum I, Part 1 (a), (b), (c), (d), (e), (f), and (g), and Part 2.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 4103 (1976);

b. E.O. 11348, April 20, 1967.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used;

a. For use in training programs related to NRC employees by the Office of Personnel Management, other Federal, state, and local government agencies and educational institutions; and

b. For the routine use specified in paragraph number 5 of the Prefatory Statement.

STORAGE:

Maintained on paper in file folders.

* * * * *

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 5 years, or until no longer needed, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Management Development and Training Staff, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisor, and training groups, agencies, or educational institutions.

20. The paragraphs of NRC–20 entitled "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Safeguards," and "Retention

and disposal" are amended to read as follows:

NRC-20

* * * * *

SYSTEM LOCATION:

Primary system-Office of the Controller, NRC, 4922 Fairmont Avenue, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 and Part 2, and at the NIH computer facility, Bethesda, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 31 U.S.C. 21, 22, 24, 49, 54, 66a, and 952 (1976);

b. 5 U.S.C. 5701 (1976);

c. Federal Travel Regulations, Federal Property Management Regulations, Part 101-7.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal to the U.S. Treasury for payment;

b. For transmittal to the Department of State or an embassy for passports or visas;

c. For quarterly report to General Services Administration of individuals approved for first class travel; and

d. For any of the routine uses specified in the Prefatory Statement.

STORAGE:

Maintained on paper in file folders, on disks, and on magnetic tape.

* * * * *

SAFEGUARDS:

Maintained in locked file cabinets in same room as users. For ADP records, a key word, initials, and NRC Office of the Controller's account number must be known in order to retrieve information.

RETENTION AND DISPOSAL:

Retained for 3 years, then destroyed through regular trash disposal system.

* * * * *

21. The paragraphs of NRC-21 entitled "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC-21

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SYSTEM LOCATION:

Primary system-Office of the Controller, NRC, 4922 Fairmont Avenue, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 and Part 2, and at the Department of Energy Computer Facility, Germantown, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 21, 22, 24, 49, 54, 66a and 952 (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes;

b. For reporting tax withholding to Internal Revenue Service and appropriate state and local taxing authorities;

c. For FICA deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholdings for health insurance to the insurance carriers and the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W-2 statements to taxing authorities and the individual;

h. (When P.L. 93-579 becomes effective, it is anticipated that appropriate statements will be issued to employees, spouse-recipients, and the courts involved);

i. For transmittal to the Office of Management and Budget for review of budget requests;

j. For transmittal of data to the Department of Energy for preparing computer material for NRC's transmittal of data to the U.S. Treasury;

k. For withholding and reporting of retirement, reemployed annuitants and life insurance information to the Office of Personnel Management;

l. For transmittal of information to State agencies for unemployment purposes; and

m. For any of the routine uses specified inthe Prefatory Statement.

* * * * *

SAFEGUARDS:

Maintained in secured locked room after working hours. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 3 years after transfer or separation of employee, then destroyed by shredding.

* * * * *

22. The paragraphs of NRC-22 entitled "System name," "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Safeguards," "Retention and disposal," "Record access procedures," and "Record sources categories" are amended to read as follows:

NRC-22

SYSTEM NAME:

Personnel Performance Appraisals-NRC

SYSTEM LOCATION:

Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 161(d), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(d) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and Merit Systems Protection Board to resolve grievances or complaints related to promotion or appointment selections; and

b. For any of the routine uses specified in the Prefatory Statement.

STORAGE: MAINTAINED ON PAPER IN FILE FOLDERS.

* * * * *

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained 1 year, or until subsequent rating is prepared, whichever is later.

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RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

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RECORD SOURCE CATEGORIES:

Individual to whom record pertains and employee's supervisors.

23. The paragraphs of NRC–23 entitled "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system including categories of users and the purposes of such uses," "Retention and disposal," and "Record source categories" are amended to read as follows:

NRC–23

* * * * *

SYSTEM LOCATION:

Primary system-Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the Department of Energy computer facility, Germantown, Maryland.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Section 161(d), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(d) (1976);

b. 44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To exchange between the NRC, Office of Personnel Management and Merit Systems Protection Board, and other Federal agencies for personnel research purposes and used to aid in identifying employees included in research studies that extend over a period of time; and

b. For any of the routine uses specified in the Prefatory Statement.

* * * * *

RETENTION AND DISPOSAL:

Retained 3 years, then destroyed by shredding.

* * * * *

RECORD SOURCE CATEGORIES:

Individual Federal employees or applicants, supervisors, assessment center assessors, Office of Personnel Management, or NRC personnel files and records, and other Federal agencies.

24. The paragraphs of NRC–26 entitled "System location," "Categories of individuals covered by the system, " "Authority for maintenance of the system," "Storage," and "Safeguards" are amended to read as follows:

NRC–26

* * * * *

SYSTEM LOCATION:

Administrative Correspondence Branch, Office of the Executive Director for Operations, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Correspondents with the Executive Director for Operations, other Office Directors, members of Congress and Congressional staffs, and correspondence referred by the Office of the Secretary.

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AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

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STORAGE:

Maintained on paper in file folders.

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SAFEGUARDS:

Maintained in file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

* * * * *

25. The paragraphs of NRC–27 entitled "System location," "Authority for maintenance of the system," "Retention and disposal," and "System manager(s) and address" are amended to read as follows:

NRC—27

* * * * *

SYSTEM LOCATION:

Primary system-Union Carbide Corporation, Industrial and Personnel Management Department, Computer Science Division, P.O. Box P, Oak Ridge, Tennessee 37830.

Duplicate sytem-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 (e) and Part 2.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 53, 63, 65, 81, 103, 104, and 161(o), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o) (1976).

* * * * *

RETENTION AND DISPOSAL:

a. Original paper document—retained 2 years: destroyed by shredding;

b. Magnetic tape—retained permanently at Computing Technology Center;

c. Log books—retained indefinitely; no names;

d. Computer printouts—periodically updated; destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS;

Branch Chief, Performance Evaluation Branch, Office of Management and Program Analysis, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

26. The paragraphs of NRC–28 entitled "System location," Categories of individuals covered by the system," "Categories of records in the system," "Authority for maintenance of the system," and "safeguards" are amended to read as follows:

NRC–28

* * * * *

SYSTEM LOCATION:

Primary system-Division of Organization and Personnel, Office of Administration, NRC, 7910 Woodmont Avenue, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 and Part 2, and at the Department of Energy computer facility, Germantown, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Federal employment with the U.S. Nuclear Regulatory Commission. Categories of records in the system: These records contain general application information relating to the education, training, employment history, earnings, past performance, criminal convictions, if any, written achievement tests, potential, honors, awards, or fellowships, military service, veteran preference status, birthplace, birth date, social security account number, and home address of persons who have applied for Fedeal employment with the

NRC (SF-171, resumes, and similar documents).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 161(d), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(d) (1976).

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SAFEGUARDS:

Maintained in unlocked file cabinet. Access to and use of these records are limited to those persons whose official duties require such access.

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27. The paragraphs of NRC-30 entitled "System name," "System location," "Categories of records in the system," "Authority for maintenance of the system," "Storage," "Retrievability," "Safeguards," "Retention and disposal," and "System manager(s) and address" are amended to read as follows:

NRC-30

SYSTEM NAME:

Manpower System (MPS) Records-NRC

SYSTEM LOCATION:

Primary system-NIH computer facility, c/o Office of Management and Program Analysis, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the location listed in Addendum I, Part 1 (a).

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to number of regular and nonregular hours worked, the nature of the work, and workload projections.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Section 161(p), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(p) (1976);

b. E.O. 9397, November 22, 1943.

* * * * *

STORAGE:

Maintained in computer files, on tapes, disks, cards, and microfiche.

RETRIEVABILITY:

Accessed by social security account, project, program, or activity number, docket number, TACS, or PPSAS numbers.

SAFEGUARDS:

Maintained in locked cabinets in locked rooms. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained 2 years, then detroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

a. Director, Office of Management and Program Analysis, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

b. Assistant to the Director and Chief, Program Support Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

28. The paragraphs of NRC-31 entitled "Authority for maintenance of the system," "Safeguards," "Retention and disposal," "System manager(s) and address," and "Record access procedures" are amended to read as follows:

NRC-31

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Section 201, Energy Reorganization Act of 1974, 42 U.S.C. 5841 (1976);

b. 44 U.S.C. 3101 (1970).

* * * * *

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Classified materials are kept in approved safes, and unclassified records are in file cabinets. Access is granted only through a records clerk.

RETENTION AND DISPOSAL:

Retained indefinitely at NRC warehouse.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Correspondence and Records Branch Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12065 and will not be disclosed.

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29. The paragraphs of NRC-32 entitled "System name," "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC-32

SYSTEM NAME:

Source and Special Nuclear Material License Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Fuel Cycle & Material Safety, Office of Nuclear Material Safety and Safeguards, NRC, 7915 Eastern Avenue Silver Spring, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1(b), Part 2, and the NIH computer facility, Bethesda, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 53, 63, 65, 161(b), (i), and (o), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2073, 2093, 2095, 2201(b), (i), and (o) (1976).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide records to State health departments for their information and use;

b. To provide information to other Federal, State, and local health officials in the event of incident or exposure, for purposes of their information, investigation, and protection of public health and safety;

c. To provide the Department of Energy with information concerning special nuclear material licenses for purposes of control related transfers and safeguards accountability; and

d. For any of the routine uses specified in the Prefatory Statement;

e. Certain of the information provided in this category is routinely placed in the NRC Public Document Room.

STORAGE:

Maintained on paper, index cards, logs, microfilm and mag cards.

* * * * *

SAFEGUARDS:

Maintained in unlocked shelving units under control of supervisory personnel. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are continuously computer updated as new information is developed or individual licenses are cancelled or terminated; license files are transferred annually to the NRC warehouse when they become inactive or are terminated, and retained indefinitely.

* * * * *

30. The paragraphs of NRC–34 entitled "System location," "Authority for maintenance of the system," and "Retention and disposal" are amended to read as follows:

NRC–34

* * * * *

SYSTEM LOCATION:

Primary system—Advisory Committee on Reactor Safeguards, NRC, 1717 H Street, NW, Washington, DC.

Duplicate system-duplicate systems exist, in whole or in part, at the NIH computer facility, Bethesda, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1973).

* * * * *

RETENTION AND DISPOSAL:

Retained indefinitely.

* * * * *

NRC–35

31. System NRC–35 is revoked.

32. The paragraphs of NRC–36 entitled "System location," "Categories of individuals covered by the system," "Authority for maintenance of system," "Safeguards," and "Retention and disposal" are amended to read as follows:

NRC–36

* * * * *

SYSTEM LOCATION:

Primary system—Telecommunications Branch, Division of Facilities and Operations Support, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate system—duplicate systems exist, in whole or in part, at the location listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and consultants.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

* * * * *

SAFEGUARDS:

Maintained in locked room under 24-hour visual control of NRC operators. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until 6 months after association with NRC is discontinued, then destroyed by shredding.

* * * * *

33. The paragraphs of NRC–37 entitled "System location," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Storage," "Retrievability," "Retention and disposal," "Record access procedures," and "Record source categories" are amended to read as follows:

NRC–37

* * * * *

SYSTEM LOCATION:

Primary system-Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and at the NIH computer facility, Bethesda, Maryland.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Sections 145 and 161(i), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2165 and 2201(i) (1976);

b. E.O. 12065, June 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used:

a. To provide information relating to the control of classified information and material to the Information Security Oversight Office, Department of Defense, Department of Energy (computer input) and other gevernment agencies; and

b. For any of the routine uses specified in the Prefatory Statement.

* * * * *

STORAGE:

Maintained primarily in file folders, on magnetic tape, disk packs, and index cards.

RETRIEVABILITY:

Indexed and accessible by name and/or assigned number.

* * * * *

RETENTION AND DISPOSAL:

a. Classified documents, administrative correspondence, document receipts, destruction certificates, classified document inventories, and related records—retained 2 years, then destroyed by shredding.

b. Top Secret Accounting and Control files—registers: retained 5 years after documents shown on form are downgraded, transferred, or destroyed; accompanying forms: retained until related document is downgraded, transferred; or destroyed. Destroyed by shredding.

* * * * *

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12065 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

* * * * *

RECORD SOURCE CATEGORIES:

Persons including NRC employees, NRC contractors, NRC consultants, and NRC licensees as well as information furnished by other government agencies or their contractors.

34. The paragraphs of NRC–38 entitled "System location," "Categories of records in the system," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes of such uses," "Retrievability," "Retention and disposal" and "Record source categories" are amended to read as follows:

NRC–38

* * * * *

SYSTEM LOCATION:

Primary system-Division of Document Control, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate system-duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1

(a) and (h), and at the TERA computer facility, Bethesda, Maryland.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include title, occupation, and institutional affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1970).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used: For distribution of documents to persons and organizations listed on the mailing lists.

* * * * *

RETRIEVABILITY:

Filed alphabetically by company name and then individual name, where possible.

* * * * *

RETENTION AND DISPOSAL:

Documents requesting changes retained 3 months, destroyed through regular trash disposal system; lists retained until cancelled or revised, destroyed through regular trash disposal system.

* * * * *

RECORD SOURCE CATEGORIES:

NRC licensees and individuals expressing an interest in NRC activities and publications.

35. The paragraphs of NRC–39 entitled "System location," "Categories of records in the system," "Authority for maintenance of the system," "Routine uses of records maintained in the system, including categories of users and the purposes for such uses," "Storage," "Safeguards," "Retention and disposal," "Record access procedures," and "Record source categories" are amended to read as follows:

NRC–39

* * * * *

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate System—duplcate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1(e) and Part 2, the Department of Energy, Administration and Century XXI Buildings, Germantown, Maryland and the NIH computer facility, Bethesda, Maryland.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Include information relating to personnel, including name, address, date and place of birth, social security account number, citizenship, residence history, employment history, foreign travel, education, personal references, organizational membership and security clearance history. These records also contain copies of investigative reports from other agencies (primarily from the Office of Personnel Management or the Federal Bureau of Investigation), summaries of investigative reports, results of Federal agency indices checks, reports of personnel security interviews, clearance actions information (e.g. grants and terminations), violations of laws, reports of security infractions, 'Request for Visit or Access Approval' (Form NRC–277), and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Sections 145 and 161(i), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2165 and 2201(i) (1976);

b. E.O. 12065, June 28, 1978;

c. E.O. 10450, April 27, 1953;

d. E.O. 10865, February 20, 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Security, Personnel Security Board Members or Personnel Security Review Board Members, Office of Personnel Management, Federal Bureau of Investigation, and other Federal agencies:

a. To determine clearance eligibility;

b. To certify clearances;

c. To maintain the NRC personnel security program; and

d. For any of the routine uses specified in the Prefatory Statement.

STORAGE:

Maintained primarily in file folders, on magnetic tape, disc packs, and index cards.

* * * * *

SAFEGUARDS:

File folders and computer printouts are maintained in security or controlled areas under guard and/or alarm protection as appropriate. Retention and disposal:

a. Personnel security clearance files—retained 5 years after date of last action, then transferred to Federal Records Center, Suitland, Maryland; destroyed by shredding 20 years after date of last action.

b. Request for Visit or Access Approval—Maximum security areas: retained 5 years after final entry or after date of document, as appropriate; Other areas: 2 years; destroyed by shredding;

c. Other security clearance administration files—retained 2 years; destroyed by shredding.

* * * * *

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12065 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

* * * * *

RECORD SOURCE CATEGORIES:

Persons including NRC applicants, employees, contractors, consultants, licensees, and visitors as well as information furnished by other government agencies or their contractors.

36. The paragraphs of NRC–40 entitled "System name," "System location," "Categories of records in the system," "Authority for maintenance of the system," "Safeguards," "Retention and disposal," and "Record access procedures" are amended to read as follows:

NRC–40

SYSTEM NAME:

Facility Security Support Files and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Security, Office of Administration, NRC, 7915 Eastern Avenue, Silver Spring, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Part 1 and Part 2.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding: NRC facilities' and the NRC contractor facilities' security programs and associated records; individuals visiting NRC facilities; NRC employees and NRC related identification files maintained for access purposes; actual or suspected violations of laws of security interest administered by NRC, including copies of investigative reports

from other government agencies; records of individual's firearms qualification scores including the accountability of firearms; and other documents relating to the safeguards of National Security Information and Restricted Data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. Sections 145 and 161 (i), (k), and (p), Atomic Energy Act of 1954, as amended, 42 U.S.C. 2165 and 2201 (i), (k), and (p) (1976);

b. E.O. 12065, June 28, 1978.

* * * * *

SAFEGUARDS:

Maintained in security containers or security areas under guard and/or alarm protection, as appropriate.

RETENTION AND DISPOSAL:

a. Survey and inspection files and records pertaining to NRC and NRC contractor facilities' security programs—Government-owned facilities: retained 3 years, or until discontinuance of facility, whichever is sooner; Privately owned facilities: retained 4 years or until security cognizance is terminated, whichever is sooner; destroyed by shredding;

b. Facility visitor records—Maximum security areas: retained 5 years after final entry or after date of documents, as appropriate; other areas: 2 years; destroyed by shredding;

c. NRC employee and NRC-related identification files—retained 2 years; destroyed by shredding;

d. Security interest violation and investigative report files—retained indefinitely;

e. Firearms qualification scores and accountability—retained 2 years; destroyed by shredding;

f. Other documents relating to NSI and Restricted Data safeguards and other security and protective service files—retained 2 years; destroyed by shredding.

* * * * *

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12065 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

* * * * *

37. The addresses in paragraphs (i), (j), and (k) of Addendum I, Part 1, are revoked and paragraphs (c), (g), (h), and Part 2(b) are amended to read as follows:

Addendum I

List of U.S. Nuclear Regulatory Commission Locations

Part 1

* * * * *

c. Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland.

* * * * *

g. Nicholson Lane Building, 5650 Nicholson Lane, Rockville, Maryland.

h. Matomic Building, 1717 H Street, NW., Washington, D.C.

Part 2

* * * * *

b. NRC Region II, 101 Marietta Street, Suite 3100, Alanta, Georgia 30303.

* * * * *

Dated this 2d day of March, 1979 for the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-10546 Filed 4-5-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF STATE

Agency for International Development

Housing Guaranty Program in the Ivory Coast; Information for Lenders

The Agency for International Development (A.I.D.) has authorized a guaranty of a loan in an amount not to exceed $12.6 million to finance the second tier of a program to build low income housing in the Ivory Coast. Eligible investors as defined below are invited to make proposals to the Banque Nationale Pour L'Epargne et le Credit. The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of American and will be issued pursuant to authority in Section 222 of the Foreign Assistant Act of 1961, as amended (the Act).

This project is referred to as Project No. 681-HG-003B.

Lenders (Investors) eligible to receive an A.I.D. guaranty are those specified in Section 238 of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially benefically owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

Selection of an eligible investor and the terms of the loan are subject to approval by A.I.D. The investor and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the borrower.

To be eligible for guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by A.I.D. Initial disbursement must be no later than September 30, 1979, and final disbursement no later than December 31, 1980, with a maximum of five (5) disbursements during this period. There must be a minimum draw of $1 million at any disbursement.

The borrower desires to receive proposals from eligible investors as defined above. The proposals should be based on the indicated disbursement schedules. Since investor selection will be made on the basis of the proposals, the proposals should contain the best terms to be offered by investors. The proposals should state:

A. The fixed interest rate per annum for a period not to exceed thirty (30) years from the first disbursement.

B. The grace period for repayment of principal; such period not to exceed ten (10) years.

C. The minimum time during which prepayment of principal will not be accepted.

D. The investor's commitment or service fee, if any, and schedule of payment of such fee.

E. The period during which the proposal may be accepted which shall be at least seventy-two (72) hours after the closing date specified below.

The proposal may state other terms and conditions which the investor desires to specify. After investor selection by the borrower and approval by A.I.D., the borrower and investor shall negotiate all other terms and conditions of the Loan Agreement.

In the event the investor will engage in the reselling of the loan to other persons, the investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the borrower.

The closing date by which prospective investors are requested to submit proposals to the borrower is the close of business on April 19, 1979. Negotiation of the Loan Agreement and Contract of Guaranty is expected to take place in Washington, D.C. within forty-five (45) days after acceptance of a proposal.

Eligible investors are invited to consult promptly with the borrower.

Those investors interested in extending a loan to the borrower should communicate with the borrower at the following address:

Banque Nationale Pour L'Epargne et le Credit, c/o Embassy of the Ivory Coast, Office of the Financial Counsellor, 117 East 55th Street, New York, New York 10022, Attention: Mr. Augustin Douoguih.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632-9637.

To facilitate A.I.D. approval, copies of proposals made to the borrower may be sent to A.I.D. at the above address on or after the closing date noted above.

This notice is not an offer by A.I.D. or by the borrower. The borrower and not A.I.D. will select an investor and negotiate the terms of the proposed loan.

David McVoy,
Assistant Director for Operations, Office of Housing.

March 26, 1979.

[FR Doc. 79-10545 Filed 4-5-79; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF THE TREASURY

Customs Service

Bicycle Tires and Tubes From the Republic of Korea; American Manufacturer's Desire To Contest Final Countervailing Duty Determination

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

ACTION: Notice of desire to contest final countervailing duty determination made by the Secretary of the Treasury under 19 U.S.C. 1303.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has received notification of an American manufacturer's desire to contest the negative countervailing duty determination with respect to Korean manufacturers/exporters of bicycle tires and tubes, other than Korea Inoue Kasei.

EFFECTIVE DATE: April 6, 1979.

FOR FURTHER INFORMATION CONTACT: R. Theodore Hume, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5476).

SUPPLEMENTARY INFORMATION: On January 12, 1979, an affirmative "Final Countervailing Duty Determination" relating to bicycle tires and tubes from Korea was published in the **Federal Register** (44 FR 2570). It was announced that the Government of Korea has given benefits with respect to one manufacturer (Korea Inoue Kasei) which constitute bounties or grants. It was also announced in this notice that with the exception of Korea Inoue Kasei, "the other Korean manufacturers/exporters investigated received aggregate *ad valorem* benefits of no greater than 0.34 percent, which are considered *de minimis,*" and that, therefore, no bounty or grant exists within the meaning of 19 U.S.C. 1303.

Notification was received by the Secretary of the Treasury on January 19, 1979, that the Carlisle Tire and Rubber Company of Carlisle, Pennsylvania, an American manufacturer of the same class or kind of merchandise as that described in the above determination, desired to contest this determination with respect to bicycle tires and tubes produced by companies other than Korea Inous Kasei, from the Republic of Korea.

In accordance with the provisions of section 516 of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516), notice is hereby given that an American manufacturer has informed the Secretary that it desires to contest the determination relating to bicycle tires and tubes from Korea, produced by companies other than Korea Inoue Kasei.

Robert E. Chasen,
Commissioner of Customs.

Approved: March 27, 1979.

Robert H. Mundheim,
General Counsel of the Treasury.

[T.D. 79-106]

[FR Doc. 79-10574 Filed 4-5-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

Assignment of Hearings

April 3, 1979.

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 Offical 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.

MC 114569 (Sub-240F), Shaffer Trucking, Inc., now assigned for hearing on April 17, 1979, at Philadelphia, Pennsylvania and will be held in U.S. Distric Court, New U.S. Courthouse, 601 Market Street.

MC-C-10159, International Brotherhood of Teamsters Chauffeurs, Warehousemen & Helpers of America v. Ringsby Truck Lines, Inc., now assigned for hearing on May 21, 1979, at Washington, D.C., is canceled and reassigned on May 21, 1979 (1 week) at Denver, Colorado.

MC 61231 (Sub-127F), Easter Enterprises, Inc., d.b.a. ACE Line, Inc., now assigned for hearing on April 23, 1979, at Billings, Montana and will be held in Room 3033, Federal Building, 316 North 26th Street.

MC 123407 (Sub-495F), Sawyer Transport, Inc., now assigned for hearing on April 23, 1979, at Billings, Montana and will be held in Room 3033, Federal Building, 316 North 26th Street.

MC 124692 (Sub-200F), Sammons Trucking, now assigned for hearing on April 18, 1979, at Billings, Montana and will be held in Room No. 5000, Federal Building, 316 North 26th Street.

H. G. Homme, Jr.,
Secretary.

[Notice No. 62]

[FR Doc. 79-10619 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

April 3, 1979.

These applications for long-and-short-haul or aggregate-of-intermediates relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before April 23, 1979.

Long-and-Short-Haul

FSA No. 43679, Trans-Continental Freight Bureau, Agent's No. 536, rates on iron or steel railway track fastenings and railway track rails, from Minnequa, Colo., to stations in Idaho, Oregon, and Washington, to be published in its Tariff ICC TCFB 3001. Grounds for relief—motor carrier competition.

Aggregate-of-Intermediates

FSA No. 43680, Trans-Continental Freight Bureau, Agent's No. 537, rates on iron or steel railway track fastenings and railway track rails, from Minnequa, Colo., to stations in Idaho, Oregon, and Washington, to be published in its Tariff ICC TCFB 3001. Grounds for relief—maintenance of depressed rates published to meet motor carrier competition without use of such rates as factors in constructing combination rates.

Long-and-Short-Haul

FSA No. 43678, Trans-Continental Freight Bureau, Agent No. 535, trailer-on-flatcar (Plan 11¼) rates on sugar, beet or cane, in bags, from Crockett and Richmond, Calif. to Chicago, East Peoria, and Peoria, Ill., to

continue rates published in Item 3805 series of its Tariff ICC TCFB 7023-R. Grounds for relief—rate relationship.

FSA No. 43681, Southwestern Freight Bureau, Agent No. B-806, carload rates on Newsprint Paper from Sheldon, Tex. to points in Illinois, and returned shipments of newsprint paper winding cores in the reverse direction, in supp. 160 to its Tariff ICC SWFB 4572, to become effective May 7, 1979. Grounds for relief—Rate relationship and returned shipments.

FSA No. 43682, Hanjin Container Lines, Ltd.'s No. 100, intermodal rates on general commodities in containers, between ports in Japan and Korea and rail carriers' terminals on the U. S. Atlantic and Gulf Coasts, by way of water-rail interchanges on the U. S. Pacific Coast, to be published in Trans-Pacific Freight Conference of Japan/Korea Tariff I.C.C. TPC 111, and Pacific Westbound Conference Tariff I.C.C. PWC 708A. Grounds for relief—water competition.

FSA No. 43683, Southwestern Freight Bureau, Agent, No. B-810, annual volume rates on chemicals and related articles, beween specified points in Louisiana and Texas, on the one hand, and on the other, Bay City and Midland, Mich., and Sarnia, Ont., Canada, in supp. 27 to its Tariff ICC SWFB 4616, to become effective May 1, 1979. Grounds for relief—market competition.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-10617 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions

Decided: March 26, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest on or before May 7, 1979, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protests shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before May 7, 1979, (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. Homme, Jr.,
Secretary.

MC 2900 (Sub-346F), filed November 27, 1978. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., P.O. Box 2408, Jacksonville, FL 32203. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes transporting *general commodities* (except classes A and B explosives, household goods as defined by the Comission, commodities in bulk, and those requiring special equipment), (1) between East Dubuque, IL, and Conneaut, OH, over US Hwy 20, (2) between E. Clinton, IL, and Mansfield, OH, over US Hwy 30, (3) between E. Moline, IL, and the OH/PA State line, over US Hwy 6, (4) between Quincy, IL, and Toledo, OH, over US Hwy 24, (5) between Hamilton, IL, and Veedersburg, IN, over US Hwy 136, (6) between E. Hannibal, IL, and Coshocton, OH, over US Hwy 36, (7) between E. Moline, IL, and Mayville, KY, from E. Moline over US Hwy 150 to junction Interstate Hwy 64, then over Interstate HWY 64 to Lexington, KY, then over US Hwy 68 to Mayville, and return over the same route, (8) between Savannah, IL, and

Mendota, IL, over US Hwy 52, (9) between Gulfport, IL, and Chicago, IL, over US Hwy 34, (10) between S. Beloit, IL, and Pana, IL, over US Hwy 51, (11) between Effingham, IL, and the IL/WI State line, over US Hwy 45, (12) between Chicago, IL, and junction US Hwy 40 and IL Hwy 1, over IL Hwy 1, (13) between Chicago, IL, and Richmond, IL, over US Hwy 12, (14) between St. Louis, MO, and E. Moline, IL, over US Hwy 67, (15) between Terre-Haute, IN, and Springfield, OH, over US Hwy 40, (16) between Shoals, IN, and Belpre, OH, over US Hwy 50, (17) between Lousiville, KY, and junction US Hwys 31, 31E, and 31W, (a) over US Hwy 31, (b) over US Hwy 31E, and (c) over US Hwy 31W, (18) between junction US Hwys 31, 31E, and 31W, and South Bend, IN, over US Hwy 31, (19) between Elkhart, IN, and Cincinnati, OH, from Elkhart over US Hwy 33 to Ft. Wayne, IN, then over US Hwy 27 to Cincinnati, and return over the same route, (20) between Decatur, IN, and Pomeroy, OH, over US Hwy 33, (21) between Huntington, IN, and Wadsworth, OH, over US Hwy 224, (22) between junction US Hwys 41 and 52, at or near Gravel Hill, IN, and Chesapeake, OH, over US Hwy 52, (23) between Michigan City, IN, and the OH/WV State line, over US Hwy 35, (24) between Attica, IN, and Logansport, IN, from Attica over IN Hwy 28 to Odell, IN, then over IN Hwy 25 to Logansport, and return over the same route, (25) between Indianapolis, IN, and New Carlisle, OH, from Indianapolis over IN Hwy 67 to junction IN Hwy 32, then over IN Hwy 32 to Union City, OH, then over OH Hwy 571 to New Carlisle, and return over the same route, (26) between Bedford, IN, and the IN/MI State line, from Bedford over IN Hwy 37 to Indianapolis, then over Interstate Hwy 69 to the IN/MI State line, and return over the same route, (27) between Toledo, OH, and Cincinnati, OH, over Interstate Hwy 75, (28) between Toledo, OH, and Portsmouth, OH, over US Hwy 23, (29) between Cleveland, OH and Cincinnati, OH, over Interstate Hwy 71, (30) between Cleveland, OH, and Marietta, OH, over Interstate Hwy 77, (31) between the MI/OH State line and Cincinnati, OH, over US Hwy 127, (32) between Findlay, OH, and Ripley, OH, over US Hwy 68, (33) between Canton, OH, and Ripley, OH, over US Hwy 62, (34) between Michigan City, IN, and Versailles, IN, over US Hwy 421, (35) between St. John, IN, and junction Interstate Hwy 64 and US Hwy 231, over US Hwy 231, (36) between Clarksville, IN, and junction Interstate Hwy 64 and US Hwy 60, over Interstate Hwy 64, (37) between junction Interstate Hwy 64 and US Hwy 60 and Ashland, KY, over US Hwy 60, (38) between junction Interstate Hwy 64 and US Hwy 60 and St. Louis, MO, over Interstate Hwy 64, (39) between Vincennes, IN, and the IN/IL State line, over US Hwy 41, (40) between Louisville, KY, and Cincinnati, OH, over Interstate Hwy 71, and (41) between Cincinnati, OH, and Friendship, OH, over OH Hwy 125, serving, in (1) through (41), inclusive, all intermediate points in IL and OH, those intermediate points in IN on the following routes: (a) US Hwy 20, (b) US Hwy 40, (c) US Hwy 50, (d) US Hwy 52 between junction US Hwys 52 and 41 and the IN/OH State line, (e) US Hwy 41 between Vincennes and the IN/IL State line, (f) US Hwy 24 between junction US Hwy 24 and IN Hwy 25 and the IN/OH State line, (g) US Hwy 31 between Indianapolis and junction US Hwys 31 and 31 E, (h) US Hwy 31E between junction US Hwys 31 and 31E and the IN/KY State line, (i) US Hwy 31W between junction US Hwys 31 and 31W and the IN/KY State line, (j) US Hwy 150 between junction US Hwys 150 and 50 and the IN/KY State line, (k) US Hwy 35 between junction US Hwys 35 and 40 and the IN/OH State line, (l) IN Hwy 28 between junction IN Hwy 28 and US Hwy 41 and junction IN Hwys 28 and 25, (m) IN Hwy 25 between junction IN Hwys 25 and 28 and junction IN Hwy 25 and US Hwy 24, (n) IN Hwy 67 between Indianapolis and junction IN Hwys 67 and 32, and (o) IN Hwy 32 between junction IN Hwys 32 and 67 and the IN/OH State line, and serving all other intermediate points in IN for purposes of joinder only, and serving all off-route points in OH, and those in IL on and north of US Hwy 40, restricted, in (1) through (41), inclusive, against the transportation of traffic (A) originating at, destined to, or interchanged with a connecting carrier at a point in the St. Louis, MO, commercial zone as defined by the Commission if either the origin or destination of the traffic is a point in IL, (B) originating at a point in IL and destined to a point in IL, (C) picked up, delivered to, or interchanged with a connecting carrier at any point in MI if the traffic originates at, is destined to, or will be interchanged with a connecting carrier at a point in Toledo or its commercial zone as defined by the Commission, (D) picked up, delivered to, or interchanged with a connecting carrier at any point in MI or at Toledo OH, or its commercial zone as defined by the Commission, if the traffic originates at, is destined to, or will be interchanged with a connecting carrier at Lousiville, KY, Anderson, South Bend, Elkhart, Indianapolis, Richmond, Seymour, Ft. Wayne, Kokomo, Columbus, Jeffersonville, Clarksville, or Muncie, IN, including their respective commercial zones or at a point in OH, or (E) picked up from a consignor or delivered to consignee within the St. Louis, MO, commercial zone as defined by the Commission if either the origin or destination of the traffic is at a point within the Louisville, OH, or Cincinnati, OH, commercial zones as defined by the Commission.

Note.—Applicant is converting irregular route authority here to regular. Condition: Prior or coincidental cancellation, at applicant's written request, of that part of Certificate No. MC-2900 Sub 239, served May 10, 1974, which encompasses those irregular routes on Sheets 5 and 6 which fall under the second commodity description on Sheet 5. (Hearing site: Washington, DC.)

MC 3854 (Sub-47F), filed December 29, 1978. Applicant: Burton Lines, Inc., P.O. Box 11306, East Durham Station, Durham, NC 27703. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *hardboard, insulation board, plywood, and particle board*, and (2) *materials and accessories* used in the installation of the commodities in (1) above, (except commodities in bulk), from the facilities of the Abitibi Corporation, in Wilkes County, NC, to points in OH, IL, MI, MN, MO, IA, and WI, and those points in IN on and north of U.S. Hwy 40; and (3) *materials, equipment, and supplies* used in the manufacture and installation of the commodities in (1) above, in the reverse direction. (Hearing site: Detroit, MI, or Washington, DC.)

MC 4484 (Sub-6F), filed December 12, 1978. Applicant: Crown Transport, Inc., R.D. #2, Wampum, PA 16157. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except articles of unusual value and household goods as defined by the Commission), from the facilities of Wampum Mine Storage Company, at Wampum, PA, to points in NY and NJ. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—(To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 4966 (Sub-22F), filed August 1, 1978, previously noticed in the FR issue of February 1, 1979. Applicant: JONES TRANSFER COMPANY, a Corporation, 300 Jones Ave., Monroe, MI 48161. Representative: Thomas M. Hummer, P.O. Box 717, Monroe, MI 48161. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *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), (1) between Toledo and Youngstown, OH, from Toledo over Interstate Hwy 280 to junction Interstate Hwys 80/90, then over Interstate Hwy 80 to Youngstown, and return over the same route, serving intermediate and off-route points in Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, Summit, Columbiana, Carroll, Mahoning, and Stark Counties, OH, (2)(a) between junction Interstate Hwy 80 and Interstate Hwy 77 and Canton, OH, over Interstate Hwy 77, (b) between junction Interstate Hwy 80 and Interstate Hwy 71 and junction Interstate Hwy 77 and Interstate Hwy 80, from junction Interstate Hwy 80 and Interstate Hwy 71, over Interstate Hwy 71 to Cleveland, OH, then over Interstate Hwy 77 to junction Interstate Hwy 80, and return over the same route, serving intermediate and off-route points in Holmes, Tuscarawas, Wayne, and Harrison Counties, OH, (3) between Toledo and Cincinnati, OH, (a) over Interstate Hwy 75, (b) from Toledo over U.S. Hwy 23 to Columbus, OH, then over Interstate Hwy 71 to Cincinnati, and return over the same route, serving intermediate and off-route points in Brown, Butler, Clermont, Clinton, Hamilton, Montgomery, Preble, Warrne, Clark, Champaign, Franklin, Delaware, Fairfield, Fayette, Knox, Licking, Madison, Marion, Morrow, Perry, Pickway, Ross, and Union Counties, OH, (4) Between Toledo and Van Wert, OH, from Toledo over Interstate Hwy 475 to junction U.S. Hwy 24, then over U.S. Hwy 24 to junction U.S. Hwy 127, then over U.S. Hwy 127 to Van Wert, and return over the same route, serving intermediate and off-route points in Allen, Auglaize, Defiance, Henry, Mercer, Paulding, Putnam, and Van Wert Counties, OH. Conditions: (1) The regular-route authority granted here shall not be severable, by sale or otherwise, from applicant's retained pertinent irregular-route authority. (2) Applicant must request, in writing, the imposition of restrictions on its underlying irregular-route authority precluding service between any two points authorized to be served here pusuant to regular-route authority. (Hearing site: Detroit, MI, or Toledo, OH.)

Note.—The purpose of this application is to convert a portion of applicant's existing irregular-route authority to regular-route authority.

Note.—This republication includes Franklin County as an intermediate or off-route point in (3)(b).

MC 6461 (Sub-19F), filed November 13, 1978. Applicant: B-LINE TRANSPORT CO., INC., P.O. Box 13206, Spokane, WA 99213. Representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, OR 97205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *concrete products*, from the facilities of Central Pre Mix Concrete Co., in Spokane County, WA, to points in Morrow, Umatilla, Wallowa, Union, and Baker Counties, OR. (Hearing site: Spokane, WA, or Portland, OR.)

MC 26396 (Sub-223F), filed January 17, 1979. Applicant: POPELKA TRUCKING CO., d/b/a THE WAGGONERS, a Corporation, P.O. Box 990, Livington, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles, pumping units, and accessories* for pumping units, from Hutchinson, KS, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Billings, MT.)

MC 55896 (Sub-105F), filed November 20, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *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 Keokuk, IA, St. Louis, MO, points in OH, those points in IL on and north of U.S. Hwy 40, those points in IN on and north of U.S. Hwy 40, those points in MI on and south of a line beginning at Ludington, MI, and extending along U.S. Hwy 10 to Bay City, MI, then along MI Hwy 25 to Port Huron, MI, those in PA on and west of U.S. Hwy 219, and those points in WI bounded by a line beginning at Port Washington, WI, and extending along WI Hwy 33 to junction WI Hwy 67, then along WI Hwy 67 to junction U.S. Hwy 14, then along U.S. Hwy 14 to the IL/WI State line, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 55896 (Sub-108F), filed January 15, 1979. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from points in WI to points in the United States (except AK, HI, and WI), restricted to the transportation of traffic originating at the facilities of The Larsen Company. (Hearing site: Green Bay, WI.)

MC 69116 (Sub-214F), filed December 8, 1978. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *bodies, hoists, power gates, cranes, rear loaders, front loaders, stationary compactors, tilt frames, containers, and components*, (b) *accessories and parts for the* commodities in (1)(a) above, and (c) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1)(a) and (b) above, from Galion, Winesburg, and Mount Vernon, OH, and Durant, OK, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1)(a) and (b) above, in the reverse direction. (Hearing site: Chicago, IL.)

MC 77061 (Sub-15F), filed January 22, 1979. Applicant: SHERMAN BROS., INC., 29534 Airport Rd., Box 706, Eugene, OR 97401. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wooden rafter beams, perlines, joists, girders, structural laminated members, structural laminated decking*, and *woodent and*

steel combined trusses, between the facilities of Trus Joist Corporation, at Lane, Washington, and in Clackamas Counties, OR, on the one hand, and, on the other, those points in California in and north of Santa Clara, Alameda, San Joaquin, Calaveras, and Alpine Counties, CA, and Washoe, Douglas, and Ormsby Counties, NV; and (2) *iron and steel articles*, between points in Multnomah County, OR, on the one hand, and, on the other, points in Shasta County, CA, restricted in (2) above the transportation of traffic originating at or destined to the facilities of American Steel, a Division of American Industries, Inc. (Hearing site: Portland or Eugene, OR.)

Note.— Dual operations may be involved.

MC 78687 (Sub-56F), filed January 9, 1979. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, West Cayuga St., Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer, and fertilizer ingredients*, (except liquid commodities in bulk), between points in DE, MD, NJ, NY, PA, and VA. (Hearing site: New York, NY.)

Note.—Dual operations are involved in this proceeding.

MC 96324 (Sub-31F), filed January 4, 1979. Applicant: General Delivery Service, Inc., P.O. Box 1816 Fairmont, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 110 South Columbus Street, Alexandria, VA 22314. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in DE, IN, KY, MD, NC, OH, MI, PA, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Owens-Illinois, Inc., at or near Havre de Grace, MD. (Hearing site: Washington, DC, or New York, NY.)

MC 98327 (Sub-32F), filed September 11, 1978, previously noticed in the FR issue of December 7, 1978. Applicant: SYSTEM 99, a Corporation, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Michael J. O'Neill (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *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 Tacoma, WA, and Medford, OR, over Interstate Hwy 5, as an alternate route for operating convenience only, serving no intermediate points, and serving the termini for purposes of joinder only. (Hearing site: Portland, OR, or Seattle, WA.)

Note.—This republication corrects the territory description.

MC 98964 (Sub-15F), filed December 27, 1978. Applicant: P.B.I. Freight Service, a corporation, 960 North 1200 West, Orem, UT 84507. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Ely and Tonopah, NV, over U.S. Hwy 6, serving all intermediate points, and serving Duckwater, NV, and the Ibex-Keystone Mine site in Nye County, NV, as off-route points. (Hearing site: Ely or Tonopah, NV.)

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 105566 (Sub-187F), filed December 27, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406 Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glassware, ceramic ware, and electrical appliances*, and (2) *parts and accessories* for the commodities in (1) above, from Charleroi and Greencastle, PA, and Paden City, WV, to points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, WA, and WY, and (3) *glass television bulb parts*, from Buffton, IN, to points in CA. (Hearing site: Washington, DC.)

MC 105774 (Sub-6F), filed January 8, 1979. Applicant: C. E. JOHNSON, U.S. Highway 281 and U.S. Highway 24, Osborne, KS 67473. Representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *agricultural machinery and parts* for agricultural machinery, from the facilities of Kent Manufacturing, Inc., at or near Tipton, KS, to points in AL, AR, CO, CT, DE, GA, ID, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, and WY, and (2) *materials* used in the manufacture of agricultural machinery, from Chicago and Quincy, IL, Kansas City, MO, St. Louis, MO, Houston, TX, and Oklahoma City, OK, to the facilities of Kent Manufacturing, Inc., at or near Tipton, KS. (Hearing site: Topeka or Wichita, KS.)

MC 107515 (Sub-1201F), filed January 15, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in by grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between the facilities of Kraft, Inc., in Clayton, Cobb, DeKalb, Fulton, and Gwinnett Counties, GA, on the one hand, and, on the other, points in AL, FL, KY, LA, MS, NC, SC, TN, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Atlanta, GA, or Tampa, FL.)

Note.—Dual operations may be involved.

MC 108119 (Sub-125F), filed February 22, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery*, and *attachments, accessories and supplies* for machinery, and (2) *materials, equipment and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities in (1), between Manitowoc, WI, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, KY, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC, and (2) *materials, equipment, and supplies* used in the building, repair, and outfitting of marine vessels, (except commodities in bulk), from the points named in (1) above (except Manitowoc, WI), to Sturgeon Bay, WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 109064 (Sub-37F), filed December 29, 1978. Applicant: TEX-O-KAN TRANSPORTATION CO., INC., 3301 E. Loop 820 South, Box 8367, Ft. Worth, TX 76112. Representative: George C. Jackson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bentonite clay and lignite*, (a) from the facilities of American Colloid Company, in Crook County, WY, and Phillips County, MT, to points in the United States (except AK and HI), and (b) from points in Big Horn and Weston Counties, WY, to points in KS, AR, LA, OK, TX, NM, AZ, and CA; and (2) *lignite*, from points in Bowman County, ND, to points in KS, AR, LA, OK, TX, NM, AZ, and CA. (Hearing site: Chicago, IL, or Dallas, TX.)

MC 109064 (Sub-38F), filed January 2, 1979. Applicant: TEX-O-KAN TRANSPORTATION CO., INC., 3301 E. Loop 820 South, Box 8367, Ft. Worth, TX 76112. Representative: George C. Jackson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *zinc articles*, from points in Tarrant County, TX, to points in Tulsa County, OK. (Hearing site: Dallas, TX.)

MC 109124 (Sub-59F), filed January 2, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime, limestone, limestone products, high temperature bonding mortar*, and *roasted dolomite*, from points in Sandusky County, OH, to points in AL, DE, GA, KS, KY, MD, MN, MO, NJ, PA, TN, TX, VA, WV, WI, and DC. (Hearing site: Columbus, OH.)

MC 111274 (Sub-35F), filed December 26, 1978. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, IL 61550. Representative: Frederick C. Schmigall (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *grain handling equipment, grain drying equipment, and grain storage equipment*, and (2) *supplies and accessories* for the commodities in (1) above, between Assumption, IL, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Grain Systems, Inc., of Assumption, IL. (Hearing site: Chicago or Springfield, IL.)

MC 112304 (Sub-165F), filed January 5, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Fred Schmits (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *precast concrete products, modular mausoleum crypt systems, and concrete forming systems*, from Oshkosh, WI, Laurel, MD, St. Louis, MO, Dade City, FL, and Denver, CO. to points in the United States (except AK and HI). (Hearing site: Chicago, IL or Washington, DC.)

MC 112304 (Sub-166F), filed January 5, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: Fred Schmits (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum and aluminum articles*, from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV, to points in AL, AR, CT, DE, FL, GA, IL, IN, LA, IA, KY, ME, MD, MA, MI, MN, MS, MO, NJ, NH, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Charleston, WV or Washington, DC.)

MC 112304 (Sub-169F), filed January 8, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: John D. Herbert (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *railway materials, railway equipment, and railway accessories*, from Atchison, KS, and St. Joseph, MO, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 113974 (Sub-58F), filed January 5, 1979. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials*, and (2) *materials, equipment and supplies* used in the manufacture and installation of the commodities named in (1) above, between the facilities of Georgia-Pacific Corporation, at or near Quakertown, PA, on the one hand, and, on the other, points in AL, CT, DE, GA, IL, KY, MD, MA, MI, NH, NJ, NY, NC, OH, RI, SC, TN, VT, VA, WV, WI, and DC. (Hearing site: Philadelphia, PA or Washington DC.)

MC 114274 (Sub-55F), filed January 8, 1979. Applicant: VITALIS TRUCK LINES, INC., 137 NE 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paint* (except in bulk, in tank vehicles), from the facilities of Continental Technical Finishes Corp., at Brooklyn, NY, to points in IL, IN, and MI. (Hearing site: Brooklyn, NY.)

MC 114457 (Sub-468F), filed January 8, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave. St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods* (except frozen), from Baltimore, MD, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Baltimore, MD, or St. Paul, MN)

MC 114569 (Sub-265F), filed November 13, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, 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 hides and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Wichita, KS, or Kansas City, MO.)

Note: Dual operations may be involved in this proceeding.

MC 115311 (Sub-328F), filed January 11, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St., NE, Atlanta, GA 30303. To operate as a

common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of Celotex Corporation, at Fairfield, AL, Camden and Texarkana, AR, Charleston, Chicago, Peoria, Quincy, and Wilmington, IL, Lagro, IN, Elizabethtown, KY, Marrero, LA, L'Anse, MI, Linden and Pennsauken, NJ, Lockland, OH, Marion, SC, Memphis and Paris, TN, Houston, TX, and Chester, WV, on the one hand, and, on the other, those points in the United States in and east of TX, OK, KS, NE, SD, and ND. (Hearing site: Tampa or Orlando, FL.)

MC 115311 (Sub-331F), filed January 19, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, and *plastic materials* (except commodities in bulk), and (2) *equipment and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Mobil Chemical Company–Plastics Division. (Hearing site: New York, NY.)

MC 115651 (Sub-53F), filed January 10, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., Rockford, IL 61102. Representative: Robert D. Higgins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL, and Berrien County, MI, to those points in the United States in and East of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 115654 (Sub-130F), filed January 8, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 Thirteenth St., NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Banquet Foods Corporation, at or near Carrollton, Macon, Marshall, and Moberly, MO, to points in AL, GA, IN, KY, OH, and TN. (Hearing site: Nashville, TN, or St. Louis, MO.)

MC 115826 (Sub-355F), filed October 16, 1978, previously noticed in the FR issue of February 1, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs, fats, oils, restaurant supplies, and restaurant furniture and fixtures*, (except commodities in bulk), and (2) *commodities* which are otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6), [formerly section 203(b)(6) of the Interstate Commerce Act], when moving in mixed loads with the commodities named in (1) above, (except commodities in bulk), between Carpinteria, CA and Florence, KY, restricted to the transportation of traffic moving between the facilities of Sambo's Restaurants, Inc. (Hearing site: Denver, CO.)

Note: This republication clarifies the territorial description.

MC 116254 (sub-232F), filed January 4, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Randy C. Luffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *shredded scrap steel*, from Jackson, TN, to Bessemer and Birmingham, AL. (Hearing site: Memphis or Nashville, TN.)

MC 116763 (Sub-450F), Filed October 19, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, and container ends*, (a) from Springdale, AR, to points in IL, IN, KY, MI, MN, OH, PA, and WI, (b) from Anderson Township and Cincinnati, OH, to points in IA, IL, IN, KY, MI, NY, PA, and WI, (c) from Augusta, WI, to points in OH, and (2) *such commodities* as are used in the manufacture and distribution of containers, between points in AR, OH, and WI. (Hearing site: Columbus, OH.)

MC 116915 (Sub-76F), filed February 5, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., a Kentucky corporation, 1830 S. Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *railroad ties, timbers, poles, piling, and lumber*, from Madison and Cambria, IL, Indianapolis, Bloomington, Terre Haute, and Winslow, IN, Waverly and Northup, OH, and Mayfield, KY, to points in IN, IA, KS, KY, MI, MO, OH, TN, WI, IL, NY, PA, WV, and AR, restricted to the transportation of traffic originating at the facilities of Columbus Wood Preserving Company at the above named origins. (Hearing site: Columbus, OH, or Louisville, KY.)

MC 117416 (Sub-62F), filed January 12, 1979. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Ave., N.W., Knoxville, TN 37921. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *processed foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of processed foodstuffs (except commodities in bulk, in tank vehicles), between points in AL, FL, GA, IL, IN, KY, MI, NC, OH, SC, TN, VA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Stokely-Van Camp, Inc. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 117574 (Sub-329F), filed January 5, 1979. Applicant: DAILY EXPRESS, INC., a corporation, P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *mechanical and fabric dust collectors and wet scrubbers*, from the facilities of Fisher-Klosterman Sheet Metal Co., at Louisville, KY, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Louisville, KY or Washington, DC.)

Note.—Common control may be involved. The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343 [formerly Section 5(2) of the Interstate Commerce Act], or submit an affidavit indicating why such approval is unnecessary.

MC 117851 (Sub-28F), filed January 5, 1979. Applicant: JOHN CHEESEMAN TRUCKING, INC., 501 North First St., Fort Recovery, OH 45846. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. To operate as a *contract carrier*, by motor

vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Moultrie, GA, on the one hand, and, on the other, points in the United States (except AK and HI), under contract with Bridgeport Brass Company, of Bridgeport, CT. (Hearing site: Columbus, OH.)

MC 119090 (Sub-7F), filed November 20, 1978. Applicant: THRUWAY FREIGHT LINES, INC., P.O. Box 56, Elmwood Park, NJ 07407. Representative: George A. Olsen, 69 Tonnele Ave., Jersey City, NJ 07306. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *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 Secaucus, NJ, and Philadelphia, PA, on the one hand, and, on the other, Syracuse, NY, Milford, CT, and Scranton and Wilkes-Barre, PA, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C § 10102(8). (Hearing site: Washington, DC, or New York, NY.)

MC 119630 (Sub-19F), filed December 27, 1978. Applicant: VAN TASSEL, INC., 5th and Grand, Pittsburg, KS 66762. Representative: Wilburn L. Williamson, Suite 615-E, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *composition board*, from the facilities of the United States Gypsum Company, at or near Greenville, MS, to points in AR, CO, IA, KS, MO, MN, NE, ND, OK, SD, TX, and WI. (Hearing site: Kansas City, MO, or Chicago, IL.)

Note.—Dual operations may be at issue in this proceeding.

MC 119934 (Sub-228F), filed January 2, 1979. Applicant: ECOFF TRUCKING, INC., 625 E. Broadway, Fortville, IN 46040. Representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals*, in bulk, in tank vehicles, from Jeffersonville, IN, to points in AL, AR, FL, GA, LA, MS, NC, SC, TX, and VA, and (2) *phosphoric acid*, in bulk, in tank vehicles, from Columbia, TN, to Jeffersonville, IN. (Hearing site: Indianapolis, In or Washington DC.)

Note.—Dual operations may be involved.

MC 120028 (Sub-13F), filed February 21, 1979. Applicant: CRAW CARTING, INC., 160 Despatch Drive, P.O. Box 267, East Rochester, NY 14445. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *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 Syracuse, Sterling, Hannibal, Baldwinsville, Cato, and Meridian, NY, and points in Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Wayne, and Wyoming Counties, NY; (2) *cotton fabric* (except wrapped or boxed), between Perry, Warsaw, and Wyoming, NY, on the one hand, and, on the other, Elmira, Hoosick Falls, Little Falls, New York, Rochester, Utica, and Troy, NY; (3) *cotton clothing*, from Perry, Warsaw, and Wyoming, NY, to points in NY; (4) *roofing and building materials*, from Rochester, NY, to points in Wyoming County, NY, and (5)(a) *electrical household appliances*, and *accessories and parts* for electrical household appliances, and (b) *materials, equipment, and supplies* used in the manufacture of the commodities in (5)(a) above, between New York, NY, on the one hand, and, on the other, points in Wyoming County, NY. (Hearing site: Rochester or Buffalo, NY.)

Note.—The purpose of this application is to convert applicant's existing Certificates of Registration in MC-120028 (Sub-Nos. 1, 2, 3, 8, 9, and 12) into a Certificate of Public Convenience and Necessity in the event the carrier becomes a multi-State carrier by reason of a directly related application in MC-120028 (Sub-No. 14), also published in this **Federal Register** issue.

MC 120028 (Sub-14F), filed February 21, 1979. Applicant: CRAW CARTING, INC., 160 Despatch Drive, P.O. Box 267, East Rochester, NY 14445. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles* (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between points in Wayne, Monroe, and Ontario Counties, NY, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Mobil Chemical Company. (Hearing site: Rochester or Buffalo, NY).

MC 121607 (Sub-10F), filed October 24, 1978. Applicant: COLUMBIA-PACIFIC TRANSPORT CO., a corporation, P.O. Box 6407, Kennewick, WA 99336. Representative: Michael B. Crutcher, 2000 IBM Bldg., Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except commodities in bulk, in tank, hopper-type, or pneumatic vehicles), between Pasco, Kennewick, and Richland, WA, and points in WA within 50 miles of Pasco, Kennewick, and Richland, WA, restricted to the transportation of traffic having a prior or subsequent movement by rail or water. CONDITION: (1) To the extent the certificate granted in this proceeding authorized the transportation of classes A and B explosives, it will expire 5 years from the date of issuance, and, (2) prior or coincidental cancellation, at applicant's written request, of Certificate of Registration in MC-121607 Sub 1, issued January 28, 1970. (Hearing site: Kennewick or Spokane, WA.)

Note.—(1) Applicant states that the purpose of this application is to convert its certificate of registration in MC-121607 Sub 1, issued January 28, 1970, into a certificate of public convenience and necessity, and (2) dual operations are involved in this proceeding.

MC 123255 (Sub-198F), filed January 31, 1979. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers, distributors, and millers of grain and soybean products (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Central Soya Company. (Hearing site: Columbus, OH.)

MC 123819 (Sub-79F), filed February 9, 1979. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from Hoopeston and Princeville, IL, Belledeau

and St. Francisville, LA, Turkey, NC, and Mayville, WI, to those points in the United States in and east of MN, IA, MO, AR, and TX, restricted against the transportation of canned goods from the facilities of Joan of Arc Co., Inc., at or near Hoopeston and Princeville, IL and Mayville, WI, to points in AL, AR, LA, MS, MO, and TN. (Hearing site: Chicago, IL.)

MC 123819 (Sub-80F), filed February 23, 1979. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by manufacturers and distributors of containers, (except commodities in bulk), from Nashville, TN, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from points in AL, AR, FL, GA, LA, MA, MS, NC, OH, SC, TN, VA, and WI, to Nashville, TN. (Hearing site: Nashville, TN.)

MC 123987 (Sub-11F), filed November 13, 1978. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: John C. Sims, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *brick*, (a) from Mangum, OK, to points in KS, NM, and TX, (b) from the facilities of Eurika Brick Co., at Clarksville, AR, to points in OK and TX, (c) from Hope, AR, to points in TX and those in OK east of U.S. Hwy 81, (d) from Pueblo, CO, to points in OK and TX, (e) from Marshall and Henderson, TX, to points in Roosevelt, Curry, Quay, and Union Counties, NM, and (f) from the facilities of Elgin Butler Brick and Tile Co., at Austin, TX, to points in AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OR, SD, UT, WA, and WY; (2) *tile*, (a) from the facilities of Elgin Butler Brick and Tile Co., at Austin, TX, to points in AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OR, SD, UT, WA, and WY, and those in OK east of U.S. Hwy 81, and (b) from the facilities of Mangum Brick Co., at Mangum, OK, to points in KS, NM, and TX; (3) *fire clay*, in bags, (a) from Mangum, OK, to points in KS, NM, and TX, and (b) from the facilities of Elgin Butler Brick and Tile Co., at Austin, TX, to points in AZ, CA, CO, ID, KS, MT, ND, NE, NM, NV, OR, SD, UT, WA, and WY, and those in OK east of U.S. Hwy 81, and (4) *fireplace equipment*, from Mangum, OK, to points in KS, NM, and TX. (Hearing site: Oklahoma City, OK, or Amarillo, TX.)

MC 124947 (Sub-126F), filed January 5, 1979. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value and household goods), between Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Albert Equipment. CONDITION: To the extent that the certificate in this proceeding authorized the transportation of classes A and B explosives, it will expire 5 years from the date of issuance. (Hearing site: Denver, CO.)

MC 125544 (Sub-8F), filed December 28, 1978. Applicant: LESTER M. HAYS, 803 West Mulberry, Carlinville, IL 62626. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *milk cartons*, from Sikeston, MO, to Evansville, IN, and Owensboro, KY, under contract with Prairie Farms Dairy, Inc., of Carlinville, IL. (Hearing site: St. Louis, MO.)

MC 126844 (Sub-66F), filed December 28, 1978. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501.To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic containers and glass containers*, from points in Atlantic County, NJ, to points in NY, IN, and IL. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 128648 (Sub-15F), filed December 18, 1978. previously published in the **Federal Register** on February 8, 1979, and republished this issue. Applicant: TRANS-UNITED, INC., 425 W. 152nd Street, P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used in the manufacture of insulated glass (except commodities in bulk), (a) from the facilities of Coil Anodizers, Inc., a subsidiary of Lorin Industries, at or near Muskegon, MI, to Sparks, NV, and (b) from the facilities of Allmetal, Inc., at Sparks, NV, to points in King County, WA, under contract with Allmetal, Inc., of Bensenville, IL. (Hearing site: Chicago, IL.)

Note.—The purpose of this republication is to reflect a change in the name of the plantsite in (a) above, and to reflect a change in the corporate name of the contract shipper.

MC 128372 (Sub-2F), filed October 24, 1978. Applicant: PHILPOT CONTRACTING COMPANY, INC., P.O. Box 4404, Atlanta, GA 30336. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metal telephone parts and equipment*, between the facilities of Southern Bell Telephone & Telegraph Company at points in GA, on the one hand, and, on the other, the facilities of Nassau Smelting Plant, at Gaston, SC, under continuing contract with Southern Bell Telephone & Telegraph Company, of Atlanta, GA.

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343 (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Atlanta, GA.)

MC 129537 (Sub-31F), filed January 10, 1979. Applicant: REEVES TRANSPORTATION CO., a corporation, Rt. 5—Dews Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic fiber and synthetic yarn*, from points in Baldwin County, AL, and Santa Rosa County, FL, to points in Hall County, GA. (Hearing site: Atlanta, GA.)

MC 129857 (Sub-5F), filed January 8, 1979. Applicant: G.R.M., Inc., dba PORT TERMINAL TRANSPORT, INC., 700 Henry Ford Ave., Long Beach, CA 90801. Representative: Patricia M. Schnegg, 1800 United California Bank Bldg., 707 Wilshire Blvd., Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *trucks*, in secondary movements, in truckaway service, from points in CA to points in AZ, NV, NM, and UT. (Hearing site: Los Angeles, CA.)

MC 133095 (Sub-234F), filed January 5, 1979. Applicant: TEXAS-

CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Mobil Chemical Company, Plastics Division. (Hearing site: Dallas, TX.)

MC 133204 (Sub-3F), filed January 8, 1979. Applicant: KEITH TRUCKING, INC., NY Route #394 (Levant Road), Falconer, NY 14733. Representative: Ronald W. Malin, Bankers Trust Building, Jamestown, NY 14701, to operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products, wood and wood products, cement asbestos products, plastic products, aluminum, metal products, wood and metal combined products, wood and cement asbestos combined products, metal and cement asbestos combined products, plastic and metal combined products, plastic and wood combined products, cabinets, and doors*, (except commodities in bulk, in tank or hopper-type vehicles), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk, in tank or hopper-type vehicles), between the facilities of Overhead Door Corporation, at Cattaraugus, NY, on the one hand, and, on the other, points in AL, CT, DE, GA, IL, IN, KY, MD, MA, MI, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, and WV, under contract with Overhead Door Corporation, of Dallas, TX. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 134404 (Sub-41F), filed December 27, 1978. Applicant: AMERICAN TRANS-FREIGHT, INC., a Delaware corporation, P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper, paper products, and particleboard*, from Lancaster, PA, Franklin, Laurel, and Richmond, VA, Montgomery, AL, and Savannah, GA, to those points in the United States in and east of MN, IA, MO, AR, and LA; and (2) *materials, equipment, and supplies* used in the production, manufacture and distribution of the commodities in (1) above, in the reverse direction, under contract with Union Camp Corporation, of Wayne, NJ. (Hearing site: New York, NY.)

Note.—Dual operations are involved.

MC 134467 (Sub-38F), filed January 4, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), *and filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, to those points in the United States in and west of FL, GA, TN, KY, WV, and PA, (except AK and HI); and (2)(a) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except commodities in bulk, in tank vehicles), *and filters*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Pittsburgh, PA, or Little Rock, AR.)

MC 134477 (Sub-310F), filed January 10, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen potato products*, from Clark, SD, to points in AR, CT, DE, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-311F), filed January 10, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar* (except in bulk), from Drayton, ND, and Crookston, East Grand Forks, and Moorhead, MN, to points in CT, DE, GA, IL, IN, IA, KY, ME, MD, MA, MI, NJ, NH, NY, NC, NE, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-312F), filed January 10, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electric storage batteries and parts* for electric storage batteries, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of electric storage batteries, (except commodities in bulk), between the facilities of Gould, Inc., at or near Mount Vernon, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-313F), filed January 10, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, woodpulp, and wood cellulose flour*, (except commodities in bulk), from Old Town, ME, Groveton, NH, and Gouverneur, NY, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MO, MS, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI, and DC. (Hearing site: St. Paul, MN.)

MC 134484 (Sub-23F), filed January 5, 1979. Applicant: EDWARDS BROS., INC., P.O. Box 1684, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, 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, from the facilities of Iowa Beef Processors, Inc., at or near Nampa and Boise, ID, to points in OR, WA, and AZ. (Hearing site: Boise, ID or Omaha, NE.)

MC 134958 (Sub-11F), filed February 9, 1979. Applicant: HAMS EXPRESS, INC.,

3499 South Third Street, Philadelphia, PA 19148. Representative: David M. Schwartz, 1025 Connecticut Avenue, NW, Washington, DC. 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in by food processing plants, and (2) *meat, meat products and meat byproducts*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except the commodities in (1) above), (a) from the facilities of American Home Foods, Division of American Home Products Corp., at or near Milton, PA, to points in IL, IN, IA, MI, MN, MO, NJ, OH, and WI, and (b) from Mt. Airy, and Baltimore, MD, New York, NY, Philadelphia, PA, and Wilmington, DE, to Milton, PA, and La Porte, IN, under contract in (1) and (2) above with American Home Foods, Division of American Home Products Corp., of Milton, PA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 135170 (Sub-29F), filed December 5, 1978. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 North LaSalle St., Chicago, IL 60602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and converters of paper and plastic products, from Millville, NJ, to points in MA, RI, and CT, under contract with The Continental Group, Inc., of Palatine, IL. (Hearing site: Washington, DC.)

MC 135221 (Sub-12F), filed December 28, 1978. Applicant: DICK SIMON TRUCKING, INC., 3700 South 4355 West, Salt Lake City, UT 84120. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of explosives, boosters, and oxidizers, (1) between Bonne Terre, MO, Plymouth, IN, and Biwabik, MN, and (2) between W. Jordan and Lehi, UT, on the one hand, and, on the other, points in the United States (except AK and HI). Dual operations may be involved. (Hearing site: Salt Lake City, UT.)

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of explosives, it will expire 5 years from the date of issuance.

MC 135874 (Sub-153F), filed January 5, 1979. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street SO., South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *alcoholic beverages*, and (2) *materials and supplies* used in the manufacture and sale of alcoholic beverages (except commodities in bulk), between Peoria and Pekin, IL, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, CT, MA, RI, ME, VT, NH, WV, VA, and DC, restricted to the transportation of traffic originating at or destined to Peoria and Pekin, IL. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 135874 (Sub-154F), filed January 8, 1979. Applicant: LTL PERISHABLES INC., 550 E. 5th Street So., South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum, aluminum products, building materials, electric cable, and metal powders* (except commodities in bulk, and those the transportation of which because of size or weight requires the use of special equipment), and (2) *materials and supplies* used in the sale of the commodities in (1) above, from Oswego, NY, Williamsport and Lancaster, PA, Fairmont, WV, Union, Elizabeth, and Woodbridge, NJ, Warren, OH, Bay St. Louis, MS, Tucker, GA, and Pineville, NC, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic originating at the facilities of Alcan Aluminum Corporation at the named origins and destined to the indicated destinations. (Hearing site: St. Paul, MN, or Cleveland, OH).

MC 135895 (Sub-26F), filed July 31, 1978. previously published in FR issue of December 14, 1978. Applicant: B&R DRAYAGE, INC., P.O. Box 8534 Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, (1) from Fort Worth, TX, to Eutaw, AL, Baton Rouge, Bossier City, Harahan, and Monroe, LA, and Clarksdale, Cleveland, Greenville, Greenwood, Hernando, Kosciusko, and Natchez, MS, (2) from Memphis, TN, to Fort Smith and Newport, AR, Chalmette, Franklin, Harahan, Monroe, and Thibodaux, LA, and Cleveland, Greenville, Hattiesburg, and Laurel, MS, (3) from San Antonio, TX, to Newport and Fort Smith, AR, (4) from Perry, GA, to Greenville, Greenwood, and Kosciusko, MS, (5) from Longview, TX, to Chalmette and Franklin, LA, (6) from New Orleans, LA, and Galveston, TX, to Newport, AR, (7) from Albany, GA, to Baton Rouge, LA, (8) from Houston, TX, Tampa and Jacksonville, FL, Covington, LA, and (9) from Houston, TX, to Houma, LA. (Hearing site: New Orleans, LA, or Houston, TX.)

Note.—This republication modifies the territory description.

MC 136168 (Sub-30F), filed February 22, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, 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 hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Oklahoma City, OK, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, under contract with Wilson Foods Corporation, of Oklahoma City, OK. (Hearing site: Omaha, NE, or Dallas, TX.)

Note.—Dual operations are involved in this proceeding.

MC 136168 (Sub-31F), filed February 22, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, 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 hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Logansport, IN, and Monmouth, IL, to points in OK and TX, under contract with Wilson Foods Corporation, of Oklahoma City, OK. (Hearing site: Omaha, NE, or Dallas, TX.)

Note.—Dual operations are involved in this proceeding.

MC 136228 (Sub-37F), filed February 26, 1979. Applicant: LUISI TRUCK LINES, INC., P.O. Box H, Milton-Freewater, OR 97862. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen fruits and frozen vegetables*, between Weston, OR, and Walla Walla, WA. (Hearing site: Milton-Freewater, OR.)

Note.—Dual operations are involved in this proceeding.

MC 138157 (Sub-108F), filed January 8, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic granules, expanded plastics, plastic bags, plastic film, agricultural insecticides, and disenfectants*, (except commodities in bulk), from the facilities of Dow Chemical U.S.A., at Pittsburg, Fresno, and Torrance, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: San Francisco, CA.)

Note.—Dual operations are involved in this proceeding.

MC 138875 (Sub-122F), filed December 28, 1978. Applicant: SHOEMAKER TRUCKING COMPANY, A corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products* (except commodities in bulk), from the facilities of Shell Oil Co., in Multnomah County, OR, to the facilities of Shell Oil Co., in Malheur County, OR, and those points in ID in and south of Adams, Valley, and Lemhi Counties. (Hearing site: Boise, ID, or Washington, DC.)

MC 140205 (Sub-4F), filed February 8, 1979. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sidley, IA 51249. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in sections A, and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Sioux Falls, SD, Esterville and Sioux City, IA, and Worthington, MN, to points in AL, FL, GA, LA, MS, NC, OK, SC, TN, AND TX, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 140829 (Sub-186F), filed February 6, 1979. Applicant: CARGO CONTRACT CARRIER CORP. P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Ave., Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *appliances* and (2) *parts, accessories and attachments* for appliances, (a) from Ripon and Wautoma, WI, to points in AR, CT, IA, KS, MA, MO, NE, NH ,NJ, NY, OK, PA, RI, SD, TX, and VT, (b) from Madisonville, KY, to points in IA, KS, MO, NE, OK, TX, and WI, (c) from Albion, MI, to points in KS, MN, NE, OK, TX, and WI, and (d) from Searcy, AR, to points in CT, IA, KS, ME, MA, MO, NE, NH, NJ, NY, OK, PA, RI, TX, VT, and WI, restricted in (a), (b), (c), and (d) above, to the transportation of traffic oirginating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved in the proceeding.

MC 140849 (Sub-19F), filed February 21, 1979. Applicant: ROBERTS TRUCKING CO., INC., U.S. Hwy 271 South, Poteau, OK 74953. Representative: Prentiss Shelley, P.O. Drawer G, Poteau, OK 74953. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *polyester fibers, quilts, quilting fillers, quilted bedspreads, comforters, and drapes*, from Clinton, OK, to points in GA, MS, NE, TN, and TX, under contract with Kellwood Company, of Perry, GA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 141108 (Sub-4F), filed February 26, 1979. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), between Muscatine, IA, and Chicago, IL, restricted to the transportation of traffic having a prior or subsequent movement by rail or water. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 141641 (Sub-9F), filed October 22, 1978, previously noticed in the FR of January 4, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value classes A and B explosives, household goods as defined by the Commission, commodities in bulk, foodstuffs, packinghouse products, and those requiring special equipment), from Boston and Holyoke, MA, and New York, NY, to Amarillo, Austin, Dallas, El Paso, Ft. Worth, Houston, Laredo, Lubbock, and San Antonio, TX, Chicago, IL, St. Louis and Kansas City, MO, Minneapolis, MN, and Milwaukee, WI, restricted to the transportation of traffic moving on bills of lading of freight forwarders. (Hearing site: New York, NY.)

Note.—Dual operations may be involved. This republication includes the destination point of Ft. Worth, Tx.

MC 141804 (Sub-154F), filed November 17, 1978. Applicant: Western Express, Division Interstate Rental Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in by department stores, hardware stores, catalog showroom stores, and home center stores, (excet foodstuffs and commodities in bulk), from the facilities of Pacific Freight Supply, Inc., at points in Los Angeles County, CA, to those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at the facilities of Pacific Freight Supply, Inc. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-162F), filed December 29, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (Same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *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), from Nashville, Green Brier, Cookeville, Murfreesboro, and McMinnville, TN, to points in CA, OR, WA, CO, NV, AZ, and ID, restricted to the transportation of traffic moving, on bills of lading of bona fide shipper associations. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141878 (Sub-8F), filed January 29, 1979. Applicant: DIRECT COURIER, INC., 2780 S. Jefferson Davis Hwy., Arlington, VA 22202. Representative: Dean N. Wolfe, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *live laboratory animals*, between points in MI, on the one hand, and, on the other, points in CT, MD, MA, NJ, NY, NC, PA, RI, VA, and DC. (Hearing site: Washington, DC, or Boston, MA.)

MC 141921 (Sub-36F), filed January 22, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, in containers, from points in Jefferson County, CO, to points in IA, MO, and WA; and (2) *materials and supplies* used in the manufacture of malt beverages, from points in IA, MO, and WA to points in Jefferson County, CO. (Hearing site: Concord, NH, or Boston, MA.)

Note.—Dual operations may be involved.

MC 142204 (Sub-8F), filed January 2, 1979. Applicant: ROBERT R. GUNVILLE, JR., Star Route 2, Lot 27 Bob's Mobile, Iron Mountain, MI 49801. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, (1) *crushed stone*, in bulk, from the facilities of GAF Corporation, at or near Pembine, WI, to Chicago, IL, and (2) *resin-coated sand*, in bulk, from Aurora, Chicago, Oregon, and Troy Grove, IL, Mishawaka, IN, Bridgman, MI, and Fairwater and Menomonee Falls, WI, to Kingsford, MI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 142398 (Sub-1F), filed February 13, 1979. Applicant: FAST FORWARD, INC., 17 Delaware Avenue, West Long Branch, NJ 07764. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such merchandise* as is dealt in or used by retail department stores (except commodities in bulk), between Tinton Falls, NJ, on the one hand, and, on the other, New York, NY, points in Suffolk County, NY, and those in NJ, DE, and PA, under contract with Clover Stores, Division of Strawbridge and Clothier, of Philadelphia, PA. (Hearing site: Philadelphia, PA.)

MC 143027 (Sub-4F), filed October 27, 1978. Applicant: MICHAEL J. RESUDEK, d.b.a. CAPITAL AIR FREIGHT, 3533 International Lane, Madison, WI 53704. Representative: Michael S. Varda, 121 South Pinckney St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *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 Dane County Regional Airport, at or near Madison, WI, on the one hand, and, on the other, Wonewoc, WI, and points in Crawford, Richland, Sauk, Grant, Iowa, Marquette, La Fayette, and Green Counties, WI, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Madison, WI, or Chicago, IL.)

MC 143274 (Sub-3F), filed November 17, 1978. Applicant: BILLY P. RUPPE d.b.a. RUPPE MOTOR LINES, 309 Kraft Street, Gaffney, SC 29340. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *disposable dental supplies and disposable hospital supplies*, from Spartanburg, SC, to Washington, DC, Miami and Tampa, FL, Chicago, IL, Louisville, KY, Bridgeton, NJ, New York, NY, and those ports of entry on the international boundary line between the United States and Canada in NY, under contract with Spartan Mills and Spartan Healthcare Products Division (division of Spartan Mills), both of Spartanburg, SC. (Hearing site: Spartanburg, SC.)

MC 143471 (Sub-10F), filed January 11, 1979. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 301 Mt. Rushmore Rd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used or dealt in by manufacturers or distributors of building materials, building supplies, hardware, plumbing supplies, electrical supplies, cement materials, and landscaping materials, (except commodities in bulk, in tank vehicles), between those points in the United States in and west of WI, IL, MO, AR, and LA, (except AK and HI), under contract with Knecht Industries, Inc., Building Material Distributors, Big K Cash & Carry, Mastercraft Factory, Homes by Knecht, Mastercraft Homes, and Knecht Lumber Co., all of Rapid City, SD. Condition: Issuance of this permit is subject to prior or coincidental cancellation, at applicant's written request, of Permit No. MC 143471 Sub 1, issued November 29, 1978. (Hearing site: Rapid City or Sturgis, SD.)

MC 144956 (Sub-3F), filed January 17, 1979. Applicant: TRANS-MUTUAL TRUCK LINES LTD., 7034 30th St. Southeast, Calgary, Alberta, Canada T2C 1N9. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in foreign commerce, only over irregular routes, transporting *bentonite, drilling mud, and additives*, from Billings, MT, and points in Big Horn County, WY, to port of entry on the International Boundary line between the United States and Canada at Sweetgrass, MT. (Hearing site: Billings, MT.)

MC 145174 (Sub-3F), filed January 2, 1979. Applicant: NORTH FORTY LINES, INC., 6700 Driftwood Lane, Missoula, MT 59801. Representative: Bradley Luck, Esq., 127 E. Main, Suite 214, Missoula, MT 59801. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *precut log and wood buildings*, knocked down, and (2) *materials and supplies*, used in the construction, installation, and erection of the commodities named in (1) above, from the facilities of Real Log Homes, Inc., near Missoula, MT, to points in CO, ID, UT, and WY, under contract with Real Log Homes, Inc., of Missoula, MT. (Hearing site: Missoula or Helena, MT.)

MC 145826F filed November 20, 1978. Applicant: CARROLL C. SPELCE, d.b.a. GIBSON MOTOR FREIGHT, 1405 Avenue A, Lubbock, TX 79401. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *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), (1) between Lubbock and O'Donnell, TX, over U.S. Hwy 87, serving Tahoka as an intermediate point, (2) between Tahoka, TX, and junction Farm Road 211 and U.S. Hwy 87, from Tahoka over Farm Road 400 to Wilson, then over Farm Road 211 to junction Farm Road 211 and U.S. Hwy 87, and return over the same route, serving Wayside and Wilson, TX, as intermediate points, (3) between Lubbock and Slaton, TX, over U.S. Hwy 84, serving Burris and Posey, TX, as intermediate points, and (4) between Slaton and Wilson, TX, over Farm Road 400, serving no intermediate points. (Hearing site: Lubbock, TX.)

MC 145869 (Sub-1F), filed December 14, 1978. Applicant: WILLIS TRUCKING CO., INC., Route 2, Willis, VA 24380. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture and pictures*, from the facilities of Bassett Mirror Company, Inc., at Bassett and Philpott, VA, to points in CA and TX. (Hearing site: Roanoke, VA, or Greensboro, NC.)

MC 145965 (Sub-1F), filed January 12, 1979. Applicant: TOMORROW TRANSPORTS, INC., 1257 Central Avenue, Hamilton, OH 45011. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper, fiberboard, paperboard, and pulp board containers*, (except corrugated), (a) from Buffalo, NY, to points in TX, AZ, CA, IL, and VA, and (b) from Oneonta, NY, to points in AZ and TX, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, from the destination states named in (1) above to Buffalo and Oneonta, NY, under contract with F. N. Burt Company, Inc., of Buffalo, NY. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 145978 (Sub-2F), filed February 12, 1979. Applicant: R & S TRUCKING, INC., R.R. #1, Box 123, Garretson, SD 57030. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in Sections A, B, and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities used by John Morrell & Co., at or near Sioux Falls, SD, Estherville and Sioux City, IA, and Worthington, MN, to points in AL, CA, FL, GA, MS, MO, NC, OK, SC, TN, and TX, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL or Sioux City, IA.)

Note.—Dual operations are involved in this proceeding.

MC 145994F, filed January 2, 1979. Applicant: PENGUIN POINT ENTERPRISES, INC., P.O. Box 975, Warsaw, IN 46580. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *materials, equipment*, and *supplies* used in operation of food service facilities, between the facilities of Penguin Point Franchise Systems, Inc., at Wabash, Warsaw, Marion, Goshen, Fort Wayne, Auburn, Decatur, Angola, Plymouth, Elkhart, Monticello, Columbia City, Bluffton, Peru, Anderson, Logansport, Huntington, and North Webster, IN, Coldwater, Charlotte, Owosso and Lansing, MI, Bryant and Van Wert, OH, San Angelo, TX, and Ft. Meyers, FL, on the one hand, and, on the other, points in ND, SD, NE, KS, OK, TX, MN, IA, ID, MO, AR, LA, WI, IL, MI, IN, OH, KY, TN, MS, AL, FL, GA, SC, NC, WV, VA, PA, NY, MD, NJ, DE, MA, RI, and DC, under contract with Penguin Point Franchise Systems, Inc., of Warsaw, IN, and (2) *canned orange juice*, from points in FL, to the facilities of Bertsch Vending Co., Inc., at Warsaw, IN, under contract with Bertsch Vending Co., Inc., of Warsaw, IN. (Hearing site: Indianapolis, IN or Chicago, IL.)

MC 146034F, filed January 2, 1979. Applicant: RANCHERS TRANSPORTATION SERVICE, INC., 3102 Brighton Boulevard, Denver, CO 80216. Representative: John T. Wirth, 717–17th Street, Suite 2600, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products* and *meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209, 766 (except hides and commodities in bulk), from Douglas, WY, Edgemont, SD, and Denver, CO, to points in the United States (except AK and HI), (2) *materials, equipment*, and *supplies*, used in the manufacture and distribution of the commodities in (1) above, from points in the United States (except AK and HI) to Douglas, WY, under contract with Ranchers Meats, Inc., of Douglas, WY. (Hearing site: Denver, CO.)

MC 146106F, filedDecember 15, 1978. Applicant: ATD TRUCKING INC., 335 Sniffen's Lane, Stratford, CT 06497. Representative: William J. Meuser, 86 Cherry St., P.O. Box 507, Milford, CT 06460. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter*, (a) between Stratford, CT, on the one hand, and, on the other, Springfield, MA, Baltimore, MD, Elmira, Niagara Falls, Buffalo and New York, NY, Freemont, OH, Philadelphia, PA, Rutland, VT, Fredericksburg, VA, Angola, IN, and Monroe and Green Bay, WI, (b) between Rutland, VT, on the one hand, and, on the other, Norwalk and Stratford, CT, (c) between Norwalk, CT, on the one hand, and, on the other, New York, NY, Boston, MA, and Baltimore, MD, and (d) between Madison Heights, MI, on the one hand, and, on the other, New York, NY, and Rutland, VT, under contracts with (1) Response Graphic, Inc., of Stratford, CT, (2) Colonial Lithograph, Inc., of East Norwalk, CT, and (3) Printing Service, Inc., of Madison Heights, MI. (Hearing site: New York, NY, or Washington, DC.)

MC 146236F, filed January 18, 1979. Applicant: CALIFORNIA WASHINGTON EXPRESS, 3554 McReynolds Ave., Modesto, CA 95355. Representative: Susan W. Carlson, 1215 Norton Bldg., Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *red cedar shakes, shingles, and trim*, from points in WA, to points in AZ, CA, and NV. (Hearing site: San Francisco, CA, or Seattle, WA.)

Passenger Authority

MC95466 (Sub-7F), filed December 20, 1978. Applicant: DATTCO, INC., 99 Newington Ave., New Britain , CT 06051. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at

Bridgeport, Hartford, Meriden, Middletown, New Haven, and Stamford, CT, Springfield, MA, and New Rochelle, NY, and extending to points in the United States, (including AK, but excluding HI). (Hearing site: Hartford, CT.)

MC117324 (Sub-7F), filed October 27, 1978. Applicant: Fort Dodge Transportation Co., a corporation, East Highway 20, P.O. Box 901, Fort Dodge, IA 50501. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage* and express in the same vehicle with passengers, between Estherville and Algona, IA, from Estherville over IA Hwy 9 to junction U.S. Hwy 169, then over U.S. Hwy 169 to Algona, and return over the same route, serving all intermediate points. (Hearing site: Des Moines, IA.)

Broker Authority

MC130547F, filed January 5, 1979. Applicant: KEYSTONE WORLD WIDE TRAVEL, INC., 2040 Market St., Philadelphia, PA 19103. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., Washington, DC 20005. To engage in operations, in interstate or foreign commerce, as a *broker,* at Philadelphia, PA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in the United States, including AK and HI. NOTE: Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY,* 54 M.C.C. 291 (1952). (Hearing site: Philadelphia, PA.)

[Volume No. 25]

[FR Doc. 79-10618 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Chicago, Rock Island and Pacific Railroad Co.; Rerouting Traffic

In the opinion of Robert S. Turkington, Agent, the Chicago, Rock Island and Pacific Railroad Company is unable to transport promptly all traffic offered for movement to, from, or via Peoria, Illinois, because of flooding.

It is ordered,

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company being unable to transport promptly all traffic offered for movement to, from, or via Peoria, Illinois, because of flooding, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 1:00 p.m., March 22, 1979.

Expiration date. This order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 22, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[I.C.C. Order No. 32 under Service Order No. 1344]

[FR Doc. 79-10610 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION

Burlington Northern, Inc.; Mandatory Car Service Rules

Because of flooding conditions at Keokuk, Iowa, Burlington Northern Inc., is unable to relocate empty cars to the industries at Keokuk for loading in accordance with Car Service Rules 1 and 2. Consequently, Burlington Northern is unable to furnish cars of suitable ownership to shippers in order that the cars can be loaded in accordance with Car Service Rules 1 and 2.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

(a) Burlington Northern Inc., is authorized to accept from shippers at Keokuk, Iowa, general service freight cars described in paragraph (b) owned by other railroads regardless of the provisions of Car Service Rules 1 and 2.

(b) This exemption is applicable to general service freight cars bearing reporting marks assigned to railroads listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having the following mechanical designations:

Plain Boxcars: "XM", "XMI"

Gondola Cars: "GA", "GB", "GD", "GH", "GS", "GT"

Hopper Cars: "HFA", "HK", "HM", "HMA" "HT", "HTA"

Flat Cars: "FM", less that 200,000 lb. capacity

It is further ordered,

(c) This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective March 23, 1979.

Expires 11:59 p.m., April 15, 1979.

Issued at Washington, D.C., March 23, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[Ex Parte No. 241; Rule 19; Exemption No. 161]

[FR Doc. 79-10612 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Chicago, Rock Island and Pacific Railroad Co. and Burlington Northern Inc.; Mandatory Car Service Rules

Because of flooding conditions at Keokuk, Iowa, Burlington Northern Inc., and Chicago, Rock Island and Pacific Railraod Company are unable to relocate empty cars to the industries at Keokuk for loading in accordance with Car Service Rules 1 and 2. Consequently, Burlington Northern and Chicago, Rock Island and Pacific Railroad Company are unable to furnish cars of suitable ownership to shippers in order that the cars can be loaded in accordance with Car Service Rules 1 and 2.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

(a) Burlington Northern Inc., and Chicago, Rock Island and Pacific Railroad Company are authorized to accept from shippers at Keokuk, Iowa, general service freight cars described in paragraph (b) owned by other railroads regardless of the provisions of Car Service Rules 1 and 2.

(b) This exemption is applicable to general service freight cars bearing reporting marks assigned to railroads listed in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having the following mechanical designations:

Plain Boxcars: "XM", "XMI"
Gondola Cars: "GA", "GB", "GD", "GH", "GS", "GT"
Hopper Cars: "HFA", "HK", "HM", "HMA", "HT", "HTA"
Flat Cars: "FM", less that 200,000 lbs. capacity

It is further ordered,

(c) This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective March 27, 1979.

Expires 1:59 p.m., April 15, 1979.

Issued at Washington, D.C., March 23, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[Ex Parte No. 241; Rule 19; Exemption No. 161]

[FR Doc. 79-10616 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Chicago & North Western Transportation Co.; Exemption

Because of congestion and shortage of locomotive power, a movement of fifty (50) empty covered hopper cars has been seriously delayed in returning to the Chicago and North Western Transportation Company at Omaha, Nebraska, for a unit-train movement from Omaha, Nebraska, to Martins Creek, Pennsylvania. ConAgra Corporation of Omaha, Nebraska, desires to ship a fifty (50) car unit-grain-train of wheat to Martins Creek. Less than the required number of covered hopper cars are available for movement at this time. Section (a) of Revised service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Assistant Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, Chicago and North Western Transportation Company is authorized to operate a fifty (50) car unit-grain-train from Omaha, Nebraska, to Martins Creek, Pennsylvania comprised of fifty (50) covered hopper cars, on a one trip basis, with a minimum of 25 loaded cars operated in the first movement, and the remaining cars of the unit-grain-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to privately owned and railroad owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 4 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow".

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective March 22, 1979.

Expires 11:59 p.m., April 30, 1979.

Issued at Washington, D.C., March 22, 1979.

Robert S. Turkington,

Assistant Director, Bureau of Operations.

[Revised Service Order No. 1312; Exemption No. 4]

[FR Doc. 79-10611 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

The Colorado & Southern Railway Co.; Passenger Train Operation

Decided: March 26, 1979.

The National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Oakland, California. The operation of these trains requires the use of the tracks and other facilities of Union Pacific Railroad Company (UP) between Ogden, Utah, and Denver, Colorado. A portion of these UP tracks between Denver, Colorado, and Cheyenne, Wyoming, are temporarily out of service because of a derailment. An alternate route is available between these points via The Colorado and Southern Railway Company (C&S).

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 USC 562(c)), The Colorado and Southern Railway Company is directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corporation between a connection with the Union Pacific Railroad Company at Denver, Colorado, and a connection with the Union Pacific Railroad Company at Cheyenne, Wyoming.

(b) In executing the provisions of this order, the common carriers involved shall proceed even through no agreements or arragements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 9:00 a.m., MST, March 26, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., MST, March 26, 1979, unless otherwise modified, changed or suspended by order of this Commission.

This order shall be served upon The Colorado and Southern Railway Company and upon the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the Federal Register.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[I.C.C. Order No. P-20]

[FR Doc. 79-10614 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Consolidated Rail Corp.; Exemption

Because of inability of the railroad to assemble the cars, a movement of fifty (50) empty private covered hopper cars has been seriously delayed on Consolidated Rail Corporation enroute to Mechanicsburg, Ohio, for loading. ConAgra Corporation desires to ship a fifty (50) car unit-grain-train of wheat to York, Pennsylvania, routed ConRail. The consignee at York is badly in need of the grain. Only 36 empty hoppers have arrived at Mechanicsburg, Ohio. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, Consolidated Rail Corporation is authorized to operate a fifty (50) car unit-grain-train from Mechanicsburg, Ohio, to York, Pennsylvania, comprised of fifty (50) private hoppers, on a one trip basis, with a minimum of 36 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to privately owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 5 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow".

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective March 23, 1979.

Expires 11:59 p.m., April 30, 1979.

Issued at Washington, D.C., March 23, 1979.

Joel E. Burns,

Director.

[Revised Service Order No. 1312; Exemption No. 5]

[FR Doc. 79-10608 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Soo Line Railroad Co.; Exemption

Because of the inability of the railroad to assembly the cars, a movement of 65 empty covered hopper cars has been seriously delayed on Soo Line Railroad Company enroute to Duluth, Minnesota, for loading. International Multi-Foods desires to ship a sixty-five (65) car unit-grain-train of barley to Buffalo, New York, routed Soo Line-Norfolk and Western-ConRail. The consignee at Buffalo is badly is badly in need of the barley. Only 37 empty covered hoppers have arrived at Duluth. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, Soo Line Railroad Company is authorized to operate a sixty-five (65) car unit-grain-train from Duluth, Minnesota, to Buffalo, New York, comprised of sixty-five (65) railroad owned covered hoppers, on a one trip basis, with a minimum of 37 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to railroad owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 6 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow".

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective March 23, 1979.

Expires 11:59 p.m., April 15, 1979.

Issued at Washington, D.C., March 23, 1979.

Joel E. Burns,

Director.

[Revised Service Order No. 1312; Exemption No. 6]

[FR Doc. 79-10609 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Southern Pacific Transportation Co.; Passenger Train Operation

Decided: March 27, 1979.

The National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Oakland, California, and Bakersfield, California. The operation of these trains requires the use of employees, tracks, and other facilities of The Atchison, Topeka and Santa Fe Railway Company (ATSF). A portion of ATSF's tracks between Port Chicago, California, and Stockton, California, are temporarily out of service because of a derailment. An alternate route is available via the Southern Pacific Transportation Company between Stockton, California, and Oakland, California. It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 USC § 562(c)), the Southern Pacific Transportation Company (SP) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between a connection with The Atchison, Topeka and Santa Fe Railway Company at Stockton, California, and Oakland, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between

said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Commission Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 3:00 p.m., PST, March 27, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., PST, March 27, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

This order shall be served upon the Southern Pacific Transportation Company and upon the National Railroad Passenger Corporation (Amtrak), and that it be filed with the Director, Office of the **Federal Register.**

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[I.C.C. Order No. P-21]

[FR Doc. 79-10615 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

St. Louis Southwestern Railway Co.; Passenger Train Operation

Decided: March 25, 1979.

The National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Laredo, Texas. The operation of these trains requires the use of the tracks and other facilities of the Missouri Pacific Railroad Company (MP) between St. Louis, Missouri, and Laredo. A portion of these MP tracks between Big Sandy, Texas, and Texarkana, Arkansas-Texas, are temporarily out of service because of a derailment. An alternate route is available between these points via the lines of the St. Louis Southwestern Railway Company between Big Sandy and Texarkana.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission served March 6, 1978, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the St. Louis Southwestern Railway Company is directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corporation between a connection with the Missouri Pacific Railroad Company at Big Sandy, Texas, and a connection with the Missouri Pacific at Texarkana, Arkansas-Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 9:00 p.m., CST March 25, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., CST March 26, 1979, unless otherwise modified, changed or suspended by order of this Commission.

This order shall be served upon the St. Louis Southwestern Railway Company and upon the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the Federal Register.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[I.C.C. Order No. P-19]

[FR Doc. 79-10613 Filed 4-5-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 68
Friday, April 6, 1979

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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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., April 12, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Formal agency adjudications.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-672-79 Filed 4-4-79; 3:02 pm]

BILLING CODE 6351-01-M

2

COUNCIL ON ENVIRONMENTAL QUALITY.

April 3, 1979.

TIME AND DATE: April 12, 1979, 11:30 a.m.

PLACE: Conference Room, 722 Jackson Place, N.W., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Briefing on Proposed Amendment of Toxic Substances Control Act; Victim Compensation Study.
3. Briefing on Status of Agency NEPA Implementing Procedures.
4. Briefing on Status of National Oil and Hazardous Substances Pollution Contingency Plan revisions.
5. Briefing on CEQ Publications: 6-Month timetable.

CONTACT PERSON FOR MORE INFORMATION: Foster Knight, 395-4616.

[S-662-79 Filed 4-4-79; 9:57 am]

BILLING CODE 3125-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday April 10, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, DC 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public

1. Proposed Designation of City of St. Petersburg (Florida) Office of Human Relations as a 706 Agency.
2. State and Local Agency Systemic Project Funding from FY '79 Funds.
3. Proposed Procedures for Coordinating Federal Agency Equal Employment Activities, pursuant to Executive Order 12067.
4. Report on Commission operations by the Executive Director.

Closed to the public

1. Proposed Conciliation Agreement
2. Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice Issued April 3, 1979.

[S-668-79 filed 4-4-79; 12:00 pm]

BILLING CODE 6570-06-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, April 5, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTER TO BE CONSIDERED: Briefing on status of captioning for the deaf.

Additional information concerning this item may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: March 29, 1979.

[S-663-79 Filed 4-4-79; 10:28 am]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2 p.m., Friday, March 30, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Emergency Closed Commission Meeting.

MATTERS TO BE CONSIDERED: Discussion of Schedule of Congressional Hearings on Ethics in Government Act of 1978.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: April 3, 1979.

[S-671-79 Filed 4-4-79; 1:52 pm]

BILLING CODE 6712-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change 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 2:30 p.m. on Monday, April 2, 1979, the Corporation's Board of Directors voted, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), to withdraw the following item from the agenda for consideration at the meeting:

Application of Wasatch Bank of Lehi, Lehi, Utah for Federal deposit insurance.

The Board also determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: April 2, 1979.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Acting Executive Secretary.

[S-670-79 Filed 4-4-79; 1:21 pm]

BILLING CODE 6714-01-M

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, April 3, 1979, at 3:15 p.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting was open to the public.

Due to extraordinary circumstances, the Commission held a special open meeting to discuss testimony to be given before the House Administration Committee, U.S. House of Representatives on April 10, 1979, on H.R. 1, a bill to provide for financing of general election compaigns for the House of Representatives.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-673-79 Filed 4-4-79; 3:22 pm]

BILLING CODE 6715-01-M

8

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, April 11, 1979 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings, correction and approval of minutes, advisory opinion 1979–7.

Appropriations and budget, budget execution report, pending legislation, 1980 elections and related matters.

Classification actions, routine administrative matters, senior executive service.

Portions closed to the public (following Open Session).

Audits, Compliance, Personnel, Litigation, Labor/Management Relations.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-674-79 Filed 4-4-79; 3:22 pm]

BILLING CODE 6715-01-M

9

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 65, Tuesday, April 3, 1979, page 19616.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., April 5, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, [202–377–6000].

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Consideration of Proposal by the National Neighborhood Reinvestment Corporation.

[No. 225, April 4, 1979]

[S-665-79 Filed 4-4-79; 11:00 am]

BILLING CODE 6720-01-M

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 29, 1979, 44 FR 18815.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: April 4, 1979.

CHANGE IN THE MEETING: Addition of the following item to the open session:

6. Bunker surcharges in the foreign commerce of the United States.

[S-676-79 Filed 4-4-79; 3:56 pm]

BILLING CODE 6730-01-M

11

FEDERAL MARITIME COMMISSION.

TIME AND DATE: April 5, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: Bunker surcharges in the foreign commerce of the United States filed by: (1) American West African Freight Conference, (2) U.S. Great Lakes and Saint Lawrence River Ports/West Africa Rate Agreement, (3) East Coast Columbia Conference, (4) Atlantic and Gulf/West Coast of South America Conference, (5) Leeward and Windward Islands and Guianas Conference, and (6) U.S. Atlantic and Gulf-Santo Domingo Conference.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, 202–523–5725.

[S-677-79 Filed 4-4-79; 3:56 pm]

BILLING CODE 6730-01-M

12

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, April 11, 1979.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendment to Regulation BB (Community Reinvestment) and the Board's Rules of Procedure regarding applications by national banks to establish branches in United States Territories.

Discussion Agenda

1. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of Bank of Leakesville, Leakesville, Mississippi, with First State Bank, Waynesboro, Mississippi.

Proposal for a one-time survey of standby letters of credit.

3. Proposed amendment to Regulation B (Equal Credit Opportunity) to bring additional persons within the scope of the regulation (Proposed earlier for public comment: Item 1 on Docket No. R–0185).

4. Proposed interpretations of Regulation B (Equal Credit Opportunity) relating to credit scoring.

5. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452–3204.

[S-661-79 Filed 4-4-79; 9:51 am]

BILLING CODE 6210-01-M

13

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, April 10, 1979.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

STATUS: *Closed Special Conference.* A majority of the Commission voted to close this conference because it is likely to relate solely to the internal personnel rules and practices of the agency, within the meaning of 5 U.S.C. 552b(c)(2) and 49 C.F.R. 1012.7(d)(2), and disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, within the meaning of 5 U.S.C. 552b(c)(6) and 49 C.F.R. 1012.7(d)(6). Vice Chairman Brown did not participate.

MATTER TO BE CONSIDERED: Personnel Matter—Discussion of Nomination for Fleming Award and Nature of Submission.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: 202–275–7252.

[S-675-79 Filed 4-4-79; 3:45 pm]

BILLING CODE 7035-01-M

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, April 4, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Changes.

MATTERS TO BE CONSIDERED:

Wednesday, April 4 (Additional Item)

1 p.m. Staff briefing on generic implications of Three Mile Island incident (approximately 1 hour, public meeting).

Note.—Items previously announced for Wednesday, April 4 are cancelled:

10 a.m. Meeting on defense and space program review scope matters (closed—cancelled).

1:30 p.m. Discussion of upgrade rule (public meeting, cancelled).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202–634–1410.

Walter Magee,
Office of the Secretary.

April 3, 1979.

[S-669-79 Filed 4-4-79; 1:14 am]

BILLING CODE 7590-01-M

15

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9:30 a.m. on April 11, 1979.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, 202–634–4015.

Dated: April 3, 1979.

[S-666-79 Filed 4-4-79; 11:10 am]

BILLING CODE 7600-01-M

16

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on April 19, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussin of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, 202–634–4015.

Dated: April 3, 1979.

[S-667-79 Filed 4-4-79; 11:10 am]

BILLING CODE 7600-01-M

17

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [44 FR 17025 March 20, 1979 and 44 FR 19280 April 2, 1979].

STATUS: Closed meeting; open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATES PREVIOUSLY ANNOUNCED: March 14, and March 26, 1979.

CHANGES IN THE MEETING: Rescheduling; deletion; additional item.

The following item scheduled for consideration at a closed meeting on Wednesday, March 28, 1979, at 9:30 a.m. has been rescheduled for Wednesday, April 4, 1979, immediately following the 10 a.m. open meeting.

Regulatory matter bearing enforcement implications.

The following item scheduled was not considered at the open meeting on Thursday, March 29, 1979, at 3:30 p.m.

Oral argument on an application by Charles H. Ross, Inc. for review of disciplinary action taken against him by the Options Clearing Corporation. For further information, please contact R. Moshe Simon at (202) 755–1530.

The following closed items scheduled for Tuesday, April 3, 1979, at 10 a.m. has been rescheduled for Wednesday, April 4, 1979, immediately following the 10 a.m. open meeting.

Amendment of formal order of investigation.

Formal order of investigation.

The following additional item will be considered at a closed meeting scheduled for Wednesday, April 4, 1979, immediately following the 10 a.m. open meeting.

Regulatory matter regarding holding companies.

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

April 3, 1979.

[S-664-79 Filed 4-6-79; 10:51 am]

BILLING CODE 8010-01-M

federal register

Friday
April 6, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction

DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Hawaii:	
HI78–5130	Nov. 24, 1978.
Illinois:	
IL78–2123	Oct. 27, 1978.
IL78–2125	Oct. 20, 1978.
Indiana:	
IN78–2066	July 28, 1978.
IN78–2162	Dec. 8, 1978.
IN78–2163	Dec. 1, 1978.
IN79–2002; IN79–2003;	Jan. 26, 1979.
Kentucky:	
KY78–1098	Dec. 1, 1978.
Louisiana:	
LA79–4001; LA79–4002	Jan. 5, 1979.
Maine:	
ME77–3138	Dec.16, 1977.
Maryland:	
MD78–3020	Apr. 14, 1978.
New Mexico:	
NM79–4021	Jan. 5, 1979.
NM79–4022	Feb. 2, 1979.
Oregon:	
OR79–5103	Feb. 23, 1979.
Texas:	
TX79–4010; TX79–4011	Jan. 5, 1979.
TX79–4031; TX79–4033; TX79–4038; TX79–4050	Mar. 16, 1979.
Washington:	
WA78–5133	Dec. 29, 1978.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication the **Federal Register** are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Connecticut:	
CT78–2160 (CT79–2010), CT78–2161 (CT79–2011)	Dec. 1, 1978.
Louisiana:	
LA79–4030 (LA79–4060)	Feb. 18, 1977.
Mississippi:	
MS78–1056 (MS79–1055)	June 30, 1978.
MS78–1074 (MS79–1003)	Sept. 3, 1978.
Pennsylvania:	
PA78–3012 (PA79–3007)	Apr. 28, 1978.
South Carolina:	
SC78–1103 (SC79–1062)	Dec. 22, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 30th day of March 1979.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATIONS P. 1

DECISION #HI78-5130 - Mod. #2
(43 FR 55143 - November 24, 1978)
Statewide, Hawaii

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dredging: Hydraulic suction dredges; Clamshell dredges; Boat operators; Derricks:					
Group 1	$11.74	$1.15	$2.35	.85	.10
Group 2	11.13	1.15	2.35	.85	.10
Group 3	10.68	1.15	2.35	.85	.10
Group 4	9.40	1.15	2.35	.85	.10
Group 5	9.13	1.15	2.35	.85	.10
Group 6	8.96	1.15	2.35	.85	.10
Group 7	11.49	1.15	2.35	.85	.10
Group 8	10.36	1.15	2.35	.85	.10
Group 9	11.19	1.15	2.35	.85	.10
Group 10	8.48	1.15	2.35	.85	.10
Electricians:					
Electricians; Linemen	11.55	1.07	1.74+15%	11.2%	.50
Technicians	11.90	1.07	1.74+15%	11.2%	.50
Line Equipment Men	11.40	1.07	1.74+15%	11.2%	.50
Groundman	8.66	1.07	1.74+15%	11.2%	.50
Cable Splicers	12.71	1.07	1.74+15%	11.2%	.50
Elevator Constructors	13.83	.895	.69	a	.03
Elevator Constructors' Helpers	9.68	.895	.69	a	.03
Elevator Constructors' Helpers (Prob.)	6.915				
Ironworkers:					
Bridge; Ornamental; Reinforcing; Structural	10.90	.95	1.52	1.10	.20
Laborers:					
Group 1	8.36	.99	1.41	.55	.08
Group 1-a	8.41	.99	1.41	.55	.08
Group 1-b	8.76	.99	1.41	.55	.08
Group 1-c	8.96	.99	1.41	.55	.08
Group 1-d	8.86	.99	1.41	.55	.08
Group 1-e	9.06	.99	1.41	.55	.08
Group 1-f	9.11	.99	1.41	.55	.08
Group 1-g	9.31	.99	1.41	.55	.08
Group 1-h	7.25	.99	.65	.55	
Group 2	8.61	.99	1.41	.55	.08
Group 3	8.81	.99	1.41	.55	.08
Line Construction Workers:					
Electricians; Linemen	11.55	1.07	1.74+15%	11.2%	.50
Technicians	11.90	1.07	1.74+15%	11.2%	.50
Line Equipment Men	11.40	1.07	1.74+15%	11.2%	.50
Groundman	8.66	1.07	1.74+15%	11.2%	.50
Cable Splicers	12.71	1.07	1.74+15%	11.2%	.50

MODIFICATIONS P. 2

DECISION #HI78-5130 (Cont'd):

Change (Cont;d):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	$8.85	$1.15	$2.35	.85	.10
Group 2	8.96	1.15	2.35	.85	.10
Group 3	9.13	1.15	2.35	.85	.10
Group 4	9.40	1.15	2.35	.85	.10
Group 5	9.71	1.15	2.35	.85	.10
Group 6	10.36	1.15	2.35	.85	.10
Group 7	10.68	1.15	2.35	.85	.10
Group 8	10.79	1.15	2.35	.85	.10
Group 9	10.90	1.15	2.35	.85	.10
Group 9-A	11.13	1.15	2.35	.85	.10
Group 10	11.19	1.15	2.35	.85	.10
Group 10-A	11.34	1.15	2.35	.85	.10
Group 11	11.49	1.15	2.35	.85	.10
Group 12	11.85	1.15	2.35	.85	.10
Truck Drivers:					
Flatbed	8.73	1.15	2.35	.85	.10
Dump, 8 yd.s and under; Water truck (up to and including 2000 gallons)	9.00	1.15	2.35	.85	.10
Water truck (over 2000 gallons)	9.31	1.15	2.35	.85	.10
Tandem, Semi-trailer or Semi-dump	9.96	1.15	2.35	.85	.10
Slip-in or pup	10.28	1.15	2.35	.85	.10
End dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor Trailer (hauling equipment)	10.39	1.15	2.35	.85	.10

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #IL78-2123 - Mod. #5 (43 FR 50308 - October 27, 1978) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
Change:					
Modification #3 Vol. 44, Page 17886 Dated March 23, 1979 To Modification #4.					
Decision #IL78-2125 - Mod. #5 (43 FR 49192 - October 20, 1978) Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Marion, Massac, Perry, Pope, Paulski, Saline, Union, White, & williamson Counties Illinois					
Change:					
Modification #3 Vol. 44, Page 17886 dated March 23, 1979 to Modification #4.					

MODIFICATIONS P. 4

DECISION NO. IN78-2066 - MOD #2 (43 FR 33003 - July 28, 1978) Elkhart, Jasper, Kosciusko, LaGrange, Marshall, Newton, Pulaski, & Starke Counties, Indiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS:					
Elkhart, Jasper, Kosciusko, Marshall, Pulaski, & Stark Cos	$12.98	.65	.90		
LaGrange Co.	12.60	.55	1.25		
Newton Co.	13.01	.91	.99		.05
BRICKLAYERS; STONEMASONS:					
Elkhart, Kosciusko, & LaGrange Cos.	12.33		.30		.02
Jasper, Newton & Starke Cos.	12.70	.90	.55		.05
CEMENT MASONS:					
Elkhart, Kosciusko, & LaGrange Cos.	11.38		.30		.02
ELECTRICIANS:					
Jasper, Pulaski, & Starke Cos.	13.00	4%	7½%		.5%
LaGrange Co.	12.35	.50	3%+.40		.06
ELEVATOR CONSTRUCTORS:					
Elkhart, Jasper, Kosciusko (NW Portion), LaGrange (NW of city of LaGrange), Marshall, Pulaski & Starke Cos.					
Elevator Constructors	11.44	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				
Kosciusko (SE part), & LaGrange (Remaining Portion) Cos.:					
Elevator Constructors	11.635	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				
Newton Co.:					
Elevator Constructors	13.20	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				
GLAZIERS:					
Kosciusko (Southern portion), & LaGrange Cos.	10.79		.25	.40+d	.04

DECISION NO. IN78-2066 (Cont'd) MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
IRONWORKERS:					
Jasper (N½), & Newton Cos.	$12.72	.90	1.66		.09
Jasper (S½) Co.	11.54	.90	1.25		.02
MARBLE SETTERS; TERRAZZO WORKERS & Tile Setters:					
Elkhart, Kosciusko & LaGrange Cos.:					
Terrazzo Workers & Tile Setters	11.10		.30	e	.02
Jasper, Newton & Starke Cos.:					
Marble Setters & Terrazzo Workers	12.70	.90	.55		.05
Tile Setters	12.60	.90	.55		.02
PAINTERS:					
LaGrange Co.:					
Brush; Paperhangers; Rollers & Tapers	9.25	.50	.65		.12
Sandblasting; Spray & Steam-cleaning	10.25	.50	.65		.12
PIPEFITTERS; PLUMBERS & Steamfitters:					
Elkhart, Kosciusko & LaGrange Cos.	12.65	.55	.85		.07
Jasper (N. side of city of Renselaer, S.), Marshall, Pulaski & Starke Cos.	11.75	.55	.95		.10
PLASTERERS:					
Elkhart, Kosciusko & LaGrange Cos.	11.18		.30		.02
ROOFERS:					
Jasper & Newton Cos.	13.01	.75	.60		
SHEET METAL WORKERS:					
LaGrange Co.	12.09	.50+g	.60		.12
OMIT:					
POWER EQUIPMENT OPERATORS:					
Jasper, Newton, Pulaski, & Starke Counties					
ADD:					
CEMENT MASONS:					
Marshall & Pulaski (S½)	$10.43	.85	.80		.04
PLASTERERS:					
Marshall & Pulaski (S½)	10.24	.85	.90		.04
FOOTNOTES:					
g. 3% of gross earnings to SASMI					
POWER EQUIPMENT OPERATORS:					
Jasper, Newton, Pulaski & Starke Counties					

MODIFICATIONS P. 6

DECISION NO. IN78-2066 (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class I	$12.40	1.00	1.00		.05
Class II	11.90	1.00	1.00		.05
Class III	10.35	1.00	1.00		.05
Class IV	9.35	1.00	1.00		.05

CLASS I Mechanic; asphalt plant; autograde; batch plant; benoto (requires two engineers); boiler & throttle valve; boring machine (mining machine); caisson rigs; central redimix plant; combination backhoe, front end loader with backhoe bucket over ½ cu. yd.; combination tugger boist & air compressor; compressor and throttle; concrete breaker (truck mounted); concrete conveyor; concrete paver over 27E cu. ft.; concrete paver 27E cu. ft. and under; concrete pump w/boom (truck mounted); concrete tower; cranes, all; cranes, hammerhead tower; creter crane; derricks, all; derricks, traveling; forklift-lull type; forklift - 10 ton and over; hoists, one, two, and three drum; hoist, two tugger one floor; hydraulic boom truck; locomotive, all; motor patrol; mucking machine; pile drivers and skid rig; pit machines; pre-stress machine; pump cretes and similar types; rock drill (self-propelled); rock drill (truck mounted); slipform paver; straddle buggies; tractor with boom & side boom; trenching machine; winch tractors

CLASS II Asphalt spreader; boiler; bulldozers; combination backhoe, front-end loader with backhoe bucket, ½ cu. yd. and under; grader, elevating; greaser engineer; grouting machines; highlift shovels or front endloader; hoist, automatic; cowboy drilling machines; hoists all elevators; hoists, tugger single drum; post hole digger; rollers, all; scoops - tractor drawn; stone crushers; tournapull; winch trucks

CLASS III Concrete mixer (2 bag & over); conveyor, portable; steam generators; tractors, farm & similar type; air compressor small 150 & under (1 to 5 not to exceed a total of 300 ft.); air compressor - large over 150; combination - small equipment operator; forklift - under 10 tons; generators; pumps (1 to 3 not to exceed a total of 300 ft.); pumps, well points; welding machines (2 through 5); winches 4 electric drill winches

CLASS IV Heaters, mechanical (1 to 5); oilers & switchmen

MODIFICATIONS P. 7

DECISION NO. IN78-2162 - MOD #2
(43 FR 57789 - December 8, 1978)
Lake, LaPorte, Porter, &
St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Heavy & Highway Construction:					
St. Joseph County	11.13	.80	.80		.05
Cement masons:					
Heavy & Highway Construction:					
St. Joseph County	11.01	.85	.80		.04
Elevator constructors:					
Lake & Porter Counties:					
Elevator constructors	13.20	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				
LaPorte & St. Joseph Counties:					
Elevator constructors	11.44	.745	.56	b+c	.035
Helpers	70%JR	.745	.56	b+c	.035
Helpers (Prob.)	50%JR				
Lathers:					
Lake & Porter Counties	12.09		.50		.01
Add:					
Cement masons:					
Building construction:					
St. Joseph County	10.43	.85	.80		.04
Plasterers:					
St. Joseph County	10.24	.85	.90		.04

MODIFICATIONS P. 8

DECISION NO. IN78-2163 - MOD #2
(43 FR 56382 - December 1, 1978)
Statewide, except Lake, LaPorte, Porter and St. Joseph Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CARPENTERS:					
Elkhart County	$11.13	.80	.80		.05
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (except Edinburg), Marion, Montgomery, Morgan (except Washington), Parke (except portion lying west of a line south and north running through Jessup, Rosedale, Carbondale and Poland), Putnam, Vermillion (north of the south city limits of Summit Grove) and Warren Counties	11.95	.75	.60		.08
Remainder of State of Indiana	11.18	.60	.60		.05
CEMENT MASONS:					
Fulton & Pulaski (S½)	10.43	.85	.80		.04
Blackford, Delaware, Grant, Huntington, Jay, Randolph, Wabash & Wells Cos.	10.75	.60	.80		
PAINTERS:					
Lawrence, Martin & Orange Cos.					
Brush & Structural Steel	9.00				
POWER EQUIPMENT OPERATORS:					
Tunnel & Sewer Construction:					
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo & Warren Counties					
GROUP I	12.40	.55	.75		.08
GROUP II	12.30	.55	.75		.08
GROUP III	12.10	.55	.75		.08

MODIFICATIONS P. 9

DECISION NO. IN78-2163 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
POWER EQUIPMENT OPERATORS: (Heavy & Highway Construction)					
ADD:					
CEMENT MASONS:					
Marshall Co.	$11.01	.85	.80		.04
PAINTERS:					
Clay Co.:					
Brush; Drywall; Paperhanger; Pointing & Taping	9.00				
Brush-Steel; Roller	9.50				
Brush-Swing Stage	10.05				
Spray	10.25				
Spray-Steel	10.50				
Sandblasting; Spray-Swing Stage	10.75				
POWER EQUIPMENT OPERATORS: (Heavy & Highway Construction)					

MODIFICATIONS P. 10

DECISION NO. IN78-2163 (Cont'd)

POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Stouben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$ 11.77	.55	.65		.10
GROUP II	10.43	.55	.65		.10
GROUP III	9.85	.55	.65		.10
GROUP IV	8.79	.55	.65		.10
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke, Cos.:					
GROUP I	10.79	1.10	1.10		.08
GROUP II	9.45	1.10	1.10		.08
GROUP III	8.87	1.10	1.10		.08
GROUP IV	7.81	1.10	1.10		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties:					
GROUP I	11.89	.50	.60		.08
GROUP II	10.55	.50	.60		.08
GROUP III	9.97	.50	.60		.08
GROUP IV	8.91	.50	.60		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	11.69	.55	.75		.08
GROUP II	10.35	.55	.75		.08
GROUP III	9.77	.55	.75		.08
GROUP IV	8.71	.55	.75		.08

MODIFICATIONS P. 11

DECISION NO. IN79-2002 - Mod. #1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(44 FR 5606 - January 26, 1979) Adams, Allen, Bartholomew, Benton, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White, & Whitley Counties, Indiana					
Change:					
Cement Masons:					
Blackford, Delaware, Grant, Huntington, Jay, Wabash, & Wells Cos.	10.75	.60	.80		
Electricians:					
Clinton, Grant, Howard, Miami, Tipton, & Wabash Cos.	12.25	.50	3%+.50		.2%
Elevator Constructors:					
Adams, Allen, Blackford, DeKalb, Grant, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Cos.:					
Elevator Constructors	11.635	.745	.56	b&c	.035
Helpers	70%JR	.745	.56	b&c	.035
Helpers (Prob.)	50%JR				
Cass & Fulton Cos.:					
Elevator Constructors	11.44	.745	.56	b&c	.035
Helpers	70%JR	.745	.56	b&c	.035
Helpers (Prob.)	50%JR				
Remaining Counties:					
Elevator Constructors	11.92	.745	.56	b&c	.035
Helpers	70%JR	.745	.56	b&c	.035
Helpers (Prob.)	50%JR				
Add:					
Cement masons:					
Fulton County	$10.43	.85	.80		.04
Plasterers:					
Fulton County	10.24	.85	.90		.04

MODIFICATIONS P. 12

DECISION NO. IN79-2003 - Mod. #1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(44 FR 5614 - January 26, 1979) Brown, Clark, Crawford, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Randolph, Ripley, Rush, Scott, Switzerland, Union, Washington & Wayne Cos., Indiana					
Change:					
Asbestos workers:					
Randolph & Wayne Counties:	12.17	.55	1.35		.02
Cement Masons; Plasterers:					
Randolph County:					
Cement Masons	10.75	.60	.80		
Elevator Constructors:					
Brown, Decatur, Henry, & Rush Counties:					
Elevator Constructors	11.92	.745	.56	a&b	.035
Helpers	70%JR	.745	.56	a&b	.035
Helpers (Prob.)	50%JR				
Clark, Crawford, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.:					
Elevator Constructors	11.895	.745	.56	a&b	.035
Helpers	70%JR	.745	.56	a&b	.035
Helpers (Prob.)	50%JR				
Dearborn, Fayette, Franklin, Ohio, Ripley, Switzerland, Union, & Wayne Cos.:					
Elevator Constructors	12.36	.745	.56	a&b	.035
Helpers	70%JR	.745	.56	a&b	.035
Helpers (Prob.)	50%JR				
Randolph Co.:					
Elevator Constructors	11.635	.745	.56	a&b	.035
Helpers	70%JR	.745	.56	a&b	.035
Helpers (Prob.)	50%JR				
Marble setters; Terrazzo Workers & Tile Setters:					
Crawford County	11.10		.50		
Painters:					
Lawrence & Orange Cos.:					
Brush; Drywall; Roller; & Structural steel	9.00				
Sandblasting; Spray	10.00				
Plumbers & Steamfitters:					
Clark, Crawford, Floyd, Harrison, Jefferson, Scott, & Switzerland Counties	13.55	.50	1.10	c	.05
Dearborn, Ohio & Ripley Cos.:					
Plumbers; Gas Fitters	12.82	1.05	1.20		.07
Steamfitters; Pipefitters	13.00	1.025	1.30		.08

MODIFICATIONS P. 13

DECISION NO. IN79-2004 - Mod. #1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(44 FR 5621 - January 26, 1979) Clay, Daviess, Greene, Knox, Martin, Parke, Putnam, Sullivan, Vanderburgh, Vermillion & Vigo Counties, Indiana					
Change:					
Elevator Constructors:					
Clay, Greene, Parke, Putnam, Vermillion & Vigo Cos.:					
Elevator Constructors	11.92	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Daviess, Knox, Martin, Sullivan & Vanderburgh Cos.:					
Elevator Constructors	12.00	.745	.56	a+b	.035
Helpers	70%JR	.745	.56	a+b	.035
Helpers (Prob.)	50%JR				
Marble Setters; Terrazzo Workers & Tile Setters:					
Vanderburgh Co.	11.10		.50		
Painters:					
Martin Co.:					
Brush; Roller; Drywall	9.00				
Sandblasting; Spray	10.00				
Vinyl Hanging	9.10				
Sheet metal workers:					
Daviess, Knox, Martin, & Vanderburgh Cos.	12.97	.55	.55		.03
Add:					
Painters:					
Clay Co.:					
Brush; Drywall; Paperhanger; Pointing & Taping	9.00				
Brush-steel; Roller	9.50				
Brush-swing stage	10.05				
Spray	10.25				
Spray-steel	10.50				
Sandblasting; Spray-swing stage	10.75				

MODIFICATIONS P. 14

DECISION #KY78-1098 - Mod. #2	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(43 FR 56393 - December 1, 1978) Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliot, Fayette, Fleming, Franklin, Gallatin, Grayson, Grant, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, Larue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington, & Woodford Counties, Kentucky					
CHANGE:					
Carpenters	$ 9.41	.30	.30		
Piledrivermen	9.66	.30	.30		
DECISION #LA79-4001 - Mod. #4					
(44 FR 1634 - January 5, 1979) Statewide Louisiana					
Change:					
Lathers - Zone 7	$12.435	.55			.01
Painters:					
Zone 3 - Group 1	9.405	.525	.50		.07
Group 2	9.78	.525	.50		.07
Group 3	10.655	.525	.50		.07
DECISION #LA79-4002 - Mod. #3					
(44 FR 1650 - January 5, 1979) Bossier, Caddo & Calcasieu Parishes, Louisiana					
Change:					
Lathers - Calcasieu Parish	12.435	.55			.01

MODIFICATIONS P. 15

DECISION NO. ME77-3138 - MOD #1
(42 FR 63621 - December 16, 1977)
Statewide, Maine

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS:					
Androscoggin, Aroostook & Cumberland Cos.	$ 2.90				
Franklin, Hancock, Kennebec, Knox and Waldo Cos.	2.90				

DECISION #MD78-3020 - Mod. #7
(42 FR 16045 - April 14, 1978)
Counties of Anne Arundel (excluding the D. C. Training School), Baltimore, and Baltimore City, Maryland, and for Heavy Construction Projects in Harford and Howard Counties, Maryland

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	10.45	.85	.95		.02
Laborers, Building:					
Mason Tenders	7.75	.30	.50		.075
Scaffold Builders	7.95	.30	.50		.075
Line Construction:					
Zone 1					
Linemen, cable splicers, digging & equipment operator	12.20	.60	3%		
Winch trucks & trucks with pole or steel handling	8.14	.60	3%		
Trucks without winch	7.59	.60	3%		
Groundmen	7.65	.60	3%		
Zone 2					
Linemen, cable splicers, digging & equipment operator	12.45	.60	3%		
Winch trucks & trucks with pole or steel handling	8.39	.60	3%		
Trucks without winch	7.84	.60	3%		
Groundmen	7.90	.60	3%		
Zone 3					
Linemen, cable splicers, digging & equipment operator	12.70	.60	3%		
Winch trucks & trucks with pole or steel handling	8.64	.60	3%		
Trucks without winch	8.09	.60	3%		
Groundmen	8.15	.60	3%		
Painters:					
Brush & Roller	9.35	1.00	.55		.07

MODIFICATIONS P. 16

DECISION NO. NM79-4021 - Mod. #5
(44 FR 1652 - January 5, 1979)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
Line Construction - Utility Line Work for electric and telephone utilities REA Co-ops, railroads and Municipalities:					
Zone A - Bernalillo County					
Zone B - Statewide, except Bernalillo County					
Zone A					
Linemen-technician	9.68	.60	3%+.60		½%
Cable splicers	10.37	.60	3%+.60		½%
Equipment Operators (includes Helicopter Opr.)	9.22	.60	3%+.60		½%
Equipment Mechanic (includes Helicopter Mechanic)	8.47	.60	3%+.60		½%
Powderman	8.47	.60	3%+.60		½%
Groundman & Jackhammerman Oprs:					
1st 6 months	5.25	.60	3%+.60		½%
2nd 6 months	5.92	.60	3%+.60		½%
Experienced	6.84	.60	3%+.60		½%
Zone B					
Linemen-technician	10.56	.60	3%+.60		½%
Cable splicers	11.30	.60	3%+.60		½%
Equipment Operators (includes Helicopter Opr.)	10.05	.60	3%+.60		½%
Equipment Mechanic (includes Helicopter Mechanic)	9.22	.60	3%+.60		½%
Powderman	9.22	.60	3%+.60		½%
Groundman & Jackhammerman Oprs:					
1st 6 months	5.71	.60	3%+.60		½%
2nd 6 months	6.44	.60	3%+.60		½%
Experienced	7.48	.60	3%+.60		½%

DECISION NO. NM79-4022 - Mod. #1
(44 FR 6877 - February 2, 1979)
Statewide, New Mexico

ADD:
Line Construction - Utility Line Work for electric and telephone utilities REA Co-ops, railroads and Municipalities:
Zone A - Bernalillo County
Zone B - Statewide, except Bernalillo County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone A					
Linemen-technician	9.68	.60	3%+.60		½%
Cable splicers	10.37	.60	3%+.60		½%
Equipment Operator (includes Helicopter Opr.)	9.22	.60	3%+.60		½%
Equipment Mechanic (includes Helicopter Mechanic)	8.47	.60	3%+.60		½%
Powderman	8.47	.60	3%+.60		½%
Groundman & Jackhammerman Oprs:					
1st 6 months	5.25	.60	3%+.60		½%
2nd 6 months	5.92	.60	3%+.60		½%
Experienced	6.84	.60	3%+.60		½%
Zone B					
Linemen-technician	10.56	.60	3%+.60		½%
Cable splicers	11.30	.60	3%+.60		½%
Equipment Operators (includes Helicopter Opr.)	10.05	.60	3%+.60		½%
Equipment Mechanic (includes Helicopter Mechanic)	9.22	.60	3%+.60		½%
Powderman	9.22	.60	3%+.60		½%
Groundman & Jackhammerman Oprs					
1st 6 months	5.71	.60	3%+.60		½%
2nd 6 months	6.44	.60	3%+.60		½%
Experienced	7.48	.60	3%+.60		½%

DECISION NO. OR79-5103 - Mod #1
(44 FR 10951 - Feb 23, 1979)
Statewide Oregon

CHANGE:

LINE CONSTRUCTION:

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
GROUP 1 Cable Splicer, Leadman Pole Sprayer	$14.41	15.66	16.41	17.16	18.41
GROUP 2 Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	13.01	14.26	15.01	15.76	17.01
GROUP 3 Tree Trimmer	11.75	13.00	13.75	14.50	15.75
GROUP 4 Line Equipment Man	11.21	12.46	13.21	13.96	15.21
GROUP 5 Head Groundman (Chipper), Head Groundman, Powderman, Jackhammer Man	9.80	11.05	11.80	12.55	13.80
GROUP 6 Groundman, Tree Trimmer Helper	9.21	10.46	11.21	11.96	13.21

FRINGE BENEFITS PAYMENTS:	Groups 1 to 3	Groups 4 to 6
Health and Welfare:	.45	.45
Pension:	3% + .60	3% + .40
Vacation:	.10	.10
Apprenticeship Tr.:	1/2%	1/2%

ZONE DESCRIPTIONS:

BASE ZONE*	0 to 3 miles radius from the geographical of the cities listed below
ZONE 1	3 to 20 miles radius
ZONE 2	20 to 35 miles radius
ZONE 3	35 to 50 miles radius
ZONE 4	Over 50 miles radius

Spokane	Ellensburg	Astoria	Medford	Corvallis
Tacoma	Ephrata	Baker	Portland	Coeur D'Alens
Walla Walla	Everett	Burns	Pendleton	Kellog
Wenatchee	Kennewick	Bend	Salem	Lewiston
Yakima	Longview	Eugene	Roseburg	Orofino
Wilbur	Olympia	Seattle	Lakeview	The Dalles
Klamath Falls	Bellingham	Umatilla	Sand Point	

* Base Zone rate is paid when working out of employer's permanent shop.

MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX79-4010 - Mod. #4 (44 FR 1681 - January 5, 1979) Wichita County, Texas					
Change:					
Bricklayers & stonemasons	$10.34		.60		.05
DECISION #TX79-4011 - Mod. #3 (44 FR 1683 - January 5, 1979) Galveston & Harris Cos., Texas					
Change:					
Asbestos workers	12.40	.90	1.08		.05
Marble masons' finishers	8.75				
Terrazzo workers' finishers:					
Terrazzo workers' finishers	8.75				
Terrazzo floor machinemen	8.90				
Terrazzo base machinemen	9.05				
Tile setters' finishers	8.75				
DECISION #TX79-4031 - Mod. #1 (44 FR 16324 - March 16, 1979) Bexar County, Texas					
Change:					
Ironworkers	9.55	.55	1.15	.50	.07
Marble setters' finishers	6.87				
Terrazzo workers' finishers:					
Terrazzo finishers	6.87				
Floor machine operators	7.07				
Base machine operators	7.22				
Tile setters' finishers	6.87				
DECISION #TX79-4033 - Mod. #1 (44 FR 16326 - March 16, 1979) Jefferson & Orange Cos., Texas					
Change:					
Asbestos workers-Jefferson Co.	12.40	.90	1.08		.05
Carpenters:					
Carpenters:					
Commercial	11.70	.55	.45		.065
Residential construction of not more than 2 units & condonimium townhouses of not more than 6 units, excluding all apartment construction & multiple bldgs. for rental purposes	10.51	.55	.45		
Millwrights	12.085	.55	.45		.02
Piledrivermen	11.94	.55	.45		
Cement masons	11.82				
Ironworkers	11.38	.55	1.15		.10
Lathers	12.435	.55			.01
Pipefitters	12.12	.65	.75		.10

MODIFICATIONS P. 20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX79-4033 (CONT'D)					
Truck drivers: Group 1	$ 9.29	.53			
Group 2	9.80	.53			
Group 3	9.99	.53			
Group 4	10.09	.53			
Group 5	10.15	.53			
Power equipment ops.: Group 1	12.665		.25		
Group 2	10.57		.25		
Group 3	9.80		.25		
Group 4	9.57		.25		
DECISION #TX79-4038 - Mod. #1 (44 FR 16328 - March 16, 1979) Travis County, Texas					
Change:					
Bricklayers & stonemasons	10.87	.50	.40		.05
Carpenters: Carpenters	10.96	.48	.50		.04
Millwrights	11.21	.48	.50		.04
Cement masons	9.89	.60	.55		
Ironworkers	10.55	.55	1.15		.12
Laborers: Group 1	6.355	.275	.40		.02
Group 2	6.505	.275	.40		.02
Group 3	6.68	.275	.40		.02
Group 4	6.755	.275	.40		.02
Marble, tile & terrazzo finishers:					
Marble, tile & terrazzo finisher	6.87				
Terrazzo floor machine ops.	7.07				
Terrazzo base machine ops.	7.22				
Power equipment ops.: Group 1	11.04		.40		
Group 2	9.97		.40		
Group 3	8.75		.40		
Group 4	8.64		.40		
DECISION #TX79-4050 - Mod. #1 (44 FR 16334 - March 16, 1979) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Cement masons	9.89	.60	.55		
Ironworkers	10.55	.55	1.15		.12
Power equipment ops.: Group 1	11.04		.40		
Group 2	9.97		.40		
Group 3	8.75		.40		
Group 4	8.64		.40		

MODIFICATIONS P. 21

DECISION NO. WA78-5133 - Mod #2
(43 FR 61199 - Dec. 29, 1978)
Statewide Washington

CHANGE:

LINE CONSTRUCTION:

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
GROUP 1 Cable Splicer, Leadman Pole Sprayer	$14.41	15.66	16.41	17.16	18.41
GROUP 2 Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	13.01	14.26	15.01	15.76	17.01
GROUP 3 Tree Trimmer	11.75	13.00	13.75	14.50	15.75
GROUP 4 Line Equipment Man	11.21	12.46	13.21	13.96	15.21
GROUP 5 Head Groundman (Chipper), Head Groundman, Powderman, Jackhammer Man	9.80	11.05	11.80	12.55	13.80
GROUP 6 Groundman, Tree Trimmer Helper	9.21	10.46	11.21	11.96	13.21

FRINGE BENEFITS PAYMENTS:	Groups 1 to 3	Groups 4 to 6
Health and Welfare:	.45	.45
Pension:	3% + .60	3% + .40
Vacation:	.10	.10
Apprenticeship Tr.:	1/2%	1/2%

ZONE DESCRIPTIONS:

BASE ZONE* 0 to 3 miles radius from the geographical of the cities listed below
ZONE 1 3 to 20 miles radius
ZONE 2 20 to 35 miles radius
ZONE 3 35 to 50 miles radius
ZONE 4 Over 50 miles radius

Spokane	Ellensburg	Astoria	Medford	Corvallis
Tacoma	Ephrata	Baker	Portland	Coeur D'Alens
Walla Walla	Everett	Burns	Pendleton	Kellog
Wenatchee	Kennewick	Bend	Salem	Lewiston
Yakima	Longview	Eugene	Roseburg	Orofino
Wilbur	Olympia	Seattle	Lakeview	The Dalles
Klamath Falls	Bellingham	Umatilla	Sand Point	

* Base Zone rate is paid when working out of employer's permanent shop.

SUPERSEDES DECISION

STATE: CONNECTICUT COUNTIES: *SEE BELOW
DECISION NUMBER: CT79-2010 DATE: DATE OF PUBLICATION
Supersedes Decision No.: CT78-2160 dated, December 1, 1978 in 43 FR 56362
DESCRIPTION OF WORK: Building, Residential, Highway, and Heavy (excluding tunnel construction) Construction Projects

*FAIRFIELD, LITCHFIELD and WINDHAM COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fairfield Co.; Litchfield Co. Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Kent, Litchfield, Morris New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury & Thomaston; Windham Co.: Ashford, Chaplin, Eastford, Hampton, Scotland & Windham	$11.99	.75	1.31		
Litchfield Co.: Canaan, Colbrook Norfolk, N. Canaan & Salisbury; Windham Co.: Woodstock	11.30	1.04	1.30		.01
Windham Co.: Brooklyn, Canterbruy, Killingly, Plainfield, Pomfret, Putnam, Sterling & Thompson	11.38	1.25	1.33		
BOILERMAKERS	12.30	1.05	10%		.02
BRICKLAYERS: Cement Masons; Finishers; Marble Masons; Plasterers, Stonemasons; Terrazzo Workers; Tile Setters (Building Construction):					
Fairfield Co.: Shelton	10.55	.75	.75		.03
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Startford & Trumbull	10.40	.75	.75		.03
Fairfield Co.: New Canaan, Norwalk, Ridgefield, Weston, Westport & Wilton	10.55	.75	.75		.03
Fairfield Co.: Darien & Stamford	10.97	.83	.25		.03
Fairfield Co.: Greenwich	10.75	.55	.55		.02
Fairfield Co.: Bethel, Brookfield Danbury, New Fairfield, Newtown Redding & Sherman; Litchfield Co.: Bridgewater, Kent, New Milford & Roxbury	10.35	.75	.57		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS: (Cont'd)					
Litchfield Co.: Barkhamsted, Bethlehem, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Hartford, Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Washington, Winchester	$ 9.80	.75	.75		.03
Windham Co.	10.55	.75	.75		
Litchfield Co.: Plymouth, Thomaston, Watertown, & Woodbury	10.30	.75	.75		.03
BRICKLAYERS (Heavy & Highway Construction):					
Except Towns of Darien, Greenwich & Stamford	10.05	.75	.75		b
Darien & Stamford	10.47	.83	.25		b
Greenwich	10.45	.55	.55		b
CARPENTERS; MILLWRIGHTS; PILE-drivermen & Soft Floor Layers (Building Construction):					
Fairfield Co.: Greenwich	10.10	.90	.65		.05
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, & Westport	10.70	.90	.65	c	a
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford & Wilton; Litchfield Co.: Barkhamsted, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, North Canaan, Roebury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester & Woodbury					
Commercial	10.10	.90	.65		.10
Residential	6.90	.90	.65		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Litchfield Co.: Harwinton, Plymouth, Thomaston & Watertown	$10.30	.90	.65		.05
Windham Co.	10.70	.90	.65		.03
CARPENTERS (Heavy & Highway Construction):					
Fairfield Co.: Bridgeport, Easton, Fairfiedl, Monroe, Shelton Stratford, Trumbull, Weston & Westport	10.50	.90	.65	f	.05
Fairfield Co.: Bethel, Brookfield, Danbury, Darien, New Canaan, New Fairfield, Newton, Norwalk, Wilton, Redding, Ridgefield, Sherman, Stamford & Litchfield Co.: Remainder of Co	10.50	.90	.65	f	.10
Fairfield Co.: Greenwich	10.55	.85	.65	f	.05
Litchfield Co.: Harwinton, Plymouth, Thomaston & Watertown	10.50	.90	.65	f	.03
Windham Co.:	10.70	.90	.65	f	.03
ELECTRICIANS:					
Fairfield Co.: Norwalk (E. of Five Mile River), Weston, Westport & Weston Building Construction	10.85	.68	3%+.30	6%	¼%
Fairfield Co.: Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newton, Redding Ridgefield, Shelton, Sherman, Stratford & Trucmbull; Litchfield Co.: Bridgewater & New Milford Building Construction	11.25	1.10	3%+1.05		¼%
Fairfield Co.: Darien, Greenwich, New Canaan & Stamford	12.00	6%+e	9½%	10%	.06
Litchfield Co.: Plymouth Building Construction	10.80	1.00	3%+.52		¼%
Windham Co.: Building Construction	11.30	1.50	3%+1.10		½%
Litchfield Co.: Rem. of Co.	10.70	1.22	3%+.60	g	1/8%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$10.79	.895+	.69+	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	7.55	.895+	.69+	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Fairfield Co.: Greenwich	12.20	.66	1.66	.67	.01
Fairfield Co.: Rem. of Co.; & Litchfield Co.	9.83	.95	.47	j	.01
Windham Co.	11.81	.84	.55	k	
IRONWORKERS:					
Ornamental; Reinforcing; Structural; and Precast concrete erection	12.25	.90	1.45	i	.08
LATHERS:					
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Redding, Ridgefield, Shelton, Stratford, Trumbull, Weston, Westport & Wilton	10.00	.50	.40		.01
Fairfield Co.: Greenwich, New Canaan, Norwalk & Stamford	9.26	.50	.20	.75	.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield Newton & Shetman; Litchfield Co.: Bethlehem, Bridgewater, Cornwall, Goshen, Harwinton, Litchfield, Morris, New Milford N. Canaan, Plymouth, Roxbury, Thomaston, Torrington Warren, Washington, Watertown & Woodbury	9.90	.35	.50		.01
Litchfield Co.: Barkhamsted, Colebrook, New Hartford, Norfolk & Winchester; Windham Co.: Chaplin, Hampton, Scotland & Windham	9.90	.50	.30		.01
Windham Co.: Danielson	9.99	.65	.75		.01
LINE CONSTRUCTION:					
Fairfield Co.: Darien, Greenwich, New Canaan, Stamford & that portion of Norwalk, W. of Five Mile River					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Railroad Construction					
Lineman	$10.71	6%	9½%	10%	.02+½%
Dynamite Man	9.53	6%	9½%	10%	.02+½%
Boring Machine Operator	9.32	6%	9½%	10%	.02+½%
Compressor Operator	8.67	6%	9½%	10%	.02+½%
Driver Groundman	8.14	6%	9½%	10%	.02+½%
Groundman	7.28	6%	9½%	10%	.02+½%
Underground Railroad Construction					
Lineman	13.26	6%	9½%	10%	.02+½%
Equipment Operator	12.20	6%	9½%	10%	.02+½%
Dynamite Man & Transitman	11.80	6%	9½%	10%	.02+½%
Mechanic	11.54	6%	9½%	10%	.02+½%
Heavy Driver Groundman	10.87	6%	9½%	10%	.02+½%
Driver Groundman	10.21	6%	9½%	10%	.02+½%
Groundman	9.68	6%	9½%	10%	.02+½%
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.					
Cross County Transmission Lines and Railroads					
Linemen, Cable Spilcer & Dynamite Man	9.98	.70	3%+.50	P	
Heavy Equipment Operator	9.02	.70	3%+.50	P	
Equipment Operator, Tractor Trailer Driver, Field Mechanic	8.46	.70	3%+.50	P	
Material Man	8.37	.70	3%+.50	P	
Groundman Truck Driver	7.53	.70	3%+.50	P	
Groundman, Experienced	6.70	.70	3%+.50	P	
Groundman, Inexperienced	5.91	.70	3%+.50	P	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich Norfolk, Stamford & Westport	$ 8.45	1.26	1.54	1.00	
MARBLE SETTERS' HELPERS; TERRAZZO Workers' Helpers; & Tile Setters'					
Fairfield Co.: Rem. of Co.; Litchfield Co.; & Windham Co.	8.75	.50	.65		
PAINTERS:					
Bridge:					
Structural Steel	13.00				
Spary	16.50				
Sandblasting or Power Tools	14.00				
Fairfield Co.: Greenwich					
Brush; Structrual Steel; Paperhangers; Tapers	9.25	.20	.75	.30	
Spray	13.88	.20	.75	.30	
Fairfield Co.: Bridgeport, Easton, Fairfield, Southport, Stratford and Trumbull					
Brush	9.15	.50	.65	r	
Spray	11.65	.50	.65	r	
Taper	9.54	.50	.65	r	
Fairfield Co.: Darien, Stamford New Canaan, Norwalk, Weston, Westport & Wilton					
Brush	9.25	.50	.75		.01
Roller, Paperhangers, Tapers Epoxy	9.75	.50	.75		.01
Spray	11.80	.50	.75		.01
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield, Sandy Hook & Sherman; Litchfield Co.: New Milford					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS: (Cont'd)					
Brush	$10.85	.50	.50	r	
Steel	11.95	.50	.50	r	
Paperhangers; Tapers	10.85	.50	.50	r	
Epoxy	12.35	.50	.50	r	
Residential	9.10	.50	.50	r	
Spray	16.20	.50	.50	r	
Fairfield Co.: Byram					
Brush	9.15	.60	1.30	.40	
Spray	10.15	.60	1.30	.40	
Steel & Swing Stage & Boatswain Chair	10.45	.60	1.30	.40	
Drywall Taper	9.95	.60	1.30	.40	
Fairfield Co.: Monroe & Shelton					
Brush	10.75	.50	.80	s	.01
Hand Roller; Paperhangers	11.25	.50	.80	s	.01
Structural Steel, epoxy, polyester	11.75	.50	.80	s	.01
Spray	14.75	.50	.80	s	.01
Windham Co.: Willimantic & Windham					
Brush; Tapers	10.30	.60	.70		.01
Paperhangers	11.25	.60	.70		.01
Riding Steel; Steamcleaning; Sandblasting; Tanks; Towers; & Hazardous Work	11.10	.60	.70		.01
Spray	13.45	.60	.70		.01
Litchfield Co.: Bantam, Barkhansted, Canaan, Colebrook, Cornwall, Goshen, Harwinton, Kent, Litchfield, New Hartford, New Field, N. Canaan, Plymouth, Salisbury, Sharon, Terryville, Torrington, Warren, Winchester & Winsted					
Brush; Roller; Taping	9.95	.80	.45		
Spray; High	12.40	.80	.45		
Epoxy	10.20	.80	.45		
Paperhanging	10.45	.80	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS: (Cont'd)					
Windham Co., except Willimantic & Windham					
Brush	$10.30	.50	.70		.01
Paperhangers	11.25	.50	.70		.01
Sign	11.25	.50	.70		.01
Taping	11.25	.50	.70		.01
Roller	10.80	.50	.70		.01
Structural Steel	11.10	.50	.70		.01
Spraying oil paint	13.45	.50	.70		.01
Spraying epoxy	15.98	.50	.70		.01
PLUMBERS:					
Windham Co.: Windham	10.96	1.10	109+.30		.15
PLUMBERS; STEAMFITTERS:					
Fairfield Co.: Greenwich	10.40	.60	.80		.02
Fairfield Co.: Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford & Trumbull	11.09	.75	.70	4%	.01
Fairfield Co.: Georgetown, Norwalk, S. Norwalk, Weston, Westport & Wilton	9.50	.75	.70	.36	.02
Fairfield Co.: Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield & Sherman; Litchfield Co.: Bridgewater & New Milford	11.20	.75	.70	.60	.02
Fairfield Co.: Darien, New Canaan & Stamford	10.55	.75	.70	4%	.02
Litchfield Co.: Bantam, Barkhamsted, Canaan, Colebrook, Cornwall, Falls Village, Goshen Harwinton, Kent, Lakeville, Litchfield, Morris, New Hartford Norfolk, N. Canaan, Salisbury, Sharon, Torrington, Warren, Winchester & Winstead	11.00	.75+.13	.70	t	.05
Litchfield Co.: Bethlehem, New Preston Plymouth (incl. Terryville), Roxbury, Thomaston, Washington, Watertown & Woodsbury	11.00	.75+.13	.70	t	.05
Windham Co., except Windham	12.62	.60	.70	u	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Fairfield Co., except that portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich; Litchfield Co.: Bethlehem, Bridgewater, Kent New Milford, Roxbury, Washington & Woodbury	$10.15	1.05	.45		
Litchfield Co.: Bantam, Canaan, Colebrook, Cornwall, Cornwall Bridge, E. Canaan, Falls Village, Gaylordsville, Goshen Lakeside, Litchfield, Marbledale, Morris, New Hartford, New Preston, Norfolk, Northfield, Oakville, Prequabuck, Pine Meadow Pleasant Valley, Plymouth, Riverton, Salisbury, Sharon, S. Kent, Taconic, Terryville, Thomaston, Torrington, Washington Depot, Watertown, W. Cornwall, W. Goshen, Winchester Center & Winsted; Windham Co.					
Composition	9.30	.525	.70	.55	
Slat & Tile	9.80	.525	.70	.55	
Fairfield Co.: that portion of Fairfield Co. bounded on the e. by the eastern boundary of Greenwich					
Slate & Tile	9.65	1.79	2.65	.65	
SHEET METAL WORKER:					
Fairfield Co.; Litchfield Co.	11.50	1.28	1.04		.02
Windham Co.	11.30	.70	.86		.05
SPRINKLER FITTERS	11.75	.75	1.05		.08
STEAMFITTERS:					
Windham Co.: Windham	10.77	1.36	1.31		.13
TILE SETTERS' HELPERS:					
Fairfield Co.: Darien, Greenwich, Stamford, Norfolk & Westport	7.90	.50	1.27		

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 7 paid holidays: A, C, D, E, F, Decoration Day & Good Friday.
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holiday: B, C, D, and Good Friday. Employee must be employed 14 consecutive days immediately, prior to the holiday.
d. 3 paid holidays: C, D and E.
e. $7.00 per day
f. 3 paid holidays: B, C, and D.
g. The last 4 regular working hours prior to Christmas shall be paid half day.
h. 6 paid holidays: A through F
i. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
j. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.
k. 9 paid holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.
l. The last 4 hours on Christmas Eve is a paid half day, if employee has worked 5 consecutive days prior to Christmas Eve.
m. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the day preceding and following the holiday.
n. 1% of the gross electrical labor payroll.
o. Employer contributes $1.50 per day to a supplemental unemployment fund.
p. 9 paid holidays: A through F, Washington's Birthday, Good Friday, and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holidays.
q. 1 paid holiday: ½ day pay on Labor Day.
r. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday.
s. 4 paid holidays: B, C, D and E providing the employee works the day before and the after the holiday.
t. 2 paid holidays: B and D and half day paid holiday the Friday after Thanksgiving and the alst working day before Christmas and Good Friday paid half day.
u. 1 paid holiday: D
y. 3% of gross earnings to SASMI

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Building Construction)					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver & Setting Stone	$11.96	1.05	.95	a	.15
Dragline; Forklift - over 5' lift; Front end loader - 7cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, motive power or operation); Koehring scooper loader and/or hoe; master mechanic; shovel; & tower crane	11.84	1.05	.95	a	.15
Maintenance engineer	11.74	1.05	.95	a	.15
Central mix operator; Coleman loader and screening plant or similar equipment; combination hoe and loader over ½ yd; Conveyors - regardless of motive power; Front end loader 3cy. up to 7 cy.; Joy drill limited to joy heavy weight champion or equivalent; Mucking machine; Post hole digger; pumpcrete machine; rock boring machine; vibratory hammer; welder & well digger	11.46	1.05	.95	a	.15
Compressor battery operator	10.61	1.05	.95	a	.15
Asphalt spreader	11.23	1.05	.95	a	.15
Bulldozer; Carry-all Operators; Grader; & Scraper pan	11.16	1.05	.95	a	.15
Combination hoe and loader machine; concrete mixer - 5 bags over; Front end loader under 3 cy.; powerstone spreader	11.11	1.05	.95	a	.15

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Air and steam valve	$10.32	1.05	.95	a	.15
Compressor; generator; pump and well point; welding machine	10.21	1.05	.95	a	.15
Fork lift not over 4'; & Steam Jenny	11.00	1.05	.95	a	.15
Mechanical Heater	10.04	1.05	.95	a	.15
Roller	10.89	1.05	.95	a	.15
Dinky machine; power pavement breaker	10.71	1.05	.95	a	.15
Fireman (High pressure	9.81	1.05	.95	a	.15
Oiler	9.31	1.05	.95	a	.15
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib, over 200' - $.50 extra					
LABORERS (Heavy and Highway Construction):					
Laborers	8.15	.60	.80		.10
Acetylene burners; Asphalt raker; Chain saw operator; Concrete & power buggy operators; Concrete saw operators; fence & guard rail erectors; form setters; hand operated concrete vibrator operators; hand operated vibratory compactor operators; Mason tenders; pipelayers; pneumatic drill operators; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.40	.60	.80		.10
Air track operators; block paver; curb setters	8.65	.60	.80		.10
Blasters	8.90	.60	.80		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Building Construction)					
Laborer	$ 8.15	.60	.80		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone wall builders, mason tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powdermen & wagon drill operators and Precast Erectors	8.40	.60	.80		.10
Air track ops, block pavers; and curb setters	8.65	.60	.80		.10
Blasters	8.65	.60	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.15	.60	.80		.10
Bottom man	8.65	.60	.80		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS 1	$11.99	1.05	.95	a	.15
CLASS 2	11.64	1.05	.95	a	.15
CLASS 3	11.47	1.05	.95	a	.15
CLASS 4	11.27	1.05	.95	a	.15
CLASS 5	11.10	1.05	.95	a	.15
CLASS 6	10.90	1.05	.95	a	.15
CLASS 7	10.67	1.05	.95	a	.15
CLASS 8	9.72	1.05	.95	a	.15
CLASS 9	9.83	1.05	.95	a	.15
CLASS 10	10.22	1.05	.95	a	.15
CLASS 11	10.59	1.05	.95	a	.15
CLASS 12	9.34	1.05	.95	a	.15
CLASS 13	10.15	1.05	.95	a	.15
Crane with 150' boom - $.25 extra					
Crane with 200' boom - $.50 extra					

CLASSIFICATIONS: POWER EQUIPMENT OPERATORS

CLASS 1: Erecting and handling structural steel; front end loader (7cy. or over)
CLASS 2: Piledriver; Power shovel and crane; Dragline; Gradall; Trenching machine; lighter derrick; paver (concrete); derrick (stiff leg and guy); steel pile sheeting; koehring loader (skooper) master mechanic
CLASS 3: Drill (joy heavy weight champion or equivalent); side boom; loader (euclid); mucking machine; pumpcrete; rock and earth boring machine; Post hole digger; well digger; & hammer (vibratory); central mix; combination hoe & loader (over ½ yd)
CLASS 4: Asphalt spreader
CLASS 5: Front end loader (3yds. or over); Grader; power stone spreader; combination hoe and loader
CLASS 6: Asphalt roller; bulldozer; carryall; maintenance engineer; concrete mixer (5 bags and over); Welder
CLASS 7: Front end laoder (undre 3yds.); roller; power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine
CLASS 8: Compressor; pump
CLASS 9: Firemen (high pressure)
CLASS 10: Well point system
CLASS 11: Compressor battery
CLASS 12: Oiler
CLASS 13: Batch plant; bulk cement plant

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Survey Crew					
Chief of Party	$10.21	1.05	.95	a	.15
Ass't Chief of Party	9.47	1.05	.95	a	.15
Instrument Man	8.74	1.05	.95	a	.15
Rodman & Chainman	6.52	1.05	.95	a	.15
TRUCK DRIVERS (Building, Heavy and Highway Construction)					
CLASS 1	7.91	.74	.725	a	
CLASS 2	8.01	.74	.725	a	
CLASS 3	8.11	.74	.725	a	
CLASS 4	8.06	.74	.725	a	
CLASS 5	8.16	.74	.725	a	
CLASS 6	8.21	.74	.725	a	

CLASSIFICATIONS: TRUCK DRIVERS

CLASS 1: Two axle trucks; helpers
CLASS 2: Three axle trucks; two axle ready mix
CLASS 3: Four axle trucks; heavy duty trailer-up to 40 tons
CLASS 4: Three axle ready-mix
CLASS 5: Four axle ready-mix; specialized earth moving equipment other than conventional type on-the-road trucks and simi-trailer (including Euclids)
CLASS 6: Heavy duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

SUPERSEDEAS DECISION

STATE: Connecticut COUNTIES: See Below
DECISION NUMBER: CT79-2011 DATE: Date of publication
Supersedes Decision CT78-2161, dated December 1, 1978 in 43 FR 56370
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy (excluding tunnel construction) and highway construction:

*Hartford, Middlesex, New Haven
*New London, and Tolland Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Hartford Co.: Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, E. Hartford, W. Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill Simsbury, Southington, S. Windsor, W. Hartford, Wethersfield & Windsor; Middlesex Co.; New Haven Co.; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Groton, Lebanon, Lyme Montville, New London, Norwich Old Lume, Salem, Sprague & Waterford; & Tolland Co.: Andover, Bolton, Columbia, Conventry, Ellington, Hebron, Mansfield, Tolland, Vernon & Willington	11.99	.75	1.31		
Hartford Co.: E. Granby, Enfield, Granby, Hartland, Suffield & Windsor Locks; Toland Co.: Somers, Stafford & Union	10.95	1.04	1.30		.01
New London Co.: Griswold, Ledyard, Lisbon, N. Stonington Preston, Stonington & Voluntown	11.38	1.25	1.33		
BOILERMAKERS	12.30	1.05	10%		.02
BRICKLAYERS: Cement Masons; Finishers; Marble masons; Plasterers; Stonemasons; Terrazzo workers & Tile setters (Building Construction); Hartford Co.: Avon, Bloomfield Burlington, Enfield, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Marlborough, Rock Hill, Simsbury					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS (CONT'D)					
S.Windsor, Suffield, Thompsonville, We. Hartford, Wethersfield, Windsor, Windsor Locks; Tolland Co.: Andover, Bolton, Columbia, Conventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon & Willington	10.55	.75	.75		
Hartford Co.: Berlin, New Britain, Newtinton, & Southington; New Haven Co.: Meriden, Wallingford, Cheshire (North of Route 68)	10.40	.75	.75		.03
Hartford Co.: Canton	9.80	.75	.75		
Middlesex Co.: & New London Co.	10.55	.75	.75		.03
New Haven Co.: Bethany, Branford, E. Haven, Guilford, Hamden, Madison, New Haven, N. Brandford, N. Haven, Orange, W. Haven, Woodbridge, Rem. of Milford & Cheshire	10.55	.75	.75		.03
New Haven Co.: Ansonia, Derby, Oxford, Seymour & Southbury	10.05	.75	.75		.03
Hartford Co.: Bristol, & Plainville; New Haven Co.: Beacon Falls, Middlebury, Mixville, Naugatuck, Prospect, waterbury & Wolcott	10.30	.75	.75		.03
New Haven Co.: Milford (West of Indian River to the Orange Town line)	10.40	.75	.75		.03
BRICKLAYERS (Heavy and Highway Construction)	10.05	.75	.75	b	
CARPENTERS: MILLWRIGHTS; PILEDRIVERMEN: RESILIENT FLOOR LAYERS (Building Construction)					
Hartford Co.: Hartford, West Hartford, Avon, Farmington, Simsbury, Bloomfield, Windsor, East Granby, Granby, Windsor Locks, Suffield, Enfield, East Windsor, South					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Windsor, East Hartford, Manchester, Glastonbury, Rocky Hill, Wethersfield, Hartland, Tolland co.: Stafford, Somers, Tolland, Ellington, Bolton, Vernon	10.80	.90	.65		.05
Hartford Co.: New Britain, Newington, Berlin, Southington Plainville, Burlington, Canton, Bristol; New Haven Co.: Meriden Wallingford, New Haven, East Haven, Branford, Guilford, Madison, North Branford, North Haven, Hamden, West Haven, Orange (east of Orange Center Road and North of Route 1; also north of Route 1 and east of the Oyster River), Cheshire, Waterbury, Wolcott, Middlebury, Southbury, Naugatuck, Prospect, Bethany Beacon Falls, Woodbridge; Middlesex Co.	10.30	.90	.65		.05
New Haven Co.: Milford, Oxford, Derby, Seymour, ansonia, Orange (that part south of Route 1 and West of the Oyster River	10.70	.90	.65	c	e
New London Co.: Tolland Co.: Mansfield, Union, Willington, Coventry, Hebron, Columbia, Andover					
CARPENTERS (Heavy & Highway Construction):					
New Haven Co.: Ansonia, Derby, Milford,Orange (W. of Orange Center Road & S. of Rt #1 & W. of the Oyster River), Oxford & Seymour	10.50	.90	.65	f	e
Hartford co.; Middsex Co.; & New Haven Co.: Remainder of Co.; Tolland Co.: Bolton, Ellington, Somers, Stafford, Tolland & Vernon	10.50	.90	.65	f	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS CONT'D)					
New London Co.; Tolland Co.: Andover, Columbia, Conventry, Hebron, Mansfield, Union & Willington	10.50	.90	.65	f	.03
ELECTRICIANS:					
New Haven Co.: Milford	11.25	1.10	3%+.55		½%
Hartford Co. : Berlin, Bristol, New Britain, Newington, Plainville & Southington	10.80	1.00	3%+.52		½%
Hartford Co.: Suffield & Enfield (portion of Thompsonville West of George Washington Road and North of Hazard Ave)	10.93	.85	3%+.40	h	1/8%
Hartford Co.: Hartland; New Haven Co.: Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury & Wolcott	10.70	1.22	3%+.60	h	1/8%
Hartford Co.: Rem. of Co.; Middlesex Co.: Cromwell, Middlefield, Middletown & Portland; New London Co.: Bozrah Colchester, Franklin, Lisbon Montville, N. Stonington, Norwich, Griswold, Lebanon, Ledyard, (except Submarine Base) Preston, Salem, Sprague, Stoneington & Voluntown & Tolland Co.	11.30	1.50	3%+1.10		½%
Middlesex Co: Remainder of County					
New Haven Co.: Remainder of Co.; New London Co.: E.Lyme, New London, Fishers Island Sound Old Lyme, Groton, Waterford & Ledyard (Submarine Based Only)	10.80	1.00	3%+.52		½%
ELEVATOR CONSTRUCTORS	10.80	.895	.56	a&b	.025
ELEVATOR CONSTRUCTORS HELPERS	10.79	.895	.56	a&b	.025
ELEVATOR CONSTRUCTORS ' HELPERS (PROB.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
New HAVEN Co., except Wallingford	9.83	.95	.47	k	.01
Hartford Co.; Middlesex Co.; New Haven; Wallingford; New London Co.; & Tolland Co.	11.81	.84	.55	l	
IRONWORKERS:					
Ornamental; Reinforcing; Structural & Precast concrete erection	12.25	.90	1.45	m	.08
LATHERS:					
Hartford Co.: Bristol Southington' New Haven, Cheshire, Meriden, Middlebury, Naugatuck, Oxford, Prospect, Southbury, Waterbury & Wolcott	9.90	.35	.50		.01
Hartford Co.: Avon, Berlin, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, S. Windsor, W. Hartford, Windsor & Windosr Locks; Middlesex Co.: Cromwell, E. Haddam, E. Hampton, Middlefield, Middletown & Portland; New London Co.: Bozrah, Colchester, E. Lyme, Franklin, Grofton, Lebannon, Lisbon, Lyme, Salem, Sprague & Waterford; Tolland Co.: Andover, Bolton, Columbia, Coventry, Hebron, Mansfield & Vernon	9.90	.50	.30		.01
Hartford Co.: Broad Brock, Enfield, Hazardville, Melrose, Suffield, Thompsonville & Warehouse Point; Tolland Co.: Crystal Lake, N. Somers, Somers, Strafford, Stafford Springs, Straffordville & Union	10.85		.25		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS (CONT'D)					
Middlesex Co.: Chester, Clinton, Deep River, Durham, essex, Haddam, Killingworth, Old Saybrook & Westbrook; New Haven Co.: Ansonia, Branford, Derby, E. Haven, Guilford, Hamden, Madison, MIlford, New Haven, N. Branford, N. Haven, Orange, Seymour, Wallingford, W. Haven & Woodbridge	10.00	.75	.50		.01
LINE CONSTRUCTION:					
Linemen	11.42	.70	3%+.50	o	
Equipment Operators	10.69	.70	3%+.50	o	
Driver Groundman	8.37	.70	3%+.50	o	
MARBLE SETTERS' HELPERS;					
Terrazzo workers' helpers; & Tile Setters' Helpers	8.75	.50	.65		
PAINTERS:					
Bridge and Highway	13.00				
Structural Steel	13.00				
Sandblastings or power tools	14.00				
Spray	16.50				
New Haven Co.: Milford (up to Gulf Street)					
Brush	9.15	.50	.65	p	
Taping	9.54	.50	.65	p	
Spray	11.65	.50	.65	p	
Hartford Co.: Avon, Bloomfield, Broad Brook, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby Hartford, Manchester, Marlborough, Rocky Hill, Poquonock, Sinsbury, S. Windsor, Suffield, S. Manchester, W. Hartford, W. Simsbury, Wetherfield, Windsor, & Windsor, Locks; Tolland Co.: Andover, Ashford, Bolton, Columbia, Convetry, Ellington, Herbron, Mansfield, Rockville, Strafford, Somers, Tolland,					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Union, Vernon, & Willington					
Brush; Tapers	10.20	.95	.70		
Paperhangers	10.70	.95	.70		
Riding Steel; Steamcleaning; Sandblasting; Tank; Towers; & Hazardous work	10.78	.95	.70		
Spray	13.20	.95	.70		
Hartford Co.: Berlin, Bristol, Burlington, E. Berlin, Forestville, Hartland, Kensington, Milldale, New Britain, Newington, Plainville, Plantsville, Southington, & Unionville; New Haven Co.: Cheshire, Guilford, Madison, Meriden, & Wallingford Middlesex Co.: Chester, Clinton, Cromwell, Deep River, Durham, E. Haddam, E. Hampton, Essex, Haddam, Higganum, Ivoryton Killingworkth, Middlefield, Middletown, Moodus, Norfolk, Portland, Saybrook, & Westbrook					
Brush, Roller; Taping	9.95	.80	.45		
Spray	12.40	.80	.45		
Epoxy	10.20	.80	.45		
Paperhanging	10.45	.80	.45		
Work over 60' & Boatswain chair; Open Steel	14.43	.80	.45		
Swing stage 40 - 60'	10.95	.80	.45		
New Haven Co.: Ansonia, Beacon Falls, Derby, Oxford, & Semour					
Brush	10.75	.50	.80	q	.01
Hand roller; Paperhangers	11.25	.50	.80	q	.01
Structural Steel, epoxy poyester	11.75	.50	.80	q	.01
Spray	14.75	.50	.80	q	.01
New Haven Co.: Bethany, Branford, E. Haven, Hamden, Milford, (s. on Gulf Street & N. on North Street, New Haven, N. Branford, N. Haven, Orange, W. Haven, Woodbridge, & Woodmont					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Brush; Sandblasting	9.45	.50	.60		.02
Tapers	9.80	.50	.60		.02
Paperhangers	9.95	.50	.60		.02
Spray	12.10	.50	.60		.02
Structural steel	9.70	.50	.60		.02
New Haven Co.: Middlebury, Naugatuck, Prospect, Roxbury, Southbury, Thomaston, Washington, Waterbury, Watertown, Wolcott, & Woodbury					
Brush	9.20	.50	.70		
Paperhanger & Tapers	9.45	.50	.70		
Spray	14.18	.50	.70		
New London Co.: Norwich					
Brush	10.30	.60	.01		.01
Paperhangers	11.25	.60	.70		.01
Sign	11.25	.60	.70		.01
Taping	11.25	.60	.70		.01
Roller	10.80	.60	.70		.01
Structural Steel	11.10	.60	.70		.01
Spraying oil paint	13.45	.60	.70		.01
Spraying epoxy	15.98	.60	.70		.01
PLUMBERS:					
Hartford Co.: Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, En. Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rockly Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor Windsor Locks, Middlesex co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project) Middlefield, Middletown & Portland; Tolland Co.: Andover, Bolton, Columbia, Conventry, Ellington, Hebron, Mansfield, Somers, Strafford, Storrs, Tolland, Union, Vernon, &					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Willington	10.96	1.10	1.39		.10
PLUMBERS: Steamfitters:					
New Haven Co.: Milford	11.09	.75	.70	.44	.01
Hartford Co.: Southington, Middlesex Co.: Durham; New Haven Co.: Cheshire, Meriden & Wallingford	10.85	.75	.80	r	.03
Hartford Co.: Berlin, Bristol, E. Berlin, Kensington, New Britain, & Plainville	11.03	.75	.70	s	.03
Middlesex Co.: Clinton, Killingworth, S. Westbrook; New Haven Co.: Branford, Derby, E. Haven, Orange, W. Haven, & Woodbridge	11.18	.75	.70	t	.02
Middlesex Co.: Essex, Ivoryton, Old Saybrook, & Saybrook; New London Co.: Bozrah, Colchester, E. Lyme, Montville, New London, N. Stonington, Norwich, Old Lyme, Preston, Salem, Sprague, Stonington, Volunown, & Waterford	12.62	.60	.70	u	.05
New Haven Co.: Ansonia, Beacon Falls, Bethany, Naugatuck, Oxford, Prospect, & Seymour					
New Haven Co.: Middlebury, Southbury, S. Britain, Waterbury & Wolcott	11.00	.88	.70	v	.05
Hartford Co.: Hartland	11.00	.88	.70	v	.05
ROOFERS:					
New Haven Co.: Ansonia, Beacon Falls, Bethany, Brandford, Derby, E. Haven, Guilford, Hamden, Madison, Milford, Middlebury, Naugatuck, New Haven, N. Branford, N. Haven, Orange, Oxford, Seymour, Union City, W. Haven, & Woodbridge	10.15	1.05	.45		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (CONT'D)					
Hartford Co.; Middlesex Co.; New Haven Co.: Cheshire, Meriden, Prospect, Wallingford, & Wolcott; New London; & Tolland Co					
Composition	9.55	.525	.70	.55	
Slate, Tile	10.05	.525	.70	.55	
SHEET METAL WORKERS	11.30	.70	.86		.05
SPRINKLER FITTERS	11.75	.75	1.05		.08
STEAMFITTERS:					
Hartford Co.:Avon, Bloomfield, Burlington, Canton, E. Granby, E. Hartford, E. Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Machester, Marlborough, Newington, Rocky Hill, Simsbury, S. Windsor, Suffield, W. Hartford, Wethersfield, Windsor, & Windsor Locks; Middlesex Co.: Chester, Cromwell, Deep River, E. Haddam, E. Hampton, Haddam, Maromas (Atomic River Project), Middlefield, Middletown, & Portland; Tolland Co.: Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon & Willington	10.77	1.36	1.31		.13

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 7 paid holidays A through F, and Good Friday
b. 1 paid holiday: Good Friday. Employee must work 3 days during the work week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday.
c. 4 paid holidays: B, C, C, and Good Friday. Employee must be employed 14 consecutive days immediately prior to the holiday.
d. 3 paid holidays: C, D, and E
e. $.50 per worker per year
f. 3 paid holidays: B, C, and D
h. The last 4 regular working hours prior to Christmas Day Day shall be paid half day.
i. 6 paid holidays: A through F
j. Eployer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service, as vacation pay credit.
k. 9 paid holidays: A through F, Washingtons; Birthday, Good Friday and Columbus Day
l. 9 paid holidays: A through F, WAshington's Birthday Goode Friday and Columbus Day
m. The last 4 hours on Christmas Eve is a paid half day if employee has worked 5 consecutive days prior to Christmas Eve
n. 9 paid holidays A through F, Washington's Birthday, Good Friday and Xmas eve provided the employee had worked 45 full days for the employer during the 120 days prior to the holidays and works the scheduled work days immediately preceding and following the holidays
o. 9 paid holidays: A through F Washington's Birthday, Good friday and a floating holiday per year provided the employee has been employed for a period of 5 working days prior to the holidays and works the scheduled work days immediately preceding and following the holiday.
p. 2 paid holidays: C and D providing the employee works the day before and the day after the holiday
q. 4 paid holidays: B, C, D, and E providing the employee works the day before and the day after the holiday
r. 1 paid holiday: D
s. Paid holidays: D, and the Friday after Thanksgiving is a paid half day, and December 24, provided it falls on a working day, is a paid half day
t. 3½ paid holidays: C, D, E, and the half day Friday after Thanksgiving
u. 1 paid holidays: D
v. 2 paid holidays: B, D, & half day paid holiday the Friday after Thanksgiving and the last working day before Christmas, & Good Friday paid half day

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (BUILDING CONSTRUCTION)					
Derrick; Hoisting engineer 2 drums and over; Hoisting structural steel; Pile driver; & setting Stone	11.96	1.05	.95		.15
Dragline; Fork lift - over 4' lift; Front end loader - 7 cy. or over; Gradall; Hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation); Koerhring scooper loader and/or hoe; master mechanic; shovel; & tower crane	11.84	1.05	.95		.15
Maintenance engineer	11.74	1.05	.95		.15
Central mix operator; Coleman loader and screening plant or similar equipment; combination hoe ahd loader over ¼ yd.; Conveyors - regardless of motive power; Front end loader - 3 cy. up to 7 cy.: High pressure poratable boiler; Joy drill - limited to joy heavy weight champion or equivalent; mucking machines; post hoe digger; pumperete machine; rock boring machine; vibratory hammer; welder; & well digger	11.46	1.05	.95		.15
Compressor battery operator	10.61	1.05	.95		.15
Asphalt spreader	11.23	1.05	.95		.15
Bulldozer; Carry-all operators; Grader; & Scraper pan	11.16	1.05	.95		.15
Combination hoe and loader machine; concrete mixer - 5 bags or over; front end loader under 3 cy.; powerstone spreader	11.11	1.05	.95		.15

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POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air and steam valve	10.32	1.05	.95		.15
Compressor; generator; pump and well point; welding machine	10.21	1.05	.95		.15
Fork lift not over 4'; & Steam Jenny	11.00	1.05	.95		.15
Mechanical heater	10.04	1.05	.95		.15
Roller	10.89	1.05	.95		.15
Dinky machin; Power pavement breaker	10.71	1.05	.95		.15
Fireman (High pressure)	9.81	1.05	.95		.15
Oiler	9.31	1.05	.95		.15
Crane with boom, excluding jib, over 150' - $.25 extra					
Crane with boom, excluding jib over 200' - $.50 extra					
LABORERS (Heavy and Highway Construction):					
Laborers	8.15	.60	.80		.10
Acetylene burners; Asphalt raker; chain saw operator; concrete saw operator; fence & guard rail erectors; form setters; Hand operated vibratory compactor operators; Mason tenders; pipelayers; pneumatic gas & electric drill operators; powdermen & wagon drill operators	8.40	.60	.80		.10
Air track operator; block pavers	8.65	.60	.80		.10
Blasterers	8.90	.60	.80		.10

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LABORERS (Building Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers	8.15	.60	.80		.10
Asphalt rakers, concrete & power buggy ops, concrete saw ops, chain saw ops, fence & guard rail erectors, form setters, pipelayers, dry stone, wall builders, macon tenders, pneumatic drill ops, pneumatic gas & electric drill ops, powderman & wagon drill operators and Precast Erectors	8.40	.60	.80		.10
Air Track ops, block pavers; and curb setters	8.65	.60	.80		.10
Blasters	8.65	.60	.80		.10
Open air caisson, cylindrical work and boring crew:					
Top man	8.15	.60	.80		.10
Bottom man	8.65	.60	.80		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H-& W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (HEAVY & HIGHWAY CONSTRUCTION)					
Class 1	11.99	1.05	.95	a	.15
Class 2	11.64	1.05	.95	a	.15
Class 3	11.47	1.05	.95	a	.15
Class 4	11.27	1.05	.95	a	.15
Class 5	11.10	1.05	.95	a	.15
Class 6	10.90	1.05	.95	a	.15
Class 7	10.67	1.05	.95	a	.15
Class 8	9.72	1.05	.95	a	.15
Class 9	9.83	1.05	.95	a	.15
Class 10	10.22	1.05	.95	a	.15
Class 11	10.59	1.05	.95	a	.15
Class 12	9.34	1.05	.95	a	.15
Class 13	10.15	1.05	.95	a	.15
Crane with 150' boom - $.25extra					
Crane with 200 boom - $.50 extra					

Class 1 - Erecting and handling structural steel; front end loader (7 cy. or over)
Class 2 - Piledriver; Power shovel and crane; dragline; gradline, gradall, Trenching machine; lighter derrick; paver (concrete); derrick (stiff leg and guy); Steel pile sheeting; Koehring loader (skooper); master mechanic
Class 3 - Drill (Joy heavy weight champion or equivalent); Side boom; Loader (Euclid); Mucking machine; Pumpcrete; Rock and earth boring machine; post hole digger; well digger; & hammer (vibratory); central mix; combination hole & loader (over ¼ yd)
Class 4 - Asphalt
Class 5 - Front end loader (3 yds. or over); grader; power stone spreader; combination hoe and loader
Class 6 - Asphalt roller; bulldozer; carryall; maintenance engineer; concrete mixer (5 bags and over); welder
Class 7 - Front end loader (under 3 yds.); roller power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine
Class 8 - compressors; pump
Class 9 - Fireman (high pressure)
Class 10 - Well point system
Class 11 - Compressor battery
Class 12 - Oiler
Class 13 - Batch plant; Bulk cement plant

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Survey Crew					
Chief of Party	10.21	1.05	.95	a	.15
Ass't Chief of Party	9.47	1.05	.95	a	.15
Instrument Man	8.74	1.05	.95	a	.15
Rodman & Chainman	6.52	1.05	.95	a	.15
TRUCK DRIVERS (Building, Heavy & Highway Construction)					
Class 1	7.91	.74	.725	a	
Class 2	8.01	.74	.725	a	
Class 3	8.11	.74	.725	a	
Class 4	8.06	.74	.725	a	
Class 5	8.16	.74	.725	a	
Class 6	8.21	.74	.725	a	

CLASS 1 - Two axle trucks; helpers
CLASS 2 - Three axle trucks; two axle ready mix
CLASS 3 - Four axle trucks; heavy duty trailer-up to 40 tons
CLASS 4 - Three axle ready-mix
CLASS 5 - Four axle ready-mix; specialized earth moving equipment other than conventional type on-the-road trucks and simi-trailer (including Euclids)
Class 6 - Heavy Duty trailer-40 tons and over

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day & F-Christmas Day

FOOTNOTE:
a. 7 paid holidays: A through F and Good Friday

SUPERSEDEAS DECISION

STATE: Louisiana

PARISHES: Jefferson, Orleans, Plaquemines & St. Bernard

DECISION NO.: LA79-4060

DATE: Date of Publication

Supersedes Decision No. LA77-4030, dated February 18, 1977, in 42 FR 10237

DESCRIPTION OF WORK: Residential construction projects consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 5.90				
BRICKLAYERS	7.50				
CARPENTERS	5.66				
CEMENT MASONS	6.29				
ELECTRICIANS	7.00				
INSULATORS	4.00				
IRONWORKERS	5.00				
LABORERS:					
Laborers	4.00				
Mason tenders	4.50				
Mortar mixers	4.50				
Pipelayers	4.50				
PAINTERS:					
Brush	4.75				
Spray	6.50				
Roller	6.00				
PLUMBERS	6.36				
ROOFERS	7.00				
SHEET METAL WORKERS	5.90				
SHEETROCK HANGERS	6.50				
SHEETROCK FINISHERS	6.50				
SOFT FLOOR LAYERS	4.50				
TILE SETTERS	6.00				
TRUCK DRIVERS	4.64				
POWER EQUIPMENT OPERATORS:					
Backhoes	6.15				
Bulldozers	5.84				
Graders	5.50				
Trenching machines	5.75				

SUPERSEDEAS DECISION

STATE: Mississippi

COUNTY: Hinds

DECISION NUMBER: MS79-1003

DATE: Date of Publication

Supersedes Decision No.: MS78-1074 dated September 3, 1978 in 43 FR-43221

DESCRIPTION OF WORK: Building Construction Projects (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.32	.45	.50		
Boilermakers	10.70	1.05	1.05		.02
Bricklayers:					
Bricklayers	8.70	.25	.10		.03
Stone, block, & marble masons	8.70	.25	.10		.03
Caulkers, pointer, & cleaners	8.70	.25	.10		.03
Tile & Terrazzo setters	8.60	.25	.10		.03
Carpenters:					
Carpenters	8.60	.40	.35		.10
Soft floor layers	8.60	.40	.35		.10
Power saw operator (1 hp. or over)	8.85	.40	.35		.10
Fiber glass insulation application	8.75	.40	.35		.10
Millwrights	9.20	.40	.35		.10
Piledrivermen	8.95	.40	.35		.10
Cement masons:					
Cement masons	7.55	.35	.50		.05
Float machine operator	7.75	.35	.50		.05
Electricians:					
Electricians	10.45	.35	3%+.50		.04
Cable splicers	10.70	.35	3%+.50		.04
Elevators constructors:					
Elevator constructors	9.62	.895	.69	4%+a+b	.03
Glaziers	8.60				.01
Ironworkers	10.00	.45	.85		.04
Laborers:					
Laborers	5.23	.15	.20		.05
Mason tenders	5.38	.15	.20		.05
Pipelayers	5.38	.15	.20		.05
Plasterers tenders	5.38	.15	.20		.05
Mechanical tool operator	5.48	.15	.20		.05
Mortar mixers	5.48	.15	.20		.05
Lathers	8.65				.01
Line Construction:					
Linemen	8.88		3%	c+2%	½%
Cable splicers	9.19		3%	c+2%	½%
Groundman (over 1 year)	5.38		3%	c+2%	½%
Groundman (under 1 year)	4.99		3%	c+2%	½%

MS79-1003 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Brush; roller	7.45	.15	.10		
Spray (except structural steel)	7.95	.15	.10		
Structural steel (brush)	7.70	.15	.10		
Swing stage; bos'n chair	7.95	.15	.10		
Structural steel (spray)	8.20	.15	.10		
Plasterers	8.15	.35	.50		.05
Plumbers; Steamfitters; pipefitters	10.03	1.05	1.00		
Roofers:					
Roofers	9.30		.30		
Kettlemen	7.25		.30		
Paper roller	7.25		.30		
Sheet metal workers	9.95	.45	.45		.03+.03
Sprinkler fitters	10.80	.75	1.05		.08

FOOTNOTES:

a. Paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day, Thanksgiving Day, Christmas Day.

b. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee with more than 5 years service; 4% for employees with less than 5 years.

c. One week vacation after one year's service.

MS79-1003 - (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.08	.50	.30		.05
GROUP II	9.18	.50	.30		.05
GROUP III	8.93	.50	.30		.05
GROUP IV	8.43	.50	.30		.05
GROUP V	6.93	.50	.30		.05

GROUP I - Engineer operating under air pressure.

GROUP II - Mechanic

GROUP III - Asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane, derrick car, derrick, derrick boat, dragline, dredge elevating grader, end loader, excavator (power belt), fork lift (5 tons & over), hoists (2 drum in active use), locomotive engineer, marine engineer (chief), master pilot, mixermobile, motor patrol and similar equipment, paver (21 c.f. or larger), pile driver, recharger, scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), turnapull (DW-10 and similar pull type scrapers), Traxcavator and similar endloaders, welder, welding machines and pumps (operating 2 to 6 machines), well driller, well point pumps

GROUP IV - Asphalt spreader (bituminous distributor), asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, forklift (over 2 tons and less than 5 tons), heating plant, hoist (one drum), marine engineer's assistant, mixer payloader and similar endloaders, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machines (18" or smaller bucket line width), tugboat, winch truck and tractor, small rubber tired with backhoe attachment.

GROUP V - Air compressor, batch scale, deckhand, forklift (2 tons & under), form grader locomotive hostler, motorboat (in or outboard), oiler, pump, roughneck, scowman, tractor (with attachments), welding machine.

Booms including jib:
$.50 above regular rate - 100 ft. thru 200 ft.
$.75 above regular rate - 201 ft. thru 300 ft.
$1.00 above regular rate - over 300 ft.

SUPERSEDEAS DECISION

STATE: Mississippi COUNTY: Warren
DECISION NO.: MS79-1055 DATE: Date of Publication
Supersedes Decision No. MS78-1056 dated June 30, 1978 in 43 FR-28733
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.32	.45	.50		
Boilermakers	10.75	1.05	1.05		.02
Bricklayers:					
Bricklayers	8.70	.25	.10		.03
Stone, block, & marble masons	8.70	.25	.10		.03
Caulkers, pointers, & cleaners	8.70	.25	.10		.03
Tile & terrazzo workers	8.60	.25	.10		.03
Carpenters:					
Carpenters	8.80	.40	.25		.05
Millwrights	9.40	.40	.25		.05
Piledrivermen	9.40	.40	.25		.05
Cement masons	7.55	.35	.50		.05
Electricians:					
Electricians	10.05	.35	3% +.50		.04
Cable splicers	10.30	.35	3% +.50		.04
Elevator constructors:					
Elevator constructors	9.62	.895	.69	4%+a&b	.03
Glaziers	7.10				
Ironworkers	10.00	.45	.85		.04
Laborers:					
Laborers	2.90				
Mortar mixers	2.90				
Lathers	8.65				
Painters:					
Brush; Drywall tapers; Rollers	7.45	.15	.10		
Spray	7.95	.15	.10		
Structural steel, (brush)	7.70	.15	.10		
Plasterers	8.15	.35	.50		.05
Plumbers; pipefitters	10.74		.67	c	.05
Roofers	9.30		.30		
Sheet metal workers	9.95	.45	.45		.03+.03

MS79-1055 (Cont'd)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. 6 paid holidays: A through F

b. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. 2 paid holidays: D & F

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	10.08	.50	.30		.05
GROUP II	9.18	.50	.30		.05
GROUP III	8.93	.50	.30		.05
GROUP IV	8.43	.50	.30		.05
GROUP V	6.93	.50	.30		.05

GROUP I: Engineer, operating under air pressure.

GROUP II: Mechanic

GROUP III: Asphalt plant, backhoe, blacksmith, boom tractor, bulldozer, central mixing plant, cherry picker, clamshell, crane, derrick, derrick car, derrick boat, dragline, dredge, elevating grader, excavator (power belt), fork lift (5 tons & over), hoists (2 drum in active use), locomotive engineer, marine engineer (chief), master pilot, minermobile, motor patrol and similar equipment, paver (21 c. f. or larger), pile driver, recharger, scoop (skimmer), scraper, shovel, trenching machine (over 18" bucket line width), turnapull (DJ-10 and similar pull type scrapers), Traxcavator and similar endloaders, welder, welding machines and pumps (operating 2 to 6 machines), well driller, well point pumps.

GROUP IV: Asphalt spreader (bituminous distributor), asphalt spreader (bituminous mixer), backfilling machine, conveyor, drill (earth), finishing machine, fireman, forklift (over 2 tons and less than 5 tons), heating plant, hoist (one drum), marine engineer's assistant, mixer payloader and similar endloaders, pilot, power generating plant, pump (concrete), roller, scoopmobile, tractor (with power take-off), trenching machines (18" or smaller bucket line width), tugboat, winch truck and tractor, small rubber tired with backhoe attachment.

GROUP V:
Air compressor, batch scale, deckhand, forklift (2 tons & under), form grader, locomotive hostler, motorboat (in or outboard), oiler, pump, roughneck, scowman, tractor (with attachments), welding machine.

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.

Booms, including jib:
50¢ per hour above regular rate - 100 feet to and including 200 feet.

75¢ per hour above regular rate - 201 feet to and including 300 feet.

1.00 per hour above regular rate - 301 feet and above.

Operators servicing other crafts shall draw rate of pay not less than journeyman rate of craft being serviced.

SUPERSEDEAS DECISION

STATE: Pennsylvania
DECISION NO.: PA79-3007

COUNTIES: Clinton, Centre, Huntingdon Fulton, & Mifflin
DATE: Date of Publication

Supersedes Decision No. PA78-3012 dated April 28, 1978, in 43 FR 18476.
DESCRIPTION OF WORK: Building Erection and Foundation Excavation, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers					
ZONE 1	11.325	.65	.60		.01
ZONE	11.21	.87	.90		.01

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE - 1 Clinton County
ZONE - 2 Centre, Huntingdon, Fulton and Mifflin Counties

Boilermakers	12.80	1.05	1.00		.02
Bricklayers & Stonemasons					
ZONE I	9.90	.75	.90		.01
ZONE II	10.00	.55	.65		.015
ZONE III	9.90	.70	.65		.015
ZONE IV	10.80		.90		.01

AREA COVERED BY BRICKLAYERS AND STONEMASONS ZONES

ZONE - I Fulton and Huntingdon Counties
ZONE - II Miffline County
ZONE - III Clinton County in its entirety, and the Remainder of Centre County
ZONE - IV Townships in Centre County, Rush, Halfmoon, Taylor, Patton, Worth and Huston

Carpenters & Soft Floor Layers	10.40	6%	8%	9%	.40 of 1%
Cement Masons					
ZONE 1	11.02				
ZONE 2	10.45	12%	6%		
ZONE 3	10.465	.65	.50		

AREA COVERED BY CEMENT MASONS ZONES

ZONE - 1 Centre, Clinton and Mifflin Counties
ZONE - 2 Huntingdon County
ZONE - 3 Fulton County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Glaziers					
ZONE 1	10.44	.82	.92	1.08	.01
ZONE 2	9.39	.40	.40		.01

AREA COVERED BY GLAZIERS ZONES

ZONE - 1 Centre, Fulton, Huntingdon, & Mifflin Counties
ZONE - 2 Clinton County

Electricians					
ZONE 1	12.85	.45	.40+3%	.60	.10
ZONE 2	10.86	.65	3%+.49		¼ of 1%
ZONE 3	9.73	.50	3%+.60	.75	.02

AREA COVERED BY ELECTRICIANS ZONES

ZONE - 1 Fulton, Huntingdon and Remainder of Centre County
ZONE - 2 Mifflin County
ZONE - 3 Clinton County in its entirety; Townships in Centre County; Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles and Haines

Elevator Constructors	10.20	.745	.56	a+b	.02
Elevator Constructors Helpers	70%ofJR	.745	.56	a+b	.02
Elevator Constructors Helpers (Prob.)	50%ofJR				
Ironworkers					
ZONE 1	11.095	.975	1.47		.04
ZONE 2	12.105	1.14	1.36		.03
ZONE 3	11.06	.60	1.00		

AREA COVERED BY IRONWORKERS ZONES

ZONE - 1 Centre and Clinton Counties
ZONE - 2 Huntingdon and Mifflin Counties
ZONE - 3 Fulton County

Laborers					
ZONE 1					
Unskilled laborers	8.35	10%	8%		
Plasterers Tenders	8.40	10%	8%		
ZONE 2					
Unskilled laborers	8.20	10%	8%		
Plasterers Tenders	8.25	10%	8%		

AREA COVERED BY LABORERS ZONES

ZONE - 1 Clinton, Centre and Mifflin Counties
ZONE - 2 Fulton and Huntingdon Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers					
ZONE 1	10.94		.30		.01

AREA COVERED BY LATHERS ZONES

ZONE - 1 Centre, Clinton and Huntingdon Counties

Lead Burners	10.75	.40	.25	c	.01
Line Construction					
ZONE 1					
Lineman	12.83	.45	3%		3/8%
Groundman	7.70	.45	3%		3/8%
Winch Truck Operator	8.98	.45	3%		3/8%
ZONE 2					
Lineman, dynamite man, heavy equipment operators	11.61	.50	3%		3/8%
Groundman	7.80	.50	3%		3/8%
Winch Truck Operator	8.16	.50	3%		3/8%
ZONE 3					
Lineman	10.81	.40	3%		3/8%
Winch Truck Operator	7.54	.40	3%		3/8%
Groundman	6.45	.40	3%		3/8%

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE - 1 Centre, Fulton and Huntingdon Counties
ZONE - 2 Clinton County
ZONE - 3 Mifflin County

Millwrights	10.26	6%	6%	25%	½%
Painters					
ZONE 1					
Brush	9.55	.75	.40		.10
Tapers	9.81	.75	.40		.10
Hazardous	10.81	.75	.40		.10
ZONE 2					
Commercial					
Brush & Roller	10.39	.75	.45		.02
Spray	10.44	.75	.45		.02
Industrial					
Brush & Steel	10.94	.75	.45		.02
Spray	11.64	.75	.45		.02

AREA COVERED BY PAINTERS ZONES

ZONE - 1 Clinton County
ZONE - 2 Centre, Fulton, Huntingdon and Mifflin Counties

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Piledrivermen	11.85	5.5%	10%		50%
Plumbers & Steamfitters					
ZONE 1	10.95	.74	.60	.50	.05
ZONE 2	12.05	.84	1.07		.24
ZONE 3	11.30	.70	.80		.12

AREA COVERED BY PLUMBERS AND STEAMFITTERS ZONES

ZONE - 1 Clinton County
ZONE - 2 Huntingdon County
ZONE - 3 Centre, Fulton & Mifflin Counties

Roofers					
ZONE 1					
Composition, damp and waterproof workers	7.90	.35	.40		
Slate and tile roofers	8.35	.35	.40		
ZONE 2					
Composition & kettle,an	10.15	.90	.85		
ZONE 3					
Composition roofers	12.26	.77	1.50		.06
ZONE 4					
Composition roofers	10.41	.80	.55		

AREA COVERED BY ROOFERS ZONES

ZONE - 1 Fulton County
ZONE - 2 Clinton County
ZONE - 3 Huntingdon County
ZONE - 4 Centre & Mifflin Counties

Sheet Metal Workers					
ZONE 1	11.09	.65	.71		.02
ZONE 2	10.47	1.40	1.18		.13

AREA COVERED BY SHEET METAL WORKERS ZONES

ZONE - 1 Clinton County
ZONE - 2 Centre, Huntingdon, Fulton & Mifflin Counties

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sprinkler Fitters	12.31	.75	1.15		.08
Truck Drivers:					
ZONE 1					
Service, dump, flat top, jeep fuel & water	8.27	d	e		
Transit mix, dump trailer, winch truck	8.35	d	e		
Euclid & tractor trailer	8.42	d	e		
Helpers	8.17	d	e		
ZONE 2					
Pick-ups, dump, service trucks flat trucks to and including Z license plates	8.39	f	g		
Transit-mix, winch trucks, tractor, all types euclids, ross lumber & trucks over Z plates	8.64	f	g		
ZONE 3	7.45				

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE - 1 Centre, Huntingdon, Fulton Counties
ZONE - 2 Mifflin County
ZONE - 3 Clinton County

Welder - Receive rate prescribed for craft performing operation to which welding is incidental

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-THanksgiving Day and F-Christmas Day.

FOOTNOTES:

a. Employer contribute 8% hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 year of service as vacation pay credit.

b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

c. 8 paid holidyas, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. $59.90 per month.

e. $14.00 per week.

f. $71.37 per month per employee sho have worked sixty (60) hours during the month.

g. $41.95 per month for employee who have worked sixty (60) hours or more during the month.

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	12.075	.95	1.00		.09
CLASS 1 - A	12.325	.95	1.00		.09
CLASS 1 - B	12.575	.95	1.00		.09
CLASS 1 - C	12.825	.95	1.00		.09
CLASS 2	11.925	.95	1.00		.09
CLASS 3	10.05	.95	1.00		.09
CLASS 4	9.40	.95	1.00		.09
CLASS 5	8.35	.95	1.00		.09
CLASS 6	8.65	.95	1.00		.09
CLASS 6 - A	8.75	.95	1.00		.09
CLASS 6 - B	8.90	.95	1.00		.09
CLASS 6 - C	9.65	.95	1.00		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, contral mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod @ cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal kochring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

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CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

SUPERSEDEAS DECISION

STATE: South Carolina
DECISION NO: SC79-1062
COUNTIES: Georgetown & Horry
DATE: Date of Publication
Supersedes Decision No.: SC78-1103, dated December 22, 1978 in 43 FR-60020
Description of Work: Building Construction Projects (does not include single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	5.00				
Asbestos workers	9.40	.55	.50		
Boilermakers	10.70	1.05	1.10		.02
Bricklayers	6.00				
Carpenters	4.50				
Cement masons	4.50				
Electricians	5.56				
Glaziers	4.88				
Ironworkers:					
Structural, Ornamental, Reinforcing	5.15				
Laborers:					
Laborers	3.21				
Painters, brush	5.00				
Plumbers & Steamfitters:					
Georgetown County	9.40	.50	.40		.10
Horry	5.72				
Roofers	4.25				
Sheet metal workers	5.00				
Soft floor layers	6.25				
Sprinkler fitters	8.25	.75	1.05		.08
Truck drivers	3.21				
Tile setters	6.10				
Welders -rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.13				
Cranes, derricks, draglines	5.00				
Front end loader	3.75				
Motor grader	3.88				
Pans - scrapers	3.50				
Roller	3.40				

[FR Doc. 79-10341 Filed 4-5-79; 8:45 am]

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federal register

Friday
April 6, 1979

Part III

Department of Labor

Occupational Safety and Health Administration

Safety and Health Standards for Construction Industry; Corrections

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

Identification of General Industry Safety and Health Standards Applicable to Construction Work; Corrections

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of Enforcement Policy and Republication of Standards; Corrections.

SUMMARY: This notice announces corrections to the Notice of Enforcement Policy and Republication of Standards which appeared in the **Federal Register** on February 9, 1979 (44 FR 8577).

FOR FURTHER INFORMATION CONTACT: Ms. Brenda McCall, Office of Construction and Civil Engineering Safety Standards, Occupational Safety and Health Administration, Department of Labor, Third Street and Constitution Avenue, NW., Room N3457, Washington, D.C. 20210, (202) 523–8161.

SUPPLEMENTARY INFORMATION: On February 9, 1979, a document was published in the **Federal Register** (44 FR 8577) which, with accompanying explanation, gave notice of the Enforcement Policy and the Republication of Standards. There were a number of inadvertent errors and omissions in the February 9, 1979 document. This document corrects those errors.

Accordingly, FR Document 79–4608, appearing at 44 FR 8577, is corrected as follows:

1. On page 8577, column 2, in the first paragraph, "Program Directive No. 200–88" is corrected to read "OSHA Instruction CPL 2–1.6A".

2. On page 8579, column 2, the title of Supplement I is corrected to read: "Text of Other OSHA Standards Incorporated by Reference in Those Part 1910 Standards Identified as Applicable to Construction".

3. On page 8579, column 2, the title of Supplement III is corrected to read: "List of Standards (other Federal agencies, ANSI, NEC, NFPA, etc.) Incorporated by Reference in Part 1926 and Those Part 1910 Standards Identified as Applicable to Construction Work."

4. On page 8586, column 1, paragraph (d) is added to § 1910.12, to read as follows: "(d) For the purposes of this part, to the extent that it may not already be included in paragraph (b) of this section, "construction work" includes the erection of new electric transmission and distribution lines and equipment, and the alteration, conversion, and improvement of the existing transmission and distribution lines and equipment."

5. On page 8586, paragraphs (b) through (f) are added to § 1910.19 after designating the existing paragraph as "(a)", to read as follows:

(a) *Asbestos Dust.*

Section 1910.1001 shall apply to the exposure of every employee to asbestos dust in every employment and place of employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or 1910.16, in lieu of any different standard on exposure to asbestos dust which would otherwise be applicable by virtue of any of those sections.

(b) *Vinyl chloride.* Section 1910.1017 shall apply to the exposure of every employee to vinyl chloride in every employment and place of employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or 1910.16, in lieu of any different standard on exposure to vinyl chloride which would otherwise be applicable by virtue of any of those sections.

(c) *Acrylonitrile.* Section 1910.1045 shall apply to the exposure of every employee to acrylonitrile in every employment and place of employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or 1910.16, in lieu of any different standard on exposure to acrylonitrile which would otherwise be applicable by virtue of any of those sections.

(d) *Benzene.* Section 1910.1028 shall apply to the exposure of every employee to benzene in every employment and place of employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or 1910.16, in lieu of any different standard on exposure to benzene which would otherwise be applicable by virtue of any of those sections.

(e) *Inorganic arsenic.* Section 1910.1018 shall apply to the exposure of every employee to inorganic arsenic in every employment covered by §§ 1910.12, 1910.13, 1910.14, 1910.15, or 1910.16, in lieu of any different standard on exposure to inorganic arsenic which would otherwise be applicable by virtue of any of those sections.

(f) *Cotton dust.* Section 1910.1043 shall apply to the exposure of every employee to cotton dust in every employment covered by §§ 1910.12, in lieu of any different standard on exposure to cotton dust which would otherwise be applicable by virtue of that section.

6. On page 8588 column 1, "(i)" of § 1926.32 should be corrected to read "(j)".

7. On page 8588, column 1, in the listing of the Part 1926 and Part 1910 sections under the subpart title, § *1910.161 Carbon dioxide use*, is corrected to read § *1910.161 Carbon dioxide extinguishing systems.*

8. On page 8593, column 1, the sixth paragraph, "(B)", is corrected to read "(*b*)".

9. On page 8599, column 3, the eighth paragraph, "(G)", is corrected to read "(*g*)".

10. On page 8599, column 3, the ninth paragraph "(4), *Marine service stations*—(1)", is corrected to read "(4) *Marine service stations*—(i)".

11. On page 8600, column 1, the reference to subdivision (b) and (c) in paragraph (g)(4)(ii) of § 1910.106 is corrected by changing them from Arabic letters to italicized letters.

12. On page 8600, column 2, paragraph (a) of § 1910.106 is corrected to read *"Definitions as used in this section."*

13. On page 8601, column 2, paragraph (a) of § 1910.110 is corrected to read *"Definitions applicable to this section."*

14. On page 8605, column 2, the section is corrected by inserting after § 1926.252 Disposal of Waste Materials and before (a) *General*, the following section heading: § 1926.250 General Requirements for storage.

15. On page 8606, column 3, the seventh paragraph, "(D)", is corrected to read "(*d*)".

16. On page 8639, column 1, the fourth line of paragraph (b)(5) of § 1910.23 is corrected to read "near side of the hole is less than 4 inches".

17. On page 8647, paragraph (8)(ii) of § 1926.602, is corrected to read as follows: "Notwithstanding the provisions of paragraphs (a)(5) and (a)(8)(i) of this section, the requirement that fenders be installed on pneumatic-tired earthmoving haulage equipment, is suspended pending reconsideration of the requirement".

18. On page 8678, column 1, paragraphs (u) through (z) are added to § 1926.914, to read as follows:

(u) "Primer"—A cartridge or container of explosives into which a detonator or detonating cord is inserted or attached.

(v) "Safety fuse"—A flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate for the purpose of firing blasting caps.

(w) "Secondary blasting"—The reduction of oversize material by the use of explosives to the dimension required for handling, including mudcapping and blockholing.

(x) "Stemming"—A suitable inert incombustible material or device used to confine or separate explosives in a drill hole, or to cover explosives in mudcapping.

(y) "Springing"—The creation of a pocket in the bottom of a drill hole by the use of a moderate quantity of explosives in order that larger quantities of explosives may be inserted therein.

(z) "Water gels, or slurry explosives"—A wide variety of materials used for blasting. They all contain substantial proportions of water and high proportions of ammonium nitrate, some of which is in solution in the water. Two broad classes of water gels are: (1) Those which are sensitized by a material classed as an explosive, such as TNT or smokeless powder, and (2) those which contain no ingredient classified as an explosive; these are sensitized with metals such as aluminum or with other fuels. Water gels may be premixed at an explosives plant or mixed at the site immediately before delivery into the bore hole.

19. On page 8709, column 3, paragraph (d)(1) of § 1910.1003 is deleted.

20. On page 8712, column 2, paragraph (d)(1) of § 1910.1004 is deleted.

21. On page 8715, column 1, paragraph (d)(1) of § 1910.1006 is deleted.

22. On page 8717, column 2, paragraph (d)(1) of § 1910.1007 is deleted.

23. On page 8720, column 1, paragraph (d)(1) of § 1910.1008 is deleted.

24. On page 8722, column 2, paragraph (d)(1) of § 1910.1009 is deleted.

25. On page 8725, column 1, paragraph (d)(1) of § 1910.1010 is deleted.

26. On page 8727, column 3, paragraph (d)(1) of § 1910.1011 is deleted.

27. On page 8730, column 1, paragraph (d)(1) of § 1910.1012 is deleted.

28. On page 8732, column 2, paragraph (d)(1) of § 1910.1013 is deleted.

29. On page 8735, column 1, paragraph (d)(1) of § 1910.1014 is deleted.

30. On page 8737, column 3, paragraph (d)(1) of § 1910.1015 is deleted.

31. On page 8740, column 2, paragraph (d)(1) of § 1910.1016 is deleted.

32. On page 8742, column 3, the second sentence of paragraph (e)(2) of § 1910.1017 is deleted.

33. On page 8744, column 2, paragraph (m)(2)(ii) of § 1910.1017 is deleted.

34. On page 8747, column 1, in the ninth line of paragraph (h)(5)(i) of § 1910.1018, the word "no" is corrected to read "not".

35. On page 8747, column 1, the second line of paragraph (h)(5)(iii) of § 1910.1018, is corrected by adding the words "air purifying" before "respirators".

36. On page 8747, column 1, § 1910.1018 is corrected by adding paragraph "(i)" immediately before paragraph (j), to read as follows: "(i) [Reserved]".

37. On page 8747, column 2, paragraph (j)(1)(iii) of § 1910.1018, is corrected by inserting a hyphen between the referenced paragraphs as follows: § 1910.133(a)(2)–(a)(6).

38. On page 8747, column 2, line 7 of paragraph (j)(2)(i) of § 1910.1018 is corrected by adding an "s" to the word "exposure".

39. On page 8747, column 2 in the "Caution" following paragraph (j)(2)(vii) of § 1910.1018, the word "State" is corrected to read "state".

40. On page 8750, column 1, in line 4 of paragraph (q)(3)(i) of § 1910.1018, the reference to paragraph (m) is corrected to read "paragraph (q)".

41. On page 8750, column 3, in line 3 of paragraph (u)(4) of § 1910.1018, the reference to paragraph (g)(4) is corrected to read "Paragraph (g)(2)".

42. On page 8750, column 3, in the December 1, 1978 Startup Data, after "Completion of compliance plan", is corrected by adding the line "Optional use of powered air purifying respirators".

43. On page 8752, column 3, § 1910.1028 is corrected by adding a paragraph (a)(2)(iii) to read as follows: "(iii) Work operations where the only exposure to benzene is from liquid mixtures containing 0.5 percent (0.1 percent after June 28, 1981) or less of benzene by volume, or the vapors released from such liquids".

44. On page 8753, column 3, the heading and the first sentence of paragraph (e)(3)(iii) of § 1910.1028 are corrected to read as follows: "(iii) *Measurement at or above the permissible limit.* If the measurements reveal employee exposure to be at or in excess of the permissible exposure limits, the employee shall repeat the measurements at least monthly.

45. On page 8755, column 3, § 1910.1028 is corrected by adding a paragraph (k)(2)(iii) to read as follows: "(iii) Liquid mixtures containing 5.0 percent or less of benzene by volume which were packaged before June 27, 1978."

46. On page 8758, column 1, the third paragraph under Surveillance and Preventive Considerations, in the 10th and 11th lines, the spelling of the word "hematologic" is corrected.

47. On page 8759, column 1, line 30 of paragraph "(e)" is corrected by changing the word "good" to "appropriate".

48. On page 8766, column 3, lines 14 through 16 of paragraph (a)(3) of § 1910.1043 are corrected to read as follows: "section where the employer had developed alternative procedures which 'are as safe and healthful as' those required".

49. On page 8765, column 2, paragraph (d)(1)(iii)(*b*) "Replicates", is corrected to "Replicate".

50. On page 8767, column 3, paragraph (e)(3)(i) of § 1910.1043 is corrected by deleting the words "as soon as possible" from the fourth line.

51. On page 8767, column 3, paragraph (e)(3)(iii) of § 1910.1043 is corrected by adding the words "of the compliance program" after the word "completion" in the third line.

52. On page 8768, columns 2 and 3, in items (c) and (d) of Table I and in paragraph (f)(2)(iv) of § 1910.1043, the figure 50 is corrected to read 100.

53. On page 8769, column 1, paragraph (h)(2)(iii) of § 1910.1043 is corrected by adding at the end of the paragraph the following: "The predicted FEV and FVC for blacks shall be multiplied by 0.85 to adjust for ethnic differences."

54. On page 8769, column 1, paragraph (h)(3)(i) of § 1910.1043 is corrected by adding after the word "questionnaire", the following phrase: "(the abbreviated questionnaire, App. B–III)".

55. On page 8769, column 1, paragraph (h)(3)(ii)(*a*) of § 1910.1043 is corrected to read as follows: "An FEV_1 of greater than 80 percent of the predicted value, but with an FEV_1 decrement of 5 percent or 200 ml. on a first working day;"

56. On page 8769, column 2, paragraph (h)(5)(i)(*c*) of § 1910.1043 is corrected by changing the word "he" to "where the employee".

57. On page 8769, column 3, the designation of paragraph (i)(1)(*e*)(i) of § 1910.1043 is corrected to read "(i)(1)(ii)" and the words "and shall be reported" are deleted from that paragraph.

58. On page 8769, column 3, in paragraph (j) of § 1910.1043, the word "Signs" in the second line is corrected to read "Sign".

59. On page 8770, column 1, paragraph (k)(3)(iii) of § 1910.1043 is corrected by deleting the words "as will" in the second sentence and changing the word "indicate" to "indicating".

60. On page 8770, column 2, the second sentence of paragraph (m)(2) (iv) of § 1910.1043 is corrected by changing September to March.

61. On page 8770, column 2, the provision on *Medical surveillance* in paragraph (m)(2) of § 1910.1043, designated as paragraph "(iv)", is corrected to read paragraph "(vi)" and the words "This initial" in that paragraph are changed to "The".

62. On page 8771, column 1, paragraph (f) under Instrument Calibration Procedure is corrected from 16 inches of mercury to 17 inches of mercury.

63. On page 8771, column 2, paragraph (c)(7) under Sampling Procedure is corrected from 14 in. of Hg vacuum to 17 in. of Hg vacuum.

64. On pages 8797 to 8803, delete the entire section of § 1910.1045 Acrylonitrile and replace it with the following:

§ 1910.1045 Acrylonitrile.

(a) *Scope and application.* (1) This section applies to all occupational exposures to acrylonitrile (AN), Chemical Abstracts Service Registry No. 000107131, except as provided in paragraphs (a)(2) and (a)(3) of this section.

(2) This section does not apply to exposures which result solely from the processing, use, and handling of the following materials:

(i) ABS resins, SAN resins, nitrile barrier resins, solid nitrile elastomers, and acrylic and modacrylic fibers, when these listed materials are in the form of finished polymers, and products fabricated from such finished polymers;

(ii) Materials made from and/or containing AN for which objective data is reasonably relied upon to demonstrate that the material is not capable of releasing AN in airborne concentrations in excess of 1 ppm as an eight (8)-hour time-weighted average, under the expected conditions of processing, use, and handling which will cause the greatest possible release; and

(iii) Solid materials made from and/or containing AN which will not be heated above 170° F during handling, use, or processing.

(3) An employer relying upon exemption under paragraph (a)(2)(ii) shall maintain records of the objective data supporting that exemption, and of the basis of the employer's reliance on the data, as provided in paragraph (q) of this section.

(b) *Definitions.* "Acrylonitrile" or "AN" means acrylonitrile monomer, chemical formula $CH_2=CHCN$.

"Action level" means a concentration of AN of 1 ppm as an eight (8)-hour time-weighted average.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Decontamination" means treatment of materials and surfaces by water washdown, ventilation, or other means, to assure that the materials will not expose employees to airborne concentrations of AN above 1 ppm.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which results in an unexpected massive release of AN.

"Liquid AN" means AN monomer in liquid form, and liquid or semi-liquid polymer intermediates, including slurries, suspensions, emulsions, and solutions, produced during the polymerization of AN.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

(c) *Permissible exposure limits.* (1) *Inhalation.* (i) *Time weighted average limit (TWA).* The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of two (2) parts acrylonitrile per million parts of air (2 ppm) as an eight (8)-hour time-weighted average.

(ii) *Ceiling limit.* The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of ten (10) ppm as averaged over any fifteen (15)-minute period during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN.

(d) *Notification of regulated areas and emergencies.* (1) *Regulated areas.* Within thirty (30) days following the establishment of a regulated area pursuant to paragraph (f) of this section, the employer shall report the following information to the OSHA Area Office:

(i) The address and location of each establishment which has one or more regulated areas;

(ii) The locations, within the establishment, of each regulated area;

(iii) A brief description of each process or operation which results in employee exposure to AN in regulated areas; and

(iv) The number of employees engaged in each process or operation within each regulated area which results in exposure to AN, and an estimate of the frequency and degree of exposure that occurs.

Whenever there has been a significant change in the information required to be reported by this paragraph, the employer shall promptly provide the new information to the OSHA Area Office.

(2) *Emergencies.* Emergencies, and the facts obtainable at that time, shall be reported within seventy-two (72) hours of the initial occurrence to the OSHA Area Office. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(e) *Exposure monitoring.*—(1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an eight (8)-hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Initial monitoring.* Each employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be exposed.

(3) *Frequency.* (i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee at least quarterly. The employer shall continue these quarterly measurements until at least two consecutive measurements taken at least seven (7) days apart, are below the action level, and thereafter the employer may discontinue monitoring for that employee.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(4) *Additional monitoring.* Whenever there has been a production, process, control, or personnel change which may result in new or additional exposures to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of the results of monitoring required by this paragraph, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement of employee exposures shall be accurate, to a confidence level of 95 percent, to within plus or minus 35 percent for concentrations of AN at or above the permissible exposure limits, and plus or minus 50 percent for concentrations of AN below the permissible exposure limits.

(f) *Regulated areas.* (1) The employer shall establish regulated areas where AN concentrations are in excess of the permissible exposure limits.

(2) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to AN.

(3) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto.

(4) The employer shall assure that food or beverages are not present or consumed, tobacco products are not present or used, and cosmetics are not applied in the regulated area.

(g) *Methods of compliance.*—(1) *Engineering and work practice controls.* (i) By November 2, 1980, the employer shall institute engineering and work practice controls to reduce and maintain employee exposures to AN, to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls, and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (h) of this section.

(2) *Compliance program.* (i) The employer shall establish and implement a written program to reduce employee exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by paragraph (g)(1) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to AN above the permissible exposure limits;

(B) An outline of the nature of the engineering controls and work practices to be applied to the operation or process in question;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A schedule for implementation of engineering and work practice controls for the operation or process, which shall project completion no later than November 2, 1980; and

(E) Other relevant information.

(iii) The employer shall complete the steps set forth in the compliance program by the dates in the schedule.

(iv) Written plans shall be submitted upon request to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, or any affected employee or representative.

(v) The plans required by this paragraph shall be revised and updated at least every six (6) months to reflect the current status of the program.

(h) *Respiratory protection.*—(1) *General.* The employer shall assure that respirators are used where required by this section to reduce employee exposure to within the permissible exposure limits. Respirators shall be used in the following circumstances:

(i) During the time period necessary to install or implement feasible engineering and work practice controls;

(ii) In work operations, such as maintenance and repair activities or reactor cleaning, in which the employer establishes that engineering and work practice controls are not feasible;

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; and

(iv) In emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required under this section, the employer shall select and provide, at no cost to the employee, the appropriate type of respirator from Table I below, and shall assure that the employee wears the respirator provided.

Table I.—*Respiratory Protection for Acrylonitrile (AN)*

Concentration of AN or Condition of Use	Respirator type
(a) Less than or equal to 20 ppm	(1) Chemical cartridge respirator with organic vapor cartridge(s) and half-mask facepiece; or (2) Supplied air respirator with half-mask facepiece.
(b) Less than or equal to 100 ppm or maximum use concentration (MUC) of cartridges or canisters, whichever is lower.	(1) Full facepiece respirator with (A) organic vapor cartridges, (B) organic vapor gas mask, chin-style, or (C) organic vapor gas mask canister, front- or back-mounted; (2) Supplied air respirator with full facepiece; or (3) Self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 4,000 ppm	(1) Supplied air respirator operated in the positive pressure mode with full facepiece, helmet, suit, or hood.
(d) Greater than 4,000 ppm or unknown concentration.	(1) Supplied air and auxiliary self-contained breathing apparatus with full facepiece in positive pressure mode; or (2) Self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Firefighting	Self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor respirator, or (2) Any self-contained breathing apparatus.

(ii) The employer shall select respirators from among those approved for use with organic vapors by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (i) The employer shall institute a respiratory

protection program in accordance with 29 CFR 1910.134(b), (d), (e), and (f).

(ii) Where air/purifying respirators (chemical cartridge or canister-type) are used, the air-purifying canister or cartridge(s) shall be replaced prior to the expiration of their service life or at the completion of each shift, whichever occurs first. A label shall be attached to the cartridge or canister to indicate the date and time at which it is first installed on the respirator.

(iii) *Testing.* Fit testing of respirators shall be performed to assure that the respirator selected provides the protection required by Table I.

(A) *Qualitative fit.* The employer shall perform qualitative fit tests at the time of initial fitting and at least semi-annually thereafter for each employee wearing respirators.

(B) *Quantitative fit.* Each employer with more than 10 employees wearing negative pressure respirators shall perform quantitative fit testing at the time of initial fitting and at least semi-annually thereafter for each such employee.

(iv) Employees who wear respirators shall be allowed to wash their faces and to wipe clean the face-to-facepiece seals on their respirators to minimize potential skin irritation associated with respirator use.

(i) *Emergency situations.*—(1) *Written plans. (i)* A written plan for emergency situations shall be developed for each workplace where liquid AN is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(iii) Employees not engaged in correcting the emergency shall be evacuated from the area and shall not be permitted to return until the emergency is abated.

(2) *Alerting employees.* Were there is the possibility of employee exposure to AN in excess of the ceiling limit, a general alarm shall be installed and used to promptly alert employees of such occurances.

(j) *Protective clothing and equipment.*—(1) *Provision and use.* Where eye or skin contact with liquid AN may occur, the employer shall provide at no cost to the employee, and assure that the employees wear, impermeable protective clothing or other equipment to protect any area of the body which may come in contact with liquid AN. The provision of §§ 1910.132 and 1910.133 shall be complied with.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this section as needed to maintain their effectiveness.

(ii) The employer shall assure that impermeable protective clothing which contacts or is likely to have contacted liquid AN shall be decontaminated before being removed by the employee.

(iii) The employer shall assure that an employee whose non-impermeable clothing become wetted with liquid AN shall immediately remove that clothing and proceed to shower. The clothing shall be decontaminated before it is removed from the regulated area.

(iv) The employer shall assure that no employee removes protective clothing or equipment from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(v) The employer shall inform any person who launders or cleans protective clothing or equipment of the potentially harmful effects of exposure to AN.

(k) *Housekeeping.* (1) All surfaces shall be maintained free of visible accumulations of liquid AN.

(2) For operations involving liquid AN, the employer shall institute a program for detecting leaks and spills of liquid AN, including regular visual inspections.

(3) Where spills of liquid AN are detected, the employer shall assure that surfaces contacted by the liquid AN are decontaminated. Employees not engaged in decontamination activities shall leave the area of the spill, and shall not be permitted in the area until decontamination is completed.

(l) *Waste disposal.* AN waste, scrap, debris, bags, containers, or equipment shall be decontaminated before being incorporated in the general waste disposal system.

(m) *Hygiene facilities and practices.* (1) Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, the facilities required by 29 CFR 1910.141, including clean change rooms and shower facilities, shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided.

(2) The employer shall assure that employees wearing protective clothing or equipment for protection from skin contact with liquid AN shall shower at the end of the work shift.

(3) The employer shall assure that, in the event of skin or eye exposure to liquid AN, the affected employee shall shower immediately to minimize the danger of skin absorption.

(4) The employer shall assure that employees working in the regulated area wash their hands and faces prior to eating.

(n) *Medical surveillance.*—(1) *General.* (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN at or above the action level, without regard to the use of respirators. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and that they shall be provided without cost to the employee.

(2) *Initial examinations.* At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical history with special attention to skin, respiratory, and gastrointestinal systems, and those non-specific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or with chronic exposure to AN;

(ii) A complete physical examination giving particular attention to the peripheral and central nervous system, gastrointestinal system, respiratory system, skin, and thyroid;

(iii) A 14- by 17-inch posteroanterior chest X-ray; and

(iv) Further tests of the intestinal tract, including fecal occult blood screening, for all workers 40 years of age or older, and for any other affected employees for whom, in the opinion of the physician, such testing is appropriate.

(3) *Periodic examinations.* (i) The employer shall provide the examinations specified in paragraph (n)(2) of this section at least annually for all employees specified in paragraph (n)(1) of this section.

(ii) If an employee has not had the examination specified in paragraph (n)(2) of this section within 6 months preceding termination of employment, the employer shall make such examination available to the employee prior to such termination.

(4) *Additional examinations.* If the employee for any reason develops signs or symptoms which may be associated with exposure to AN, the employer shall provide an appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendixes;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition(s) which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and (D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee information and training.* (1) *Training program.* (i) By January 2, 1979, the employer shall institute a training program for and assure the participation of all employees exposed to AN above the action level, all employees whose exposures are maintained below the action level by engineering and work practice controls, and all employees subject to potential skin or eye contact with liquid AN.

(ii) Training shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A and B;

(B) The quantity, location, manner of use, release, or storage of AN, and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators and protective clothing;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section;

(E) The emergency procedures developed, as required by paragraph (i) of this section;

(F) Engineering and work practice controls, their function, and the employee's relationship to these controls; and

(G) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendixes readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels.* (1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph

(ii) The employer shall assure that no statement appears on or near any sign or label required by this paragraph which contradicts or detracts from the required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER

ACRYLONITRILE (AN)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

RESPIRATORS MAY BE REQUIRED

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) *Labels.* (i) The employer shall assure that precautionary labels are affixed to all containers of liquid AN and AN-based materials not exempted under paragraph (a)(2) of this standard. The employer shall assure that the labels remain affixed when the materials are sold, distributed, or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS ACRYLONITRILE (AN)

CANCER HAZARD

(q) *Recordkeeping.* (1) *Objective data for exempted operations.* (i) Where the processing, use, and handling of materials made from or containing AN are exempted pursuant to paragraph (a)(2)(ii) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The material qualifying for exemption;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of AN;

(D) A description of the operation exempted and how the data supports the exemption; and

(E) Other data relevant to the operations, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used and the data relied upon to establish that the methods used meet the accuracy and precision requirements of paragraph (e)(6) of this section;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least forty (40) years, or for

the duration of employment plus twenty (20) years, which ever is longer.

(3) *Medical surveillance.* (i) The employer shall establish and maintain and accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physician's written opinions;

(B) Any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by paragraph (n)(5) of this section; and

(D) A copy of the employee's medical and work history.

(iii) The employer shall assure that this record be maintained for at least forty (40) years, or for the duration of employment plus twenty (20) years, which is longer.

(4) *Availability.* (i) The employer shall make all records required to be maintained by this section available, upon request, to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall make records required by paragraph (q)(1) and (q)(2) of this section available upon request, for examination and copying, to affected employees, former employees, or their designated representatives.

(iii) The employer shall make an employee's medical records required to be maintained by this section available upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee or former employee.

(5) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section for the prescribed period.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall notify the Director at least 3 months prior to the disposal of the records, and shall transmit them to the Director upon request.

(r) *Observation of monitoring.* (1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing and equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(s) *Effective date.*

(1) This section shall become effective November 2, 1978.

(2) Monitoring and medical surveillance conducted since January 17, 1978, under the provisions of the emergency temporary standard may be relied upon by the employer to meet the initial monitoring and initial medical surveillance requirements of this section.

(3) Training programs must be implemented by January 2, 1979.

(4) Engineering and work practice controls required by paragraph (g) of this section shall be implemented no later than November 2, 1980.

(t) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed, or to detract from any obligation.

Appendix A—Substance Safety Data Sheet for Acrylonitrile

I. Substance Identification

A. Substance: Acrylonitrile ($CH_2=CHCN$).

B. Synonyms: Propenenitrile; vinyl cyanide; cyanoethylene; AN; VCN; acrylon; carbacryl; fumigrain; ventox.

(C) Acrylonitrile can be found as a liquid or vapor, and can also be found in polymer resins, rubbers, plastics, polyols, and other polymers having acrylonitrile as a raw or intermediate material.

D. AN is used in the manufacture of acrylic and modacrylic fibers, acrylic plastics and resins, specialty polymers, nitrile rubbers, and other organic chemicals. It has also been used as a fumigant.

E. Appearance and odor: Colorless to pale yellow liquid with a pungent odor which can only be detected at concentrations above the permissible exposure level, in a range of 13–19 parts AN per million parts of air (13–19 ppm).

F. Permissible exposure: Exposure may not exceed either:

1. Two parts AN per million parts of air (2 ppm) averaged over the 8-hour workday; or

2. Ten parts AN per million parts of air (10 ppm) averaged over any 15-minute period in the workday.

3. In addition, skin and eye contact with liquid AN is prohibited.

II. Health Hazard Data

A. Acrylonitrile can affect your body if you inhale the vapor (breathing), if it comes in contact with your eyes or skin, or if you swallow it. It may enter your body through your skin.

B. Effects of overexposure: 1. Short-term exposure: Acrylonitrile can cause eye irritation, nausea, vomiting, headache, sneezing, weakness, and light-headedness. At high concentrations, the effects of exposure may go on to loss of consciousness and death. When acrylonitrile is held in contact with the skin after being absorbed into shoe leather or clothing, it may produce blisters following several hours of no apparent effect. Unless the shoes or clothing are removed immediately and the area washed, blistering will occur. Usually there is no pain or inflammation associated with blister formation.

2. Long-term exposure: Acrylonitrile has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis.

3. Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms and suspect they are caused by exposure to acrylonitrile.

III. Emergency First Aid Procedures

A. Eye exposure: If acrylonitrile gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

B. Skin exposure: If acrylonitrile gets on your skin, immediately wash the contaminated skin with water. If acrylonitrile soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water. If symptoms occur after washing, get medical attention immediately. Thoroughly wash the clothing before reusing. Contaminated leather shoes or other leather articles should be discarded.

C. Inhalation: If you or any other person breathes in large amounts of acrylonitrile, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

D. Swallowing: When acrylonitrile has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an

unconscious person vomit. Get medical attention immediately.

E. Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

F. Special first aid procedures: First aid kits containing an adequate supply (at least two dozen) of amyl nitrite pearls, each containing 0.3 ml, should be maintained at each site where acrylonitrile is used. When a person is suspected of receiving an overexposure to acrylonitrile, immediately remove that person from the contaminated area using established rescue procedures. Contaminated clothing must be removed and the acrylonitrile washed from the skin immediately. Artificial respiration should be started at once if breathing has stopped. If the person is unconscious, amyl nitrite may be used as an antidote by a properly trained individual in accordance with established emergency procedures. Medical aid should be obtained immediately.

IV. Respirators and Protective Clothing

A. Respirators: You may be required to wear a respirator for non-routine activities, in emergencies, while your employer is in the process of reducing acrylonitrile exposures through engineering controls, and in areas where engineering controls are not feasible. If respirators are worn, they must have a Mine Safety and Health Administration (MSHA or MESA) or National Institute for Occupational Safety and Health (NIOSH) label of approval for use with organic vapors. (Older respirators may have a Bureau of Mines approval label.) For effective protection, respirators must fit your face and head snugly. Respirators should not be loosened or removed in work situations where their use is required.

Acrylonitrile does not have a detectable odor except at levels above the permissible exposure limits. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily or before the end-of-service-life, whichever comes first. Reuse of these may allow acrylonitrile to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell acrylonitrile while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. Supplied-air suits: In some work situations, the wearing of supplied-air suits may be necessary. Your employer must instruct you in their proper use and operation.

C. Protective clothing: You must wear impervious clothing, gloves, face shield, or other appropriate protective clothing to prevent skin contact with liquid acrylonitrile. Where protective clothing is required, your employer is required to provide clean garments to you as necessary to assure that the clothing protects you adequately.

Replace or repair impervious clothing that has developed leaks.

Acrylonitrile should never be allowed to remain on the skin. Clothing and shoes which are not impervious to acrylonitrile should not be allowed to become contaminated with acrylonitrile, and if they do the clothing and shoes should be promptly removed and decontaminated. The clothing should be laundered or discarded after the AN is removed. Once acrylonitrile penetrates shoes or other leather articles, they should not be worn again.

D. Eye protection: You must wear splashproof safety goggles in areas where liquid acrylonitrile may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with acrylonitrile can occur.

V. Precautions for Safe Use, Handling, and Storage

A. Acrylonitrile is a flammable liquid, and its vapors can easily form explosive mixtures in air.

B. Acrylonitrile must be stored in tightly closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong oxidizers (especially bromine), strong bases, copper, copper alloys, ammonia, and amines.

C. Sources of ignition such as smoking and open flames are prohibited wherever acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

D. You should use non-sparking tools when opening or closing metal containers of acrylonitrile, and containers must be bonded and grounded when pouring or transferring liquid acrylonitrile.

E. You must immediately remove any non-impervious clothing that becomes wetted with acrylonitrile, and this clothing must not be reworn until the acrylonitrile is removed from the clothing.

F. Impervious clothing wet with liquid acrylonitrile can be easily ignited. This clothing must be washed down with water before you remove it.

G. If your skin becomes wet with liquid acrylonitrile, you must promptly and thoroughly wash or shower with soap or mild detergent to remove any acrylonitrile from your skin.

H. You must not keep food, beverages, or smoking materials, nor are you permitted to eat or smoke in regulated areas where acrylonitrile concentrations are above the permissible exposure limits.

I. If you contact liquid acrylonitrile, you must wash your hands thoroughly with soap or mild detergent and water before eating, smoking, or using toilet facilities.

J. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

K. Ask your supervisor where acrylonitrile is used in your work area and for any additional plant safety and health rules.

VI. Access to Information

A. Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for acrylonitrile. In addition, your employer must instruct you in the proper work practices for using acrylonitrile, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to acrylonitrile. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

C. Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least forty (40) years or for the period of your employment plus twenty (20) years, whichever is longer.

D. Your employer is required to release your exposure and medical records to your physician upon your written request.

Appendix B—Substance Technical Guidelines for Acrylonitrile

I. Physical and Chemical Data

A. Substance identification: 1. Synonyms: AN; VCN; vinyl cyanide; propenenitrile; cyanoethylene; Acrylon; Carbacryl; Fumigrain; Ventox.

2. Formula: $CH_2=CHCN$.

3. Molecular weight: 53.1.

B. Physical data: 1. Boiling point (760 mm Hg): 77.3° C (171° F);

2. Specific gravity (water=1): 0.81 (at 20° C or 68° F);

3. Vapor density (air=1 at boiling point of acrylonitrile): 1.83;

4. Melting point: −83° C (−117° F);

5. Vapor pressure (@20° F): 83 mm Hg;

6. Solubility in water, percent by weight @20° C (68° F): 7.35;

7. Evaporation rate (Butyl Acetate=1): 4.54; and

8. Appearance and odor: Colorless to pale yellow liquid with a pungent odor at concentrations above the permissible exposure level. Any detectable odor of acrylonitrile may indicate overexposure.

II. Fire, Explosion, and Reactivity Hazard Data

A. Fire: 1. Flash point: −1° C (30° F) (closed cup).

2. Autoignition temperature: 481° C (898° F).

3. Flammable limits air, percent by volume: Lower: 3, Upper: 17.

4. Extinguishing media: Alcohol foam, carbon dioxide, and dry chemical.

5. Special fire-fighting procedures: Do not use a solid stream of water, since the stream will scatter and spread the fire. Use water to cool containers exposed to a fire.

6. Unusual fire and explosion hazards: Acrylonitrile is a flammable liquid. Its vapors can easily form explosive mixtures with air. All ignition sources must be controlled where acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard. Acrylonitrile vapors are heavier than air and may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which acrylonitrile is being handled.

7. For purposes of compliance with the requirements of 29 CFR 1910.106, acrylonitrile is classified as a class IB flammable liquid. For example, 7,500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

8. For purposes of compliance with 29 CFR 1910.157, acrylonitrile is classified as a Class B fire hazard.

9. For purposes of compliance with 29 CFR 1919.309, locations classified as hazardous due to the presence of acrylonitrile shall be Class I, Group D.

B. Reactivity:

1. Conditions contributing to instability: Acrylonitrile will polymerize when hot, and the additional heat liberated by the polymerization may cause containers to explode. Pure AN may self-polymerize, with a rapid build-up of pressure, resulting in an explosion hazard. Inhibitors are added to the commercial product to prevent self-polymerization.

2. Incompatibilities: Contact with strong oxidizers (especially bromine) and strong bases may cause fires and explosions. Contact with copper, copper alloys, ammonia, and amines may start serious decomposition.

3. Hazardous decomposition products: Toxic gases and vapors (such as hydrogen cyanide, oxides of nitrogen, and carbon monoxide) may be released in a fire involving acrylonitrile and certain polymers made from acrylonitrile.

4. Special precautions: Liquid acrylonitrile will attack some forms of plastics, rubbers, and coatings.

III. Spill, Leak and Disposal Prodecures

A. If acrylonitrile is spilled or leaked, the following steps should be taken:

1. Remove all ignition sources.

2. The area should be evacuated at once and re-entered only after the area has been thoroughly ventilated and washed down with water.

3. If liquid acrylonitrile or polymer intermediate, collect for reclamation or absorb in paper, vermiculite, dry sand, earth, or similar material, or wash down with water into process sewer system.

B. Persons not wearing protective equipment should be restricted from areas of spills or leaks until clean-up has been completed.

C. Waste disposal methods: Waste material shall be disposed of in a manner that is not hazardous to employees or to the general population. Spills of acrylonitrile and flushing of such spills shall be channeled for appropriate treatment or collection for disposal. They shall not be channeled directly into the sanitary sewer system. In selecting the method of waste disposal, applicable local, State, and Federal regulations should be consulted.

IV. Monitoring and Measurement Procedures

A. Exposure above the Permissible Exposure Limit:

1. Eight-hour exposure evaluation: Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average 8-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee.)

2. Ceiling evaluation: Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected air-borne concentrations of acrylonitrile in the employee's breathing zone. A minimum of three (3) measurements should be taken on one work shift. The average of all measurements taken is an estimate of the employee's ceiling exposure.

3. Monitoring techniques: The sampling and analysis under this section may be performed by collecting the acrylonitrile vapor on charcoal adsorption tubes or other composition adsorption tubes, with subsequent chemical analysis. Sampling and analysis may also be performed by instruments such as real-time continuous monitoring systems, portable direct-reading instruments, or passive dosimeters. Analysis of resultant samples should be by gas chromatograph.

Appendix D lists methods of sampling and analysis which have been tested by NIOSH and OSHA for use with acrylonitrile. NIOSH and OSHA have validated modifications of NIOSH Method S-156 (See Appendix D) under laboratory conditions for concentrations below 1 ppm. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his unique field conditions. The standard requires that methods of monitoring must be accurate, to a 95-percent confidence level, to ±35-percent for concentrations of AN at or above 2 ppm, and to ±50-percent for concentrations below 2 ppm. In addition to the methods described in Appendix D, there are numerous other methods available for monitoring for AN in the workplace. Details on these other methods have been submitted by various companies to the rulemaking record, and are available at the OSHA Docket Office.

B. Since many of the duties relating to employee exposure are dependent on the results of monitoring and measuring procedures, employers shall assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

V. Protective Clothing

Employees shall be provided with and required to wear appropriate protective clothing to prevent any possibility of skin contact with liquid AN. Because acrylonitrile is absorbed through the skin, it is important to prevent skin contact with liquid AN. Protective clothing shall include impermeable coveralls or similar full-body work clothing, gloves, head-coverings, as appropriate to protect areas of the body which may come in contact with liquid AN.

Employers should ascertain that the protective garments are impermeable to acrylonitrile. Non-impermeable clothing and shoes should not be allowed to become contaminated with liquid AN. If permeable clothing does become contaminated, it should be promptly removed, placed in a regulated area for removal of the AN, and not worn again until the AN is removed. If leather footwear or other leather garments become wet from acrylonitrile, they should be replaced and not worn again, due to the ability of leather to absorb acrylonitrile and hold it against the skin. Since there is no pain associated with the blistering which may result from skin contact with liquid AN, it is essential that the employee be informed of this hazard so that he or she can be protected.

Any protective clothing which has developed leaks or is otherwise found to be defective shall be repaired or replaced. Clean protective clothing shall be provided to the employee as necessary to assure its protectiveness. Whenever impervious clothing becomes wet with liquid AN, it shall be washed down with water before being removed by the employee. Employees are also required to wear splash-proof safety goggles where there is any possibility of acrylonitrile contacting the eyes.

VI. Housekeeping and Hygiene Facilities

For purposes of complying with 29 CFR 1910.141, the following items should be emphasized:

A. The workplace should be kept clean, orderly, and in a sanitary condition. The employer is required to institute a leak and spill detection program for operations involving liquid AN in order to detect sources of fugitive AN emissions.

B. Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where liquid AN may be found.

C. Adequate washing facilities with hot and cold water are to be provided, and maintained in a sanitary condition. Suitable cleansing agents are also to be provided to assure the effective removal of acrylonitrile from the skin.

D. Change or dressing rooms with individual clothes storage facilities must be provided to prevent the contamination of street clothes with acrylonitrile. Because of the hazardous nature of acrylonitrile, contaminated protective clothing should be placed in a regulated area designated by the employer for removal of the AN before the clothing is laundered or disposed of.

VII. Miscellaneous Precautions

A. Store acrylonitrile in tightly-closed containers in a cool, well-ventilated area and take necessary precautions to avoid any explosion hazard.

B. High exposures to acrylonitrile can occur when transferring the liquid from one container to another.

C. Non-sparking tools must be used to open and close metal acrylonitrile containers. These containers must be effectively grounded and bonded prior to pouring.

D. Never store uninhibited acrylonitrile.

E. Acrylonitrile vapors are not inhibited. They may form polymers and clog vents of storage tanks.

F. Use of supplied-air suits or other impervious coverings may be necessary to prevent skin contact with and provide respiratory protection from acrylonitrile where the concentration of acrylonitrile is unknown or is above the ceiling limit. Supplied-air suits should be selected, used, and maintained under the immediate supervision of persons knowledgeable in the limitations and potential life-endangering characteristics of supplied-air suits.

G. Employers shall advise employees of all areas and operations where exposure to acrylonitrile could occur.

VIII. Common Operations

Common operations in which exposure to acrylonitrile is likely to occur include the following: Manufacture of the acrylonitrile monomer; synthesis of acrylic fibers, ABS, SAN, and nitrile barrier plastics and resins, nitrile rubber, surface coatings, specialty chemicals, use as a chemical intermediate, use as a fumigant and in the cyanoethylation of cotton.

Appendix C—Medical Surveillance Guidelines for Acrylonitrile

I. Route of Entry

Inhalation; skin absorption; ingestion.

II. Toxicology

Acrylonitrile vapor is an asphyxiant due to inhibitory action on metabolic enzyme systems. Animals exposed to 75 or 100 ppm for 7 hours have shown signs of anoxia; in some animals which died at the higher level, cyanomethemoglobin was found in the blood. Two human fatalities from accidental poisoning have been reported; one was caused by inhalation of an unknown concentration of the vapor, and the other was thought to be caused by skin absorption or inhalation. Most cases of intoxication from industrial exposure have been mild, with rapid onset of eye irritation, headache, sneezing, and nausea. Weakness, lightheadedness, and vomiting may also occur. Exposure to high concentrations may produce profound weakness, asphyxia, and death. The vapor is a severe eye irritant. Prolonged skin contact with the liquid may result in absorption with systemic effects, and in the formation of large blisters after a latent period of several hours. Although there is usually little or no pain or inflammation, the affected skin resembles a second-degree thermal burn. Solutions spilled on exposed skin, or on areas covered only by a light layer of clothing, evaporate rapidly, leaving no irritation, or, at the most, mild transient redness. Repeated spills on exposed skin may result in dermatitis due to solvent effects.

Results after 1 year of a planned 2-year animal study on the effects of exposure to acrylonitrile have indicated that rats ingesting as little as 35 ppm in their drinking water develop tumors of the central nervous system. The interim results of this study have been supported by a similar study being conducted by the same laboratory, involving exposure of rats by inhalation of acrylonitrile vapor, which has shown similar types of tumors in animals exposed to 80 ppm.

In addition, the preliminary results of an epidemiological study being performed by duPont on a cohort of workers in their Camden, S.C. acrylic fiber plant indicate a statistically significant increase in the incidence of colon and lung cancers among employees exposed to acrylonitrile.

III. Signs and Symptoms of Acute Overexposure

Asphyxia and death can occur from exposure to high concentrations of acrylonitrile. Symptoms of overexposure include eye irritation, headache, sneezing, nausea and vomiting, weakness, and light-headedness. Prolonged skin contact can cause blisters on the skin with appearance of a second-degree burn, but with little or no pain. Repeated skin contact may produce scaling dermatitis.

IV. Treatment of Acute Overexposure

Remove employee from exposure. Immediately flush eyes with water and wash skin with soap or mild detergent and water. If AN has been swallowed, and person is conscious, induce vomiting. Give artificial resuscitation if indicated. More severe cases, such as those associated with loss of consciousness, may be treated by the intravenous administration of sodium nitrite, followed by sodium thiosulfate, although this is not as effective for acrylonitrile poisoning as for inorganic cyanide poisoning.

V. Surveillance and Preventive Considerations

A. As noted above, exposure to acrylonitrile has been linked to increased incidence of cancers of the colon and lung in employees of the duPont acrylic fiber plant in Camden, S.C. In addition, the animal testing of acrylonitrile has resulted in the development of cancers of the central nervous system in rats exposed by either inhalation or ingestion. The physician should be aware of the findings of these studies in evaluating the health of employees exposed to acrylonitrile.

Most reported acute effects of occupational exposure to acrylonitrile are due to its ability to cause tissue anoxia and asphyxia. The effects are similar to those caused by hydrogen cyanide. Liquid acrylonitrile can be absorbed through the skin upon prolonged contact. The liquid readily penetrates leather, and will produce burns of the feet if footwear contaminated with acrylonitrile is not removed.

It is important for the physician to become familiar with the operating conditions in which exposure to acrylonitrile may occur. Those employees with skin diseases may not tolerate the wearing of whatever protective clothing may be necessary to protect them from exposure. In addition, those with chronic respiratory disease may not tolerate the wearing of negative-pressure respirators.

B. Surveillance and screening. Medical histories and laboratory examinations are required for each employee subject to exposure to acrylonitrile above the action level. The employer must screen employees for history of certain medical conditions which might place the employee at increased risk from exposure.

1. *Central nervous system dysfunction.* Acute effects of exposure to acrylonitrile generally involve the central nervous system. Symptoms of acrylonitrile exposure include headache, nausea, dizziness, and general weakness. The animal studies cited above suggest possible carcinogenic effects of acrylonitrile on the central nervous system, since rats exposed by either inhalation or ingestion have developed similar CNS tumors.

2. *Respiratory disease.* The du Pont data indicate an increased risk of lung cancer among employees exposed to acrylonitrile.

3. *Gastrointestinal disease.* The du Pont data indicate an increased risk of cancer of the colon among employees exposed to acrylonitrile. In addition, the animal studies show possible tumor production in the stomachs of the rats in the ingestion study.

4. *Skin disease.* Acrylonitrile can cause skin burns when prolonged skin contact with the liquid occurs. In addition, repeated skin contact with the liquid can cause dermatitis.

5. *General.* The purpose of the medical procedures outlined in the standard is to establish a baseline for future health monitoring. Persons unusually susceptible to the effects of anoxia or those with anemia would be expected to be at increased risk. In addition to emphasis on the CNS, respiratory and gastro-intestinal systems, the cardiovascular system, liver, and kidney function should also be stressed.

Appendix D—Sampling and Analytical Methods for Acrylonitrile

There are many methods available for monitoring employee exposures to acrylonitrile. Most of these involve the use of charcoal tubes and sampling pumps, with analysis by gas chromatograph. The essential differences between the charcoal tube methods include, among others, the use of different desorbing solvents, the use of different lots of charcoal, and the use of different equipment for analysis of the samples.

Besides charcoal, considerable work has been performed on methods using porous polymer sampling tubes and passive dosimeters. In addition, there are several portable gas analyzers and monitoring units available on the open market.

This appendix contains details for the methods which have been tested at OSHA Analytical Laboratory in Salt Lake City, and NIOSH in Cincinnati. Each is a variation on NIOSH Method S-156, which is also included for reference. This does not indicate that these methods are the only ones which will be satisfactory. There also may be workplace situations in which these methods are not adequate, due to such factors as high humidity. Copies of the other methods available to OSHA are available in the rulemaking record, and may be obtained from the OSHA Docket Office. These include the Union Carbide, Monsanto, Dow Chemical and Dow Badische methods, as well as NIOSH Method P & CAM 127.

Employers who note problems with sample breakthrough should try larger charcoal tubes. Tubes of larger capacity are available, and are often used for sampling vinyl

chloride. In addition, lower flow rates and shorter sampling times should be beneficial in minimizing breakthrough problems.

Whatever method the employer chooses, he must assure himself of the method's accuracy and precision under the unique conditions present in his workplace.

NIOSH Method S-156 (Unmodified)

Analyte: Acrylonitrile.

Matrix: Air.

Procedure: Absorption on charcoal, desorption with methanol, GC.

1. *Principle of the method* (Reference 11.1).

1.1 A known volume of air is drawn through a charcoal tube to trap the organic vapors present.

1.2 The charcoal in the tube is transferred to a small, stoppered sample container, and the analyte is desorbed with methanol.

1.3 An aliquot of the desorbed sample is injected into a gas chromatograph.

1.4 The area of the resulting peak is determined and compared with areas obtained for standards.

2. *Range and sensitivity.*

2.1 This method was validated over the range of 17.5–70.0 mg/cu m at an atmospheric temperature and pressure of 22° C and 760 mm Hg, using a 20-liter sample. Under the conditions of sample size (20 liters) the probable useful range of this method is 4.5–135 mg-cu m. The method is capable of measuring much smaller amounts if the desorption efficiency is adequate. Desorption efficiency must be determined over the range used.

2.2 The upper limit of the range of the method is dependent on the adsorptive capacity of the charcoal tube. This capacity varies with the concentrations of acrylonitrile and other substances in the air. The first section of the charcoal tube was found to hold at least 3.97 mg of acrylonitrile when a test atmosphere containing 92.0 mg/cu m of acrylonitrile in air was sampled 0.18 liter per minute for 240 minutes; at that time the concentration of acrylonitrile in the effluent was less than 5 percent of that in the influent. (The charcoal tube consists of two sections of activated charcoal separated by a section of urethane foam. See section 6.2.) If a particular atmosphere is suspected of containing a large amount of contaminant, a smaller sampling volume should be taken.

3. *Interference.*

3.1 When the amount of water in the air is so great that condensation actually occurs in the tube, organic vapors will not be trapped efficiently. Preliminary experiments using toluene indicate that high humidity severely decreases the breakthrough volume.

3.2 When interfering compounds are known or suspected to be present in the air, such information, including their suspected identities, should be transmitted with the sample.

3.3 It must be emphasized that any compound which has the same retention time as the analyte at the operating conditions described in this method is an interference. Retention time data on a single column cannot be considered proof of chemical identity.

3.4 If the possibility of interference exists, separation conditions (column packing, temperature, etc.) must be changed to circumvent the problem.

4. *Precision and accuracy.*

4.1 The coefficient of Variation (CV_T) for the total analytical and sampling method in the range of 17.5–70.0 mg/cu m was 0.073. This value corresponds to a 3.3 mg/cu m standard deviation at the (previous) OSHA standard level (20 ppm). Statistical information and details of the validation and experimental test procedures can be found in Reference 11.2.

4.2 On the average the concentrations obtained at the 20 ppm level using the overall sampling and analytical method were 6.0 percent lower than the "true" concentrations for a limited number of laboratory experiments. Any difference between the "found" and "true" concentrations may not represent a bias in the sampling and analytical method, but rather a random variation from the experimentally determined "true" concentration. Therefore, no recovery correction should be applied to the final result in section 10.5.

5. *Advantages and disadvantages of the method.*

5.1 The sampling device is small, portable, and involves no liquids. Interferences are minimal, and most of those which do occur can be eliminated by altering chromatographic conditions. The tubes are analyzed by means of a quick, instrumental method.

The method can also be used for the simultaneous analysis of two or more substances suspected to be present in the same sample by simply changing gas chromatographic conditions.

5.2 One disadvantage of the method is that the amount of sample which can be taken is limited by the number of milligrams that the tube will hold before overloading. When the sample value obtained for the backup section of the charcoal tube exceeds 25 percent of that found on the front section, the possibility of sample loss exists.

5.3 Furthermore, the precision of the method is limited by the reproducibility of the pressure drop across the tubes. This drop will affect the flow rate and cause the volume to be imprecise, because the pump is usually calibrated for one tube only.

6. *Apparatus.*

6.1 A calibrated personal sampling pump whose flow can be determined within ±5 percent at the recommended flow rate. (Reference 11.3).

6.2 Charcoal tubes: Glass tubes with both ends flame sealed, 7 cm long with a 6-mm O.D. and a 4-mm I.D., containing 2 sections of 20/40 mesh activated charcoal separated by a 2-mm portion of urethane foam. The activated charcoals prepared from coconut shells and is fired at 600° C prior to packing. The adsorbing section contains 100 mg of charcoal, the backup section 50 mg. A 3-mm portion of urethane foam is placed between the outlet end of the tube and the backup section. A plug of silicated glass wool is placed in front of the adsorbing section. The pressure drop across the tube must be less than 1 inch of mercury at a flow rate of 1 liter per minute.

6.3 Gas chromatograph equipped with a flame ionization dectector.

6.4 Column (4-ft × ¼-in stainless steel) packed with 50/80 mesh Poropak, type Q.

6.5 An electronic integrator or some other suitable method for measuring peak areas.

6.6 Two-milliliter sample containers with glass stoppers or Teflon-lined caps. If an automatic sample injector is used, the associated vials may be used.

6.7 Microliter syringes: 10-microliter, and other convenient sizes for making standards.

6.8 Pipets: 1.0-ml delivery pipets.

6.9 Volumetric flask: 10-ml or convenient sizes for making standard solutions

7. *Reagents.*

7.1 Chromatographic quality methanol.

7.2 Acrylonitrile, reagent grade.

7.3 Hexane, reagent grade.

7.4 Purified nitrogen.

7.5 Prepurified hydrogen.

7.6 Filtered compressed air.

8. *Procedure.*

8.1 Cleaning of equipment. All glassware used for the laboratory analysis should be detergent washed and thoroughly rinsed with tap water and distilled water.

8.2 Calibration of personal pumps. Each personal pump must be calibrated with a representative charcoal tube in the line. This will minimize errors associated with uncertainties in the sample volume collected.

8.3.1 Collection and shipping of samples.

8.3.2 Immediately before sampling, break the ends of the tube to provide an opening at least one-half the internal diameter of the tube (2 mm).

8.3.2 The smaller section of charcoal is used as a backup and should be positioned nearest the sampling pump.

8.3.3 The charcoal tube should be placed in a vertical direction during sampling to minimize channeling through the charcoal.

8.3.4 Air being sampled should not be passed through any hose or tubing before entering the charcoal tube.

8.3.5 A maximum sample size of 20 liters is recommended. Sample at a flow of 0.20 liter per minute or less. The flow rate should be known with an accuracy of at least ±5 percent.

8.3.6 The temperature and pressure of the atmosphere being sampled should be recorded. If the pressure reading is not available, record the elevation.

8.3.7 The charcoal tubes should be capped with the supplied plastic caps immediately after sampling. Under no circumstances should rubber caps be used.

8.3.8 With each batch of 10 samples submit one tube from the same lot of tubes which was used for sample collection and which is subjected to exactly the same handling as the samples except that no air is drawn through it. Label this as a blank.

8.3.9 Capped tubes should be packed tightly and padded before they are shipped to minimize tube breakage during shipping.

8.3.10 A sample of the bulk material should be submitted to the laboratory in a glass container with a Telfon-lined cap. This sample should not be transported in the same container as the charcoal tubes.

8.4 *Analysis of samples.*

8.4.1 Preparation of samples. In preparation for analysis, each charcoal tube is scored with a file in front of the first section of charcoal and broken open. The glass wool is removed and discarded. The charcoal in the first (larger) section is transferred to a 2-ml stoppered sample container. The separating section of foam is removed and discarded; the second section is transferred to another stoppered container. These two sections are analyzed separately.

8.4.2 Desorption of samples. Prior to analysis, 1.0 ml of methanol is pipetted into each sample container. Desorption should be done for 30 minutes. Tests indicate that this is adequate if the sample is agitated occasionally during this period. If an automatic sample injector is used, the sample vials should be capped as soon as the solvent is added to minimize volatilization.

8.4.3 GC conditions. The typical operating conditions for the gas chromatograph are:

1. 50 ml/min (60 psig) nitrogen carrier gas flow.
2. 65 ml/min (24 psig) hydrogen gas flow to detector.
3. 500 ml/min (50 psig) air flow to detector.
4. 235° C injector temperature.
5. 255° C manifold temperature (detector).
6. 155° C column temperature.

8.4.4 Injection. The first step in the analysis is the injection of the sample into the gas chromatograph. To eliminate difficulties arising from blowback or distillation within the syringe needle, one should employ the solvent flush injection technique. The 10-microliter syringe is first flushed with solvent several times to wet the barrel and plunger. Three microliters of solvent are drawn into the syringe to increase the accuracy and reproducibility of the injected sample volume. The needle is removed from the solvent, and the plunger is pulled back about 0.2 microliter to separate the solvent flush from the sample with a pocket of air to be used as a marker. The needle is then immersed in the sample, and a 5-microliter aliquot is withdrawn, taking into consideration the volume of the needle, since the sample in the needle will be completely injected. After the needle is removed from the sample and prior to injection, the plunger is pulled back 1.2 microliters to minimize evaporation of the sample from the tip of the needle. Observe that the sample occupies 4.9–5.0 microliters in the barrel of the syringe. Duplicate injections of each sample and standard should be made. No more than a 3 percent difference in area is to be expected. An automatic sample injector can be used if it is shown to give reproducibility at least as good as the solvent flush method.

§ 8.45 Measurement of area. The area of the sample peak is measured by an electronic intergrator or some other suitable form of area measurement, and preliminary results are read from a standard curve prepared as discussed below.

8.5 *Determination of desorption efficiency.*

8.5.1 Importance of determination. The desorption efficiency of a particular compound can vary from one laboratory to another and also from one batch of charcoal to another. Thus, it is necessary to determine at least once the percentage of the specific compound that is removed in the desorption process, provided the same batch of charcoal is used.

8.5.2 Procedure for determining desorption efficiency. Activated charcoal equivalent to the amount in the first section of the sampling tube (100 mg) is measured into a 2.5 in, 4-mm I.D. glass tube, flame sealed at one end. This charcoal must be from the same batch as that used in obtaining the samples and can be obtained from unused charcoal tubes. The open end is capped with Parafilm. A known amount of hexane solution of acrylonitrile containing 0.239 g/ml is injected directly into the activated charcoal with a microliter syringe, and tube is capped with more Parafilm. When using an automatic sample injector, the sample injector vials, capped with Teflon-faced septa, may be used in place of the glass tubes.

The amount injected is equivalent to that present in a 20-liter air sample at the selected level.

Six tubes at each of three levels (0.5X, 1X, and 2X of the standard) are prepared in this manner and allowed to stand for at least overnight to assure complete adsorption of the analyte onto the charcoal. These tubes are referred to as the sample. A parallel blank tube should be treated in the same manner except that no sample is added to it. The sample and blank tubes are desorbed and analyzed in exactly the same manner as the sampling tube described in section 8.4.

Two or three standards are prepared by injecting the same volume of compound into 1.0 ml of methanol with the same syringe used in the preparation of the samples. These are analyzed with the samples.

The desorption efficiency (D.E.) equals the average weight in mg recovered from the tube divided by the weight in mg added to the tube, or

D.E. = Average weight recovered (mg)/ weight added (mg)

The desorption efficiency is dependent on the amount of analyte collected on the charcoal. Plot the desorption efficiency versus weight of analyte found. This curve is used in section 10.4 to correct for adsorption losses.

9. *Calibration and standards.*

It is convenient to express concentration of standards in terms of mg/1.0 ml methanol, because samples are desorbed in this amount of methanol. The density of the analyte is used to convert mg into microliters for easy measurement with a microliter syringe. A series of standards, varying in concentration over the range of interest, is prepared and analyzed under the same GC conditions and during the same time period as the unknown samples. Curves are established by plotting concentration in mg/1.0 ml versus peak area.

Note.—Since no internal standard is used in the method, standard solutions must be analyzed at the same time that the sample analysis is done. This will minimize the effect of known day-to-day variations and variations during the same day of the FID response.

10. *Calculations.*

10.1 Read the weight, in mg, corresponding to each peak area from the standard curve. No volume corrections are needed, because the standard curve is based on mg/1.0 ml methanol and the volume of sample injected is identical to the volume of the standards injected.

10.2 Corrections for the blank must be made for each sample.

mg = mg sample − mg blank

Where:

mg sample = mg found in front section of sample tube.

mg sample = mg found in front section of blank tube.

A similar procedure is followed for the backup sections.

10.3 Add the weights found in the front and backup sections to get the total weight in the sample.

10.4 Read the desorption efficiency from the curve (see Section 8.5.2) for the amount found in the front section. Divide the total weight by this desorption efficiency to obtain the corrected mg/sample.

Corrected mg/sample = Total weight/D.E.

10.5 The concentration of the analyte in the air sampled can be expressed in mg/cu m.

mg/cu m = Corrected mg (Section 10.4) × 1,000 (liter/cu m) Air volume sampled (liter)

10.6 Another method of expressing concentration is ppm.

ppm = mg/cu/m × 24.45/M.W. × 760/ P × T + 273/298

Where:

P = Pressure (mm Hg) of air sampled.

T = Temperature (°C) of air sampled.

24.45 = Molar volume (liter /mole) at 25° C and 760 mm Hg.

M.W. = Molecular weight (g/mole) of analyte.

760 = Standard pressure (mm Hg).

298 = Standard temperature (°K).

11. *References.*

11.1 White, L. D. et al., "A Convenient Optimized Method for the Analysis of Selected Solvent Vapors in the Industrial Atmosphere," *Amer. Ind. Hyg Assoc. J., 31:*224 (1970).

11.2 Documentation of NIOSH Validation Tests, NIOSH Contract No. CDC–99–74–45.

11.3 Final Report, NIOSH Contract HSM–99–71–31, "Personal Sampler Pump for Charcoal Tubes," September 15, 1972.

NIOSH Modification of NIOSH Method S–156

The NIOSH recommended method for low levels for acrylonitrile is a modification of method S–156. It differs in the following respects:

(1) Samples are desorbed using 1 ml of 1 percent acetone in CS_2 rather than methanol.

(2) The analytical column and conditions are:

Column: 20 percent SP–1000 on 80/100 Supelcoport 10 feet x ⅛ inch S.S.

Conditions:

Injector temperature: 200° C.
Detector temperature: 100° C.
Column temperature: 85° C.

Helium flow: 25 ml/min.
Air flow: 450 ml/min.
Hydrogen flow: 55 ml/min.

(3) A 2 μl injection of the desorbed analyte is used.

(4) A sampling rate of 100 ml/min is recommended.

OSHA Laboratory Modification of NIOSH Method S-156

Analyte: Acrylonitrile.

Matrix: Air.

Procedure: Adsorption on charcoal, desorption with methanol, GC.

1. *Principle of the Method* (Reference 1).

1.1 A known volume of air is drawn through a charcoal tube to trap the organic vapors present.

1.2 The charcoal in the tube is transferred to a small, stoppered sample vial, and the analyte is desorbed with methanol.

1.3 An aliquot of the desorbed sample is injected into a gas chromatograph.

1.4 The area of the resulting peak is determined and compare with areas obtained for standards.

2. *Advantages and disadvantages of the method.*

2.1 The sampling device is small, portable, and involves no liquids. Interferences are minimal, and most of those which do occur can be eliminated by altering chromatographic conditions. The tubes are analyzed by means of a quick, instrumental method.

2.2 This method may not be adequate for the simultaneous analysis of two or more substances.

2.3 The amount of sample which can be taken is limited by the number of milligrams that the tube will hold before overloading. When the sample value obtained for the backup section of the charcoal tube exceeds 25 percent of that found on the front section, the possibility of sample loss exists.

2.4 The precision of the method is limited by the reproducibility of the pressure drop across the tubes. This drop will affect the flow rate and cause the volume to be imprecise, because the pump is usually calibrated for one tube only.

3. *Apparatus.*

3.1 A calibrated personal sampling pump whose flow can be determined within $\pm^5$ percent at the recommended flow rate.

3.2 Charcoal tubes: Glass tube with both ends flame sealed, 7 cm long with a 6-mm O.D. and a 4-mm I.D., containing 2 sections of 20/40 mesh activated charcoal separated by a 2-mm portion of urethane foam. The activated charcoal is prepared from coconut shells and is fired at 600° C prior to packing. The absorbing section contains 100 mg of charcoal, the back-up section 50 mg. A 3-mm portion of urethane foam is placed between the outlet end of the tube and the back-up section. A plug of sililated glass wool is placed in front of the adsorbing section. The pressure drop across the tube must be less than one inch of mercury at a flow rate of 1 liter per minute.

3.3 Gas chromatograph equipped with a nitrogen phosphorus detector.

3.4 Column (10-ft x ⅛"-in stainless steel) packed with 100/120 Supelcoport coated with 10 percent SP 1000.

3.5 An electronic integrator or some other suitable method for measuring peak areas.

3.6 Two-milliliter sample vials with Teflon-lined caps.

3.7 Microliter syringes; 10-microliter, and other convenient sizes for making standards.

3.8 Pipets: 1.0-ml delivery pipets.

3.9 Volumetric flasks: convenient sizes for making standard solutions.

4. *Reagents.*

4.1 Chromatographic quality methanol.

4.2 Acrylonitrile, reagent grade.

4.3 Filtered compressed air.

4.4 Purified hydrogen.

4.5 Purified helium.

5. *Procedure.*

5.1 Cleaning of equipment. All glassware used for the laboratory analysis should be properly cleaned and free of organics which could interfere in the analysis.

5.2 Calibration of Personal Pumps. Each pump must be calibrated with a representative charcoal tube in the line.

5.3. Collection and Shipping of Samples.

5.3.1 Immediately before sampling, break the ends of the tube to provide an opening at least one-half the internal diameter of the tube (2 mm).

5.3.2 The smaller section of the charcoal is used as the backup and should be placed nearest the sampling pump.

5.3.3 The charcoal should be placed in a vertical position during sampling to minimize channeling through the charcoal.

5.3.4 Air being sampled should not be passed through any hose or tubing before entering the charcoal tube.

5.3.5 A sample size of 20 liters is recommended. Sample at a flow rate of approximately 0.2 liters per minute. The flow rate should be known with an accuracy of at least $\pm^5$ percent.

5.3.6 The temperature and pressure of the atmosphere being sampled should be recorded.

5.3.7 The charcoal tubes should be capped with the supplied plastic caps immediately after sampling. Rubber caps should not be used.

5.3.8 Submit at least one blank tube (a charcoal tube subjected to the same handling procedures, without having any air drawn through it) with each set of samples.

5.3.9 Take necessary shipping and packing precautions to minimize breakage of samples.

5.4 Analysis of samples.

5.4.1 Preparation of samples. In preparation for analysis, each charcoal tube is scored with a file in front of the first section of charcoal and broken open. The glass wool is removed and discarded. The charcoal in the first (larger) section is transferred to a 2-ml vial. The separating section of foam is removed and discarded; the section is transferred to another capped vial. These two sections are analyzed separately.

5.4.2 Desorption of samples. Prior to analysis, 1.0 ml of methanol is pipetted into each sample container. Desorption should be done for 30 minutes in an ultrasonic bath. The sample vials are recapped as soon as the solvent is added.

5.4.3 GC conditions. The typical operating conditions for the gas chromatograph are:

1. 30 ml/min (60 psig) helium carrier gas flow.
2. 3.0 ml/min (30 psig) hydrogen gas flow to detector.
3. 50 ml/min (60 psig) air flow to detector.
4. 200° C injector temperature.
5. 200° C dejector temperature.
6. 100° C column temperature.

5.4.4 Injection. Solvent flush technique or equivalent.

5.4.5 Measurement of area. The area of the sample peak is measured by an electronic intergator or some other suitable form of area measurement, and preliminary results are read from a standard curve prepared as discussed below.

5.5 Determination of desorption efficiency.

5.5 1 Importance of determination. The desorption efficiency of a particular compound can vary from one laboratory to another and also from one batch of charcoal to another. Thus, it is necessary to determine, at least once, the percentage of the specific compound that is removed in the desorption process, provided the same batch of charcoal is used.

5.5.2 Procedure for determining desorption efficiency. The referenced portion of the charcoal tube is removed. To the remaining portion, amounts representing 0.5X, 1X, and 2X (X represents TLV) based on a 20 l air sample are injected onto several tubes at each level. Dilutions of acroylonitrile with methanol are made to allow injection of measurable quantities. These tubes are then allowed to equilibrate at least overnight. Following equilibration they are analyzed following the same procedure as the samples. A curve of the desorption efficiency

amt recovered/amt added

is plotted versus amount of analyte found. This curve is used to correct for adsorption losses.

6. *Calibration and standards.*

A series of standards, varying in concentration over the range of interest, is prepared and analyzed under the same GC conditions and during the same time period as the unknown samples. Curves are prepared by plotting concentration versus peak area.

Note.—Since no internal standard is used in the method, standard solutions must be analyzed at the same time that the sample analysis is done. This will minimize the effect of known day-to-day variations and variations during the same day of the NPD response. Multiple injections are necessary.

7. *Calculations.*

Read the weight, corresponding to each peak area from the standard curve, correct for the blank, correct for the desorption efficiency, and make necessary air volume corrections.

8. *Reference.* NIOSH Method S-156.

65. On page 8803, column 3, correct the title of the section to read "§ 1910.1046 Exposure to cotton dust in cotton gins."

66. On page 8803, column 3, in paragraph (b) of § 1910.1046, add an "s" to the word "surface" in the definition of "blow down".

67. On page 8804, column 3, paragraph (e)(2)(iii) of § 1910.1046 is corrected by adding at the end of the paragraph the following: "The predicted FEV, and FVC for blacks shall be multiplied by 0.85 to adjust for ethnic differences".

68. On page 8805 column 1, paragraph (e)(8)(i) of § 1910.1046 is corrected by changing the reference to paragraph (f) in the fifth line to paragraph (e).

69. On page 8806, column 1, paragraph (g)(1) of § 1910.1046 is corrected by adding the subtitle "*General*" after the "(1)".

70. On page 8806, column 1, paragraph (g)(2) of § 1910.1046 is corrected by adding the subtitle "*Spanish speaking employees*" after the "(2)".

71. On page 8806, column 1, paragraph (h)(1)(ii)(*f*) of § 1910.1046 is corrected to read as follows: "A copy of this standard and its appendices except that the employer may keep one copy of the standard and its appendices for all employees, provided that he references the standard in the medical surveillance records of each employee."

72. On page 8806, column 2, paragraph (j) of § 1910.1046 is corrected to read as follows: "(j) *Appendixes.* (1) Appendixes B, C and D in this section are incorporated as part of this section and the contents of these appendixes are mandatory.

"(2) Appendix A contains information which is not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations."

73. On page 8806, column 2, in the note below the Appendix A table, in the first line, the word "recommendations" is corrected to "requirements".

74. On page 8807–8810, inclusive, delete all of Appendix B–I of § 1910.1046.

75. On page 8811, Appendix B–II of § 1910.1046 is corrected by changing it to Appendix B–I.

76. Following page 8818, correct § 1910.1046 by adding a new Appendix B–II as follows:

APENDICE B-II

CUESTIONARIO RESPIRATORIO PARA TRABAJADORES

QUE NO SEAN DE TEXTIL DE LA INDUSTRIA ALGODONERA

Numero de identificación | Clave del entrevistador

Localidad | Fecha de entrevista

A. IDENTIFICACION

1. NOMBRE (Apellido) (Nombre de pila)

3. Num. de telefono Area ( )

4. * Num. de Seguro Social

2. DIRECCIÓN ACTUAL (Numero, Calle, Ciudad o Pueblo, Condado, Estado, Zona Postal)

5. Fecha de Nacimiento Mes/Dia/Año

6. Edad

7. SEXO
1 ☐ Varón 2 ☐ Hembra

8. RAZA
1. ☐ Blanco, no de origen hispano
2. ☐ Negro, no de origen hispano
3. ☐ Hispano
4. ☐ Indio Americano o Nativo de Alaska
5. ☐ Asiatico o de Islas pacificas
6. ☐ Otro _____

9. ALTURA MEDIDA _____ (cm)

10. PESO MEDIDO _____

11. TURNO DE TRABAJO
1 ☐ 2 ☐ 3 ☐

12. SITIO DE TRABAJO ACTUAL
Indique el sitio de trabajo asignado y el porcentaje de tiempo que pasa en ese lugar. Si trabaja en otros sitios, por favor indique esos lugares y el porcentaje de tiempo que pasa en cada uno.

SITIO DE TRABAJO PRIMARIO	
TRABAJO ESPECIFICO	

13. INDUSTRIA APROPIADA
1 ☐ Desperdicios de maquina garnet
2 ☐ Fabrica de aceite de semilla de algodón
3 ☐ Almacen de algodón
4 ☐ Utilización
5 ☐ Clasificacion de algodó
6 ☐ Desmotador

* Proveer su número de seguro social es voluntario. El rehuso de proveer este número no afecta ningun derecho, beneficio, o privilegio al cual ud. podría tener derecho. Su número de seguro social ha sido requerido desde que este permite el uso de determinaciones en el futuro en la busqueda de estudios estaticales.

Registro Federal, Vol. 43, No. 122, Viernes 23 de juino de 1978.

D. TABLA DE HISTORIA LABORAL

Llene la siguiente tabla indicando la historia laboral del individuo desde que lo primero empleó hasta el presente. Períodos de empleo aislados ó de tiempo parcial deben ser agrupados si es posible.

INDUSTRIA Y LOCAL	Tiempo de empleo		TRABAJO ESPECIFICO	Promedio de # de días trab. por sem.	RIESGO DE SALUD POR CONTACTO ASOCIADO CON EL TRABAJO		
	Desde 19__	Hasta 19__			SI	NO	Si se contesta "SI" explíquese

C. Síntomas

Empléense las palabras exactas de cada pregunta. Póngase una "X" en la casilla que sigue cada pregunta. En case do duda, póngase "No." Donde no hay casilla, póngase un circulo alrededor de la repuesta apropiada.

LA TOS

1. ¿Tose Ud. ordinamente al leventarse por la mañana? (Tenga en eventa la flema arrancada al fumos o al salar de la casa por primera vez. No tenga en eventa los mucos nasales).

1. ☐ Sí 2. ☐ No

2. ¿Tose Ud. ordinariamente de día ó de noche?

1. ☐ Sí 2. ☐ No

Si se contesta "Sí" a las preguntas 1 ó 2, pregúntese:

3. ¿Tose asi la mayoría de los dias por un periodo de por lo menos 3 meses durante el pasado año?

1. ☐ Sí 2. ☐ No

4. ¿Tose Ud. mas de lo ordinario algun día en particular de la semana?

1. ☐ Sí 2. ☐ No

Si contesta "Si"; pregúntese:

5. ¿Que día? Lun. Mar. Mier. Jue. Vie. Sab. Dom.

LA FLEMA

6. ¿Se arranca Ud. flema ó catarro del pecho al levantarse? (Tenga en cuenta la flema arrancada al fumar or al salir de la casa por primera vez. No tenga en cuenta los mucos nasales. Tenga en cuenta la flema que se traga).

1. ☐ Sí 2. ☐ No

7. ¿Se arranca Ud. flema ó catarro del pecho ordinariamente de día ó de noche? (Nótense solo 2 veces o mas)

1. ☐ Sí 2. ☐ No

8. ¿Arroja ud. flemas así la mayor parte de días tanto como tres meses al año?

1. ☐ Sí 2. ☐ No

Si se contesta "Sí" a las preguntas 3 ó 8, preguntese:

9. ¿Cuantos años hace que se arranca flema ó catarro o tose frequentemente?
(Responda en numeros de años)

(1) ☐ 2 años ó menos
(2) ☐ mas de 2 años - 9 años
(3) ☐ 10-19 años
(4) ☐ 20 años ó mas

ENFERMEDADES PULMONARIAS

10. ¿Durante los tres pasados años, ha pasado algún periodo de tos* y flemas que duró 3 semanas ó más?
*Sujetos que ordinariamente se arrancan flemas

☐ No
☐ Sí, un solo periodo
☐ Sí, dos periodos o mas

11. ¿Ha tenido Ud. durante los 3 años pasados alguna enfermedad del pecho que le haya impedido a trabajar o obligado a permanecer en casa ó en cama por tanto como una semana? (por ejemplo, ¿la gripe?)

☐ Sí ☐ No

Si se contesta "Sí" a la pregunta 11, pregúntese:

12. ¿Se arrancó Ud. más flemas que lo general durante alguno de estos ataques?

☐ Sí ☐ No

Si se contesta "Sí" a 12, pregúntese:

13. ¿Ha tenido durante los tres años pasados:

Solo un tal ataque con aumento de flemas?

☐ Sí ☐ No

14. Más de uno? ☐ Sí ☐ No

Br, Grade _____

LA OPRESION DEL PECHO

15. ¿Ha tenido Ud. alguna vez opresión en el pecho ó dificultadad en respirar?

☐SÍ ☐No

16. ¿Se le oprime el pecho ó se le hace dificil respirar algún día en la semana en particular? (despues de una semana ó 10 días de ausencia de la planta)

☐SÍ ☐No

17. Si se contesta "SÍ," ¿Que dia?

Lun. Mar. Mier. Jue. Vie. Sab. Dom. Siempre A veces

18. Si se contesta "SÍ" para los lunes, pregúntese: ¿A que hora del lunes siente opresión en el pecho o dificultad en respirar?

a.☐Antes de entrar en la desmotadora

b.☐Despues de entrar en la desmotadora

c.☐Despues de salir de la desmotadora

(Preguntese solo si se contesta "No" a la 15)

19. ¿En el pasado, se le ha oprimido el pecho o hecho dificil respirar algún día de la semana en particular?

☐SÍ ☐No

20. Si se contesta "SÍ" ¿Que día?

Lun. Mar. Mier. Jue. Vier. Sab. Dom. Siempre A veces

EL DESALIENTO (La Disnea)

21. Si se inhabilita de caminar a causa de cualquier condición que no sea enfermedad del corazon o de los pulmones, ponga una "X" y ignore las preguntas 22-30.

22. ¿Lo aflige un desaliento al caminar aprisa en terreno llano ó al subir una pequeña cuesta?

☐SÍ ☐No

(Si "No", el grado es 1. Si es "SÍ", siga a la proxima pregunta)

23. ¿Lo aflige un desaliento al caminar con otros de su propia edad a su paso ordinario en terreno llano?

☐SÍ ☐No

(Si "No" el grado es 2. Si es "SÍ", prosiga)

24. ¿Tiene que detenerse porque se ahoga al caminar a paso ordinario en terreno llano?

☐SÍ ☐No

(Si "No" el grado es 3. Si es "SÍ", prosiga)

25. ¿Se desalienta al lavarse ó vestirse?

☐SÍ ☐No

(Si "No", el grado es 4. Si es "SÍ", el grado es 5.)

26. Dyspnea Grd. _____

LOS LUNES: EL PRIMER DIA DE VUELTA AL TRABAJO DESPUES DE SUS DIAS LIBRES

27. ¿Lo aflige un desaliento al caminar aprisa en terreno llano ó al subir una pequeña cuesta?

☐SÍ ☐No

(Si "No", el grado es 1. Si es "SÍ", siga a la proxima pregunta)

28. ¿Lo aflige un desaliento al caminar con otros de su propria edad a su paso ordinario en terreno llano?

☐SÍ ☐No

(Si "No", el grado es 2. Si es "SÍ", prosiga)

29. ¿Tiene que detenerse porque se ahoga al caminar a paso ordinario en terreno llano?

☐SÍ ☐No

(Si "No", el grado es 3. Si es "SÍ", prosiga)

30. ¿Se desalienta al lavarse o vestirse?

☐ Sí ☐ No

(Si "No", el grado es 4. Si es "Sí", el grado es 5.

31. Br. Grd. _____

OTRAS ENFERMEDADES

32. ¿Tiene Ud. una condición del corazón que requiere los servicios de un medico?

☐ Sí ☐ No

33. ¿Ha tenido alguna vez asma?

☐ Sí ☐ No

Si se contesta "Sí", a la 33, pregúntese si empezó: _____ Antes de los 30 años

_____ Despues do los 30 años

34. Si se contesta "Antes de los 30 años"; ¿Tenia Ud. asma antes de trabajar en una desmotadora de algondón?

☐ Sí ☐ No

35. ¿Ha tenido alguna vez otras alergias (ademas de las de arriba)?

☐ Sí ☐ No

CONSUMO DE TABACO

36. ¿Fuma Ud. actualmente? Indique "Sí" si fumaba regularmente hasta hace un mes (Cigarrillos, puros, o pipa)

☐ Sí ☐ No

Si contesta "No" a la (33), pregúntese:

37. ¿Ha fumado Ud. alguna vez? (Cigarillos, puros, ó pipa. Indique "No" si el sujeto nunca ha fumado ni un cigarillo diario ó una onza de tobaco al mes, por un año)

☐ Si ☐ No

Si se contesta "Sí" a la (33) o (34); ¿que ha fumado Ud. y por cuantos años? (Indique el numero especifico de años en la casilla apropiada)

Años	(<5)	(5-9)	(10-14)	(15-19)	(20-24)	(25-29)	(30-34)	(35-39)	(>40)
38. Cigarillos									
39. Pipa									
40. Puros									

41. ¿Si fuma cigarrillos, cuantas cajetillas fuma diarias? Indique en numero de cigarrillos:

☐ menos de 1/2 cajetilla

☐ 1/2 cajetilla, pero menos de 1

☐ 1 cajetilla, pero menos de 1 1/2

☐ 1 1/2 cajetillas ó más

42. Numero de cajetillas por año _____

43. Si ha dejado de fumar (cigarrillos, pipas ó puros), cuanto tiempo hace que lo dejó. (Indique en numero de años)

☐ 0 - 1 año

☐ 1 - 4 años

☐ 5 - 9 años

☐ 10 años o mas

HISTORIA LABORAL

¿Ha trabajado Ud. alguna vez en:

44. Una fundación (por tanto como un año)? ☐ Sí ☐ No

45. La minería ó elaboración de piedras ó metales (por tanto como un año)? ☐ Sí ☐ No

46. En una planta de asbesto? (alguna vez) ☐ Sí ☐ No

47. En una fabrica de algodón ó de mezclado de algodón ☐ Sí ☐ No

48. En proximidad de otros polvos, emanaciones o humos? Si se contesta "Sí", especifíquese: ☐ Sí ☐ No

Clase de contacto _____

Duración de contacto _____

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77. On page 8834, column 1 paragraphs (b)(1)(i)(*e*) and (b)(1)(ii)(*a*) of § 1910.106 are deleted.

78. On page 8834, column 2 and 3, paragraphs (b)(2)(i)(*a*)–(*f*), inclusive, of § 1910.106 are deleted.

79. The material on page 8835 is corrected to follow that on page 8837.

80. On page 8836, paragraph (b)(2)(iii) of § 1910.106 and Tables H–5, H–6, and H–7 are deleted.

81. On page 8837, Tables H–8 and H–9 are deleted.

82. On page 8838, column 2, paragraphs (b)(2)(vii)*(b)(1)* and (b)(2)(vii) *(b)(3)* of § 1910.106 are deleted.

83. On page 8838, column 3, paragraphs (b)(2)(vii) (*c)(5), (7), (i), (ii), (iii)* and *(iv)* of § 1910.106 are deleted.

84. On pages 8838, column 3, and 8839, column 1, paragraphs (b)(2)(viii)(*a*), (*b*), and (c) of § 1910.106 is deleted.

85. On page 8840, column 3, paragraph (b)(5)(vi)*(e)* of § 1910.106 is deleted.

86. On page 8843, column 1, paragraph (b)(6)(ii) of § 1910.110 is corrected by deleting the words "or line of adjoining property which may be built."

87. On page 8843, column 2, paragraph (b)(6)(iv) of § 1910.110 is deleted.

88. On page 8847, column 2 and 3, paragraphs (b)(11)(iii)(*i*) and (b)(11)(iv)(*g*) of § 1910.110 are corrected by deleting the words "or line of adjoining property which may be built upon."

89. On page 8849, column 3, paragraph (b)(15)(viii)(*b*) of § 1910.110 is deleted.

90. On page 8853, column 1, paragraph (d)(2)(i) of § 1910.141 is corrected by deleting the following words: "in accordance with the requirements for lavatories as set forth in Table J–2 of this section. In a multiple-use lavatory, 24 lineal inches of wash sink or 20 inches of a circular basin, when provided with water outlets for each space, shall be considered equivalent to one lavatory."

91. On page 8853, column 2, Table J–2 and paragraphs (d)(2)(v) through (d)(2)(vii) of § 1910.141 are deleted.

92. On page 8853, column 3, paragraph (d) of § 1910.145 is corrected by deleting the words *"and colors"* from the subtitle.

93. On page 8853, column 3, paragraph (d) of § 1910.184 is corrected by moving it to the end of the safety standards, in column 2 of page 8852.

94. On page 8853, column 3, after the introductory paragraph to the Table of Threshold Limit Values, add the following explanatory paragraph immediately before the Table:

(a) *Materials with names preceded by "C"—ceiling values.* An employee's exposure to any material, the name of which is preceded by a "C", shall at no time exceed the ceiling value given for that material in the Table.

(b) *Other materials—8-hour time weighted averages.* An employee's exposure to any material, the name of which is not preceded by a "C", in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average given in the Table for that material computed according to the following formulae:

(1)(i) The cumulative exposure for an 8-hour work shift shall be computed as follows:

$$E = \frac{C_a T_a + C_b T_b + \cdots C_n T_n}{8}$$

where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time.

T where the concentration remains constant.

T is the duration in hours of the exposure at the concentration C.

The value of *E* shall not exceed the 8-hour time weighted average limit in the Table for the material involved.

(2)(i) In case of a mixture of air contaminants an employer shall compute the equivalent exposure as follows:

$$E_m = \frac{C_1 + C_2 + \cdots C_n}{L_1 \quad L_2 \quad L_n}$$

where:

E_m is the equivalent exposure for the mixture.

C is the concentration of a particular contaminant.

L is the exposure limit for that contaminant.

The value of E_m shall not exceed unity (1).

95. On page 8854, column 1, the following corrections are made in the Table:

Substance	ppm (Note 1)	mg/m³ (Note 2)
Carboryl (Sevin®)		5
Cellulose (paper fiber) (Note 4)		
Chloroacetophenone		

96. On page 8854, column 2, the following corrections are made in the Table:

Chloroethylene—See Vinyl Chloride § 1910.1017		
Chromium, Sol. chromic, chromous salts as Cr		0.5
Coal tar pitch volatiles BaP, phenanthrene, acridine, chrysene		
Corundum (Al_2O_3) (Note 4)		
Crag® herbicide		15
Cumene-Skin	50	245
Dementon®-Skin		0.1
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	50	240
C 1, 2-Dibromoethane (ethylene dibromide)-Skin	25	190
Dibutylphthalate		5
1, 2-Dichlorethylene	200	790

97. On page 8854, column 3, the following corrections are made in Table:

Emery (Note 4)		

98. On page 8855, column 1, the following corrections are made in the Table:

Fibrous glass (Note 4)		
Lead		0.2
C Manganese and compounds, as Mn		5
Mercury-Skin		0.1

99. On page 8855, column 2, the following corrections are made in the Table:

o Methylcyclohexanone-Skin	100	460
Methyl mercaptan	0.5	1
Methyl methacrylate	100	410
C Methyl styrene	100	480
C Nitroglycerine-Skin (Note 8)	0.2	2
Oil Mist, particulate (Note 10)		5

100. On page 8855, column 3, insert the following between Systox and Tantalum in the Table:

2, 4, 5 T		10

101. On page 8856, column 1, the following corrections are made in the Table:

Tetraethyl lead (as Pb)-Skin (Note 13)		0.100
Tetramethyl lead (as Pb)-Skin (Note 13)		0.150
o-Toluidine-Skin	5	22
Vinylcyanide, see Acrylonitrile § 1910.1045		

102. On page 8856, column 2, in the Table for Mineral Dusts, in the space under the words "Inert of Nuisance Particulates" add the words "See Note 4".

103. On page 8856, column 2, in the Table Notes, paragraph (11) is corrected to read as follows: "(11) Substance has variable composition. TLV determined by composition analysis. See 1970 Threshold Limit Value pamphlet Appendix A³."

104. On page 8857, column 1, the following listing is added immediately above Factory Mutual Engineering Corp.:

CGA Compressed Gas Association
Compressed Gas Association Commodity Specification
G–7.1–1966 (for breathing air-Grade D).

105. On page 8857, column 3, the telephone number for the ACGIH is corrected to read (513) 941–0178.

106. On page 8858, at the top of column 1, the following organization listing is added:

CGA Compressed Gas Association, 500 Fifth Avenue, New York, N.Y., 10036, Telephone (212) 354–1130.

107. On page 8858, under Federal Agencies, OSHA's telephone number is changed to (202) 523–8161.

108. On pages 8819 and 8820, Appendix B–III, is deleted.

109. On pages 8821–8828, Appendix B–IV, is deleted.

110. On page 8833, column 3, the fourth line of the first paragraph is corrected by deleting the words "Persons who successfully complete".

Signed at Washington, D.C. this 2nd day of April 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79–10522 Filed 4–5–79; 8:45 am]

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federal register

Friday,
April 6, 1979

Part IV

Federal Emergency Management Agency

Establishment and Delegations of Authority

FEDERAL EMERGENCY MANAGEMENT AGENCY

Establishment and Interim Location, Organization Functions, and Internal Administrative Instructions (Continuity of Functions)

Reorganization Plan No. 3 of 1978 (43 FR 41943), which establishes the Federal Emergency Management Agency (FEMA), was placed into effect by Executive Order 12127 of March 31, 1979 (44 FR 19367).

The plan, among other things, vests functions and authorities in the Director, FEMA, which prior to the effective date of the plan were performed by:

1. The Office of Science and Technology Policy, Executive Office of the President and the Department of Commerce with respect to the Emergency Broadcast System, as authorized by Reorganization Plan No. 1 of 1977 (42 FR 56101) as implemented by Executive Order 12046 of March 27, 1978 (43 FR 13349);

2. The Department of Commerce and the United States Fire Administration with respect to the National Fire Prevention and Control Program, as authorized under the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 *et seq.);* but exclusive of Sections 18 and 23 of the Act, reserved in the Department of Commerce and Sections 24 and 25, reserved in the Administrator, U.S. Fire Administration;

3. The Department of Housing and Urban Development and the Federal Insurance Administration with respect to:

a. The National Flood Insurance Program as authorized under Section 15(e) of the Federal Flood Insurance Act of 1956, as amended (42 U.S.C. 2414(e)) and the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001), and

b. The National Crime Insurance and Riot Reinsurance Programs, as authorized under Section 520(b) of the National Housing Act, as amended (12 U.S.C. 1735(d)(b)) and Title XII of the National Housing Act, as amended (12 U.S.C. 1749 bbb *et seq.).*

The United States Fire Administration, together with the positions of Administrator and Superintendent of the National Academy for Fire Prevention and Control, are also transferred to FEMA by the plan.

Locations and Mailing Addresses

The Office of the Acting Director, Federal Emergency Management Agency, is located at 2400 M Street, N.W., Washington, D.C. The mailing address is P.O. Box 19518, Washington, D.C. 20036.

The U.S. Fire Administration is located at 2400 M Street, N.W., Washington, D.C. The mailing address is P.O. Box 19518, Washington, D.C. 20036.

The Office of the Associate Director for Insurance and Hazard Mitigation/ Federal Insurance Administrator, is located at 451-7th Street, S.W., Washington, D.C. Regional offices are located at:

Region I—15 New Chardon Street, Boston, Massachusetts 02114.
Region I—90 Church Street, Rm. 801-B, New York, New York 10007.
Region III—Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.
Region IV—1371 Peachtree Street, N.E., Atlanta, Georgia 30309.
Region V—One North Dearborn Street, Chicago, Illinois 60602.
Region VI—Earle Cabell Building, 1100 Commerce street, Dallas, Texas 75242.
Region SII—Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.
Region VIII—Room 311, 909 17th Street, Denver, Colorado 80202.
Region IX—450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102.
Region X—Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Organization and Functions

The Federal Emergency Management Agency will have the temporary organization and structure shown on the accompanying chart.

Continuity of Authorities

In accordance with Section 907(a) of Title 5, United States Code, all regulations (including, as used herein, regulations, rules, orders, policies, determinations, directives, authorizations, permits, privileges, requirements, designations, or other actions) of the Department of Commerce, the United States Fire Administration, the Department of Housing and Urban Development, and the Federal Insurance Administration with respect to the functions transferred by the plan and in effect immediately prior to the transfer shall remain in full force and effect for all agencies, offices, officers and employees transferred to FEMA by reason of the plan, but as regulations of the Federal Emergency Management Agency, except that:

1. To the extent made inapplicable by the plan and Executive Order 12127, such regulations shall be suspended, and

2. The authority to make rules and regulations, issue notices of rulemaking and issue agency-wide directives shall, unless othewise delegated, be exercised by the Director, FEMA. The authority to make rules and regulations and issue notices of rulemaking with respect to the National Flood Insurance Program, and the National Crime Insurance and Riot Reinsurance Program have been delegated to the Acting Associate Director for Insurance and Hazard Mitigation, who also shall have the title of Federal Insurance Administrator, FEMA.

Nomenclature

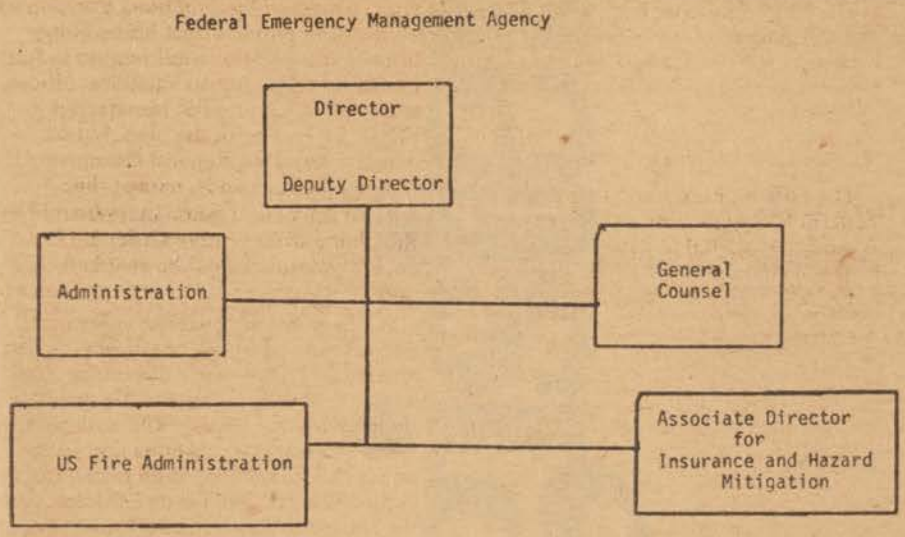
The agencies, offices, officers, and employees performing transferred functions and exercising transferred responsibilities and authorities shall continue to use the nomenclature existing and applicable before the transfer, except that

1. "Federal Emergency Management Agency" shall be substituted for "Office of Science and Technology Policy", "Department of Commerce", or "Department of Housing and Urban Development", as applicable, and

2. "Director, Federal Emergency Management Agency" shall be substituted for the titles of the heads of the organizations listed in 1, above.

Dated: April 2, 1979.

Gordon Vickery,
Acting Director, Federal Emergency Management Agency.



[FR Doc. 79-10562 Filed 4-5-79; 8:45 am]
BILLING CODE 3510-49-M

United States Fire Administration; Delegation of Authority

Under Section 201 of Reorganization Plan No. 3 of 1978, all functions vested in the Secretary of Commerce, the Administrator and Deputy Administrator of the United States Fire Administration, and the Superintendent of the National Academy for Fire Prevention and Control, pursuant to the Federal Fire Prevention and Control Act of 1974, as amended [15 U.S.C. 2201 *et seq.*]; exclusive of the functions set forth in Sections 18 and 23 of the Federal Fire Prevention and Control Act of 1974, as amended [15 U.S.C. 278f and 1511] are transferred to the Director of the Federal Emergency Management Agency. By Section 301 of Reorganization Plan No. 3 of 1978, the United States Fire Administration and the National Academy for Fire Prevention and Control and the positions of Administrator of said Administration and Superintendent of said Academy are transferred to the Federal Emergency Management Agency. Therefore, the following delegation is provided.

Pursuant to the authority vested in the Director by Section 106 of Reorganization Plan No. 3 of 1978, to implement the clear intent of Section 301 of said Reorganization Plan, and subject to such policy and directives as s/he may prescribe, the Administrator, United States Fire Administration, is hereby delegated the authority to perform such functions as are vested in the Director, Federal Emergency Management Agency by Section 201 of Reorganization Plan No. 3 of 1978, except authorities under Sections 16 and 21(c) of the Federal Fire Prevention and Control Act of 1974, as amended [15 U.S.C. 2215 and 2218(c)] which are reserved in the Director.

The Administrator of the United States Fire Administration may redelegate his or her authority to any officer or employee of the United States Fire Administration, subject to such conditions in the exercise of such authority as s/he may prescribe.

Dated: April 2, 1979.

Gordon Vickery,
Acting Director, Federal Emergency Management Agency.

[FR Doc. 79-10563 Filed 4-5-79; 8:45 am]
BILLING CODE 3510-49-M

Insurance and Hazard Mitigation; Delegation of Authority

Section A. *Associate Director of Insurance and Hazard Mitigation.* Pursuant to Section 104 of Reorganization Plan No. 3 of 1978 and Executive Order 12127 of March 31, 1979, the position of Associate Director for Insurance and Hazard Mitigation, Federal Emergency Management Agency is hereby established. The Associate Director, which shall also carry the title Federal Insurance Administrator, Federal Emergency Management Agency shall be compensated at the rate now and hereafter prescribed for Level IV of the Executive Schedule and shall have the functions described in Sections B through F of the delegation.

Section B. *Authority delegated with respect to the National Insurance Development Programs.* The Associate Director is authorized to exercise the power and authority of the Director, Federal Emergency Management Agency with respect to the National Insurance Development Program under Title XII of the National Housing Act (12 U.S.C. 1749bbb *et seq.*), except the authority to:

1. Establish and administer the National Insurance Development Fund under Section 1243 of the National Housing Act (12 U.S.C. 1749bbb-13).

2. Audit the records of insurers or others under Section 1244(d) of the National Housing Act (12 U.S.C. 1749bbb-14).

3. Exercise the powers under Section 402(a) of the Housing Act of 1950 (12 U.S.C. 1249(a)), applicable under Section 1247 of the National Housing Act (12 U.S.C. 1749bbb-17).

4. Sue and be sued under Section 402(c)(3) of the Housing Act of 1950 (12 U.S.C. 1749a(c)(3)), applicable under Section 1247 of the National Housing Act (12 U.S.C. 1749bbb-17).

Section C. *Authority delegated with respect to the National Flood Insurance Program.* The Associate Director is authorized to exercise the power and authority of the Director, Federal Emergency Management Agency with respect to the National Flood Insurance Program (NFIP) under Section 15(e) of the Federal Flood Insurance Act of 1956 (42 U.S.C. 2414(e)) and the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 *et. seq.*), except the authority to:

1. Borrow funds from the Treasury under Section 15(e) of the National Flood Insurance Act of 1956, as amended by Section 1303 of the National Flood Insurance Act, and under Section 1309 of the National Flood Insurance Act (42 U.S.C. 2414(e) and 4016).

2. Establish and administer the National Flood Insurance Fund under Section 1310 of the National Flood Insurance Act (42 U.S.C. 4017).

3. Report on program operations, in the annual report to the President, under Section 1320 of the National Flood Insurance Act (42 U.S.C. 4027).

4. Make the determination concerning federal operation of the program and the report to Congress under Section 1340 of the National Flood Insurance Act (42 U.S.C. 4071).

5. Be sued under Section 1341 of the National Flood Insurance Act (42 U.S.C. 4072).

6. Audit and examine the records of flood insurance pools and insurance companies or other private organizations under section 1348(b) (42 U.S.C. 4084(b)).

Section D. *Authority delegated with respect to the Southeast Hurricane Disaster Relief Act.* The Associate Director is authorized to exercise the authority of the Director, Federal Emergency Management Agency with respect to the study of alternative programs to provide financial assistance to those suffering property losses in natural disasters, under Section 5 of the Southeast Hurricane Disaster Relief Act of 1965 (79 Stat. 1301).

Section E. *Authority to redelegate.* The Associate Director is authorized to redelegate to subordinate employees any of the power and authority delegated under Sections B, C, and D, except the authority to issue rules and regulations.

Section F. *Authority to designate Acting Associate Director for Insurance Hazard Mitigation/Federal Insurance Administrator and subordinate officials.* The Associate Director is further authorized to:

1. Designate one or more subordinate employees to serve as Acting Associate Director during his or her absence.

2. Designate one or more subordinate employees to serve as acting head of an organizational unit under the Associate Director during the absence of the head of a unit or during a vacancy in the position.

Section G. *Delegations revoked.* This delegation supersedes any other delegation of authority issued prior to the effective date hereof pertaining to the subject matter hereof.

Authority: 12 U.S.C. 1749bbb *et seq.;* 12 U.S.C. 1749bbb Note; 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (43 FR 41943); and Executive Order 12127, dated March 31, 1979 (44 FR 19367, April 3, 1979).

Effective date. This document shall be effective as of April 1, 1979.

Dated: April 2, 1979.

Gordon Vickery,

Acting Director, National Emergency Management Agency.

[FR Doc. 79-10564 Filed 4-5-79; 8:45 am]

BILLING CODE 3510-49-M

federal register

Friday
April 6, 1979

Part V

Department of Health, Education, and Welfare

Food and Drug Administration

Phenformin Hydrochloride

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Phenformin Hydrochloride; Denial of Petition for Reconsideration

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is publishing the Commissioner's Denial of Petition for Reconsideration of his final decision withdrawing approval of new drug applications (NDA's) for phenformin hydrochloride.

ADDRESS: The Denial of Reconsideration may be seen in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard A. Anderson, Office of the Associate Commissioner for Health Affairs (HFY-21), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1170.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the agency is publishing the Commissioner's Final Decision and the Administrative Law Judge's Initial Decision on the withdrawal of approval of NDA's for phenformin hydrochloride. The Commissioner's Denial of Reconsideration is set forth below:

Denial of Petition for Reconsideration

On November 15, 1978, I issued a final decision, following a formal evidentiary public hearing, withdrawing approval of the new drug applications (NDA's) for phenformin hydrochloride. The decision was based on a determination that phenformin is not shown to be safe for use under the conditions of use on the basis of which the NDA's were approved. A notice of the avilability of the decision was published in the **Federal Register** of November 24, 1978 (43 FR 54995).

On December 22, 1978, the Committee for the Care of the Diabetic (CCD), a non-party participant in the withdrawal preceeding, submitted a petition for reconsideration of the final decision, as provided by 21 CFR 12.139. Such a petition must demonstrate that relevant data information, or views contained in the administrative record were not previously or adequately considered, that the petitioner's position is not frivolous and is being pursued in good faith, that the pettitoner has demonstrated sound public policy grounds supporting reconsideration, and that reconsideration is not outweighted by public health considerations or other public health interests. 21 CFR 10.33(d). A petition will be considered only if it is submitted within 30 days of the date of the decision involved, if submitted late, the petition "shall be denied as untimely." 21 CFR 10.33(g).

According to CCD reconsideration of the phenformin decision is necessary to allow CCD to present "new facts." The new facts identified by CCD consist of the report of an audit conducted by FDA into alleged errors and discrepancies in data of the University Group Diabetes Program (UGDP). The UGDP study concluded that there was increased cardiovascular mortality among patients taking the oral hypoglycemic drugs, one of which was phenformin.

The FDA auditors reviewed the records of 129 patients who had died in the course of treatment under the study, plus those of 21 surviving patients.[1] The purpose of the audit was to assess whether the scientific paper published by the UGDP accurately reflects the data which the UGDP coordinating center received from the physicians participating in the study and whether any discrepancies found by the auditors affect the conclusions of the study. The auditors compared case report forms from individual clinical investigators with the data stored in the computer file and with the summary tables published in the UGDP's reports. The availability of the audit report and its findings was first announced by FDA on November 6, 1978. Further notice of its availability was published in the **Federal Register** of November 14, 1978 (43 FR 52732).

The audit concluded that "while there are certain errors and discrepancies between the data file of the UGDP study and the published reports, none of these appears to be of sufficient frequency or magnitude to invalidate the finding that cardiovascular mortality was higher in the groups of patients treated with tolbutamide plus diet and phenformin plus diet compared to the groups treated with placebo or insulin."

CCD argues that, because the audit report is now available for review, a reconsideration of the decision to withdraw approval of the phenformin NDA's is required.

One answer to this assertion is that I did not rely on the UGDP study in reaching my final decision. See Final Decision, page 15. Accordingly, nothing in the UGDP audit constitutes data relevant to the decision. Second, the audit did not consider the relationship between phenformin and lactic acidosis, which was the subject matter of the withdrawal proceeding. Rather, it dealt with death due to cardiovascular disease. CCD itself notes that a "most significant aspect of the audit report was that it did not directly address the validity of the study with regard to the findings concerning phenformin" (Petition at 3), and that the auditors "did not consider the study findings with regard to phenformin to be within their purview" (Petition at 4). CCD acknowledges that the only mention of phenformin in the audit conclusions concerned alleged cardiovascular mortality in one patient taking phenformin.[2] Two UGDP reported cases of phenformin induced lactic acidosis were not reviewed by the auditors. Thus, the audit considered one issue (cardiovascular mortality) and the withdrawal hearing addressed an entirely different issue (phenformin associated lactic acidosis). Therefore, the report of the auditors provides no reason to reopen the phenformin withdrawal proceeding.

CCD argues that the testimony of Bureau witnesses at the withdrawal proceeding relied upon the UGDP, and considered it to be pivotal in evaluating the safety of phenformin. CCD also notes that the Administrative Law Judge ruled that the UGDP study could serve as the basis for expert testimony even though he questioned the independent reliability of the UGDP conclusions from an evidentiary standpoint. CCD concludes that the UGDP had a pervasive influence at the hearing and affected any decision based upon the administrative record. I have already responded at length to this contention, and I disagree with it. Final Decision, Exception 3, pp. 11-15.

CCD argues that because the UGDP auditors did not review the relationship between lactic acidosis and phenformin, FDA may not apply the study for any regulatory purposes. I do not agree that FDA is required to audit every portion of the UGDP or any other study in order to use it for regulatory purposes. Any further audit or review of the UGDP findings to evaluate the data bearing on phenformin induced lactic acidosis is unlikely to alter or illuminate the

[1] The audit revealed an additional nine patients who died during the study. Thus, the original 150 audited patients became 159.

[2] With respect to this patient, the auditors agreed with CCD that the patient "probably should not have been a candidate for phenformin therapy on the basis of renal function." This conclusion is consistent with my finding that there is evidence that phenformin has been used contrary to labeled indications and that there are limitations on the ability of physicians to screen adequately for renal dysfunction. See Final Decision, Findings of Fact 22-25, pp. 52-53.

evidence in the administrative record. Whether or not fully audited, and regardless of the validity of its findings, the UGDP study was not relied on by me in withdrawing approval of the phenformin NDA's.

Finally, I note that the CCD petition for reconsideration, dated December 22, 1978, is untimely. Although the notice of availability of the final decision was published in the **Federal Register** of November 24, 1978, the decision was dated and effective on November 15, 1978. That is the "date of the decision involved" within the meaning of 21 CFR 10.33(g), which requires that a petition be filed within 30 days. Counsel for CCD was aware of the November 15 date because of their involvement in a lawsuit concerning the Secretary's imminent hazard determination on phenformin, *Forsham* v. *Califano* (D.D.C. No. 77-1478; D.C. Cir. No. 77-2072). In that suit, FDA made a specific representation to the Court that the withdrawal order would be issued on or before November 15.

I conclude that the petition for reconsideration does not merit reconsideration of my decision to withdraw the NDA's for phenformin and that the grounds presented in the petition do not meet the criteria for reconsideration set forth in the regulations, 21 CFR 10.33(d). Accordingly, the petition is denied.

Dated: February 5, 1979.

Donald Kennedy,
Commissioner of Food and Drugs.

[Docket No. 77N-0150]

[FR Doc. 79-10591 Filed 4-5-79; 8:45 am]

BILLING CODE 4110-03-M

Phenformin Hydrochloride; Withdrawal of Approval of New Drug Application; Final Decision

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is publishing his final decision, following a formal evidentiary public hearing, findings of fact, conclusions of law, and final order on the proposal to withdraw approval of the new drug applications (NDA's 11-624 and 12-752, held by Geigy Pharmaceuticals, Division of Ciba-Geigy Corp., Ardslay, New York; NDA's 17-126 and 17-127 held by USV Laboratories, Division of USV Pharmaceutical Corp., Tuckahoe, New York) for phenformin hydrochloride under section 505(e)(2) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(e)(2). The Commissioner has determined that phenformin is not shown to be safe for use under the conditions of use on the basis of which the applications were approved. He has affirmed the Initial Decision of the Administrative Law Judge with modification and supplementation provided in his order. Introduction into interstate commerce of phenformin, except in conformity with an exemption granted pursuant to section 505(i) of the act (21 U.S.C. 355(i)), constitutes a violation of law.

EFFECTIVE DATE: November 15, 1978.

ADDRESS: The transcript of hearing, evidence submitted and all other documents cited in the decision, and the Initial Decision of the Administrative Law Judge, may be seen in the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard A. Anderson, Office of the Associate Commissioner for Health Affairs (HFY-21), Food and Drug Administration, Department of Heath, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1177.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 24, 1978 (43 FR 54995), the Commissioner issued a notice of availability of his final decision in this matter. Because it has been the long-standing policy of the Food and Drug Administration (FDA) to publish all notices of withdrawal of approval of NDA's, and because there has been considerable public interest in the matter, the Commissioner is now publishing the final decision in the **Federal Register**. Further, because the final decision relies very specifically on the Initial Decision of the Administrative Law Judge, the latter is also being published at this time elsewhere in this issue of the **Federal Register**. Also, a denial of petition for reconsideration is published in this issue of the **Federal Register**.

The Commissioner advises that although this document contains minor editorial changes from the final decision, such changes are made only to comply with document drafting guidelines issued by the Office of the Federal Register. There are no substantive differences between the document that follows and the official copy of the Final Decision dated November 15, 1978.

The purpose of this proceeding is to decide whether approval of the new drug applications for phenformin should be withdrawn because phenformin has not been shown to be safe for use under the conditions of use on the basis of which the applications were approved.

I. Background

Phenformin is an oral hypoglycemic drug used in the treatment of symptomatic adult-onset diabetes. Phenformin was first approved for marketing in the United States in March 1959. Soon thereafter, reports of cases of lactic acidosis associated with the use of phenformin begin to appear in the medical literature. Lactic acidosis is a condition in which abnormal amounts of lactic acid accumulate in the blood. The rate of fatalities in cases of lactic acidosis is about 50 percent. In response to these reports, warning statements and other information were added to phenformin labeling in 1964, 1970, 1974, 1976, and January 1977.

In the **Federal Register** of May 6, 1977 (42 FR 23170), the Director of the Bureau of Drugs, FDA, proposed to withdraw the approval of the new drug applications for phenformin. The proposal stated: "This action is being taken on the basis of the clear association demonstrated between the use of phenformin and the occurrence of lactic acidosis" in diabetic patients. *Id.* "Although the true frequency of the occurrence of lactic acidosis in diabetics using phenformin cannot be determined," the relative frequency among such diabetics "is considerably higher than that being reported for any other form of treatment for diabetes." 42 FR at 23172. "Because lactic acidosis is a frequently fatal complication, because no patient population exists in whom all risk factors for this complication can always be either identified or predicted, and because of the availability of effective alternative orally administered drug products and other drug and nondrug methods for diabetic therapy, the Director [of the Bureau of Drugs] concludes that the risk of phenformin therapy outweighs any possible benefits that can be derived from its use." 42 FR at 23173.

Requests for hearing, together with supportive material, were received from Ciba-Geigy and USV, the two manufacturers of phenformin. In the **Federal Register** of August 12, 1977 (42 FR 40959), FDA announced a formal evidentiary public hearing on factual issues relating to the proposed withdrawal. A prehearing conference was scheduled for August 30, 1977. The Committee for the Care of the Diabetic (CCD) appeared in opposition to the withdrawal as a non-party participant. Prior to the notice announcing the hearing, the Secretary of Health, Education, and Welfare invoked the

imminent hazard clause of section 505(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(e), to suspend immediately approval of the phenformin NDA's (Docket No. 77N-0147). Accordingly, phenformin has not been marketed under the NDA's pending completion of these proceedings on the proposed withdrawal.

At the conclusion of the prehearing conference, the Administrative Law Judge, Daniel J. Davidson, designated the following issues to be addressed at the hearing:

1. Whether, and to what extent, the use to phenformin is beneficial in the treatment of diabetic patients for whom the drug is indicated under the conditions of use prescribed, recommended, or suggested in its labeling.

2. Whether an association has been established between the use of phenformin and the occurrence of lactic acidosis, including fatalities, in patients for whom the drug is indicated under the conditions of use prescribed, recommended, or suggested in its labeling, and what is the incidence of lactic acidosis, including fatalities, in such patients, and in the diabetic population at large.

3. Whether, and to what extent, other therapeutic modalities are appropriate and effective in treating persons for whom phenformin is indicated on the basis of the conditions of use prescribed, recommended or suggested in its labeling.

4. Whether the conditions of use prescribed, recommended or suggested in the labeling for phenformin are adequate to exclude from treatment persons for whom the drug is contraindicated as a result of the presence of factors which predispose to lactic acidosis.

5. Whether, in view of all of the above, the benefits outweigh the risks associated with use of the drug, phenformin.

By Order of August 31, 1977, the Administrative Law Judge also set times for the filing of all documentary material, and he established October 5, 1977 as the date on which the hearing would commence. The hearing began as scheduled and concluded on Octobert 7, 1977.

The Administrative Law Judge issued his Initial Decision on February 6, 1978. He found that (1) phenformin has limited short-term beneficial effects in the treatment of diabetes, (2) a strong association between phenformin and lactic acidosis has been established although its rate of occurrence "is not susceptible of quantification on this record," (3) the same degree of risk associated with the use of phenformin does not exist with other forms of therapy that are effective for treating diabetes, and (4) the labeling for phenformin is inadequate to exclude from treatment those persons for hwom the drug is contraindicated as a result of factors that predispose such persons to lactic acidosis. Initial Decision at 1, 2, 46, 47, 48. Accordingly, the Administrative Law Judge concluded that "the limited benefits of phenformin are insufficient to support a finding of safety in light of the risks attending its general marketing under the approved NDA's. Approval of the NDA's for phenformin should therefore be withdrawn * * *." Initial Decision at 2, 48.

II. Exceptions

On March 8, 1978, CCD filed 18 exceptions to the Initial Decision. Neither Ciba-Geigy nor USV filed exceptions. On March 28, 1978, the Bureau of Drugs submitted its reply to CCD's exceptions. I conclude the CCD's exceptions do not justify reversal of the Initial Decision.

1. Two exceptions question the focus of the Initial Decision on whether phenformin must be withdrawn from the market. CCD argues that the Initial Decision should have considered, and, if necessary required, revision of the labeling for phenformin. CCD contends that there are specific patient populations for whom the benefit of phenformin outweighs its risks, and that those populations can be adequately identified in revised labeling. CCD characterizes the withdrawal issue as a "self-imposed" limitation, which "severely restricted[ed] the scope of the hearing" and resulted in a prejudicial restriction on the evidence presented.

The statute established the standards for approving and withdrawing a new drug application. In either case, the data on safety and effectiveness are measured by the conditions for use prescribed, recommended, or suggested in the drug's labeling. See section 505(d) of the Act. Consistent with section 505(e)(2) of the Act, the notice of opportunity for hearing defined the issue to be decided as whether phenformin is not shown to be safe for use "under the conditions of use upon the basis of which the application were approved," [1] not whether more restrictive labeling might be drated and submitted to FDA as a supplement to the NDA.

I find no merit in the CCD contention that the Administrative Law Judge identified "a number of different patient populations for which the benefits of phenformin use outweigh any risks" and that the Initial Decision was able to "specify patient populations which need phenformin." Having discussed the claim by Ciba-Geigy and USV that operators of commercial vehicles in interstate commerce would be precluded from such employment if forced to use insulin therapy rather than phenformin, the Administrative Law Judge concluded that "limiting employment possibilities cannot preclude withdrawal of approvl of phenformin." Initial Decision at 43. Thereafter, the Administrative Law Judge speculated generally that the "temporary benefits" of phenformin could be of value in a "small number" of "unusual cases" and that certain individuals were "possible candidates" if a limited distribution system for phenformin could be established; "the need may exist for a limited distribution of phenformin to special patients under specialized controlled treatment programs." Initial Decision at 44. These remarks do not constitute a "finding" that patient populations exist for whom the benefits of phenformin in general distribution pursuant to current law "outweighs the risks."

AS the Administrative Law Judge went on to point out, such a limited distribution program "cannot be authorized within the parameters of this proceeding which is charged solely with determining the propriety of the proposed withdrawal of approval of the NDA's for general marketing of phenformin." *Id.* FDA does not currently have authority to limit the distribution of drugs through specified channels, except as a consequence of a controlled clinical investigation conducted under an exemption from the new drug application requirements of section 505(i) of the Act. *American Pharmaceutical Association* v. *Weinberger*, 377 F. Supp., 824 (D. D.C. 1974), *aff'd sub nom. American Pharmaceutical Association* v. *Mathews*, 530 F.2d 1054 (D.C. Cir. 1976). The authority provided by section 505(i) cannot be used to limit distribution of a drug so long as it is approved under an NDA. Thus, the Administrative Law Judge's discussion of limited distribution referred either to a circumstance in which the NDA for phenformin had already been withdrawn or to an amendment to current law granting FDA authority to limit distribution of approved drugs. In neither case can the discussion be construed as a "finding"

[1] Since the new drug applications include their supplements, the conditions of use against which the Administrative Law Judge evaluated the safety of phenformin are those contained in the revised January 1977 labeling.

supporting continued approval under current law.

2. Two exceptions filed by CCD concern the evaluation by the Administrative Law Judge of the long-term effectiveness of phenformin. CCD argues that the qeustion of long-term effectiveness is improper because the existence of secondary failure with phenformin has been known by FDA and thus was not "new evidence" within the meaning of section 505(e)(2) of the Act, and because many drugs presently permitted to be marketed exhibit similar decreasing effectiveness over time. CCD's position is that a loss of effectiveness over time does not render a drug either legally or medically ineffective.

I find that the extent of effectiveness over time is a valid consideration. Adult onset diabetes is a chronic conditions with severe complications. Since the disease requires long-term rather than intermittent management, it is relevant to inquire into the duration of the treatment. The management of a disease may involve a variety of treatments, some of which are more useful during a particular stage. A drug is not unsafe or ineffective simply because it constitutes only a portion of the treatment regimen either in terms of concomitant therapy or time. Nevertheless, a risk to benefit evaluation of any treatment must include an evaluation of the extent of the benefit.

CCD's assertion that FDA knew of secondary failure with phenformin before approval of the NDA's is incorrect. In fact, significant evidence on the question of secondary failure associated with phenformin was developed only in the context and for the purposes of the evidentiary hearing. See CG–61, and Bureau of Drugs Brief, 59–70. In addition, "new evidence" includes a reevaluation of any evidence previously submitted. *Bell* v. *Goddard*, 366 F. 2d 177 (7th Cir. 1966).

3. Three of the CCD exceptions deal with the University Group Diabetes Project Study (UGDP), a long-term prospective clinical trial carried out in the 1960's. The CCD criticized the Administrative Law Judge's admission of the UGDP study results (B–395, B–396) into evidence without requiring disclosure of the raw data (individual reports on all of the individuals who participated in the study). See Order of November 11, 1977, denying CCD's Motion to Strike Or, In The Alternative, To Produce Evidence. CCD argues that the failure of the Administrative Law Judge to require that raw data be filed by the Bureau of Drugs pursuant to 21 CFR 12.85 invalidates the hearing procedure and its results. CCD also takes exception to the UGDP study because it believes the study "has been thoroughly impeached" from an evidentiary, scientific and medical veiwpoint. CCD objects to the decision of the Administrative Law Judge to permit expert opinion testimony concerning the safety and effectiveness of phenformin based upon the UGDP study. Initial Decision at 7. CCD argues that reliance upon the UGDP by Bureau of Drugs witnesses was substantial and that those experts were biased because they had been associated with the study. CCD also alleges that retrospective studies admitted into evidence and relied upon by the Administrative Law Judge followed upon and were influenced by the results of the UGDP study. CCD concludes that by failing to strike the UGDP study or to consider its impact or other evidence, the Administrative Law Judge's Initial Decision is "flawed and not based on substantial and reliable evidence" and that his ruling "invalidates the hearing process."

I affirm the Administrative Law Judge's ruling on the motion to strike the UGDP data. The Administrative Law Judge held that the "lack of availability of underlying data casts considerable doubt on the reliability of the UGDP conclusions from an evidentiary standpoint. To the extent such data was not made available, the UGDP conclusions cannot be considered as substantiated on the record." *Id.* Accordingly, in reviewing the Bureau's evidence on the question of safety, the Administrative Law Judge referenced the UGDP study in only one paragraph of his 8-page summary. Initial Decision, at 20.

The Administrative Law Judge concluded that the UGDP study could be used for two purposes: to raise questions about the safety of phenformin and as the basis for expert opinion. The FDA has long taken the position that evidence suggestive of a lack of safety may be considered in evaluating whether a drug has been shown to be safe even though the evidence does not meet the standards required to establish the safety of the drug. The Administrative Law Judge's ruling that the UGDP study might serve as the basis for expert testimony is supported by Rule 703 of the Federal Rules of Evidence, which provides that even if data are not admissible into evidence they may nevertheless form the basis of opinions by experts if they are the type of data reasonably relied upon by experts in that particular field. See *Nanda* v. *Ford Motor Co.*, 509 F. 2d 213 (7th Cir. 1974); *Jenkins* v. *United States*, 307 F. 2d 637 (D.C. Cir. 1962). Experts routinely keep abreast of the literature and base their opinions, in part, on published reports of drug studies. They rarely see or review the "raw data." Nor are they required to base their expert opinions on raw data; any such conditions would require expert witnesses to disregard the vast bulk of their expert knowledge.

The record in this proceeding includes nearly 400 articles published in the medical literature. Many of them report studies on phenformin. None of those articles is accompanied by the "raw data" upon which it is based. The Bureau has relied solely on the published report of the UGDP study in the same way that is has relied upon the other published articles that were admitted into evidence. 21 CFR 12.85 requires only that the Bureau provide data upon which it relies; it does not require the Bureau to submit related data on which it does not rely.

Because of CCD's emphasis on the unavailability of the raw data underlying the UGDP study, I have reviewed the testimony of the Bureau of Drugs' expert witnesses and find that their reliance upon the UGDP study was not substantial and cannot reasonably be characterized as pivotal to the opinions expressed by those witnesses.

I reject the suggestion by CCD that the witnesses who testified for the Bureau of Drugs consisted primarily of those persons whose professional reputations would be tarnished if the UGDP study were ever established to have been faulty. The CCD exception provides no specific basis upon which to question the professional integrity of the Bureau's witnesses. Their curricula vitae strongly support the Bureau's reliance on their professional opinions. See B–464, B–466, B–468, B–470, B–472, B–474, B–476, B–478, B–480, B–482, B–484, B–486, B–488, B–492, B–494, B–496, B–498, B–500. Challenges to scientific integrity of the sort made by CCD in this case, certainly cannot be accepted without any support in the record.

I am aware of the controversy over the UGDP study. *Bradley* v. *Weinberger*, 483 F. 2d 410 (1st Cir. 1973). Indeed, during the course of this proceeding, FDA participated in an audit of the UGDP data. Because the audit coincides with this withdrawal proceeding, and is not part of this record, I have not considered the UGDP study in reaching my final decision. References to the UGDP study in the substantive portion of the Initial Decision are not adopted.

4. CCD takes exception to the ruling of the Administrative Law Judge admitting

into evidence foreign clinical data submitted by the Bureau of Drugs. CCD contends that the data do not satisfy the requirements of 21 CFR 312.20, and concludes that the Administrative Law Judge applied a double standard for the admission of evidence, whereby controlled clinical studies are required to support an NDA while technically incomplete studies, which would not support a showing of safety or effectiveness, were considered as part of the "overall body of available safety data."

I affirm the decision of the Administrative Law Judge that data that do not meet the requirements of 21 CFR 312.20 nevertheless may be considered in evaluating drug safety. See **Federal Register** of November 19, 1976 (41 FR 51215). The "double standard" complained of by CCD is the standard contemplated by the statute.

I believe, however, that the statement of the Administrative Law Judge that foreign clinical data do not qualify as prima facie evidence of a lack of safety (Initial Decision at 8) should be modified. Although failure of foreign clinical data to meet the requirements of 21 CFR 312.20 may affect their weight in evaluating a drug's safety, this does not mean that they cannot be the basis for a prima facie case that a drug is not safe. I find that a prima facie case for withdrawal or non-approval under section 505 of the Act can be made on the basis of medical facts reported in foreign literature, such as the reports of birth defects resulting from use of thalidomide in Europe. See S. Rept. No. 1744, 87th Cong., 2d Sess., 40 (1962).

5. CCD takes exception to the weight given by the Administrative Law Judge to the testimony of certain diabetologists appearing on behalf of Ciba-Geigy and USV on the question of the safety of phenformin. CCD claims that the Administrative Law Judge disregarded the testimony of these experts because it conflicted with evidence, primarily retrospective studies on cases of lactic acidosis, that CCD believes is not of comparable value. According to CCD, the Administrative Law Judge's evaluation of the testimony of the manufacturers' experts reveals that he had prejudged the case. CCD also takes exception to the Administrative Law Judge's failure to give substantial weight to Ciba-Geigy's nationwide survey of reports of lactic acidosis among patients treated with phenformin.

The Administrative Law Judge found that the Ciba-Geigy data on the rate of incidence of lactic acidosis (CG–26) are deficient due to (1) the recognized phenomenon of under reporting of adverse effects to drug companies, (2) the tendency of reports in the medical literature to decline once a discovery has been published repeatedly, (3) deficiencies in the criteria used by Ciba-Geigy to screen the data, (4) the inadequacy of the qualifications of the Ciba-Geigy employee who prepared the data, and (5) the absence of a showing by Ciba-Geigy that an effort was made to supplement information that was inadequate and resulted in exclusion form the study of certain reports of lactice acidosis. Initial Decison at 22–26. The Administrative Law Judge "disregarded" the data in that he concluded that they were flawed to such an extent as to preclude their being afforded "any significant evidentiary weight." *Id.* at 26. On the basis of my independent consideration of the record, I affirm the findings of the Administrative Law Judge with respect to the Ciba-Geigy study.

The Administrative Law Judge did not disregard the testimony of the Ciba-Geigy expert diabetologists. Rather, he concluded that their testimony that they had not seen lactic acidosis in their patients was not determinative of the safety of phenformin under general maketing conditions. Several of these experts testified about their knowledge of lactic acidosis in patients other than those under their private care. The majority of diabetics in this country are not treated by expert diabetologists. Initial Decision at 26–28. The Administrative Law Judge concluded, in light of the overall evidence of lactic acidosis associated with phenformin, that the very testimony that phenformin is safe when prescribed by "the most eminent" diabetoligists in the United States suggests that patients for whom phenformin is prescribed by general practitioners run "a considerable risk of phenformin-associated lactic acidosis." *Id.* at 28.

6. In a related exception, CCD objects to the Administrative Law Judge's conclusion that proof of the safety of phenformin when administered by specialists is insufficient to justify its continued general marketing. CCD argues that this standard is not sanctioned by law and that the evidence does not support a finding that some physicians with certain training can administer phenformin while others cannot. CCD urges that the Administrative Law Judge cannot base a decision upon factors beyond the scope of FDA's authority.

CCD has misconstrued the statutory requirement of safety and the Admininstrative Law Judge's reasoning. Section 505(d)(1) requires that a new drug be "safe for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof." The statute thus requires general safety for use—that is, safety for use by the general practitioners who do or will use the drug. The Administrative Law Judge found that on the record before him phenformin was not shown to be safe as required by section 505(d)(1). He also noted evidence tending to show that phenformin is safe when prescribed by expert diabetologists. He correctly interpreted section 505(d)(1), however, as requiring a broader showing of safety. In light of the entire record concerning the actual use of phenformin, the evidence tending to show that phenformin may be prescribed safely by expert diabetologists does not establish the general safety require by section 505(d)(1).

CCD's argument would have merit if FDA had authority to leave phenformin on the market by restrict its distribution to the prescription of expert diabetologists or to the prescription of physicians with patients for whom phenformin is appropriate. As Ciba-Geigy and USV recognize, however, FDA does not have such authority. Initial Decision at 28; Ciba-Geigy/USV Brief at 18. Having found that phenformin was not shown to be safe for use by those persons who, pursuant to state law, are licensed to prescribe it and treat diabetic patients, the Administrative Law Judge was required to recommend withdrawal of the NDA's for the general marketing of phenformin.

7. CCD takes exception to the text of a draft **Federal Register** notice of the availability of phenformin pursuant to an investigational new drug exemption (IND). CG–81. (This draft was not admitted into evidence. Initial Decision at 44, n. 5.) CCD alleges that the draft is inconsistent with the position taken by the Bureau of Drugs because the Bureau's notice of opportunity for hearing and its position in this proceeding support the complete withdrawal of phenformin, while the existence of the Bureau-approved IND demonstrated the phenformin can be marketed and distributed under certain controls. CCD concludes that the Bureau'a separtate actions are conflicting and that the supposed inconsistency "invalidates any results of the administrative proceeding."

This exception is without merit. First, no notice based upon the draft IND document has ever been published in the **Federal Register.** Second, it is not inconsistent for the Bureau to support

the withdrawal of approval of phenformin for general marketing while recognizing that an investigational new drug exemption may impose controls that render the use of the drug acceptable and may yield safety data that do not now exist. The Bureau routinely approves IND's for drugs that are not subject to approved NDA's. Thousands of drugs have been so regulated. Indeed, the very purpose of an IND is to authorize a limited investigation of an as yet unapproved use of a drug. There is no legal difference between and IND for a drug that has never been the subject of an approved NDA and an IND for a drug that has.

8. Noting that the Administrative Law Judge held that the rate of occurrence of phenformin-associated lactic acidosis is "not susceptible of quantification on this record," the CCD argues that the Bureau of Drugs has not sustained its burden.

There is an important distinction between a requirement of mathematical quantification of a rate of occurrence of lactic acidosis and the burden to adduce new evidence which, when evaluated together with other data, raises "significant doubts as to the appropriateness of the finding of a prior showing of safety in light of the new evidence." Initial Decision at 5. Although unable to quantify the rate of occurrence of lactic acidosis, the Administrative Law Judge found that lactic acidosis "occurs virtually exclusively among phenformin users," and that the absence of a base rate of lactic acidosis in the diabetic population generally, which is needed to calculate the rate of lactic acidosis among phenformin users, "is typical of many diseases and does not detract from the demonstration of a strong association between phenformin and lactic acidosis." See Initial Decision at 46. On the basis of my independent evaluation of the record, I find that the association between the use of phenformin and the occurrence of lactic acidosis is real and has been substantiated in this proceeding.

9. CCD objects to the ultimate finding of the Administrative Law Judge that other treatment are just as effective as phenformin but do not present the same degree of risk. CCD's objection is on the ground that the testimony of significant side effects associated with the use of insulin was disregarded.

I reject CCD's characterization of the record. The phenformin labeling, B-506(n), states that diet and insulin are the therapies of choice in the control of diabetes. Although there are side effects from treatment with insulin, its overall effectiveness in treating the chronic complications of diabetes was found to be substantial. Initial Decision at 41. The references in the record to the existence of side effects of insulin therapy were not disregarded by the Administrative Law Judge; on balance, they simply did not outweigh the evidence of its efficacy, or require a conclusion that insulin is less safe than phenformin.

10. CCD alleges that the Administrative Law Judge "has not properly taken into account the compliance problems inherent in both diet and insulin therapy." CCD claims that these considerations were "frequently stressed in the testimony of CCD and Ciba-Geigy witnesses" and were not given due weight by the Administrative Law Judge.

This assertion is not supported by the record. The Administrative Law Judge found that the "major difficulty encountered in this mode of therapy [diet] has been in effecting compliance with the diet regimen." Initial Decision at 40. Likewise, he recognized the problems with self-administration of insulin. See Initial Decision at 43, 44. The Administrative Law Judge was apparently impressed, however, with the testimony of one witness that "* * * when the advantages of insulin therapy were thoroughly explained to patients for whom diet proved unsuccessful, there was not a single refusal of insulin therapy (Tr. 8)." Initial Decision at 41.

This exception is also rejected because it fails to cite the specific portions of the record on which it relies. Unlike the CCD exception, the Administrative Law Judge cited specific portions of the record in discussing both the problems and successes with diet and insulin regimens. Initial Decision at 40–44. See 21 CFR 12.125(b), which provides that exceptions to the initial decision shall contain "specific reference to those parts of the record upon which the exceptions are based."

11. One CCD exception is based on CCD's view that the Administrative Law Judge "simply restated the contents of these studies [Submitted by the Bureau of Drugs] without critical comment * * * without differentiating what is important and reliable from that which is of minimal reliability." According to CCD, this causes the decision to be arbitrary and capricious and not supported by substantial evidence.

The objection is without merit. In his introductory remarks in that portion of the Initial Decision entitled "Bureau's [safety] Evidence," the Administrative Law Judge reviewed the criteria suggested by Ciba-Geigy for eliminating bias from study reports, and found that "the [Bureau] studies of Dr. Tranguada, Dr. Fullop and Dr. Brach, et al., do meet this Ciba-Geigy criteria." Initial Decision at 14. The Administrative Law Judge placed primary reliance upon these studies, which he found to be "the best available in the record." Initial Decision at 22.[2]

12. CCD alleges that the Secretary's Suspension Order and the Administrative Law Judge's Initial Decision are based on entirely different data and that the data relied upon by the Secretary were not given great weight by the Administrative Law Judge. CCD concludes that the differences establish that the data relied upon by the Secretary in the suspension decision are unreliable.

The Secretary's Suspension Order and the Administrative Law Judge's Initial Decision are not based upon "entirely different data." The four specific items referenced in the CCD exception—the UGDP study, the foreign clinical data, the manufacturer's data, and data supplied by Dr. Davidoff—are common to both proceedings. The FDA submissions to the Secretary in the suspension proceeding, however, were stricken from the record in this proceeding. Because the Suspension Order is a separate proceeding, and because of the pending litigation involving the propriety of the Secretary's invocation of the imminent hazard provisions of the Act, *Forsham* v. *Califano*, 442 F. Supp. 203 (d. D.C. 1977), appeal pending (D.C. Cir.) (No. 77-2072), it would be inappropriate for me to make a detailed comparative analysis of the data presented in these independent proceedings.

I note, however, that the criteria for invoking the imminent hazard provision and those for withdrawing a new drug application are different. Accordingly, it is to be expected that the records of the two proceedings would contain different data.

13. CCD takes exception to the order of the Administrative Law Judge that denied, without prejudice, a motion of CCD pursuant to 21 CFR 12. 89(d) to obtain rights additional to those prescribed for non-party participants. See Order of September 26, 1977; see also Initial Decision at 8–9. CCD argues that it represents interests different from

[2] Although compliance with these criteria could not be determined for other studies, the Administrative Law Judge held that "this does not mean that such studies may not be considered for purposes of raising questions as to the safety of phenformin and as corroboration for similar conclusions reached in the other studies." Initial Decision at 14. The fact that he did not find it necessary to evaluate these other studies critically does not render his decision arbitrary.

those of the Bureau of Drugs and the manufacturers. CCD concludes that the Administrative Law Judge's decision to deny additional rights of participation rests upon "the underlying faulty assumption that basic due process rights may be denied CCD in the discretion of the hearing officer."

Requests for hearing in response to the May 6, 1977 notice were filed by Ciba-Geigy and USV. Accordingly, the NDA holders, together with the Bureau of Drugs, were designated as the parties to the hearing. The CCD did not announce its desire to participate until three days after the expiration of the period for filing notices of non-party participation. Transcript of August 30, 1977 Prehearing Conference at 4, 35–37. CCD was not entitled to greater procedural rights than those accorded it in the proceeding.

Participant rights in formal evidentiary hearings are established by regulation, 21 CFR 12.89(b), and include the right to submit written testimony and documentary evidence, to file briefs, written objections, and other pleadings; and to present oral argument. CCD requested an opportunity to submit written interrogatories and to conduct crossexamination. Due to the expedition with which the hearing was held, in light of the Secretary's suspension order, the use of written interrogatories was not sanctioned for any participant, including the parties. With respect to the request to conduct cross-examination, the Administrative Law Judge's ruling permitted CCD to renew its request on a witness-by-witness basis. See Order of September 26, 1977. Thus, CCD was not prejudiced by its status as a non-party participant.

CCD's allegation that its interest and those of physicians and patients using phenformin were not adequately represented by the manufacturers is not supported by the record. CCD documentary evidence consisted of the affidavits of seven expert witnesses, five of whom also submitted testimony on behalf of Ciba-Geigy. Compare CCD exhibits 1, 3, 4, 5, and 7 with Ciba-Geigy exhibits 2, 3, 5, 9, 14, 16, 17, 42, 61, and 66. In addition, the manufacturer parties vigorously contended that a patient population exists justifying the continued marketing of phenformin under the restrictive January 1977 labeling. This contention appears to be the heart of the CCD position. The argument that CCD has no investment in the existing labeling and "therefore can present a position without a predetermined bias" is not compelling since labeling other than that approved in the new drug applications and their supplements is not at issue in this withdrawal proceeding.

The granting of additional rights of participation rests within the sound discretion of the Administrative Law Judge and is based upon an evaluation of whether a participant's interest will not be adequately protected otherwise or whether broader participation is required for a full and true disclosure of relevant evidentiary facts. 21 CFR 12.89(d). In view of the breadth of the presentation by Ciba-Geigy and USV, the substantial overlap of their witnesses with those of CCD, the inapplicability of the question of substitute labeling, together with the provision of the Administrative Law Judge's order for request to cross examine specific witnesses, I cannot conclude that the Administrative Law Judge abused his discretion in denying CCD's request. I also note that there is no "right" granted by the statute to a person who is not the holder of an NDA to participate in a withdrawal proceeding in any capacity. Participation status is granted by FDA in the exercise of its descretion any may, therefore, be limited as the agency believes appropriate. The exception is rejected.

III. Review of the Initial Decision

A. Burden of Proof

I adopt the holding of the Administrative Law Judge, Initial Decision at 4–7, that section 505(e)(2) requires the Bureau of Drugs to bear the initial burdern of adducing new information that, when evaluated together with the information available when the new drug applications for phenformin were approved, shows that phenformin is not shown to be safe for use under the conditions of use upon the basis of which the applications were approved. To meet that burden, the Bureau "need only raise significant doubts" as to the prior showing of safety. Once this threshold burden is met, the manufacturers are required to prove the safety of phenformin.

I agree with the Administrative Law Judge that the statutory reference to new information "cannot reasonably be construed as only that evidence that came to light subsequent to the date of the approval of the most recent supplemental NDA," so as to preclude the reevaluation of the evidence previously available. In addition to the reasons set forth in the Initial Decision, I find that the application of *Hess & Clark* v. *FDA*, 495 F.2d 975 (D.C. Cir. 1974), to a withdrawal under the new drug provisions is supported by the legislative history of the new animal drug provisions of the Act, S. Rep. No. 1308, 90th Cong., 2d Sess., 5 (1968)[3] and that the Administrative Law Judge's definition of the Bureau's burden is supported by the legislative history of the 1962 amendments to section 505(e). See Cong. Rec. 10105–10108 (June 11, 1962); S. Rep. No. 1744, 87th Cong., 2d Sess, 25–26 (1962); Committee on the Judiciary, 87th Cong., 2d Sess., 13, 37 (Committee Print 1962), Cong. Rec. 16302–16304 (Aug. 23, 1962); Section 102(d) of House Bill 11581; H.R. Rep. No. 2464, 87th Cong., 2d Sess. 1–8, 16 (1962), Cong. Rec. 19890–19895 (Sept. 27, 1962), H.R. Report No. 2526, 87th Cong., 2d Sess., 19 (1962). See also *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973), *North American Pharmacal, Inc.* v. *Department of Health, Education, and Welfare*, 491 F.2d 546, 551, (8th Cir., 1973), and *Ubiotica Corp.* v. *FDA*, 427 F.2d 376, 378 (6th Cir., 1970).

The Administrative Law Judge measured the cut-off period for new evidence by the January 1977 labeling. See Initial Decision at 4, 5. However, Ciba-Geigy and USV state that the last approval of a supplement to the new drug applications was granted in June 1976, in conjunction with the June 1976 labeling. Ciba-Geigy/USV Brief at 63–66. If one takes the manufacturers' date, it becomes even clearer that there is new evidence, not previously available, upon which it can be found that phenformin is no longer shown to be safe. For example, due to a time lag in reporting, some of the reports of lactic acidosis in 1975 and 1976 (CG–26) were unavailable in June 1976 but were available by January 1977.

B. Position of Participants

The Administrative Law Judge's preliminary summary of the position of the parties accurately reflects the evidence and arguments presented by them at the proceeding.

With respect to the position of CCD, I adopt the summary in the Initial Decision at 8–9, as modified by my response to the CCD exception, para. 13, at 26–29, *supra*.

C. Basic Mechanisms of Phenformin Activity

In response to the position taken by Ciba-Geigy and USV, the Administrative Law Judge found that section 505(e)(2) does not require that the Bureau establish "a plausible biomedical

[3] The withdrawal provision for new animal drugs was derived from and is nearly identical to the corresponding provision for new drugs. See *Agri-Tech, Inc.* v. *Richardson*, 482 F.2d 1148, 1150 (8th Cir. 1973).

explanation as to why such elevations [of blood lactate levels] occur" before phenformin may be shown not to be safe. Initial Decision at 9. The Administrative Law Judge reasoned that since establishment of clearly defined mechanisms of action is not required to prove the effectiveness of a drug, its absence does not preclude consideration of a lack of safety. Mechanisms of action have not been identified for certain drugs marketed subject to approved new drug applications. This, of course, is not a desirable situation but reflects certain limits, both technical and ethical, on the extent to which biomedical research may establish pharmacological modes of activity in human subjects. As a result of these constraints, there are many drugs where the precise mechanism of action is unknown.

I affirm the Administrative Law Judge's statement of the law.

I affirm with the Administrative Law Judge's finding that "there is substantial evidence relating to mechanisms of action of phenformin" and that although scientific research "is not totally definitive, it does provide a probable explanation for the occurrence of lactic acidosis" associated with phenformin. Initial Decision at 9, 12.

D. Safety Evidence

The Administrative Law Judge summarized the manufacturers' position as follows:

> Ciba-Geigy claims that no scientifically valid conclusions concerning an association between phenformin and lactic acidosis can be drawn by simply aggregating cases of lactic acidosis during phenformin therapy, without reference to (a) existing label restrictions, (b) the background occurrence of lactic acidosis in the patient population in question, or (c) the various bias factors typically accompanying retrospective (or even prospective) searches for an adverse reaction. Initial Decision at 13.

The Administrative Law Judge gave careful consideration to the factors identified by Ciba-Geigy, although he disagreed with the company's proposed conclusion that the Bureau's evidence does not establish an association between phenformin and lactic acidosis. He found however, that the rate of occurrence of lactic acidosis associated with the use of phenformin "is not susceptible of quantification on this record." Initial Decision at 1, 47. The Administrative Law Judge recognized the shortcomings in gathering adverse reaction reports, and he gave greater weight to those reports that met the guidelines suggested by Ciba-Geigy. See Initial Decision at 14, 22–25.

The approval or withdrawal of a new drug application is made with reference to the conditions of use prescribed, recommended or suggested in the drug's labeling. However, section 505(e)(2) specifically provides that the evidence of a lack of safety must be "evaluated together with the evidence available * * * when the application was approved." Thus, experience with a drug prior to its current labeling is relevant to a withdrawal proceeding under this section of the Act. One of the issues established for resolution in this proceeding was:

> (4) Whether the conditions of use prescribed, recommended, or suggested in the labeling of phenformin are adequate to exclude from treatment persons for whom the drug is contraindicated as a result of the presence of factors which predispose to lactic acidosis.

The Administrative Law Judge found that the January 1977 labeling, particularly the contraindications designed to prevent the use of phenformin by diabetics with conditions that predispose them to develop lactic acidosis, was inadequate because a reasonable expectation does not exist that the labeling could and would be followed. The Administrative Law Judge also found that lactic acidosis occurred even among those patients taking phenformin at the daily dose established in the January 1977 labeling and for whom predisposing or contraindicated conditions do not exist.

Upon review of the entire administrative record, I find that the Bureau met its burden of establishing that phenformin is no longer shown to be safe. Initial Decision at 15–22. I agree with the Administrative Law Judge that "there can be no doubt an association exists between phenformin and lactic acidosis" (Initial Decision at 22) and that the association exists even in cases of compliance with the January 1977 labeling (Initial Decision at 18, 22, 32–33).

The Ciba-Geigy data offered to establish the safety of phenformin consisted primarily of a review of cases of lactic acidosis associated with phenformin reported in the United States literature or directly reported to the manufacturer and the testimony of expert diabetologists "which shows that within the group of patients under their care, there is virtually no incidence of lactic acidosis associated with phenformin therapy." See Initial Decision at 22–29. See also CG–1–22, CG–26, CG–51, B–59.

The Ciba-Geigy study of adverse reactions (CG–26) was found by the Administrative Law Judge to "suffer from several defects." For this reason, he concluded that the study "cannot qualify as a reasonable determination of the total number of phenformin-associated lactic acidosis cases occurring in the United States. A fair view of this study demonstrates it to be flawed to such an extent as to preclude its being afforded any significant evidentiary weight * * *." Initial Decision at 26. For the reasons stated by the Administrative Law Judge, as supplemented by my Findings of Fact, para. 27, I agree with this conclusion.

Ciba-Geigy submitted into evidence the testimony of diabetologists who have had "extraordinary success" (*id.*) in administering phenformin without observing lactic acidosis. These witnesses have "never seen a case of phenformin-associated lactic acidosis in patients under their care." The Administrative Law Judge found that "considering the large number of patients treated by these diabetologists without any incidence of lactic acidosis, the rate of occurrence in this population is extremely small." *Id.* However, the Administrative Law Judge concluded (Initial Decision at 29):

> Nevertheless, proof of the safety of phenformin when administered by specialists is insufficient to justify continued approval of phenformin because the majority of diabetics are treated by their primary physicians rather than specialists (Tr. 116–117). If phenformin is to enjoy continued marketing, it will be available to all physicians without regard to their expertise or experience. If doctors are unable to prescribe phenformin without endangering the lives of their patients, the low risk of danger of this drug when in the hands of an expert does not *a priori* justify its continued marketing. The FDA is, as stated by Ciba-Geigy and USV, powerless to limit approval of a drug only to administration by specialists. Therefore, if phenformin is unsafe when administered by generalists because its risk to the American public at large is greater than its benefit, its approval must be withdrawn.

The expert testimony submitted by Ciba-Geigy does not establish the safety of phenformin for general continued marketing under an NDA. See my response to CCD exceptions, paras. 5 and 6 at 16–20, *supra*. I adopt the Administrative Law Judge's finding as supplemented by my Findings of Fact, para. 30.

E. Detection of Predisposing Factors/ Inability to Comply With Label Requirements

In considering the adequacy of the phenformin labeling, the Administrative Law Judge summarized the contention of the manufacturers and then stated his view of the proper test of compliance:

Ciba-Geigy and USV suggest that the adverse effects of phenformin therapy occur only when patients have some deficiency which predisposes them to lactic acidosis. They view these adverse effects as avoidable by testing the patient for these factors prior to administration of the drug (Ciba-Geigy-USV Brief at 55). To substantiate this argument, it must be shown that the preexisting condition would have been diagnosed at the time the drug was prescribed using methods that are likely to be part of the usual practice of medical community. Furthermore, it must be shown that any development of these predisposing factors after treatment would be identified and would result in the withdrawal of the medication before the onset of lactic acidosis. Initial Decision at 29.

I adopt this statement of the test of compliance with phenformin labeling.

The Administrative Law Judge noted that there are differences of opinion among experts as to the methods adequate for identifying those persons who are predisposed to develop lactic acidosis and who, therefore, are contraindicated for its use under the January 1977 labeling. However, he found the evidence adduced by the Bureau of Drugs to be more persuasive. With respect to screening for impaired renal function, the Administrative Law Judge concluded that "compliance with the label requirements at the primary physician level or with the consistency in the practice of specialists is unlikely to prevent the occurrence of lactic acidosis." Initial Decision at 31. With respect to liver disease, another contraindication for phenformin therapy, he found that "time and cost considerations cause primary physicians to do a less than thorough workup for liver disease prior to prescribing phenformin * * *. Therefore, severe but chronic liver damage is likely to remain undetected." *Id.* I also find, on the basis of the record developed in this proceeding, that screening practices routinely performed on diabetic patients will not assure detection of patients for whom phenformin is contraindicated. See Initial Decision at 29–32.

The manufacturers asserted that phenformin's effects should be considered only with regard to those patients meeting the present label requirements. While acknowledging that section 505(e) measures safety in terms of conditions of use prescribed in a drug's labeling, not under actual conditions of use, the Administrative Law Judge also found substantial evidence of noncompliance with prior labeling restrictions. He reasoned:

> The principal difficulty is that the general practitioners who care for the majority of adult-onset diabetics would be unable in their normal practice to discover the existence of all predisposing factors of lactic acidosis and would therefore be unable to comply with the conditions of use prescribed, recommended, or suggested in the [current] labeling.
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> * * * Available tests are generally unable to rule out renal and hepatic insufficiency.* * *
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> * * * [The phenformin labeling cannot] reasonably be expected to result in the desired limitation of the population to which it will be administered.
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> Although the prescription of a drug outside of its package recommendation would not, *per se*, be considered as prima facie evidence as to its lack of safety for the purpose of withdrawal of approval of an NDA, the widespread use of a drug contrary to the label requirements should not be ignored. This is particularly true when the prescription practices outside of label requirements are widespread, predictable and substantiated by epidemiological trends in evidence.
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> * * * The majority of lactic acidosis cases associated with phenformin therapy reported to Ciba-Geigy were eliminated from consideration in the Ciba-Geigy study on the basis that the administration of the drug was not within the confines of the label requirements. It therefore appears that there are many cases of the American medical community not complying with the label requirements when prescribing phenformin. Initial Decision, 34–37.

The question of physician compliance with labeling restrictions has been of great concern to FDA and the entire medical community. See Initial Decision at 36–37. Additional doubts arise when labeling is new, prescribing patterns under it are not known, and previous label restrictions have not enjoyed a uniformly high degree of compliance. The manufacturers, however, bear the ultimate burden of proving safety under current labeling. The Administrative Law Judge found that the conditions of use prescribed in January 1977 labeling are "inadequate to preclude from treatment [with phenformin] those persons for whom the drug is contraindicated." Initial Decision at 1, 47.

There have been numerous changes in phenformin labeling in recent years. See B–506 and CG–25. The 1970 labeling contained a lactic acidosis warning and reference to related contraindications, including the major predisposing factors listed in the current labeling. Ex. E to CG–25. The 1974 and 1976 modifications were even more severe in warning of lactic acidosis and designating conditions predisposing to lactic acidosis. See Exs. P and N to CG–25. The 1970–1976 labeling has been inadequate to prevent misprescribing as demonstrated by evidence of the use of phenformin in contraindicated persons. Much of the evidence of this contraindicated use comes from Ciba-Geigy's own data (CG–26). Due to the time lag in reporting known cases of lactic acidosis and underreporting generally, this evidence applies primarily to practices under pre-January 1977 labeling.

However, the Administrative Law Judge concluded that the January 1977 labeling is, as a practical matter, "not susceptible to a high degree of compliance and cannot reasonably be expected to be closely followed by physicians" (Initial Decision at 37), even though experience with the new labeling has not been extensive. For physicians to be able to follow the January 1977 labeling, they would have to be able to identify those patients for whom phenformin is contraindicated. Most physicians who prescribe phenformin cannot do that. Due to inadequate screening, those persons most at risk cannot be identified. Due to the appearance of lactic acidosis among patients with no predisposing conditions, even properly screened patients are at risk. Consequently, the current labeling has not been proven to be adequate. Therefore, I adopt the Administrative Law Judge's discussion (Initial Decision at 34–37).[4]

F. Risk/Benefit.

I adopt the Initial Decision (37–42). I find also that the evidence of the effectiveness of phenformin must be considered together with the inability of physicians to routinely demonstrate which portion of concomitant therapy is responsible for a perceived beneficial effect, and the infrequency of periodic testing to determine whether the effect is sustained for as long as it appears to be.

The benefit/risk assessment should include a ruling on the assertion by Ciba-Geigy and USV that phenformin is particularly useful for those diabetics with an excess of insulin and for whom additional insulin is therefore not a appropriate treatment. I find this claim to be unsupported on the record in this proceeding. See Findings of Fact, para. 32.

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[4] The Administrative Law Judge suggests that the phenformin labeling is so "vague" (Initial Decision at 35) as to preclude a reasonable expectation of compliance. If he was taking exception to the phraseology used to describe the contraindications, I disagree, and do not adopt this particular finding. The Administrative Law Judge also suggested that prescription practices outside of phenformin labeling have been "predictable." (*Id.*) I agree to the extent that persons predisposed to lactic acidosis cannot be predicted under the current labeling.

G. Patients for Whom Benefit of Phenformin Therapy May Outweigh Risks.

The purpose of this proceeding is to determine whether phenformin is shown to be safe for general marketing under the conditions prescribed, recommended, or suggested in its labeling. See my response to CCD exception, para. 1 at 7–10, *supra*. The existence of a more limited patient population for whom the benefits of phenformin therapy may outweigh the risks is not at issue. *Id.* The question of a voluntary, limited distribution program raised in the Secretary's suspension order is also not part of this proceeding.

For these reasons and in view of pending litigation concerning the propriety of the Secretary's invocation of the imminent hazard provisions, I do not adopt this section of the Initial Decision (at 42–44) but rather find as follows: The effect of withdrawal of phenformin on certain employment opportunities of diabetics does not preclude a decision that phenformin has no longer been shown to be safe. Limitations on occupational options because of health problems are not unique. Because phenformin is not currently labeled for use in only those patients who are allergic to insulin or unresponsive to desensitization, such use for that population is not an issue in this proceeding; and even a finding of safety for such use would not constitute a finding of general safety for use under phenformin's labeling and would not be sufficient to avoid withdrawal.

H. CCD Witnesses.

I adopt the Administrative Law Judge's summary of the CCD data submitted in this proceeding. See my response to CCD exception, para. 13 at 26–29, *supra*.

I. Discussion and Conclusions/Ultimate Findings and Order.

Having made reference to the administrative record throughout his opinion, the Administrative Law Judge summarized the evidence, without citation, and stated his conclusions and findings with respect to the issues designated at the August 30 prehearing conference. See Initial Decision at 45–48. I am issuing Findings of Fact, Conclusions of Law, and a Final Order. In most instances, these will supplement the discussion, conclusions, and findings of the Initial Decision. However, to the extent that my findings are inconsistent with those of the Administrative Law Judge, the Initial Decision is superseded. As modified by my Findings of Fact, responses to CCD exceptions and comments on the Initial Decision, contained in this order, the Initial Decision is adopted and made a part of the final order.

IV. Findings of Fact and Conclusions of Law.

A. Findings of Fact.

1. Phenformin hydrochloride (phenformin) is a new drug within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321(p), which has been shipped in interstate commerce pursuant to new drug applications filed by Geigy Pharmaceuticals, Division of Ciba-Geigy Corporation (NDA's 11–624 and 12–752), and USV Laboratories, Division of USV Pharmaceutical Corporation (NDA's 17–126 and 17–127) and approved by the United States Food and Drug Administration.

2. Phenformin is indicated only for symptomatic, adult onset, nonketotic diabetes mellitus (diabetes) (B–506(n)). According to its labeling, phenformin lowers elevated blood glucose levels in diabetics.

3. Phenformin is recommended for use only if diet and weight reduction have first been tried and have failed and only when insulin cannot be used and the sulfonylurea drugs do not achieve adequate control. *Id.*

4. Diabetes is a chronic metabolic disorder in which there is an inadequate secretion or utilization of insulin for normal metabolism (B–497 at 1, B–487 at 12–14, Tr. 92). Diabetes is characterized by an abnormal elevation in blood sugar, which has been used as a principal benchmark in its diagnosis and treatment (B–497 at 2, 8–9, Tr. 87–88, 294).

5. Diabetes is frequently accompanied by severe complications, most particularly cardiovascular and kidney diseases (Tr. 106–107, 295, B–497 at 9–10, CG–43 at 7). Diabetes is the fifth leading cause of death in the United States (CG–43 at 7).

6. There are approximately 5 million diagnosed diabetics in the United States today, most of whom are under treatment (CG–43). About 8 to 12% of these persons were taking phenformin during 1975–1976 (CG–43, CG–20 at 2, CG–11 at 2). The number of persons being treated with phenformin declined from 481,000 in 1974 to approximately 337,000 in 1977 (CG–43, CG–80).

7. The great majority (80–90%) of adult-onset diabetics are overweight (Tr. 406, CG–9 at 2, CG–11 at 2).

8. Dietary control is the most preferred and most effective means for treating adult onset diabetes (B–506(n), B–469 at 3, B–473 at 5, B–499 at 19–20, B–495 at 7, CG–2 at 2, CG–11 at 3). Dietary regulation is the treatment of choice because, when a diabetic's caloric intake is decreased, there is less stress on the available insulin supply, insulin sensitivity is improved (Tr. 11, 94), and the ability to utilize naturally produced insulin is enhanced (B–495 at 10, B–487 at 14–15).

9. The use of exogenous (not produced naturally in the body) insulin is effective in the treatment of adult-onset diabetes by rectifying the insulin deficiency. (B–479 at 17, B–475 at 7). There is evidence that the administration of exogenous insulin also retards the vascular complications of diabetes (Tr. 24, 292–296, B–487 at 12).

10. Phenformin is effective in lowering blood sugar, but this effect is frequently limited to two years or less (Tr. 200–201, 296–297, 303–310, B–475 at 8–9, B–473 at 6, B–489 at 26, B–469 at 9, 13–14, 31). Moreover, the apparent effectiveness is difficult to measure and verify because phenformin is often used in combination with diet and/or sulfonylurea drugs (Tr. 167, 408, 426, 479–483, 523, B–499 at 4, CG–61, CG–20 at 2, CG–15 at 1–2).

11. Phenformin does not stimulate insulin production (B–506(n)). Phenformin does not promote the use of naturally produced insulin (B–495 at 10, Tr. 278–280). Phenformin does not aid or correct the metabolic abnormalities of diabetes (Tr. 295–297, B–497 at 4–5, B–487 at 12–14, B–499 at 20–21). Phenformin does not correct the complications of diabetes (Tr. 443–451, B–344 at 1060). Phenformin does not promote weight reduction (Tr. 450–451, B–509 at 4, 11, B–503 at 6–7, B–475 at 13, B–487 at 16–19, B–72 at 642, B–396 at 105, B–497 at 4).

12. There are essentially no adverse effects involved in the treatment of diabetes by diet and weight reduction. The adverse effects of insulin are far outweighed by its beneficial effects (Tr. 20–21, 198–199, 292–293, 410–411, B–177 at 1, B–475 at 7).

13. Some diabetologists experience difficulty in achieving patient compliance with diet and/or insulin therapies. These problems can be and usually are overcome by diabetologists (Tr. 20–21, 199–200, CG–2 at 2, B–465 at 2–8, 13, B–469 at 3–4, B–503 at 4, B–497 at 24–25).

14. Lactic acidosis is a disorder of intermediary metabolism, in which there is an abnormal accumulation of lactic acid in the blood and tissues (B–489 at 5, B–412 at 40, Tr. 261–262).

15. The fatality rate among persons who suffer from lactic acidosis is

approximately 50% (CG–26, Tables 4 and 5, B–94).

16. Diabetes does not itself cause lactic acidosis (Tr. 262–263, 270, B–499 at 6–10, 17–20, B–475 at 15–17, B–184, B–412 at 50, B–467 at 7–10).

17. A biochemical basis supports the relationship between phenformin and the under utilization and over production of lactate, and the evidence of the modes of phenformin activity provides a probable explanation for this relationship (Tr. 266, 269–277, 461–462, 633–636, B–274, B–68 at 186, B–501 at 2–6, CG–24 at 12, 23, B–487 at 10–11, 16–19, B–497 at 18–23, B–499 at 10–15). The relationship is also supported by the frequently short time between the ingestion of phenformin and the onset of lactic acidosis (B–63 at 44, B–479 at 12–14, B–272 at 70–72, B–467 at 10–11, B–412 at 180).

18. There is a disproportionate incidence of lactic acidosis among diabetics taking phenformin (Tr. 47, 276, B–465 at 11–12, B–473 at 6–9, B–475 at 11–12, 15–17, B–499 at 5–10, 17–18, B–467 at 7–10, B–503 at 10, B–509 at 3, B–479 at 6–10, B–485 at 10, B–64, B–471 at 2, 7–9, CG–20 at 4).

19. Reports in the published medical literature and in retrospective studies constitutes substantial and convincing evidence of the association between lactic acidosis and phenformin, when used alone or in combination with the sulfonylurea drugs (B–64, B–65, B–471, B–290, B–94, B–493 at 3–10, B–92, B–93, B–235, B–236, B–338, B–390, B–33, B–42, B–15, B–96, B–272, B–473 at 6–9, B–475 at 15–18, B–467 at 8–13, B–479 at 3–11, Tr. 634).

20. The association between phenformin and lactic acidosis appears to be dose-related (B–509 at 2–4, B–59, CG–26, Tables 6 and 7, B–481 at 29–30, B–495 at 5, B–64, B–471 at 12–17, B–479 at 11–13, B–63). The association is also supported by evidence involving suicide attempts by use of phenformin (B–479 at 11–14, B–63 at 43–44).

21. An association between phenformin and lactic acidosis need not be based upon quantification of the background incidence of lactic acidosis among the population at large or among the diabetic population not taking phenformin. The background occurrence or incidence is unknown for the vast majority of nonreportable diseases (Tr. 218–219, 363–366, 493–494).

22. A precautionary warning about the possible association between lactic acidosis and phenformin was added by USV to the phenformin labeling in 1964 (CG–25 at 1–2, B–506(e)). A strengthened lactic acidosis warning and statement of contraindications, designed to screen diabetic patients predisposed to lactic acidosis, were added to the labeling in 1970 (CG–25 at 3). In 1974, the lactic acidosis warning was strengthened and a more detailed description of medical conditions predisposing patients to lactic acidosis was included (CG–25 at 7, B–506(k)). A black box warning concerning lactic acidosis was included in phenformin labeling approved June 1976 (CG–25 at 7–8, B–506(m)).

23. The 1970–1976 labeling did not result in limiting the use of phenformin to those patients for whom it was not contraindicated (CG–26, CG–25 at paras. 24, 25, 28 and Exs. 2 and AA, CCD–5, CG–61, CG–63 at 19–20, CG–20 at 2–4, Tr. 348, 357, 383, compare Tr. 555–560 with B–24 at 102 and B–23 at 339, CG–49 at 3).

24. The current (January 1977) labeling for phenformin (B–506(n), Ex. V to CG–25) is designed to restrict its use to only those patients with none of the lactic acidosis predisposing risk factors.

25. The current labeling cannot reasonably be expected to result in the detection of those persons for whom phenformin is contraindicated:

a. With respect to screening for predisposing renal dysfunction, the recommended tests are inadequate and are frequently not performed by general practitioners (B–503 at 12–13, B–495 at 4, B–497 at 4–5, B–487 at 20–22, B–483 at 7–10, B–467 at 11–13, B–489 at 11–14, Tr. 112–116, 592–594).

b. With respect to screening for predisposing liver disease, routine workup is inadequate (Tr. 29–32, 112–121). Thus, compliance with the labeling requirements by general practitioners is unlikely to prevent the occurrence of lactic acidosis (B–471 at 29–30, B–467 at 8–11, 17–18).

26. Lactic acidosis is associated with the use of phenformin even in compliance with the Janurary 1977 labeling, that is, at or below 100 mgs. daily dose and without predisposing risk factors (CG–26, Table 6, B–59 at 4–8, 14–15, and Table 3, B–481 at 29–30, B–495 at 4, B–412 at 180–185, B–272 at 70–72, B–96 at 974–975, B–471 at 2–7, 13–14, 20–31, B–467 at 4–13, 18–19, B–236, B–94, B–493 at 4–13, B–64, Tr. 359–360).

27. The Ciba-Geigy study of the cases of confirmed lactic acidosis associated with phenformin (CG–26) is deficient, and the incidence of lactic acidosis suggested by the data in that study is unreliably low.

a. The study included only those reports in the United States medical literature, whereas several of the retrospective studies are reported in the foreign medical literature (e.g., B–63, B–275, B–276, B–412). Moreover, occurrences of lactic acidosis are likely to be underreported due to a loss of interest in the medical community once a significant number of such reports have been published (B–475 at 12).

b. Physicians are under no legal obligation to report adverse reactions to drug firms. Voluntary reporting, upon which the study is based, significantly understates the true number of adverse reactions (B–479 at 11, B–481 at 8–11, CG–1 at 6, Tr. 43, 336–339, 342–345, 492–505). In measuring adverse reactions, retrospective and prospective patient record reviews, while not ideal, are entitled to greater weight than voluntary reporting to manufacturers (B–481 at 11–14, Tr. 342–345; compare B–479 at 2–11 with Tr. 564–566).

c. The study excluded those cases where there were data indicating impaired renal function. Although impaired renal function is a predisposing factor, those responsible for the study did not determine whether the impaired renal function preexisted use of phenformin or appeared as a consequence of the phenformin-associated lactic acidosis. Thus, exclusion of these data was unjustified. (Tr. 552, 568, 592–594, CG–26 at 5–6, B–475 at 14–15, B–483 at 10–12, B–467 at 11–13, B–493 at 4–8, B–471 at 21–32).

d. The study excluded cases where the data were inadequate to determine the presence of predisposing factors; no attempt to obtain such information was documented in the record (CG–26 at 9).

e. The criteria used in the study to determine the presence of lactic acidosis were more conservative than those used by most investigators (CG–49 at 3, B–471 at 1–5).

28. The reported decrease in the incidence of phenformin-associated lactic acidosis during 1974–1977 must be discounted due to underreporting, a corresponding decrease in the number of diabetics taking phenformin from 481,000 in 1974 to 337,000 in 1977, and a reporting lag time of approximately 9 months (printout attached to CG–26; see Ciba-Geigy/USV Proposed Findings of Fact, para. 22b; Tr. 623–625).

29. Most diabetics in this country who are treated for diabetes by a physician are not treated by a diabetologist (B–483 at 10, B–471 at 23, B–499 at 18–20, Tr. 116–117).

30. The evidence strongly suggests that the incidence of lactic acidosis is greater among patients of general practitioners than among patients of diabetologists (B–477 at 5, B–493 at 4, CG–2 at 4, CG–12 at 9, CG–14 at 2, CG–10 at 3, B–471 at 23, B–499 at 18–20, Tr. 116–119, 347–348, 383, 425–430, 516–524).

31. The testimony of diabetologists about the absence of lactic acidosis among their patients is evidence that the great majority of phenformin-associated lactic acidosis occurs among patients of those physicians with the least special training in screening and testing patients for use of phenformin and in recognizing the consequent lactic acidosis. *Id.* In addition, a significant number of cases of lactic acidosis could exist among the patients treated by diabetologists and general practitioners in the course of their individual practice and be undetected due to their relative infrequency. See Tr. 298–300; *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973).

32. Phenformin has not been shown to be uniquely useful in treating the obese adult-onset diabetic who is "hyperinsulinemic" (B–497 at 5–13 and 25–26, B–509 at 10–11, B–362 at 363–367, B–475 at 18–19, B–503 at 3–4, and B–495 at 9–10, B–469 at 11–13).

33. The removal of phenformin from the market will not seriously disrupt treatment of diabetic patients (CG–10 at 4, B–509 at 3–4, B–467 at 19, B–465 at 4–5, 9–10, B–469 at 8–9, B–479 at 17–19, B–495 at 6–7, B–503 at 7, 14, B–499 at 18–20, B–471 at 22–23, 32, Tr. 298–300).

B. Conclusions of Law.

1. The Bureau of Drugs has sustained its burden of showing, based on new evidence of clinical experience, evaluated together with the data available when the NDA's for phenformin were approved, that phenformin is not shown to be safe for use under the conditions approved in its new drug applications.

2. The Bureau of Drugs has established an association between lactic acidosis and phenformin. Although this relationship has not been conclusively shown to be causal, there is a substantially disproportionate incidence of lactic acidosis among diabetics treated with phenformin.

3. Lactic acidosis is associated with phenformin at dosage levels at or below those prescribed in the January 1977 labeling. Lactic acidosis is associated with phenformin absent the "predisposing factors" for which phenformin is contraindicated.

4. It has not been shown that the current labeling contraindications will reduce the incidence of phenformin-associated lactic acidosis so as to render phenformin safe for use.

5. The risks of the use of phenformin outweigh its benefits.

V. *Final Order*

Therefore, on the basis of the foregoing Findings of Fact and Conclusions of Law, the Initial Decision of the Administrative Law Judge, as modified by this order, and the record of the proceedings, and under the Federal Food, Drug, and Cosmetic Act (sec. 505(e)(2), 52 Stat. 1052 as amended (21 U.S.C. 355(e)(2))) and the authority delegated to the Commissioner (21 CFR 5.1), the new drug applications for phenformin, and all the amendments and supplements thereto, are hereby withdrawn, effective November 15, 1978. The introduction or delivery for introduction into interstate commerce of phenformin, except pursuant to an exemption granted under section 505(i) of the act, is prohibited. 21 U.S.C. 331(d).

Dated: November 15, 1978.

Donald Kennedy,

Commissioner of Food and Drugs.

[Docket No. 77N–0150]

[FR Doc. 79–10593 Filed 4–5–79; 8:45 am]

BILLING CODE 4110–03–M

Phenformin Hydrochloride; Proposal to Withdraw Approval of New Drug Applications; Initial Decision

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is issuing the Administrative Law Judge's Initial Decision on the proposal to withdraw approval of new drug applications for phenformin hydrochloride.

ADDRESS: The Initial Decision may be seen in the office of the Hearing Clerk (HFA–305), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Richard A. Anderson, Office of the Associate Commissioner for Health Affairs (HYF–21), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1170.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the agency is publishing the Commissioner's final decision on withdrawal of approval of new drug applications for phenformin hydrochloride and his denial of a petition for reconsideration. The Administrative Law Judge's Initial Decision on phenformin hydrochloride is set forth below:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Initial Decision [1]

[Docket No. 77N–0150]

Proposal to Withdraw Approval of the New Drug Applications for Phenformin Hydrochloride

1. Phenformin found to have limited short-term beneficial effects in the treatment of diabetics under the conditions of use prescribed, recommended or suggested in its labeling.

2. The conditions of use prescribed, recommended or suggested in the labeling for phenformin found inadequate to exclude from treatment those persons for whom the drug is contraindicated as a result of factors which predispose patients to lactic acidosis.

3. The occurrence of lactic acidosis found associated with the use of phenformin in patients for whom the drug is indicated under its current labeling and the incidence of such occurrences as compared to the diabetic population at large is not susceptible of quantification on this record.

4. Therapeutic modalities other than phenformin found shown to be effective for treating patients for whom phenformin is indicated in its labeling without the same degree of risk associated with the use of phenformin.

5. The limited benefits of phenformin found insufficient to support a finding of safety in light of the risks attending its general marketing under the approved NDA's. Approval of the NDA's for phenformin ordered withdrawn pursuant to § 505(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(e).

William Bickerstaff, George Doherty, Richard Morey, Richard Nolan, Richard Serbin, Alfred Schretter, Nicholas Weiskopf, for the manufacturing parties.

Neil Chayet, Michael Morrell, Anthony Roccograndi, and *Daniel Shaw* for the Committee for the Care of the Diabetic.

Arnold Friede, Frederick Degnan, for the Bureau of Drugs, Food and Drug Administration.

By DANIEL J. DAVIDSON, Administrative Law Judge

By notice published in the **Federal Register** of August 12, 1977 (42 FR 40959), this matter was assigned for formal evidentiary public hearing by

[1] Pursuant to § 12.125(a) (21 CFR 12.125(a)), exceptions to this initial decision must be received by the Hearing Clerk not more than 30 days after the date hereof. Replies to exceptions must be received by the Hearing Clerk not more than 20 days thereafter.

order of the Commissioner of Food and Drugs on factual issues relating to the Bureau of Drugs proposed withdrawal of approval of four new drug applications (NDA's) and all NDA amendments and supplements for phenformin hydrochloride. A prehearing conference was held on August 30, 1977. The hearing began on October 5, 1977 and concluded on October 7, 1977. The parties appearing in opposition to the proposed withdrawal were Ciba-Geigy Corporation (herein after referred to as Ciba-Geigy or CG) and USV Pharmaceutical Corporation hereinafter referred to as USV), manufacturers in this proceeding. The Committee for the Care of the Diabetic (CCD) appeared in opposition as a nonparty participant. The Bureau of Drugs of the Food and Drug Administration appeared in support of the proposed withdrawal. Briefs were filed by the Bureau of Drugs, CCD, and jointly by Ciba-Geigy and USV.

History

The New Drug Application (NDA 11-624) for phenformin was approved in 1959 under Section 505 of the Federal Food, Drug, and Cosmetic Act. Three other NDA's (NDA 12-752 in 1961, 17-126 in 1972, and NDA 17-127 in 1972) for phenformin were subsequently approved. In the early sixties, reports of lactic acidosis associated with the drug began to appear. In response to these reports, labeling changes listing contraindications appeared in 1964 and continued until January 1977.

In January 1973, the Bureau of Drugs' Endocrinology and Metabolism Advisory Committee reviewed the problem of phenformin-associated lactic acidosis. The Committee concluded that for patients without predisposing conditions the benefit/risk ration of phenformin was adequate (42 FR 23173). In October 1976, the Committee met again on the same problem and unanimously recommended removal of the drug, but no final determination was made in response to this recommendation (42 FR 23172).

On April 22, 1977, the Secretary of Health, Education and Welfare received a petition from the Health Research Group, a consumer advisory group, requesting that he immediately suspend approval of the new drug applications for phenformin under Section 505(e) of the Federal Food, Drug, and Cosmetic Act on the grounds that the continued marketing of the drug represented an imminent hazard to the public health (42 FR 21845).

A notice was published in the **Federal Register** on April 29, 1977 (42 FR 21845) announcing that a public hearing was to be held May 13, 1977 to receive information and views from interested persons on the issue of whether phenformin, as currently labeled, constitutes such a serious hazard that Section 505(e) of the Act should be invoked to remove the drug from the market.

On May 6, 1977, the Bureau of Drugs commenced formal proceedings to withdraw approval of the phenformin NDA's and all amendments and supplements. An opportunity for hearing on the proposal to withdraw the NDA's was given to all interested persons (42 FR 23170).

After the May 13, 1977 hearing, and upon receiving and reviewing the Commissioner's recommendations, the Secretary, on July 25, 1977, suspended approval of the NDA's for phenformin until completion of administrative proceedings on the withdrawal of these applications (Docket No. 77N-0150) or until termination of these proceedings upon other appropriate action (42 FR 40959). The formal evidentiary public hearing ensued.

Preliminary Matters

Burden of Proof

Under § 505(e)(2) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(e)(2),[2] the withdrawal of approval of an NDA requires the Bureau to bear the initial burden of adducing new evidence of clinical experience, which when evaluated along with evidence considered at the time of NDA approval shows that such drug is not shown to be safe for use. See the Circuit Court of Appeals decision in *Hess & Clark* v. *FDA*, 495 F.2d 975, 992 (D.C. Cir. 1974), which dealt with the construction of a virtually identical withdrawal provision in 512(e)(1)(B) (21 U.S.C. 360b(e)(1)(B)). Once this threshold burden is met, the manufacturers would be required to prove the safety of the drug.

The manufacturers contend that the Bureau has failed to sustain its burden of proof to demonstrate "new evidence of clinical experience" because the term "application" as used in § 505(e)(2) applies to the New Drug Application, as of the date of the last supplemental New Drug Application approved by the FDA. In this instance, that would be the supplemental NDA approved by the FDA in January, 1977.

The Bureau asserts that the supplemental NDA approved in 1977 was restrictive in nature (limiting dosage and patient population) and was only approved as an interim measure pending institution of the proceeding seeking total withdrawal.[3] It is further argued that the limiting "new evidence" only to those facts occurring after the date of the approval of the last supplemental application would make the Bureau reluctant to approve future supplemental NDA's on suspect drugs, thereby exposing the public to even greater risk pending the decision to seek total withdrawal of approval. The question of whether the term "application" refers to all of the available data as of the date of the last supplemental NDA or only as of the date of the original application (as is argued by the Bureau is important for determining what clinical evidence will qualify as "new" under the requirement of § 505(e)(2). If the manufacturers' contention is correct, failing the production of significant new evidence subsequent to January 1977, the evidence in this proceeding would have to be considered in light of § 505(e)(1) which requires that the Bureau bear the burden of establishing that the drug is unsafe before an approval of an NDA may be withdrawn.

The statutory burden is different for each section. Under § 505(e)(2), the requirement of showing "that such drug is not shown to be safe for use" means that the Bureau need only raise significant doubts as to the appropriateness of the finding of a prior showing of safety in light of the new evidence. However, the burden under § 505(e)(1) would require the Bureau to introduce evidence establishing that such drug is unsafe for use, thereby justifying withdrawal of the approval of the NDA.

There is no requirement that supplemental NDA's include a resubmission of the same data found in the original NDA. This is evident from the Code of Federal Regulations which indicates that a supplemental application may omit statements made

[2] Section 355(e)(1) and (2) read as follows: The Secretary shall, after due notice and opportunity for hearing to the applicant, withdraw approval of an application with respect to any drug under this section if the Secretary finds (1) that clinical or other experience, tests, or other scientific data show that such drug is unsafe for use under the conditions of use upon the basis of which the application was approved; (2) that new evidence of clinical experience, not contained in such application or not available to the Secretary until after such application was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when such application was approved, evaluated together with the evidence available to the Secretary when the application was approved, shows that such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved.

[3] However, this fact was only made known in a speech given by a Bureau official, and was not formerly incorporated in the approval of the supplemental NDA.

in the approved application concerning which no change is proposed (21 CFR 314.8).

The term "application" obviously includes the original application as well as all supplements thereto. However, this does mean that approval of a supplemental NDA grants some type of automatic reaffirmation of all the data used to support the original application, unlimited by the nature of the supplemental change proposed. In the case of phenformin, it is not apparent from a review of the official record of supplemental NDA's that the manufacturers submitted any material other than that relating specifically to the changes sought in connection with each supplemental NDA.

The original studies that provided the basis for the approval of the NDA's for phenformin covered a broad segment of the diabetic population afflicted with maturity onset diabetes mellitus. As experience from resultant human usage became available after approval of the NDA's, the data was used to reevaluate only those areas of the original approval which pertained to the new data. There is no indication that the remaining supportive data for the original studies, for which there was no new data submitted, was entirely reevaluated in connection with any particular supplemental NDA. To the extent that the supplemental NDA's were restrictive in nature, and relied on the supportive data of the original NDA's along with new information, the approval of supplemental NDA's constitutes only limiting amendments of the original NDA's. Under these circumstances, the "new evidence" referred to in § 505(e)(2) cannot reasonably be construed as only that evidence which came to light subsequent to the date of the approval of the most recent supplemental NDA.

Numerous supplemental NDA's for phenformin have been filed and approved since 1959 when the original NDA was approved. Certain of these supplements were filed because newly available evidence gave rise to concerns requiring the modifications sought in the supplemental NDA's. Under these circumstances, the Bureau should not now be precluded from utilizing such evidence for evaluation, along with the data which was available when the original NDA was approved, to support its contention that the drug has not been shown to be safe under the terms of § 505(e)(2).

Motions Renewed on Brief

CCD, in its brief, renews its motion to strike all evidence from the University Group Diabetes Program (UGDP) study because of the Bureau's failure to produce all of the underlying data for said study as required by 21 CFR 12.85. In the alternative, CCD asserts that no weight can be given to such evidence (CCD Brief at 4). Access to underlying data affords an opportunity to evaluate the study's reliability and the validity of the conclusions reached therein.

Although certain underlying data was made available during the hearing, it was admittedly incomplete. The lack of availability of underlying data casts considerable doubt on the reliability of the UGDP conclusions from an evidentiary standpoint. To the extent such data was not made available the UGDP conclusions cannot be considered as substantiated on this record. However, no specific analysis of said data was submitted to show the precise extent to which the UGDP data was unsupported, and therefore, which specific portions of the UGDP data should be stricken on that basis.

In such circumstances, it appears that the UGDP conclusions may form the basis for expert opinion testimony and may properly be considered for the purpose of raising questions as to the safety of phenformin. This is particularly true when the UGDP is considered along with the other evidence of record requiring similar conclusions. Accordingly, the prior ruling denying CCD's motion to strike all of the UGDP data is affirmed.

CCD also contends that the foreign clinical data relied upon by the Bureau violates 21 CFR 312.20 (CCD Brief at 35) and so cannot be admitted as evidence. CCD further asserts that the foreign studies failed to define cases " * * * in which lactic acidosis occurred in the absence of other conditions producing lactic acidosis, or to determine whether the administration of phenformin was to patients in whom the medication was *not* contraindicated" (CCD Brief at 28). The regulation cited deals with the requirements for clinical data necessary to support a finding of safety and effectiveness before a new drug application may be approved. This is an altogether different situation than where foreign clinical data is considered because it raises questions as to the safety of a drug. Valid data and information from a technically incomplete study may nevertheless establish the presence of a previously unsuspected hazard thereby requiring further investigation to resolve the question of safety. Although the foreign clinical data would not qualify to the extent necessary to support a *prima facie* finding, it may nevertheless be considered as part of the overall body of available safety data.

Positions of Participants

The manufacturers and CCD assert that phenformin is highly and often uniquely beneficial in the treatment of diabetic patients for whom the drug is indicated by the current labeling. This labeling is deemed by them to exclude from treatment diabetic patients predisposed to lactic acidosis. It is further asserted that the Bureau has failed to sustain its burden of proof to demonstrate adequate new evidence that phenformin is not safe. Therefore, the manufacturers and CCD believe that phenformin should enjoy continued marketing under the current labeling.

The Bureau believes that its burden in this cast is to demonstrate an association between phenformin and lactic acidosis while the opponents of the withdrawal must prove its safety. The Bureau asserts that phenformin is of no benefit in the treatment of diabetes, and that it produces lactic acidosis even in the face of label warnings. Considering the danger and lack of efficacy of phenformin, the Bureau believes it should remain off the market.

For procedural purposes, the participation of USV at the oral hearing was grouped with that of Ciba-Geigy because their interests in the present proceeding are nearly identical. USV did not offer evidence through any separate witness and filed its post-hearing brief jointly with Ciba-Geigy. Therefore, reference to arguments or allegations in this decision may refer to USV and Ciba-Geigy jointly.

CCD contends that its "interests have not been fully protected since it has been denied full party status" in the present proceeding (CCD Brief at 2). As CCD did not exercise the right to request a formal evidentiary hearing in this matter, its status in the present proceeding is limited to that of a participant (21 CFR 10.1(a)(10)). Although CCD's initial request for involvement in the hearing was untimely made, it was nevertheless granted the right of participation pursuant to § 12.45(f) (21 CFR 12.45(f)), (Prehearing Transcript, August 30, 1977 at 36). At the time of the granting of nonparty participant status, CCD's representative was instructed as to the opportunity for enlargement of their rights under § 12.89(d) (21 CFR 12.89(d)). While CCD was provided ample opportunity to seek additional rights, no specific showing sufficient to justify the granting of such additional rights was ever made. Therefore, CCD's rights were properly limited under the provisions of § 12.89(d)

to that of nonparty participant, and the assertion that their interests have not been fully protected is without merit.

Basic Mechanisms of Phenformin Activity

There have been many submissions to the record concerning the scientific research which has served to clarify and define the mechanisms involved in the production of the biological consequences of phenformin therapy. Ciba-Geigy and USV believe that the Bureau must show that there exists "a plausible biomedical explanation as to why such elevations [of blood lactate levels] occur," before phenformin may be found unsafe (CG Brief 34). The statutory basis for such a requirement is unclear and no authority is cited to support this assertion.

Evidence of clearly defined mechanisms of action is not required to prove the efficacy of a drug. Since the absence of a scientific hypothesis to explain how or why a drug acts does not preclude consideration of observed therapeutic effects, it should similarly not be expected to preclude consideration of any deleterious effects.

In any event, there is substantial evidence relating to mechanisms of action of phenformin. There has been testimony to the effect that one of the actions of phenformin is to decrease intestinal glucose absorption. Dr. Williams (Ex. No. B–497) noted in an editorial (Ex. No. B–269) that the reseacher, Czyzyk, showed that phenformin was ineffective in lowering glucose levels when the sugar was administered intraveneously, but that it became effective when it was given orally (Ex. No. B–69 at 492). This phenomenon was accounted for by the hypothesized role of the drug in suppressing glucose absorption from the gastrointestinal tract. (Ex. No. B–497 at 17). Dr. Felig found support for this explanation of phenformin activity in Dr. Cash's testimony (Tr. 285, citing Ex. No. CG–24 at 19). Ciba-Geigy witness Dr. Levine apparently agrees, testifying that, "There is lessened absorption of glucose, some amino acids, and other materials" with the use of phenformin (Tr. 458).

There is also evidence to the effect that phenformin cause an increase in blood lactate levels and in the blood lactate/pyruvate ratio (Tr. 270). Dr. Alberti testified that his basic research demonstrated that in patients receiving a dosage of 100 mg per day of phenformin (Ex. No. B–487 at 18) the mean blood lactate levels were grossly elevated, and the lactate/pyruvate ratio was increased (Ex. No. B–274). Dr. Miller, although employing dosages ranging from 150–175 milligrams which are higher than those in the aforementioned study (Ex. No. B–68 at 186), reported a similar increase in both the fasting blood lactic acid concentration and the blood lactate/pyruvate ratio (Ex. No. B–501 at 2–3. Interestingly, even at a dose of 50 mg a day, half the amount suggested by phenformin labeling, there is still a demonstraton of increased blood lactate levels (Ex. No. 501 at 6). Dr. Felig points out that due to differences in metabolic processes, diabetics demonstrate an increased trunover rate of lactate as compared to that of the general public, allowing diabetics to utilize lactate more rapidly than nondiabetics. Therefore, it is unlikely, absent other factors, that diabetics would show high or even average lactate levels (Tr. 263). Furthermore, phenformin has induced higher blood lactate levels even in nondiabetics. Therefore, the increased levels cannot be accounted for by the diabetic state alone (Ex. No. B–487 at 23). Elevated plasma levels of phenformin have been associated with lactic acidosis (Ex. No. B–489 at 11), although this increase does not appear to be a prerequisite to phenformin induction of lactic acidosis (Ex. No. B–497 at 21).

The effect of phenformin in increasing lactate and pyruvate production has been affirmed by Dr. Levine (Tr. 462). Dr. Cash also admits the drug has a hyperlactacidemic effect, although he terms it mild (Ex. No. CG–24 at 12) and dose-related (Ex. No. CG–24 at 23). Exacerbating the increase of blood lactate levels is the drug's ability to decrease the acid excretion rate by 50% in pastients taking 50 milligrams of phenformin daily (Ex. No. B–471 at 11), and its effect of impairing the removal of lactate from the blood by the liver (Ex. No. B–471 at 29).

Ciba-Geigy and USV assert that one of the Bureau's contentions is "that phenformin causes a shortage of oxygen (tissue hypoxia) which yields an anaerobic metabolic state * * *" (CG–USV Proposed Findings of Fact at 48). Ciba-Geigy witnesses have testified that quanadines inhibit oxygen uptake at high levels, but feel that this effect does not demonstrate itself at the therapeutic levels of the drug (Tr. 454 and 467). However, as this property of oxygen uptake inhibition does appear to be within the capacity of this family of chemicals, it does not appear unreasonable to suspect that the effect may continue at a lower level below the sensitivity of the detection method. Furthermore, as many of the acidosis cases are reported in patients who have a decrease in the ability to eliminate the drug from their system, amounts of phenformin above therapeutic levels may be reached in their bloodstreams through accumulation despite the limitation of the oral administration of phenformin to the levels indicated in the labeling. The assumption by Ciba-Geigy witnesses that the ability of phenformin to inhibit oxygen uptake will not demonstrate itself when patients ingest 100 mg a day or less does not take into account the case of variations in individual sensitivity to the drug or individuals with heightened susceptibility to side effects which is not diagnoseable prior to administration of the drug. (Ex. No. B–429 at 14).

The Bureau does not limit its theory, however, to a consideration of anoxia. For instance, Bureau witness Dr. Williams, testified that "A decrease in oxygen can mimic the effects of phenformin" (Ex. No. B–497 at 18) showing only that phenformin demonstrates the same influence on metabolism as does oxygen deficiency. The Bureau's hypothesis lies in a conviction that the anaerobic pathway is resorted to when phenformin is administered. Dr. Kreisberg attributes this increased rate of anaerobic glycolysis to an interference with mitachondrial function which can occur despite the presence of oxygen (Ex. No. B–499 at 12). He notes that this mechanism would also tend to increase the lactate to pyruvate ratio. Dr. Tranquada also characterizes the effects of phenformin as causing an increased reliance on the anaerobic pathway of glycolysis (Ex. No. B–467 at 15).

The suppression of oxidative reactions by phenformin has been seen as resulting in a decrease in gluconeogenesis by the research of Dr. Williams (Ex. Nos. B–269 at 18 and B–497). Dr. Levine also testified that phenformin inhibits glyconeogenesis (Tr. 461). Dr. Alberti sees this interference as causing the accumulation of its precursors, pyruvate and lactate, the latter accounting for half of the newly produced glucose (Ex. No. B–487 at 11).

Dr. Kreisberg testified that the animal studies in this area show that phenformin inhibits the synthesis of lactate into glucose by the liver (Ex. No. B–499 at 15). He also notes that this effect would decrease the regeneration of bicarbonate which could otherwise have been used in minimizing the effects of acidosis (Ex. No. B–499 at 16). Dr. Cash on the other hand, states that the only research he deems valid in this area indicates that glucose synthesis is enhanced by phenformin (Ex. No. CG–24

at 16). However, this appears to be a minority view considering the opinions of the other expert witnesses testifying at this proceeding.

While it appears that the mechanisms of phenformin activity have not been definitively established, the results of the scientific investigations in this area are strongly suggestive of possible modes of phenformin's activity. Phenformin inhibits the absorption of glucose and other materials from the intestinal tract. It also is associated with an increase in blood lactate levels and in the lactate/pyruvate ratio. This shift in the lactate/pyruvate ratio is particularly important in terms of gluconeogenesis, as lactate must be converted to pyruvate before it can be utilized in this cycle. Thus, an inhibition of this conversion could lead to a suppression of the gluconeogenic processes. Phenformin causes the cell to shift from aerobic to anaerobic metabolism, a biochemical pathway whose effects would account for many of the influences associated with the administration of phenformin. Glyconeogenesis is also suppressed by phenformin, accounting in part for the inability of the liver to compensate for the elevation in blood lactate levels which result from a shift to anaerobic metabolism.

Although, as in any scientific investigation, the research into the mechanisms or phenformin is not totally definitive, it does provide a probable explanation for the occurrence of lactic acidosis that has been associated with the administration of this drug. The results of this basic research are important to the present determination for several reasons. The manufacturers have noted that above "therapeutic" levels, phenformin causes lactic acidosis. Individual metabolic variation among patients has been demonstrated in some subjects with no renal or liver dysfunction who have high blood levels of phenformin while receiving low to moderate oral doses of this drug (Ex. No. B–501 at 6). On the other hand, some patients, again without detectable predisposing factors, have suffered lactic acidosis even when their blood levels of phenformin have been normal (Ex. No. B–489 at 11). Such evidence demonstrates that physician screening of candidates for this treatment may be insufficient to preclude phenformin administration to patients at risk for the often fatal side effect of lactic acidosis.

Safety Evidence

Ciba-Geigy claims that no scientifically valid conclusions concerning an association between phenformin and lactic acidosis can be drawn by simply aggregating cases of lactic acidosis during phenformin therapy, without reference to (a) existing label restrictions, (b) the background occurrence of lactic acidosis in the patient population in question, or (c) the various bias factors typically accompanying retrospective (or even prospective) searches for an adverse reation (Ex. No. CG Brief at 27).

As will be further discussed in the section on *Inability to Comply With Label Requirements*, it is unreasonable, in the case of phenformin, to limit consideration of adverse effects only to those instances of strict compliance with the conditions of use prescribed, recommended or suggested in the labeling. Under the labeling restrictions, maximum daily recommended dosages of 300 milligrams, 200 milligrams, and 100 milligrams have not precluded the continuing appearance of lactic acidosis. In fact, there appears to be a correlation between dosage and the occurrence of lactic acidosis.

Dr. Stolley testified that the background occurrence or incidence in the general population is unknow for 99 percent of the nonreportable diseases, lactic acidosis being no exception to this trend (Tr. 365). The background occurrence for drawing an association between phenformin and lactic acidosis in not necessary as evidenced by Ciba-Geigy witness Dr. Schoenberger who stated that all he would need to evaluate whether the incidence of lactic acidosis in patients who had taken phenformin was too high would be "* * * the number of cases that occur in a given period of time among the individuals who take the drug" (Tr. 493–494). Because there is a lack of a base rate for most illnesses, the lack of an absolute base rate for lactic acidosis should not preclude the finding that lactic acidosis in phenformin users is associated with the use of the drug.

Admittedly, there is always bias in any given study. The difficulty comes in measuring that degree of bias. Dr. Danowski, a Ciba-Geigy witness, suggests that in order for bias not to enter into the collection of data "* * * there should have been first independent searches for lactic acidosis without regard to diagnosis in therapy and for lactic acidosis in diabetes mellitus without and with DBI or other drug treatment" (Ex. No. CG–4 at 6). Yet Ciba-Geigy's review of lactic acidosis cases beginning with suspected lactic acidosis during phenformin therapy does not meet the above standard. On the other hand, the studies of Dr. Tranquada, Dr. Fulop and Dr. Brach, *et al.* do meet this Ciba-Geigy criteria for mitigating bias factors. As for the remaining studies, either it could not be determined from the record whether Ciba-Geigy's bias standard had been followed or such a standard was not met. However, this does not mean that such studies may not be considered for the purpose of raising questions as to the safety of phenformin and as corroboration for similar conclusions reached in the other studies.

A flawless human test designed to determine the rate of a drug's side effect which demonstrates a high morbidity and mortality rate is unlikely to occur because the morality of such a method is questionable. The UGDP study is an example of this problem. When potentially lethal side effects were seen in the phenformin group, it became unconscionable to allow continued patient usage for the purpose of scientific study.

As stated in the testimony of Dr. Felts (Ex. No. B–477 at 6):

> I have reviewed the literature and it is difficult to find absolutely unequivocal cause-and-effect relationships. But I think that our search to try to find this unequivocal relationship has resulted in a lot of people dying as a result of lactic acidosis because phenformin is still available.Q04

Therefore, it is improper to hold human studies to the same requirements as animal experiments because the deaths that would be required in good animal studies cannot be allowed when humans are used as experimental subjects.

Bureau's Evidence

The Bureau maintains that there are sufficient studies available to indicate a positive association between phenformin and lactic acidosis. Dr. Tranquada's study at the Los Angeles County Hospital consisted of 46 patients with lactic acidosis having a blood lactate of 7 millimoles or greater. Twenty-six of the 46 lactate acidosis patients were diabetics with seven on phenformin. Six of the seven patients' daily doses were known to be 50, 75, 100, 100, 150 and 150 milligrams (Ex. No. B–467 at 4–11). At the time of this study, the maximum daily dose recommended by the manufacturers was 300 milligrams or less while the current recommended daily dose is 100 milligrams or less. This would seem to indicate that there is no safe dosage level for phenformin.

Dr. Tranquada had personally encountered nine cases of lactic acidosis in diabetic patients receiving between 50 to 200 milligrams per day who had no other identifiable cause of lactic acidosis. Eight of these nine had

impaired renal function, but it could not be determined if this problem developed prior to lactic acidosis because evidence of renal dysfunction often accompanies lactic acidosis. The three patients who survived lactic acidosis had normal renal function after recovery (Ex. No. B–467 at 11–13).

Dr. Tranquada found that approximately 55 to 60 percent of the diabetic patients with lactic acidosis that he saw had not been receiving phenformin. However, with only 1 percent of diabetics being treated with phenformin, the 40 to 45 percent of the diabetics with lactic acidosis who had been receiving phenformin was too great a number for there not to be an association. (Ex. No. B–467 at 10).

A retrospective study conducted over 17 months by Dr. Loewenstein found six cases of diabetics with lactic acidosis, five of whom were taking phenformin (Ex. No. B–471 at 2). He then conducted a prospective study for the next 18 months in which he found that 6 of 7 diabetics with lactic acidosis were taking phenformin (Ex. No. B–471 at 14). The blood lactate level was 5 millimolar or greater or an unexplained anion gap of 20 milliequivalents per liter (mEg/L). normal persons have an arterial lactate level of 1 or 1.5 millimolar (Ex. No. B–471 at 3–4). Combining these two studies, there were over a 3-year period a total of 13 diabetics with lactic acidosis of which eleven were taking phenformin. Three of these eleven had no other precipitating cause of lactic acidosis although they did have hypertension which is not a label contraindication (Ex. No. B–471 at 20).[4] Sufficient data was available for eight patients to indicate that two were contraindicated under the 1977 labeling but six were not (Ex. No. B–471 at 30). This would seem to indicate that not all patients at risk can be identified. Dr. Loewenstein's studies show that 85 percent of diabetics with lactic acidosis were on phenformin.

Dr. Loewenstein also found additional cases of phenformin-treated patients with lactic acidosis. Of this group, two were taking 50 milligrams daily, two were taking 100 milligrams daily, and the dosage for the remaining two was not indicated. Three of the patients taking phenformin had been on it two weeks or less (Ex. No. B–471 at 31). Dr. Loewenstein's retrospective study showed three of five patients taking 100 milligrams per day, one patient taking 150 milligrams per day, and the dosage for the other patient was not indicated (Ex. No. B–471 at 7).

A retrospective review of patients' records from 1970 to 1972 was conducted at Beth Israel Hospital by Dr. Davidoff. His criteria for determining lactic acidosis was either a total bicarbonate of 13 or less plus a large anion gap, an arterial pH of 7.31 or less, or both. He found seven cases of diabetics with lactic acidosis who had no obvious precipitating causes. All were taking phenformin (Ex. No. B–479 at 5–7).

A two-year prospective study of patients with metabolic acidosis was conducted at the Bronx Municipal Hospital by Dr. Fulop. Eighteen diabetics with lactic acidosis taking phenformin were found. Ten of these 18 had no identifiable disease other than their lactic acidosis (Ex. No. B–493 at 4–6). There was a 50 percent mortality rate with only nine patients surviving. Six of the nine survivors had normal values or serum urea nitrogen before they left the hospital. This indicates that their impaired kidney function was temporary (Ex. No. B–493 at 8). Eight of the 18 took no dose greater than 150 milligrams per day and seven of the eight took no more than 100 milligrams daily. There was no reliable dosage information for the other ten patients. Of the seven who took no more than 100 milligrams, four had no other serious diseases associated with lactic acidosis (Ex. No. B–493 at 13).

A nineteen-month review of 2,647 consecutive deaths whose final diagnosis included "acidosis" was conducted at Charity Hospital, a large metropolitan hospital in New Orleans, by Dr. Brach, *et al.* Only the records of patients with a minimum age of twelve were examined. Metabolic acidosis as a contributory or primary source of death was found in 27 cases. In ten of the 27, a presumptive diagnosis of lactic acidosis could be made. Eight of these 10 cases were diabetic and all were taking phenformin (Ex. No. B–42 at 202–203). Lactic acidosis could be diagnosed with certainty on the basis of determinations of blood lactate concentration in only four cases. The other six lactic acidosis cases were determined by an increased anion gap (Ex. No. B–42 at 204). In two of the eight fatal cases, phenformin had been given despite the contraindication of mild azotemia. One had received phenformin during a postoperative period and two other patients had hypertensive cardiovascular diseases. None of the eight received over 150 milligrams per day (Ex. No. B–42 at 205).

Ciba-Geigy's review of all cases of lactic acidosis reported to it or found in the domestic medical literature revealed 39 cases of phenformin-treated patients with confirmed lactic acidosis for which no known causal, predisposing or contributory conditions or factors could be identified. In addition, 188 phenformin-treated patients were considered to have confirmed lactic acidosis, accompanied by conditions known to have either causal or contributory relationships to the development of lactic acidosis (Ex. No. B–59 at 5). Ciba-Geigy's criteria for confirmed cases of lactic acidosis consisted of a lactate level of 6.5 mEg/L or greater, accompanied by a pH of 7.33 or less (Ex. No. B–59 at 4–5). Lactate levels above 7 to 8 mEg/L are usually associated with a fatal outcome (Ex. No. B–184 at 209).

Information concerning the daily dosage of phenformin at the time of occurrence of lactic acidosis for the years 1974, 1975, and 1976, indicated that the most common daily dosage seen at the outset of lactic acidosis was 100 milligrams (Ex. No. B–59 at 7). Table 3 (Ex. No. B–59 at 14) shows that in 1974, out of a total of 86 cases, 39 were taking 100 milligrams or less, 23 were taking over 100 milligrams, and the dosage for 24 was unknown at the time lactic acidosis occurred. In 1975, 17 were taking 100 milligrams or less, 15 were taking more than 100 milligrams, and in 10, the dosage was unknown out of a total of 42 cases. In 1976, 9 were taking 100 milligrams or less, 9 were taking over 100 milligrams, and the dosage for one case was unknown out of a total of 19 cases. In each of these years, for the known dosages, at least 50 percent or more of the patients who developed lactic acidosis were on the 1977 recommended dosage of 100 milligrams or less.

Concerning those same years, Ciba-Geigy compared daily dosage with the estimated percent of market usage, and stated that "* * * while less than 10% of phenformin usage occurs at dosages over 100 mg per day, dosages in excess of 100 mg daily are associated with approximately 40% of the reported cases of lactic acidosis" (Ex. No. B–59 at 8). This means, conversely, that approximately 60% of the reported cases of lactic acidosis occurred at the recommended dosage of 100 milligrams or less.

There have been serveral documented suicide attempts where people have taken an overdose of phenformin and

[4] Although hypertension is not listed as a contraindication according to the January 1977 label restrictions, it may be associated with various degrees of cardiovascular disease. The label specifically lists "any acute medical situation such as cardiovascular collapse (shock), congestive heart failure [or] acute or suspected myocardial infarction" as contraindications. The label's failure to indicate whether hypertension is considered a cardiovascular disease further points out the difficulty physicians encounter when attempting to follow the label restrictions.

developed lactic acidosis as a direct result (Ex. No. B–479 at 11). Dr. Cohen, *et al.*, reported the case of a previously healthy 17 year old boy who took 1500–2000 mg at 6 p.m. and at 8:30 a.m. the next morning was admitted to the hospital suffering from lactic acidosis (Ex. No. B–63 at 43–44). The researchers concluded that "* * *the close relationship of the time of first administration of Phenformin to the onset of lactic acidosis together with the absence of arterial oxygen desaturation, hypotension, or peripheral vasoconstriction leaves little doubt that Phenformin was directly responsible for the lactic acidosis" (Ex. No. B–63 at 44).

In his testimony, Dr. Davidoff described a published report of a German woman who developed servere lactic acidosis while on phenformin. She was 57, had been taking a daily dosage of 150 mg and had the predisposing factors of cardiac failure an slight renal failure. When admitted to the clinic her lactate levels measures almost 19mEg/L (Ex. No. B–479 at 12–13). After the patient had recovered, she was placed back on phenformin under close supervision, with her blood tests being followed in order to establish whether or not phenformin had been a contributing factor in her lactic acidosis. Over a period of one week on 150 mg per day, her lactate which started at about one mEg/L rose to almost 4 mEg/L. Dr. Davidoff indicated that a rise is very unusual for patients taking phenformin. Therefore, phenformin was discontinued. This patient seemed to be biochemically at risk to excess accumulation of lactate. This case clearly indicate that phenformin was a contributing factor in lactic acidosis (Ex. No. B–479 at 13–14).

The analysis of phenformin dosage in 44 cases by Dr. Cohen, *et al.*, of the time intervals between the start of phenformin therapy, or an increase in dose, and the onset of lactic acidosis showed that 24 out of 34 patients in whom sufficient data was available developed lactic acidosis wihtin 2 months of the start of therapiutic doses. The onset of lactic acidosis occurred within two weeks in 17 patients (Ex. No. B–63 at 44). "If lactic acidosis had resulted purely from longstanding conditions such as cirrhosis or diabetes, such an early concentration of incidence would not have been expected" (Ex. No. B–63 at 44).

The UGDP study was a long-term prospective clinical trial carried out mainly in the sixties. It was designed to determine the effects of hypoglycemic agents on vascular complications in adult-onset diabetes and not to determine the incidence of lactic acidosis in phenformin users (Ex. No. B–396). There were 204 patients randomly assigned to phenformin (Ex. No. B–396 at 67). The daily phenformin dosage was 100 mg (Ex. No. B–396 at 65). In the phenformin-treated group one death was ascribed to lactic acidosis and two cases of nonfatal lactic acidosis were reported (Ex. No. B–396 at 72). The one patient who died of lactic acidosis had cardiovascular and renal disease along with hypertension (Tr. 536). Only renal disease with uremia was contraindicated in the labeling at the time phenformin was prescribed for her [Ex. No. B–506(e)]. No data was available with respect to the two nonfatal cases of lactic acidosis.

Gale and Tattersall conducted a retrospective study at General Hospital, Nottingham, from 1972–1975 and found eight diabetics with lactic acidosis that met their criteria of a blood lactate concentration of over 7 mmol/1 or an anion gap greater than 30 mmol/1 with a negative Acetest reaction on undiluted plasma. All eight lactic acidosis patients were taking phenformin and all died (Ex. No. B–96 at 973). Five patients were taking only 100 mg per day (Ex. No. B–96 at 974). Two patients were contraindicated, four had hypertension and minial evidence of renal disease, and two had no predisposing factors (Ex. No. B–96 at 972). Of the two noncontraindicated patients, one was taking only 100 mg daily, while the dosage of the other one could not be determined from the record. Lactic acidosis developed rapidly with an increased dosage of 200 mg per day after 5 days in 1 patient and after 15 days in another. Still another developed lactic acidosis after only 5 days on 100 mg while 2 others on 100 mg got lactic acidosis within 6 months. The 3 patients on 100 mg developed lactic acidosis 2 to 8 years after starting phenformin.

The Wise and Chapman study found that during a two-year period 38 diabetics with lactic acidosis were admitted to the Royal Adelaide Hospital. The criteria for establishing lactic acidosis was a lactic value of 2 mmol/1 or more and an arterial pH of less than 7.37. Twenty of the 38 patients were on phenformin with 15 having nonketotic or metabolic lactic acidosis. Of these 15 patients, ten received a daily dosage of 100 mg or less alone or in combination with sulphonylureas or insulin. Duration of phenformin treatment ranged from less than a month for five cases, from one month to a year for three cases, and one to ten years for seven cases (Ex. No. B–272 at 70). Seven patients had either started the drug or received a dose increase within the month before the occurrence of lactic acidosis (Ex. No. B–272 at 72). Six of the ten patients receiving 100 mg or less died (Ex. No. B–272 at 71). All but one of the 15 patients had additional renal or cardiovascular abnormalities or both (Ex. No. B–272 at 70).

Dr. Palumbo of the Mayo Clinic stated that he had never personally "* * * seen lactic acidosis in diabetics not treated with phenformin" (Ex. No. B–503 at 10). Dr. Kreisberg testified that:

> It is striking and almost an invariable finding that lactic acidosis in diabetics in our emergency room, in the absence of myocardial infarction and all other things that are known to produce lactic acidosis, is seen within the framework of the use of phenformin (Ex. No. B–499 at 18).

Dr. John Davidson, who sees two or three cases per year of phenformin-associated lactic acidosis at Grady Memorial Hospital in Atlanta, testified that he didn't remember having seen a diabetic with lactic acidosis in the last few years who was not on phenformin therapy (Ex. No. B–465 at 12).

Through the Diabetes Literature Index, Dr. Davidoff totaled the recorded cases of lactic acidosis and said:

> * * * without trying to be exhaustive, I was able to come up, I think in 1975, with something of the order of 104 cases of what appeared to be phenformin-associated lactic acidosis out of about 163 total cases of lactic acidosis in the literature and noted that there had been more since that effort on my part to actually add up the numbers (Ex. No. B–479 at 10).

Dr. Daughaday, who has been alert to the problems of lactic acidosis for at least 15 years, sees 1 to 3 cases of phenformin-associated lactic acidosis a year (Ex. No. B–473 at 11), while Dr. Felts for the last ten years has consulted on one or two cases per year of phenformin-associated lactic acidosis (Ex. No. B–477 at 5–6). Dr. Loewenstein of LSU School of Medicine said that "At our institution, most of the diabetics who have had lactic acidosis, in fact, almost all of the diabetics have been taking phenformin" (Tr. 47). Finally, Dr. Felig of Yale said:

> It should be emphasized that where lactic acidosis has been seen in diabetic patients within the last 10 years, it has been virtually always in association with phenformin administration (Tr. 276).

In all probability the cases in evidence are only a portion of those occurring in the United States. While underestimation will not establish an accurate rate for the incidence of phenformin-associated lactic acidosis, the cases are nevertheless valuable for

establishing an association. Dr. Wright published a report in July 1977 of four cases of phenformin-associated lactic acidosis in a three-week period at an Alabama hospital (Ex. No. B–510). This evidences that these cases are appearing more frequently than formerly believed.

These studies which are the best available in the record strongly establish an association between phenformin and lactic acidosis. When the sum total of these phenformin-treated lactic acidosis case studies are reviewed, along with the specific cases of lactic acidosis occurring during phenformin therapy which conform to the January 1977 label restrictions, there can be no doubt that an association exists between phenformin and lactic acidosis.

Ciba-Geigy's Evidence

Ciba-Geigy's evidence concerning the American Diabetic patient population's risk of lactic acidosis related to phenformin therapy consists largely of the Ciba-Geigy study conducted by Dr. Henry, which is comprised of two types of information. One type consists of cases reported in the literature and/or directly reported to the company, while the other is made up of the testimony of diabetologists which shows that within the group of patients under their care, there is virtually no incidence of lactic acidosis associated with phenformin therapy. The Ciba-Geigy study appears to suffer from several defects. Dr. Henry depends on the cases reported in the literature as part of his evaluation of the lactic acidosis rate associated with phenformin use but does not make any adjustments for the usual decrease in the number of articles published on any subject once the medical community has started to lose interest in it.

Professional journals have published studies and commentaries concerning the association of phenformin and lactic acidosis for several years. This has resulted in a large number of cases being reported within a limited time period. Once a controversy is considered resolved, the medical community is likely to lose interest in it as a subject for research efforts or for articles reporting occurrences of a suspected effect. This lagging interest normally results in fewer papers being submitted and accepted for publication in areas deemed sufficiently investigated and well understood by the medical community.

In substantiation of the theory that the reporting of the side effects of phenformin is following this trend, testimony was given which suggests that the recent decease of reporting in the literature of phenformin-associated lactic acidosis is due to the aforementioned factors rather than a shift in the lactic acidosis incidence levels in the percentage of the diabetic population for which phenformin is prescribed. Dr. Bressler, an editor of the American Journal of Medical Science, testified that:

> We would not even consider printing any more association between phenformin and lactic acidosis because it is such "old hat" now that it is no longer news. Everyone knows it, and I think that now the literature is vastly underreporting something that is well-known (Ex. No. B–475 at 12).

The reliability of the other aspect of the Ciba-Geigy estimation of the rate of occurrence of phenformin-associated lactic acidosis in the American public is also questionable. It is based on cases culled from voluntary reporting to the manufacturers by physicians which can be inaccurate since the method often results in an incomplete polling of the actual number of cases. The foreign polling experience is very useful in estimating the comparative reliability and accuracy of techniques used to gather data on phenformin-associated lactic acidosis. In making estimates of the effects of a drug on the total population in foreign countries, dependence on voluntary reporting systems rather than on systematic hospital record searches have considerably reduced the accuracy of surveys. Dr. Brown testified that the reporting from individual hospital studies uncovered four to forty times the percentage of cases that were detectable by the voluntary reporting method (Ex. No. B–481 at 8). Use of foreign data for this limited purpose is unrelated to the question of relying on foreign data in determining the safety of a drug.

There appears to be a proportional difference in the results obtained by direct polling and voluntary reporting within a country. This proportion is similar to that obtained when comparing the results of direct polling from other countries with the Ciba-Geigy estimates based on voluntary reporting (Ex. No. B–481 at 8–9). This parallel further supports an analogy of the foreign to the domestic polling procedure, and gives credibility to the domestic findings of an association between phenformin therapy and the incidence of lactic acidosis.

The fact that a disparity exists between voluntarily reported cases and actual occurrences in the United States was demonstrated by the testimony of Dr. Loewenstein. When asked on cross-examination why he reported cases to the FDA and not to Ciba-Geigy, he replied that:

> I felt that my obligation was to report to the Food and Drug Administration. I did not feel any obligation to report to the manufacturers who had overlooked lactic acidosis for a number of years (Tr. 43).

While it is unknown how widespread this sentiment is in the medical community, such a consideration, when viewed in light of the foreign polling experience, suggests that the process used by Ciba-Geigy to determine the frequency of the phenformin-associated lactic acidosis in the American population cannot be considered to result in a complete census.

By the testimony of a Ciba-Geigy witness, underreporting to drug companies may be alleviated by attention being drawn to a subject (Tr. 505). It is not illogical to assume, therefore, that when a controversy has been resolved in the minds of the medical community, the rate of reporting would decline. As stated by Dr. Brown, "There are serious fluctuations in the reporting depending on publicity, medical publication and other things happening in the medical world" (Ex. No. B–481 at 29). Such fluctuations appear to have occurred in the present case, raising serious questions as to the reliability of this aspect of the Ciba-Geigy study.

Reporting to companies has been characterized by Dr. Stolley, an epidemiologist, as "the basement estimate" of an occurrence rate (Tr. 339). Echoing this view, Dr. Davidoff testified that, due to the limitation of voluntary reporting systems, the cases discovered by Ciba-Geigy constitute only "the tip of the iceberg" of the total number of cases (Ex. No. B–429 at 11). Another deficiency in the Ciba-Geigy study lies in the standards, devised by Dr. Henry, for excluding cases from consideration. Since Dr. Henry is not a diabetologist, an epidemiologist, or a statistician, his background does not appear to qualify him as an expert with the training and experience necessary to make such determinations (Tr. 624).

It is unclear how the standard required of a lactate level of 6.5 mEq/L or greater with a pH of 7.33 or less was arrived at, especially as one authority is quoted by Dr. Henry as finding any lactate level of 1.3 mEq/L or above at a pH of 7.3 or less as diagnostic of lactic acidosis (Ex. No. CG–26 at 3). Interestingly, there is evidence in the record indicating that blood levels of lactate from 7–8 mEq/L are virtually always fatal (Ex. No. B–184).

Dr. Henry excluded from consideration in his study data and literature which "lacks information necessary to confirm the reported diagnosis of lactic acidosis." It is not clear whether this information was requested from the submitting physician to supplement reports deemed inadequate by Dr. Henry or if the submitted reports were rejected summarily when they did not contain this information. If the published literature or submitted reports were unaccompanied by data that Ciba-Geigy considered necessary for the confirmation of the diagnosis, they may not have been included in the study. Such an exclusion technique in polling, however, does not assure that the data did not exist, but only that it was not submitted in particularity to Ciba-Geigy under the voluntary reporting system or was not included in the article reported in the literature. Eliminating these cases from consideration in the study could considerably distort the final results (Ex. No. CG–26 at 2).

Dr. Henry's lack of expertise raises additional questions concerning the amount of reliance this study merits. Of 234 cases submitted which passed the severe "confirmed lactic acidosis" requirement, 195 were rejected as having "casual, predisposing, or contributory conditions or factors." The decision to eliminate these cases from the study was presumably made by Dr. Henry, since there is no evidence to the contrary.

Ciba-Geigy has used the entire group of patients receiving phenformin therapy in the United States to calculate the base population to which the affected cases will be compared in determining the percentage of users likely to suffer lactic acidosis associated with phenformin treatment. For this reason, the accuracy of Ciba-Geigy's determination depends on the completeness of the polling procedure.

Considering the methods of information collection utilized in this study and the questionable standards employed in evaluating those cases which were considered, the Ciba-Geigy study cannot qualify as a reasonable determination of the total number of phenformin-associated lactic acidosis cases occurring in the United States. A fair view of this study demonstrates it to be flawed to such an extent as to preclude its being afforded any significant evidentiary weight, particularly in view of the results of many other studies which demonstrate considerably higher levels of phenformin-associated lactic acidosis.

The second line of epidemiological proof of the safety of phenformin offered by Ciba-Geigy involves the administration of phenformin by diabetologists. These diabetologists demonstrated extraordinary success in using phenformin without incurring the lactic acidosis side effect. Many indicate that in years of using this drug, they have never seen a case of phenformin-associated lactic acidosis in patients under their care (Ex. Nos. CG–2 at 2, CG–4 at 4, CG–6 at 1, CG–7 at 3, CG–9 at 2, CG–12 at 6, CG–11 at 3, C–14 at 1, CG–15 at 1, CG–16 at 2, CG–22 at 3, CG–51 at 2, Tr. 425 and Tr. 524). When cases of phenformin-associated lactic acidosis were observed, they were attributed to patient overdosage (Ex. Nos. CG–5 at 3 and CG–18 at 3), patient ingestion of alcohol (Ex. Nos. CG–17 at 3, CG–20 at 3), or in the case of one patient, simply mentioned as an observed case of lactic acidosis (Ex. No. CG–10 at 3). Considering the large number of patients treated by these diabetologists without any incidence of lactic acidosis, the rate of occurrence in this population is extremely small.

While at first blush, this testimony may appear to substantiate the safety of phenformin, expert testimony from both parties distinguishes between the incidence of lactic acidosis when phenformin is administered by a diabetologist and when it is administered by a generalist (Ex. Nos. B–477 at 5, B–493 at 4, CG–2 at 4, CG–12 at 9 and Tr. 116). This particular group of patients had the benefit of being treasted by diabetologists rather than by primary physicians. Additionally, these diabetologists are characterized by the manufacturers as the most eminent in the United States (Ciba-Geigy USV Brief at 32–33). The results of the experience of such extraordinarily qualified doctors may be inappropriate for extrapolation to the treatment by other experts (Tr. 118).

When comparing such a minute incidence of phenformin-associated lactice acidosis in these expert-treated patients to the nationwide occurrence rate, it appears that the cases in the United State must be occurring in that portion of the diabetic population cared for by generalists (Ex. No. CG–10 at 3). This phenomenon has been observed in the case of chloramphenicol and other drugs (Tr. 383 and 347).

While many of the Ciba-Geigy diabetologist witnesses have never seen a case of lactic acidosis among their phenformin patients, several of them have consulted on cases of phenformin-associated lactic acidosis and have suggested these occurrences may be caused by inexperienced doctors or improper diagnosis of predisposing disease and lack of follow-up (Ex. No. CG–14, at 2 and Tr. 425). Ciba-Geigy witness Dr. Bowers noted that the incidence of lactic acidosis varies inversely with the percentage of experienced practitioners in a hospital. She testified that "A teaching hospital where inexperienced physicians abound might well have a much higher incidence [of phenformin-associated lactic acidosis]" (Ex. No. CG–2 at 4). Ciba-Geigy witness Dr. Mirskey testified that phenformin has not proven to be a dangerous drug in the hands of a diabetologist with extensive experience in the treatment of diabetes (Ex. No. CG–12 at 9).

Ciba-Geigy and USV assert that: The Bureau's argument, based on the views of research-oriented physicians such as Dr. Felig, seems to rest on the premise that while phenformin may arguably be safe in the hands of recognized experts, the ordinary practicing physician cannot be entrusted with it. This elitist approach demeans the medical profession and has no basis in the record other than as unsupported speculation. (Ciba-Geigy-USV Brief at 18).

Ciba-Geigy's accusation appears misplaced in view of the testimony of Ciba-Geigy witnesses discussed above and the disparity in the number of phenformin-associated lactic acidosis cases observed in the practices of specialists as compared to that seen in the total patient population. If an effect is observed in only one portion of a population, with the rest in this group remaining relatively free of the effect, then the estimated rate for the entire population would constitute and underestimation for the affected portion of the group. the absence of phenformin-associated lactic acidosis in patients under the care of specialist makes the positive results reported by the Bureau's witnesses of even more significance in a total population determination. As the affected group is considered on a total, undifferentiated population basis, their estimated risk is diluted by the inclusion of the above-mentioned no-risk group. There is the likelihood, therefore, of a patient population which is running a considerable risk of phenformin-associated lactic acidosis.

Ciba-Geigy and USV assert that the FDA does not " * * * have any statutory authority for differentiating between classes of physicians as to the drugs which may be prescribed (Ciba-Geigy-USV Brief at 18). Nevertheless, proof of the safety of phenformin when administered by specialists is insufficient to justify continued approval of phenformin because the majority of

diabetics are treated by their primary physician rather than specialists (Tr. 116–117). If phenformin is to enjoy continued marketing, it will be available to all physicians without regard to their expertise or experience. If doctors are unable to prescribe phenformin without endangering the lives of their patients, the low risk of danger of this drug when in the hands of an expert does not *a priori* justify its continued marketing. The FDA is, as stated by Ciba-Geigy-USV, powerless to limit approval of a drug only to administration by specialists. Therefore, if phenformin is unsafe when administered by generalists because its risk to the American public at large is greater than its benefit, its approval must be withdrawn.

Detection of Predisposing Factors

Ciba-Geigy and USV suggest that the adverse effects of phenformin therapy occur only when patients have some deficiency which predisposes them to lactic acidosis. They view these adverse effects as avoidable by testing the patient for these factors prior to the administration of the drug (Ciba-Geigy-USV Brief at 55). To substantiate this argument, it must be shown that the preexisting condition would have been diagnosed at the time the drug was prescribed using methods that are likely to be part of the usual practice of the medical community. Furthermore, it must be shown that any development of these predisposing factors after treatment would be identified and would result in the withdrawal of the medication before the onset of lactic acidosis.

Dr. Beaser testified that the lactic acidosis induced by predisposing factors can be guarded against by testing:

> * * * that any doctor, and I say doctor, not just internist, would be expected to do in a patient in present day medicine, who is being seen as a continually observed patient (Tr. 522).

Dr. Leibel concurs in this view (Ex. No. CG–51 at 3). Dr. Levine holds a similar opinion, noting that this battery of tests has kept his patients free from the lactic acidosis side effect of phenformin therapy (Tr. 428). Dr. Schoenberger also suggests the usefulness of such a screening, limiting his renal function testing to specific gravity and serum creatinine or blood urea nitrogen (Tr. 489). He resorts to the creatinine clearance test only when the previous tests indicate renal dysfunction (Tr. 502).

On the other hand, the Bureau's witnesses feel that creatinine clearance testing, which is considered a sophisticated test (Ex. No. B–495 at 4), is necessary to avoid many of the problems associated with phenformin treatment because the serum creatinine test is insufficient to exclude the possibility of preexisting renal dysfunction (Ex. Nos. B–503 at 12, B–495 at 4 and Tr. 115). Serum creatinine level can increase by 100% and still be within normal limits as established for this test. Furthermore, there can be a full 50% loss of kidney mass before a serum creatinine test will reveal kidney malfunction (Ex. No. B–483 at 9). There are specific cases where the serum creatinine test did not reveal renal dysfunction that was detected by the creatinine clearance test (Ex. No. B–489 at 13). Only the creatinine clearance test can detect the early stage of renal insufficiency (Ex. No. B–503 at 13).

Ciba-Geigy and its witnesses have extolled the use of phenformin in elderly patients (Ex. Nos. CG–5 at 3, CG–6, CG Brief at 41). In fact, one study has shown that they make up a majority of the population receiving this drug (Ex. No. B–493 at 1). However, it appears that the serum creatinine test is particularly inaccurate in this group of patients (Ex. Nos. B–483 at 10, B–489 at 11).

As a possibility of lactic acidosis is involved, full renal function is particularly vital as the rate of excretion of acid falls by half when phenformin is administered at dosages at or below that recommended by the package inserts (Ex. No. B–471 at 11). Renal insufficiency appears to cause disruption of protein-bound drugs, one of which is phenformin, causing a release of more free biologically active drugs (Ex. Nos. B–483 at 5 and 20). It is important to note the fact that the creatinine clearance test is sophisticated enough (Ex. No. B–495 at 4) that it will not be done by the primary physicians (Ex. No. B–483 at 10, Tr. 116) who constitute the main source of care for the diabetic patient (Tr. 116).

Ciba-Geigy witness Dr. Beaser, a diabetologist, does not do a creatinine clearance test in his screening of potential phenformin patients (Tr. 592) and knows of no one else who screens with this test (Tr. 594). He testified that the test is mainly a research tool which is very rarely utilized even in teaching hospitals despite the fact that it is a more sensitive test of renal dysfunction than the serum creatinine test (Tr. 593). This was experienced by another witness who had difficulty convincing experts to perform this test in candidates for phenformin therapy (Ex. No. B–473 at 8). Since the current labeling lists as a contraindication for phenformin therapy "renal disease with even mild degrees of impaired renal function" (Ex. No. B–506(n)), it appears that compliance with the label requirements at the primary physician level or with consistency in the practice of specialists is unlikely to prevent the occurrence of lactic acidosis (Ex. No. B–473). This situation is not an aspersion on the abilities of these physicians but rather the practical reality of the present circumstances of the practice of American medicine.

Acute or chronic liver disease is another contraindication of phenformin therapy. As with the kidney situation, time and cost considerations cause primary physicians to do a less than thorough workup for liver disease prior to prescribing phenformin (Tr. 121). Even when tests appear to demonstrate normal hepatic function, there still exists the possibility of liver disease, since the most common test reflects only acute cell damage (Tr. 119). Therefore, severe but chronic liver damage is likely to remain undetected. Proper liver function is particularly important in that phenformin appears to impair the removal of lactate from the blood by the liver (Tr. 29).

Even if phenformin was not primarily causal of lactic acidosis, if it impairs the body's ability to deal with stress situations (Ex. No. B–501 at 5) by displaying heightened biological activity, impairing excretion of acid, slowing metabolism of lactic acid and/or increasing production of lactic acid, it remains an insidious drug with dangerous repercussions for its users. Inability to control a spontaneous acidotic situation that would normally be compensated for by the body may be just as dangerous, if not more so, than having lactic acidosis initially instigated by a drug.

Assuming that physicians can and do properly administer phenformin in accordance with the January 1977 label requirements, there is still evidence that lactic acidosis occurs in noncontraindicated patients receiving the recommended dosage of 100 milligrams or less. Dr. Fulop reported four cases of lactic acidosis in diabetics taking phenformin at daily doses of not more than 100 milligrams who had no serious associated diseases (Ex. No. B–493 at 13). The Gale and Tattersall retrospective study reported one case of fatal lactic acidosis for a patient taking only 100 milligrams per day. There was no clinical or necropsy evidence of predisposing causes other than the drug (Ex. No. B–96 at 975).

Ciba-Geigy's review of reported lactic acidosis cases found 39 cases of phenformin-treated patients with

confirmed lactic acidosis for which no known causal, predisposing or contributory conditions or factors could be identified (Ex. No. B–59 at 5). Seventeen of those 39 patients were on daily dosages of 100 milligrams or less. In fact, 46.9% of the total 39 were on the recommended 100 milligrams per day (Ex. No. B–59, Table 4, at 15). The record does not indicate whether Dr. Fulop reported his four cases to Ciba-Geigy so there is a possibility that his cases may have been cited twice.

There are also examples of lactic acidosis developing with daily dosages of the recommended 100 milligrams or less for which the presence or absence of contraindications could not be determined from the record. Dr. Tranquada reported four cases of lactic acidosis whose daily doses were 50, 75, 100, and 100 milligrams respectively (Ex. No. B–467 at 11), while Dr. Loewenstein presented two cases of lactic acidosis with a daily dosage of 100 milligrams and two cases of lactic acidosis with a daily dose of 50 milligrams (Ex. No. B–471 at 31).

Analyzing the dosages being taken at the time of the onset of lactic acidosis, Dr. Woods and Dr. Cohen reviewed 44 cases and found 25 patients taking 100 milligrams or less daily. Of the 25, 18 were taking daily dosages of 100 milligrams, four were taking 75 milligrams, and three were taking 50 milligrams. Information concerning contraindications was not available from the record (Ex. No. B–412 at 180).

There are other examples of phenformin-associated lactic acidosis in noncontraindicated patients for which information on dosages was not indicated or could not be determined from the record. Using the January 1977 label contraindications, Dr. Loewenstein reported eight cases of phenformin-associated lactic acidosis for which only two of the eight patients were contraindicated (Ex. No. B–471 at 30). In his own personal experience, Dr. Tranquada had nine patients receiving between 50 and 200 milligrams per day who developed lactic acidosis and none of them had any other identifiable cause of lactic acidosis. One patient was a 23-year old woman who was in good health except for diabetes. She had not received any other therapy and had no recognizable cause of lactic acidosis other than phenformin (Ex. No. B–467 at 8).

Eight of the nine patients had impaired renal function at the time lactic acidosis was diagnosed but " * * * [e]vidence of renal dysfunction is a common accompaniment of lactic acidosis" (ex. No. B–467 at 12). Dr. Tranquada could not tell whether the impaired renal function was related to lactic acidosis or was a preexisting condition (Ex. No. B–467, at 12). Dr. Beaser testified that unless he had some pre-illness information, he could not determine if a patient's renal problems were caused by the lactic acidosis. The three patients who survived lactic acidosis had normal renal function after recovery (Ex. No. B–467 at 13). This indicates that the impaired renal function was due to the lactic acidosis.

Dr. Davidoff reported three cases of lactic acidosis in 1970 and four cases of lactic acidosis in 1971 with no obvious precipitating causes. All seven patients were taking phenformin but information about dosages was not available in the record (Ex. No. B–479 at 5). The Gale and Tattersall study also identified another case of phenformin-associated lactic acidosis for which there were no predisposing factors. Dosage could not be determined from the study (Ex. No. B–96 at 974).

Inability to Comply With Label Requirements

Ciba-Geigy and USV assert that phenformin's effects should be considered only with regard to those patients who fall within the present label requirements (Ciba-Geigy-USV Brief at 20). The statute talks in terms of an evaluation of a drug under the conditions of use prescribed, recommended, or suggested in the labeling.

Congress did not intend that the FDA should substitute its judgment for that of the individual physician. Nor did it intend a finding of lack of safety to be supported by the fact that a particular drug may be misused or prescribed contrary to the approved labeling. Physicians are continually faced with making decisions based on their individual medical judgment in light of the overall circumstances and conditions relating to the individual patient for whom medication is being prescribed.

Therefore, where the statute deals with safety, it talks in terms of findings for particular medications under the conditions of use "prescribed, recommended, or suggested in the proposed labeling" and not under the actual condition of use. This is not to say that where the suggested conditions of use are so vague or unreasonably restrictive as to preclude reasonable expectation of their being complied with, the drug must nevertheless be found shown to be safe on the basis of results obtained when administered to an unrealistically limited patient population.

The fact, as indicated by the record, that the label restrictions for phenformin may not be strictly complied with, does not constitute the only source of danger associated with the use of phenformin. The principal difficulty is that the general practitioners who care for the majority of adult-onset diabetics would be unable in their normal practice to discover the existence of all predisposing factors of lactic acidosis and would therefore be unable to comply with the conditions of use prescribed, recommended or suggested in the labeling.

Doctors who treat their patients in apparent good faith compliance with the package requirements for phenformin will nevertheless be unable to avoid the possibility of a lactic acidosis side effect. Available tests are generally unable to rule out renal and hepatic insufficiency. Furthermore, lactic acidosis may occur within as little as two to three weeks after beginning phenformin therapy (Ex. No. B–471 at 19 and Ex. No. B–63 at 44). Such short periods could obviously occur between visits to a physician. These facts require the conclusion that label restriction of patients for whom phenformin is contraindicated cannot reasonably be expected to result in the desired limitation of the population to which it will be administered. The actual population receiving phenformin would therefore be considered more at risk for lactic acidosis than the population envisioned by the manufacturers and sought to be provided by the labeling.

Consideration of the adverse effects in the actual population receiving phenformin is appropriate to a determination of its safety. The absence of similarly adverse effects in the more limited patient population, as recommended by the labeling, would be misleading unless it is demonstrated that the recommended labeling can reasonably be expected to limit the actual patient population receiving the drug. As indicated, phenformin labeling cannot reasonably be expected to do this.

Although the prescription of a drug outside of its package recommendation would not, *per se*, be considered as *prima facie* evidence as to its lack of safety for the purpose of withdrawal of approval of an NDA, the widespread use of a drug contrary to the label requirements should not be ignored. This is particularly true when the prescription practices outside of label requirements are widespread,

predictable and substantiated by epidemiological trends in evidence.

Ciba-Geigy and USV decry any attempt of the Bureau to "take away from the prescribing physicians the very latitude and discretion the Food , Drug and Cosmetic Act was specifically structured to protect" (CG–USV Brief at 59–60), apparently agreeing with an interpretation of the Act that:

> Once the new drug is in a local pharmacy after interstate shipment, the physician may, as part of the practice of medicine, lawfully prescribe a different dosage for his patient, or may otherwise vary the conditions of use from those approved in the package insert, without informing or obtaining the approval of the Food and Drug Administration [37 FR 16503 (1972)].

The majority of lactic acidosis cases associated with phenformin therapy reported to Ciba-Geigy were eliminated from consideration in the Ciba-Geigy study on the basis that the administration of the drug was not within the confines of the label requirements. It therefore appears that there are many cases of the American medical community not complying with the label requirements when prescribing phenformin.

In reporting on a study designed to ascertain the rate of physician compliance with label warnings, Dr Stolley arrived at several important conclusions. First, it was found that drugs continued to be prescribed contrary to label warnings even though they were dangerous drugs whose use should be limited. Chloramphenicol enjoyed a very widespread general use despite its very restrictive label warnings (Tr. 347). As to the results of interviews with various doctors, Dr. Stolley stated that:

> We found that they were aware of this warning but in their own experience they had never seen the aplastic anemia associated with chloramphenicol because it is a somewhat rare adverse reaction. Therefore, they continued to use it (Tr. 348).

The research showed that doctors with isolated practice and little opportunity for exchange of information with colleagues were more apt to be among those prescribing the drug beyond the limits of the labeling. The situation in the chloramphenicol case appears comparable to the phenformin situation insofar as the profile of adverse side effects in chloramphenicol parallels the phenformin situation. Generalists who see only a small number of diabetics would be less likely to have observed the lactic acidosis side effect of phenformin firsthand. Therefore, those doctors having little contact with specialized colleagues would be more likely to have a higher ratio of patients using phenformin despite contraindictions than would diabetologists. This difference in the prescription habits of generalists and specialists has been seen in the case of other drugs as well (Tr. 383).

Dr. Loewenstein, a diabetologist, withdrew a pateint from phenformin therapy who was previously taking the drug. Two weeks before her admission to a clinic for lactic acidosis and her subsequent death, she was admitted to a semi-rural hospital for control of hypertension and her physician then resumed phenformin at 150 milligrams per day which she continued taking it after she left the hospital. She subsequently developed lactic acidosis symptoms. This case occurred between January 1, 1976 and April 30, 1977, showing the labeling in effect at that time did not result in its being restricted to the patient population for whom it was indicated (Tr. 53).

As a practical matter, phenformin labeling is not susceptible to a high degree of compliance and cannot be reasonably expected to be closely followed by physicians. Therefore, the present labeling does not afford sufficient protection against the occurrence of serious side effects, and phenformin cannot be considered as shown to be safe as required by the statute.

Risk-Benefit

Any determination of continued approval of a drug requires an evaluation of the benefits as compared with the risks, if any, which occur from its usage. Therefore, a risk-benefit evaluation is a necessary part of the present determination.

Phenformin has been deemed by Ciba-Geigy and USV to lower blood sugar through direct action of the drug and by contributing to weight loss. They see these effects as resulting in the mitigation of the longer term deleterious effects of this disease. Ciba-Geigy and USV assert that phenformin has advantages over insulin therapy and is a viable therapeutic alternative when attempts at weight loss through diet fail.

Ciba-Geigy and USV believe that, as the matter of the sustained efficacy of phenformin in lowering blood sugar was not addressed in the May 6, 1977 Notice of Opportunity for Hearing, this question is not in issue in the present proceeding (CG–USV Brief at 12). The notice in question is brief, alleging that "No patient population can be identified in whom the possible benefits of phenformin therapy outweigh the risk of lactic acidosis, a complication that is frequently fatal" (42 FR 23170). Because proceedings attempting to delineate a limited population and distribution system appropriate to alleviate questions raised about phenformin therapy were continuing contemporaneously with the prehearing and might have affected the scope of the present proceeding, it was determined, as indicated in the Notice of Hearing, that the issues would be identified and agreed upon by the parties at the prehearing conference (42 FR 40959).

Accordingly, the issues were formulated at the prehearing conference of August 30, 1977, and reiterated in a Notice to Parties issued by the Office of the Administrative Law Judge on August 31, 1977. Issue number one is set forth in that notice as follows:

> Whether and to what extent, the use of phenformin is beneficial in the treatment of diabetic patients for whom the drug is indicated under the conditions of use prescribed, recommended, or suggested in its labeling.

Since they actively participated in the formulation of the issues at said prehearing conference, the manufacturers had actual notice that efficacy would be a subject under consideration in this proceeding.

The Bureau asserts that phenformin does not display any sustained blood sugar lowering effects, and so cannot ameliorate the long-term effects of diabetes which develop gradually. Furthermore, the Bureau contends that lowered blood sugar, even if sustained, does not address the entire spectrum of the ill effects of lack of insulin, whereas increased insulin, whether through direct administration or weight loss, will have an advantageous effect on numerous aspects of metabolism over a prolonged period of time.

Several witnesses agree that a hypoglycemic agent without the capacity for a sustained effect would not mitigate the long-term effects of diabetes (Tr. 296, Tr. 171, Ex. No. B–475 at 9). Testimony has been given concerning the limited nature of the decreased blood sugar resulting from phenformin therapy so that in the void of the wider range of effects accomplished by insulin, the long-term effects of diabetes may still occur (Ex. Nos. B–497 at 4, B–489 at 29, B–475 at 9, and B–487 at 14). It has been suggested that the observed decrease is quite modest (Ex. No. B–495 at 8) and temporary (Ex. No. B–469 at 9, Tr. 301). The synergistic effect when the drug is combined with sulfonamides also appears to be small (Ex. No. B–469 at 31). In substantiation of these assertions,

a study using phenformin and placebos in treatment showed that the blood sugar changes in these groups were comparable (Tr. 167).

Secondary failure of phenformin in lowering blood sugar levels have been observed to occur at various times after instigation of the therapy. Dr. Felig found that the rate of secondary failure varied from six months to 18 months (Tr. 296). The depressive effect of phenformin on blood glucose levels has been observed to dissipate at about two years after initiation of therapy (Ex. No. B–475 at 9). Dr. Prout has seen secondary failure at 2–3 years after the initial use of this drug (Tr. 200), as have other practitioners (Ex. No. B–473 at 6). There is testimony to the effect that chronic administration of phenformin results in a return to normal blood sugar levels (Ex. No. B–489 at 26). The ability of phenformin to control blood sugar levels in the long-term has been considered unimpressive (Ex. No. B–499 at 5).

The Ciba-Geigy evidence on this subject is sparse, consisting of brief statements by two of its witnesses to the effect that some of the patients under their care have not experienced a secondary failure of phenformin during several years of treatment. Dr. Levine testified that he had controlled the blood glucose levels of some of his patients with phenformin therapy for 10–12 years (Tr. 426). When questioned, he clarified that the patients remained on a diet regimen throughout the therapy (Tr. 479) and were also maintained on a program of physical exercise (Tr. 483). The long-range "effectiveness" of phenformin he observed may well be attributable to these concomitant therapies, especially as it has been shown that weight loss in such patients can decrease blood sugar levels and entirely alleviate diabetic symptoms. Therefore, Dr. Levine's expereince does not qualify as proof of the long-term effectiveness of phenformin therapy in lowering blood sugar levels.

Dr. Beaser has continued to use phenformin in some of his patients for as long as 15–18 years (Tr. 523). It is likely that his statement as to this long-term therapy is no more conclusive as to the extended efficacy of phenformin in lowering blood sugar than is Dr. Levine's, as diet concomitant with drug therapy is the average practice in this field. Further, a mere maintaining of a patient on a drug for a long period of time is no assurance of efficacy. There is evidence that most doctors will note changes in blood glucose levels only in the short term, and may not observe gradual increases in this level (Tr. 306–310). In any event, such weak, sketchy evidence of phenformin's long-term glucose-lowering effects, when compared to the other testimony and evidence on this matter, fails to demonstrate any long-term efficacy of this drug.

Another aspect of efficacy is the claim that phenformin acts to reduce the weight of a patient. The record indicates that this drug has little or no ability to reduce weight initially or to effect a long-term weight loss (Ex. Nos. B–497 at 4, B–475 at 13, and B–487 at 16). The minimal weight loss accomplished in association with phenformin therapy has been demonstrated to be transitory (Ex. No. B–501 at 11). One witness observed that no weight loss was demonstrated as a result of phenformin therapy in his practice (Ex. No. B–503 at 6). The UGDP Study indicates that phenformin does not result in weight loss (Ex. No. B–497 at 5), with both the phenformin-treated group and the placebo group losing 5% of their body weight (Tr. 164).

The two main alternative therapies to phenformin are weight loss through dietary regimen, which increases the output of natural insulin and increases the body's response to it, and the direct administration of insulin, which supplements the natural supply of insulin in the body. Weight loss has been determined to be the treatment of choice in adult onset diabetes by the unanimous consensus of the expert witnesses in this proceeding. The major difficulty encountered in this mode of therapy has been in effecting compliance with the diet regimen.

In one study, 90% of a patient population of 600 patients lost at least 20 pounds within two years of being removed from treatment by oral agents and placed on a diet (Ex. No. B–465 at 16). Another expert testified that effective diet regimens can be implemented, although compliance is always a difficulty encountered in diet therapy (Ex. No. B–473 at 5). Others have found diet control successful in a large percentage of their maturity onset diabetic patients (Ex. Nos. B–469 at 3 and B–503 at 4). Using a method coordinated with frequent follow-up and intensive education to mitigate compliance difficulties, one clinic accomplished an average weight loss of ten pounds per patient in the first week of the diet. This weight loss was accompanied by an abrupt lowering of blood sugar, resulting in an alleviation of symptoms and an increase in the patient motivation to follow the diet (Ex. No. B–465 at 5).

Insulin is another form of therapy which has been used as an alternative to phenformin therapy. Insulin is the therapeutic agent most effective in lowering blood sugar (Ex. Nos. B–479 at 17 and B–475 at 7). It does not appear to lead to vascular complication (Ex. No. B–473 at 5(a) and Tr. 293) and has advantages over phenformin therapy in that insulin decreases the development of the long-range complications of diabetes (Tr. 24) and regulates a range of metabolic functions rather than first blood sugar levels (Ex. No. B–487 at 12). Restricting a patient's choices of therapy to diet or insulin can encourage compliance with diet, which is the preferred treatment for maturity onset diabetes (Ex. No. B–503 at 4). Nonetheless, in one doctor's experience, when the advantages of insulin therapy were thorougly explained to the patients for whom diet proved unsuccessful, there was not a single refusal of insulin therapy (Tr. 8). Availability of phenformin therapy appears to discourage the use of insulin therapy (Tr. 104–105).

It appears from the record in this proceeding that phenformin therapy results in only minimal blood glucose lowering or weight loss effects. These effects are transient when compared with the many years over which the debilitating aspects of diabetes develop, limiting phenformin's ability to alleviate these problems. The alternative of weight loss through a diet regimen has been extolled by all the expert witnesses in this proceeding as the ideal method of treating adult onset diabetes. When diet has been rigorously pursued, a large portion of the patient population has responded with weight loss and normalization of blood sugar levels. Weight loss appears to increase the body's natural output of insulin as well as the tissues' sensitivity to it.

In cases where weight loss by diet is not accomplished or where the weight loss does not control the diabetes, direct insulin supplementation is often employed. Both diet and insulin therapy have the advantage of remaining effective during long-term therapy and affecting a range of metabolic functions rather than being limited in their effect to lowering blood glucose levels. Such a broad spectrum of activity is more likely to approximate normal metabolism and so circumvent the long-range debilitating effects of diabetes than is phenformin with its very short-term, limited influence. When considering that the side effect of phenformin therapy, lactic acidosis, gives rise to a mortality rate of from 50%–60% (Tr. 302, Ex. No. B–

493 at 8 and Tr. 298), its possible minimal benefit cannot outweigh its risk.

Patients for Whom Benefit of Phenformin Therapy May Outweigh Risks

Questions have been raised by Ciba-Geigy and USV concerning the loss of occupation of diabetic patients as a result of a change to insulin therapy. While insulin-dependent diabetics are prevented by statutory mandate from operating commercial vehicles in interstate or foreign commerce (49 CFR 391.41(b)(3)), diabetics who control their condition through diet and use of hypoglycemic agents do not come under this restriction.

An interstate operator of commercial vehicles obviously considers the ability to continue present employment as a benefit of phenformin therapy. However, the duration of such a benefit must be considered along with the risk in determining the issues in this proceeding. Phenformin's effectiveness has not been conclusively established, and studies submitted into evidence show that most people using phenformin must ultimately resort to insulin therapy for control of blood sugar. (See discussion of long-term efficacy in the Risk-Benefit Section of this decision).

Dr. Levine testified that 80% of sulfonylurea patients do not suffer secondary failure in the first year (Tr. 422). Thus, sulfonylurea drugs in most cases would give the diabetic sufficient time to make arrangements for job changes without subjecting him to the risk of lactic acidosis. Although a job change resulting from the development of diabetes would appear in the first instance a hardship, such a situation is analogous to an individual being forced to severely restrict or change his occupational options because of other health problems such as cardiovascular disorders or epilepsy. This difficulty is not entirely unique.

The purpose of 49 CFR 391.41(b)(3) is to protect the public. Insulin-dependent diabetics are subject to hypoglycemia which can be a direct cause of traffic accidents due to unconsciousness or errors in perception, attention or coordination. They may also be subject to hyperglycemia which results in progressive drowsiness, dizziness, headaches, and extreme weakness among other symptoms which generally have the same effect on driving tasks as hypoglycemia (42 FR 16456). Although diabetics on oral hypoglycemia agents may not be subject as often as insulin-dependent diabetics to hypoglycemia reactions (42 FR 16454), they still run the risk of these reactions. Thus, phenformin diabetics may also pose a similar risk to the public. The Federal Aviation Regulations make no distinction between insulin-dependent diabetics and diabetics controlled by oral hypoglycemia agents in prohibiting diabetics from receiving airline pilot licenses.

The question of limiting employment possibilities cannot preclude withdrawal of approval of phenformin. The needs of the small group for whom its temporary benefits may outweigh its risks cannot provide justification for its general marketing. To the extent administration of phenformin could actually be restricted to the limited patient population indicated by its current labeling, the risks of lactic acidosis would appear to be minimized. However, in view of the lack of proven long-term efficacy, continued approval would be questionable even without the problems associated with limiting the patient population.

It appears that the temporary benefits of phenformin could nevertheless be of therapeutic value in unusual cases such as where emotional or physical problems actually prevent administration of insulin. The small number of patients who are allergic to insulin or unresponsive to desenitization (Ex. No. B–465 at 13 and Tr. 199) and individuals whose livelihood depend on an orally-administered medication are possible candidates for such a limited distribution program. One such patient was a woman who had calcium deposits in her skin which precluded the administration of insulin and was allergic to sulfonylureas. The case was pointed out as being highly unusual in its nature (Ex. No. B–495 at 11).

On the other hand, inability of self-administration would apparently be an inadequate argument for special consideration because of the possibility of training family members or providing visiting nurses. In the case of the blind, premeasured syringes would be sufficient to allow self-administration of insulin. It appears, therefore, that the need may exist for a limited distribution of phenformin to special patients under specialized controlled treatment programs based on individual physician's informed medical judgment. However, such a program cannot be authorized within the parameters of this proceeding which is charged solely with determining the propriety of the proposed withdrawal of approval of the NDA's for general marketing of phenformin.[5]

The manufacturers assert that "the most vital consideration is that phenformin, as currently labeled, is a uniquely beneficial therapy for a limited diabetic population" (Ciba-Geigy-USV Brief at 61). Such a stand would seem to be amenable to a carefully controlled distribution system that would make this medication available to such individuals without the problems of a concomitant risk to the majority of patients for whom phenformin therapy constitutes an inordinate risk, and for whom the label indication (for reasons previously stated) cannot reasonably be expected to provide sufficient protection.

CCD Witnesses

One additional matter requires consideration. CCD introduced written direct testimony which was in large measure directed to the question of the appropriateness of the Secretary's invoking of the imminent health hazard provision of § 505(e). However, this matter is not in issue in this proceeding which deals solely with the determination of whether the approval of the NDA's for phenformin should be withdrawn under § 505(e)(1), (2) and (3). To the extent the testimony of CCD witnesses did not deal with the Secretary's imminent hazard finding, it was generally repetitious of testimony given by these same witnesses on behalf of Ciba-Geigy.

Discussion and Conclusions

Although the phenomenon of phenformin-associated lactic acidosis is not totally understood, the compilation of the present data on the subject set forth in the evidentiary record of this proceeding allows some conclusions to be made concerning this association. The basic experimental research conducted to evaluate the effects of phenformin on the human body are revealing. Phenformin decreases the rate of absorption of glucose from the gut which accounts in part for the small hypoglycemic effect it displays. It also causes the body to shift from anaerobic to aerobic metabolism, causing increases in the blood lactate levels. Phenformin interferes with glyconeogenesis in the liver. This is the

[5] Along this line, it appears that some attempts are presently being made by FDA to provide for an extremely limited use of phenformin. On January 16, 1978, after briefs had been filed and the evidentiary record completed, Ciba-Geigy and USV jointly moved the admission of Ex. No. CG–81 into evidence. Exhibit No. CG–81 consists of a draft Federal Register notice designed to propose a limited distribution system, which as of this writing, has not been approved by the Commissioner. The motion is denied and Ex. No. CG–81 is not received into evidence because, as indicated, the implementation of a limited distribution system as contemplated in the prospective notice (Ex. No. CG–81) is outside the scope of this proceeding.

liver's method of clearing the blood of excess lactate. These aspects of the action of phenformin result in the blockage of the body's important safety valves for lactic acid accumulation.

Increased lactate levels have been associated with increased phenformin levels in the blood. The manfacturers point to this tendency as allowing the safe use of phenformin by controlling the oral doses of this drug. The fact that lactic acidosis tends to occur at increased levels of phenformin is important since phenformin is eliminated from the body and/or is tied up in a bilogically inactive protein complex by normal liver and kidney function. Therfore, since substantial liver and kidney dysfunction can go undetected by the testing methods presently relied on by practicing physicians, keeping oral dosage within the parameters of the label requirements will not automatically restrict phenformin to safe levels in the bloodstream. Cases of phenformin-associated lactic acidosis have occurred even when the drug is administered within the parameters of the labeling requirements. Increased lactate levels and lactic acidosis have also been associated with normal blood levels of phenformin, demonstrating that individual sensitivity to the effects of phenformin may lead to lactic acidosis even if the blood level of this drug could be controlled.

The Bureau's evidence gives many examples of phenformin-associated lactic acidosis. While not all of the examples are as thoroughly documented as comparable animal studies, they provide valuable and extensive human epidemiologic evidence which shows an association between phenformin and lactic acidosis. Metabolic lactic acidosis appears to be an extemely rare occurrence among this patient population, and the fact that it occurs virtually exclusively among phenformin users is substantial proof that this association is valid. While no absolute quantification of the base rate of lactic acidosis for the diabetic population at large can be determined, this situation is typical of many diseases and does not detract from the demonstration of a strong association between phenformin and lactic acidosis.

The manufacturers' proof consists of the testimony of expert diabetologists and a Ciba-Geigy study. The experience of these diabetologists, while interesting, cannot be extrapolated to the realities of the practice of medicine at all levels, expecially as most diabetics are treated by their primary physicians. The Ciba-Geigy study suffers from many flaws. It relies on a voluntary reporting system which has historically uncovered only a small percentage of the cases which occur and on published cases which are subject to large fluctuations in rates of reporting. Furthermore, data which has been shown to be incomplete by the many other cases reported in the present proceeding was screened by questionable methods and extrapolated to the entire population receiving phenformin therapy. As a result, any deviation from a complete polling would result in a concomitant underestimation of the percentage of phenformin users who are lactic acidosis victims. Accordingly, the intrinsic unreliability of this study precludes its being given any significant weight.

A strong association between phenformin therapy conducted in good-faith compliance with the label requirements has been demonstrated. Further, it has been shown that label restrictions have not been strictly adhered to. The limited short-term benefits of this drug have not been shown to be justified in light of the risks attending its use. Under these circumstances, the prior approval of the NDA's for phenformin must be withdrawn. It appears that there may be some maturity onset diabetics with unusual physical or emotional difficulties for whom short-term administration of phenformin may, in the judgment of their physicians, be necessary despite the risk of lactic acidosis. Those individuals for whom this drug's benefits outweigh its risk may possibly be provided access to the drug despite its removal from general marketing through the experimental drug provisions or some other limited distribution system as previously mentioned. However, in lieu of such arrangements for limited distribution, the short-term beneficial effects of phenformin for a very small group cannot justify the risks associated with widespread marketing.

Ultimate Findings and Order

Consideration of the record in this proceeding requires the following ultimate findings:

1. Phenformin has limited short-term beneficial effect in the treatment of diabetics under the conditions of use prescribed, recommended or suggested in its labeling.

2. The conditions of use prescribed, recommended, or suggested in the labeling for phenformin are inadequate to exclude from treatment those persons for whom the drug is contraindicated as a result of factors which predispose patients to lactic acidosis.

3. The occurrence of lactic acidosis is associated with the use of phenformin in patients for whom the drug is indicated under its current labeling and the incidence of such occurrences as compared to the diabetic population at large is not susceptible of quantification on this record.

4. Therapeutic modalities other than phenformin are effective for treating patients for whom phenformin is indicated in its labeling without the same degree of risk associated with the use of phenformin.

5. The limited benefits of phenformin are insufficient to support a finding of safety in light of the risks attending its general marketing under the approved NDA's. Approval of the NDA's for phenformin should therefore be withdrawn pursuant to § 505(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(e). Accordingly,

It is ordered, That the approval of the NDA's for phenformin, NDA 11-624, NDA 12-752, NDA 17-126 and NDA 17-127, and all supplemental NDA's be, and they are hereby, withdrawn pursuant to § 505(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(e);

And it is further ordered, That in the absence of the timely filing of exceptions pursuant to § 12.125(a) [21 CFR 12.125(a)] or the issuance of a notice of review by the Commissioner pursuant to § 12.125(f) [21 CFR 12.125(f)], this initial decision shall become the final decision of the Commissioner pursuant to § 12.120(e) [21 CFR 12.120(e)] and shall be effective as of the date of publication of a notice to that effect in the **Federal Register** pursuant to § 12.120(f) [21 CFR 12.120(f)]. Dated this 6th day of February 1978.

Daniel J. Davidson,
Administrative Law Judge.

Dated: March 30, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[Docket No. 77N-0150]

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Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Community and Planning Development

Community Development Block Grants

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community and Planning Development

24 CFR Part 570

Community Development Block Grants (CDBG); Grant Administration Requirements for Lump Sum Drawdown of CDBG Funds for Property Rehabilitation Financing

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final Rulemaking.

SUMMARY: This final rule establishes the conditions under which a Community Development Block Grant recipient may draw in one sum funds designated in its Community Development application for the establishment in a private financial institution of a fund for the purpose of financing the rehabilitation of privately-owned property.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Leonard J. Czarniecki, Rehabilitation Policy Division, Office of Urban Rehabilitation and Community Reinvestment, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 755-6300.

SUPPLEMENTARY INFORMATION: On August 3, 1978, (43 CFR 34424) proposed revisions to 24 CFR Part 570 were published in the **Federal Register** for public comment. Interested parties were given until September 5, 1978, to submit written comments. All comments received with respect to the proposed rules governing the grant administration requirements for the lump sum drawdown of Community Development Block Grant (CDBG) funds for property rehabilitation financing were given due consideration.

As a result of the comments received the following changes were made:

Basic Requirements

The first sentence of § 570.513 has been revised as a result of comments indicating the need to provide that a block grant recipient may draw funds from the letter of credit in single lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately owned properties (including residential, mixed use, and nonresidential properties) and the private acquisition of properties for rehabilitation as a part of the recipients' community development program.

Section 570.513(a) which contains key definitions used in the regulation has been amended in response to comments to include clarifying language for "private funds" and a definition for "rehabilitation". Private funds can include funds held in trust for the benefit of bondholders or noteholders of the CDBG recipient or its agency where such bond or note proceeds are to be used in connection with the rehabilitation financing program. The definition of "private financial institution" was amended to make clear that savings and loan associations, credit unions and other financial institutions, in which deposits are federally insured, are eligible depositories for the rehabilitation fund. The definition of "rehabilitation" expands the use of the fund authorized by § 570.513(c) to include the financing of private entities (both those organized for profit and also those on a not for profit basis) to acquire private properties for rehabilitation, and the rehabilitation of commercial and industrial buildings and structures pursuant to § 570.203(c)(1). This change is in accord with the activities eligible for financing under Section 105(a)(4) of the Housing and Community Development Act of 1974 as amended, as implemented by § 570.202(c)(1) of the regulations.

Section 570.513(b) has been revised to make clear that the two year limit on the written agreement only limits the period during which new loans may be made. The agreement will necessarily have to cover a longer period in most cases. For example, an agreement calling for a lump sum drawdown of funds to be used to guarantee rehabilitation loans made by the private financial institution(s) would have to run as long as the private rehabilitation loans, i.e., the agreement must require the block grant recipient to leave some funds on deposit until the private rehabilitation loan is fully repaid, which may take 20 years.

Section 570.513(c) has been amended in response to comments to make clear that the rehabilitation fund can be used as reserves and to pay issuance or administrative costs in connection with the issuance of bonds or notes by the block grant recipient or its agency, where such bond or note proceeds are to be used to fund rehabilitation loans or grants.

Several comments were received on § 570.513(d). All comments expressed concern with the requirement that "rehabilitation loans made with such private funds shall be subject to the same requirements as are applicable to direct loan or grant assistance provided for the rehabilitation of private property under this Part". This is not a new requirement resulting from the enactment of the drawdown authority, since authority to use block grant funds as subsidies or guarantees in connection with private loans has always been in the CDBG regulations.

To the extent that private loans are effectively intermingled with CDBG funds, e.g., through use of CDBG for interest subsidies or loan guarantees, it has always been true that the use of the private funds has been governed by the CDBG rules on use of CDBG funds. For example, such loans could not be made in a racially discriminatory manner or avoid labor standards requirements of the Davis-Bacon Act, as amended. Specific concerns of the commenters centered on the procurement requirements of the Office of Management and Budget Circular No. A-102 dated September 12, 1977, which superseded Federal Management Circular 74-7. However, the Department has determined that the procurement standards (Attachment O) of the foregoing circular ordinarily applicable to CDBG assisted construction activities do not apply to the contracting for services and materials by private parties who make use of rehabilitation assistance offered by the grant recipient, where the contract is not entered into by the grant recipient, itself. This means that the procurement of the necessary work and material is done at the instance and for the benefit of the private owner. Although formal competitive bidding is therefore not required, all procurement transactions, regardless of whether negotiated or advertised, should be conducted in a manner which encourages open and free competition. It should also be noted that the requirements of the Davis-Bacon Act are applicable to the rehabilitation of residential property pursuant to Section 110 of the Housing and Community Development Act of 1974, if such property is designed for residential use of eight or more families.

Quite a number of comments were received on § 570.513(e), which prescribes a 45 day time limit on the start of use of deposited funds. Commenters requested that the time limit be extended to 60 or 90 days. The 45 day limit was prescribed by statute in Section 104(i)(1) of the Housing and Community Development Action of 1974, as amended by the 1977 Act (Pub. L. 95-128) and cannot be amended by regulation.

Several comments on § 570.513(f) related to a lump sum deposit made by the block grant recipient for the purpose

of establishing a fund to guarantee privately financed rehabilitation loans. The clarifying language added to § 570.513(b) regarding block grant funds used to guarantee rehabilitation loans made by the private financial institutions is responsive to these concerns.

One commenter on § 570.513(g) recommended that, as with any program income, the interest earned on the rehabilitation fund be used for any eligible community development activity. This change was not made because this requirements is based on the statutory provision (Section 104(i)(2)(D) that "interest earned on such cash deposits shall be used in a manner which supports the community rehabilitation program."

HUD Area Office Approval

Section 570.513(h) received the most comments. Commenters were very concerned about the timing requirement for the submittal of requests for a lump sum drawdown. In response to these comments, this section has been changed to permit HUD Area Offices to accept these requests for review and approval any time during the program year. Generally, HUD review will be carried out as a part of the review and approval of a block grant application but requests for a lump sum drawdown will be accepted throughout the program year to preclude delay in the establishment of local rehabilitation funds. Accordingly, Paragraph (h) of § 570.513 has been modified.

Several comments were received on § 570.513(i). Some of the most comprehensive comments on this section raised questions about terminology e.g., "below market rate," "longer repayment period" and "higher risk." These are terms which are contained in the statutory provision 104(i) and serve as the basis for these rules. The provision contained in § 570.513(i)(1) that private financial institutions may satisfy the benefit criteria by committing private funds for the rehabilitation financing activities in amounts which are substantially in excess of the deposit of block grant funds is also based on language contained in Section 104(i). The final regulations continue to use the language prescribed in the statute. One change that has been made in this section in response to a comment is to direct HUD Area Offices to encourage block grant recipients to use minority banks (a bank which is owned at least 50 percent by minority group members). This is consistent with the national goal of expanding the opportunities for minority business enterprises. A list of minority owned banks can, be obtained from the Office of Minority Business Enterprise, Department of Commerce, Washington, D.C. 20230.

Several commenters were concerned with the benefit tests prescribed in Paragraph (i) when market rate interest is not payable on the rehabilitation fund. The tests require an estimate of foregone interest, and a quantified estimate of the value of the benefits of the commitment under the agreement. The Department recognizes that these requirements will require carefully considered estimates of value by the block grant recipient and the participating financial institutions, but the Department considers that such economic analysis is needed to meet the requirements when interest is not earned on deposited funds. Accordingly, changes in paragraphs (i)(2)(A) and (i)(2)(B) were not made at this time.

Comments Not Acted Upon

The description of the changes to § 570.513 discussed several comments which HUD was unable to act upon. In many cases, comments proposed the inclusion or modification of activities not authorized by the statute or the exclusion of activities which were specifically authorized. Other comments proposed alternative directions on matters of Departmental policy which after due consideration were not accepted.

The following are some of the comments already discussed which HUD did not agree to act upon for the reasons set forth above:

1. Eliminate the requirement that where the rehabilitation fund or other block grant assistance is used to subsidize or guarantee the payment of rehabilitation loans made with private funds, or is used to provide a supplemental loan or grant to the borrower of private funds, the rehabilitation loans made with such private funds shall be subject to the same requirements as are applicable to direct loan or grant assistance provided for the rehabilitation of private property under this part.

2. Extend the 45 day time limit on the start of use of deposited funds to 60 or 90 days.

3. Use the interest earned on the rehabilitation fund for any eligible community development activity.

4. Eliminate use of certain terms, e.g., "below market rate." One commenter recommended that the Department support a proposal to amend the Housing and Community Development Act to authorize State Housing Finance agencies to be an eligible financial under § 570.513.

Several comments were received on the needs of small rehabilitation contractors who require prompt payment for work completed because of cash flow problems. These included recommendations to establish a rehabilitation fund under § 570.513 for this purpose. Although the timely payment of small contractors is a very important element of a local rehabilitation financing activity, the primary purpose of establishing a rehabilitation fund in private financial institutions is generally designed to assure the leverage of community development block grant funds so that participating financial institutions commit private funds for loans in the local rehabilitation program in amounts in excess of deposit of community development funds.

OTHER INFORMATION: A Finding of Inapplicability with regard to Environmental Impact has been prepared in accordance with HUD Handbook 1390.1. Copies of the statement and findings are available for inspection and copying during business hours in the Office of the Rules Docket Clerk, Room 5216, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly 24 CFR 570 is amended as follows:

1. Section 570.503 is revised to read as follows:

§ 570.503 Cash withdrawals.

(a) Except as provided in § 570.513, which covers lump sum drawdowns for financing the rehabilitation of privately owned properties, the timing and amount of cash withdrawals from the U.S. Treasury by the recipient for activities which are free from all conditions specified pursuant to §§ 570.311 or 570.433(b)(2) shall be in accordance with U.S. Department of the Treasury regulations on withdrawal of cash from the Treasury for advances under Federal programs (31 CFR part 205), as incorporated in HUD handbook 1900.23 Rev., Letter of Credit Procedures—Treasury Regional Disbursing Office System.

(b) To the maximum extent practicable, program income shall be disbursed prior to making additional draws from the letter of credit to finance approved community development activities (including local option activities) as follows:

(1) Program income in the form of repayments to a revolving fund, other than a fund to finance the rehabilitation

of privately owned properties as provided for in § 570.513, established to carry out an approved activity, shall be substantially disbursed from such fund before additional draws are made from the letter of credit for the same activity.

(2) All other program income shall be substantially disbursed for any approved activity before additional draws are made from the letter of credit.

2. § 570.513 is added to read as follows:

§ 570.513 Lump sum drawdown for property rehabilitation financing.

Subject to the conditions prescribed in this section recipients of grants under this Part may draw funds from the letter of credit in a single lump sum to establish a rehabilitation fund in one or more private financial institutions for the purpose of financing the rehabilitation of privately owned properties as a part of the recipient's community development program.

(a) *Definitions.* (1) "Rehabilitation fund" means a fund established with block grants drawn down in a lump sum from the recipient's letter of credit for use in a rehabilitation financing program under the terms of an agreement between the block grant recipient and the depository private financial institution pursuant to the requirements of this section. (2) "Private financial institution" means a depository (including banks, savings and loan associations, credit unions and other financial institutions), in which deposits are federally insured, and which is a party to such an agreement. (3) "Private funds" means the funds of the private financial institution. Private funds include funds held in trust for the benefit of bondholders or noteholders of the CDBG recipient or its agency where such bond or note proceeds are to be used in connection with the rehabilitation program. (4) "Rehabilitation" means the activities eligible for rehabilitation of properties pursuant to § 570.202(c), including the acquisition of properties for rehabilitation by private entities organized for profit or on a not-for-profit basis, and the rehabilitation of commercial and industrial buildings and structures pursuant to § 570.203(c)(1).

(b) *Requirement for agreement.* A written agreement for the deposit of block grant funds to establish a rehabilitation fund shall be executed by the block grant recipient and participating private financial institution(s). The agreement shall specifically describe the obligations and responsibilities of the parties and the terms and conditions on which such funds are to be deposited and used consistent with the requirements of this section. Except as may otherwise be authorized by the HUD Area Office in connection with approvals for uses of the rehabilitation fund pursuant to paragraph (c)(5) or (7), the agreement shall authorize the use of the rehabilitation fund only in connection with grants and loans made within a period of two years from the date of the agreement. The description of the proposed use of deposited funds in the agreement shall include a statement on the intended use of loan repayments and interest earned. The agreement shall expressly provide that its terms and conditions are subject to the provisions governing lump sum drawdowns for property rehabilitation § 570.513 of the HUD regulations on community development block grants, 24 CFR Part 570.

(c) *Uses of rehabilitation fund.* The rehabilitation fund may be used for the following purposes:

(1) To make direct rehabilitation loans or grants to property owners;

(2) To pay interest subsidies, or establish a fund for payment of subsidies, on rehabilitation loans made by private financial institutions with private funds;

(3) To guarantee the repayment of rehabilitation loans made to property owners by private financial institutions with private funds; or

(4) To serve as collateral for financing actually extended to the applicant (or applicant's agency) where such financing is used to make rehabilitation loans or grants.

(5) To fund reserves and/or pay issuance or administrative costs in connection with the issuance of bonds or notes by the recipient or its agency, where such bond or note proceeds are to be used to fund rehabilitation loans or grants.

(6) For the payment of reasonable administrative fees and charges of the private financial institution related to the provision of financing for the rehabilitation of private property; or for

(7) Other uses as may be approved by HUD consistent with the objectives of this section.

(d) *Rehabilitation loans made with private funds.* Where the rehabilitation fund or other block grant assistance is used to subsidize or guarantee the payment of rehabilitation loans made with private funds, or is used to provide a supplemental loan or grant to the borrower of the private funds, the rehabilitation loans made with such private funds shall be subject to the same requirements (excluding the treatment of loan repayments as program income) as are applicable to direct loan or grant assistance provided for the rehabilitation of private property under this Part.

(e) *Time limit on start of use of deposited funds.* Use of the deposited funds for rehabilitation financing assistance (e.g., first loan is made, subsidized or guaranteed) must start within 45 days of the deposit. Should use of deposited funds not start within 45 days, the recipient may be required by HUD to return all or part of the deposited funds to the letter of credit.

(f) *Return of unused deposits.* At the termination of the period of the agreement, all unobligated funds (funds of the rehabilitation fund that have not been encumbered or disbursed) then on deposit shall be returned to the recipient's letter of credit unless the block grant recipient has been or is being authorized by HUD to extend the agreement for an additional period. In addition, the block grant recipient shall reserve the right to withdraw from the rehabilitation fund any unobligated amounts required by HUD in the exercise of corrective or remedial actions authorized under § 570.910(b) of the regulations.

(g) *Interest earned on the rehabilitation fund.* Interest earned on the rehabilitation fund shall be used pursuant to the terms and conditions of the agreement consistent with the uses authorized under paragraph (c) of this section.

(h) *Request for HUD review and approval of lump sum drawdown.* HUD area office review and approval of a request for a lump sum drawdown is required prior to drawdown. HUD review can be carried out anytime during the program year but generally HUD will review these requests as a part of the review and approval of a block grant application except those requests submitted in conjunction with grants made under the Secretary's fund for new communities. A request submitted in connection with the new communities fund is subject to the requirements of this section; however it shall be reviewed and approved by the New Communities Development Corporation, which approves and administers grants under the new communities fund. All requests for drawdown shall include:

(1) A copy of the written agreement described in paragraph (b);

(2) The reasons for the locality's belief that the agreement meets the HUD approval standards set forth in paragraph (i); and

(3) Certification, described in paragraph (i)(2)(i); where the request proposes that the benefit to be derived from lump sum drawdown qualifies under paragraph (i)(2)(i).

(i) *HUD review criteria for approval of lump sum drawdown request.* The HUD area office shall approve a request for lump sum drawdown if it determines that the funds will be deposited in one or more private financial institutions under an agreement which includes, one or more of the commitments described in paragraph (i)(1) of this section; meets the benefit tests described in paragraph (i)(2) of this section; meets the tests concerning the amount of drawdown described in paragraph (i)(3) of this section; and otherwise meets the requirements of paragraph (b) of this section. Consistent with the national goal of expanding the opportunities for minority business enterprises, the HUD area office shall encourage block grant recipients to use minority banks (a bank which is owned at least 50 percent by minority group members).

(1) *Commitments by private financial institutions.* (i) Commitment of private funds for the rehabilitation financing activities in amounts which are substantially in excess of the deposit of block grant funds;

(ii) Commitment of private funds for rehabilitation financing activities at below-market interest rates, or with longer repayment periods, or at higher risk than would normally be taken;

(iii) Provision of administrative services by the financial institutions in support of the rehabilitation financing activities at no cost or at reduced cost.

(2) *Benefit tests.* (i) *When market rate interest is payable on the rehabilitation fund*—When interest at the market rate for deposits of similar maturity and size is payable on the rehabilitation fund, the applicant must certify that the commitment under the agreement pursuant to paragraph (i)(1) provides a significant benefit meeting the needs of its rehabilitation objectives consistent with its block grant application. Such certification shall be accepted by the Area Office for the purpose of meeting the requirements of the benefits test of this paragraph in the absence of substantial evidence to the contrary.

(ii) *When market rate interest is not payable on the rehabilitation fund*—When less than the market rate interest is payable on the rehabilitation fund, the value of the benefits of the commitment under the agreement must be at least equal to the interest foregone. The comparison of the benefit and interest foregone shall be based on the following:

(A) *Estimate of foregone interest*—An estimate of the difference between the interest payable under the agreement and the amount of interest that would be earned on the estimated average monthly balance of the rehabilitation fund at the market rate for deposits of similar maturity and size.

(B) *Estimate of value of benefits*—A quantified estimate of the value of the benefits of the commitment under the agreement. For example, if as a result of the deposit the private financial institution provides free loan origination services, the benefit would be quantified as the amount of the direct fee that would otherwise have to be paid for such services.

(3) *Basis for amount of drawdown.* The amount of funds that a block grant recipient proposes to draw for deposit for a rehabilitation fund shall not exceed the amount of funds that the applicant reasonably expects will be required under the terms of the agreement during the period of the agreement and based on either:

(i) Prior level of rehabilitation activity; or

(ii) Rehabilitation staffing and management plans of the locality for the period of the agreement.

* * * * *

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–128); and section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d).)

Issued at Washington, D.C., March 21, 1979.

ROBERT C. EMBRY, Jr.,

Assistant Secretary for Community Planning and Development.

[Docket No. R-79-562]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	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 January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

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

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

12450 3–7–79 / Air quality implementation plan; Alabama

12421 3–7–79 / Air quality implementation plan; Massachusetts

FEDERAL COMMUNICATIONS COMMISSION

12194 3–6–79 / Radiotelegraphy by limited coast stations; deletion of provisions

List of Public Laws

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–375–3030).

[Last Listing Apr. 5, 1979]

H.R. 1147 / Pub. L. 96–6 To extend temporarily the authority of the Secretary of the Treasury to waive the imposition of countervailing duties. (Apr. 3, 1979; 93 Stat. 10) Price $.60.