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Tuesday
August 14, 1979

Highlights

47688 **Protection of Human Research Subjects** HEW/FDA, Sec'y proposes policy rules, requirements relating to informed consent, and standards governing institutional review boards for clinical investigations; comments by 11–12–79; hearings on 9–18, 10–2, and 10–16–79 (Part II of this issue)

47732 **Prenatal Diagnosis** HEW/Sec'y issues notices regarding safety of fetoscopy technique; comments by 10–15–79 (2 documents) (Part III of this issue)

47549 **Mortgage Financing** HUD/FHC proposes prohibiting mortgagee from disbursing loan funds to persons or organizations assisting mortgagor; comments by 10–15–79

47550 **Copyrights** Library of Congress/Copyright Office proposes rules requiring filing of statements of certain types of author information; comments by 10–1 and 10–15–79

47555 **Copyrights** Library of Congress/Copyright Office considers adopting regulations regarding claim to registration of graphic elements involved in book and printed publication design; hearing on 10–10–79; requests to testify by 9–26–79; comments by 10–5 and 11–12–79

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Highlights

47746 **Independent Contractors** Labor/MSHA proposes criteria for identification as operators under Federal Mine Safety and Health Act of 1977; comments by 10–15–79 (Part V of this issue)

47556 **International Mail** PS proposes rules governing articles mailed abroad by or on behalf of senders in the U.S.; comments by 10–12–79

47597 **International Banking** Federal Financial Institutions Examination Council publishes proposed version of quarterly report of condition to be filed by U.S. agencies and branches of foreign banks and Puerto Rican banks

47666 **U.S. Securities** Treasury/Sec'y authorizes use of stock bearing facsimile signatures of former Secretaries of the Treasury

47580 **U.S. and Foreign Air Carriers** CAB authorizes reduced-rate transportation to certain categories of persons on other than a space-available basis

47620 **Cyclamates** HEW/FDA publishes interlocutory decision relating to safe use as artificial sweetener; effective 8–14–79

47537, 47538 **Food Additives** HEW/FDA amends regulations to provide for safe use of certain chemicals as antioxidants and/or stabilizers for polymers in food-contact use; effective 8–14–79; objections by 9–13–79 (2 documents)

47618 **Drugs for Human Use** HEW/FDA classifies phendimetrazine tartrate controlled-release dosage form as effective; supplements to approved applications by 10–15–79

47548 **Drugs for Human and Veterinary Use** HEW/FDA proposes to amend regulations on certification of antibiotics and insulin regarding financial responsibility of agent; comments by 10–15–79

47736 **Improving Government Regulations** DOE publishes status reports on implementation of Executive Order 12044 and regulatory reform initiatives (Part IV of this issue)

47686 **Sunshine Act Meetings**

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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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Chapter I

AGENCY: Office of Personnel Management.

ACTION: Final rules.

SUMMARY: This document makes nomenclature and editorial changes to the Office of Personnel Management's regulations in Title 5 of the Code of Federal Regulations. These changes are necessary because of the transfer of authority from the Civil Service Commission to OPM under the Civil Service Reform Act of 1978 and Reorganization Plan No. 2 of 1978.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones (202) 254–7086.

SUPPLEMENTARY INFORMATION: Part 1 of this document contains a list of terms that will routinely be changed throughout Parts 0 through 1199 in Chapter 1 of Title 5 of the Code of Federal Regulations. Part 2 of the document contains any specific exceptions to the overall nomenclature and editorial changes.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is making the following nomenclature changes to Parts 0 through 1199 of Chapter 1 of 5 CFR:

Part I—Routine Nomenclature Changes to Parts 0—1199 of 5 CFR

Change from

United States Civil Service Commission to Office of Personnel Management;
U.S. Civil Service Commission to Office of Personnel Management;
Civil Service Commission to Office of Personnel Management;
CSC to OPM;
Commission to OPM;
Chairman of the Civil Service Commission to Director, Office of Personnel Management;
Chairman to Director;
Vice Chairman of the Civil Service Commission to Director, Office of Personnel Management;
Vice Chairman to Director;
Commissioner to Director;
Commissioners to Director;
Executive Director of the Civil Service Commission to Deputy Director, Office of Personnel Management;
Executive Director to Deputy Director;
Office of the Executive Director to Office of the Director;
Bureau of Policies and Standards to Office of Planning and Evaluation;
Bureau of Recruiting and Examining to Staffing Services Group;
Bureau of Executive Personnel to Executive Personnel and Management Development Group;
Bureau of Personnel Investigations to Staffing Services Group;
Bureau of Training to Workforce Effectiveness and Development Group;
Bureau of Retirement, Insurance and Occupational Health to Compensation Group;
Bureau of Personnel Management Information Systems to Agency Relations Group;
Bureau of Personnel Management Evaluation to Agency Relations Group;
Bureau of Intergovernmental Personnel Programs to Office of Intergovernmental Personnel Programs;
Assistant Executive Director to Assistant Director for Affirmative Employment Programs;
Director, Bureau of Recruiting and Examining to Associate Director for Staffing Services;
Director, Bureau of Policies and Standards to Director, Office of Planning and Evaluation;
Director, Bureau of Retirement, Insurance, and Occupational Health to Associate Director for Compensation;
Director, Bureau of Executive Personnel to Associate Director for Executive Personnel and Management Development;
Director, Bureau of Personnel Investigations to Associate Director for Staffing Services;
Director, Bureau of Training to Associate Director for Workforce Effectiveness and Development;
Director, Bureau of Personnel Management Information System to Associate Director for Agency Relations;
Director, Bureau of Personnel Management Evaluation to Associate Director for Agency Relations;
Director, Bureau of Management Services to Director, Office of Management;
Director, Bureau of Intergovernmental Personnel Programs to Assistant Director for Intergovernmental Personnel Programs;
Director, Office of Labor-Management Relations to Assistant Director for Labor-Management Relations;
Federal Employee Appeals Authority to Merit Systems Protection Board;
FEAA to MSPB;
Director of the Federal Employee Appeals Authority to Chair, MSPB;
Appeals Review Board to Merit Systems Protection Board;
ARB to MSPB;
Chairman of the Appeals Review Board to Chair, MSPB;
Board of Appeals and Review to Merit Systems Protection Board; and
Post Office Department to U.S. Postal Service.

Part II—Exceptions to Overall Nomenclature Changes

A. Part 293

1. In the entire part, wherever the title "Director, Bureau of Manpower Information Systems, U. S. Civil Service Commission" appears, it should be replaced with "Assistant Director of Agency Compliance and Evaluation, Office of Personnel Management."

2. Paragraph 293.102(c)(1) should be revised to read: *Grievance Records.* The Merit Systems Protection Board is now responsible for Appeal Records and the Equal Employment Opportunity Commission is now responsible for (discrimination) Complaint Records.

3. Paragraph 293.102(d)(5) should be revised to read: *Litigation Records.* The Office of Special Counsel, Merit Systems

Protection Board, is now responsible for Political Activity (Hatch Act) Records.

B. Part 297

1. In the entire part, wherever the title "Director, Bureau of Manpower Information Systems, U. S. Civil Service Commission" appears, it should be replaced with "Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management."

2. In the entire part, wherever the title "Assistant Executive Director for Freedom of Information and Privacy Act, U. S. Civil Service Commission" appears, it should be replaced with "The Office of the General Counsel, Office of Personnel Management."

3. Paragraph 297.114(b)(3) should state "Office" instead of "Commission" the first time it appears only. Where the word "Commission" appears twice again, it should remain as "Commission."

4. Paragraph 297.117(a) should continue to show "CSC–8, CSC/GOVT–4, and CSC/GOVT–5" rather than changing "CSC" to "OPM."

C. Part 302

In Paragraph 302.303(b)(2), change "Commission" to "Merit Systems Protection Board."

D. Part 315

In paragraphs 315.805(c), 315.806(a) and § 315.807, change "Commission" to "Merit Systems Protection Board."

E. Part 330

In paragraph 330.201(d), and §§ 330.202 and 303.204, change "Commission" to "Merit Systems Protection Board."

F. Part 338

In § 338.202, change "a Commission examination" to "an Office examination."

G. Part 351

In §§ 351.802, 351.804, 351.807, 351.901, and 351.902, change "Commission" to "Merit Systems Protection Board."

H. Part 352

In paragraph 352.207(b)(3), § 352.209, paragraphs 352.313 (a), (b), and (c), §§ 352.508 and 352.607, paragraph 352.705(b)(3) and § 352.707, change "Commission" to "Merit Systems Protection Board."

I. Part 353

In §§ 353.307, 353.308, 353.401, 353.403, and 353.404, change "Commission" to "Merit Systems Protection Board."

J. Part 531

1. In § 531.407(d)(3) and (e) change "Commission" to "Merit Systems Protection Board."

2. In § 531.407(e)(1) change "Commission" to "Board."

3. In § 531.407(e)(1) and (e)(2) change "office of the Commission having appellate jurisdiction" to "Board."

4. In § 531.407(f) and (g) change "Commission" to "Board."

5. In § 531.517 change "Commission" to "Merit Systems Protection Board."

6. In § 531.517 (a) and (b) change "Commission" to "Board."

7. In § 531.517 (c)(1) and (c)(2) change "office of the Commission having appellate jurisdiction" to "Board."

8. In § 532.703(g) change "Commissioners may in their" to "Director may, in his or her."

9. In § 532.703(g)(3) change "Commissioners" to "Director."

K. Part 720

In the entire part, the term "Commission" (which refers to the Equal Employment Opportunity Commission), should remain as it is in the regulations and Appendix to the regulations.

L. Part 731

1. In Subpart C, paragraph 731.302(d), change the second "Commission" in the paragraph to "Merit Systems Protection Board."

2. In Subpart D, change the title from "Commission's Federal Employee Appeals Authority" to "Merit Systems Protection Board."

3. In § 731.401 change "Appeals Authority" to "MSPB."

4. In § 731.402(a) change "Appeals Authority" to "MSPB."

5. In § 731.402 (a) and (b) change "board" to "MSPB."

M. Part 754

1. In § 754.101(a) change "Director of the Commission's Bureau of Personnel Investigations" to "Associate Director for Staffing Services."

2. In §§ 754.102, 754.103, 754.104, and 754.105 change "Director" to "Associate Director."

N. Part 771

1. In § 771.106(b) change "Assistant Secretary of Labor" to "Federal Labor Relations Authority."

2. In § 771.103(b), the term "Commission" (which refers to the "Nuclear Regulatory Commission") should remain unchanged.

3. In §§ 771.106(a) and 771.108(b)(4), change "Executive Order 11491, as amended" to "Chapter 71 of title 5, United States Code."

4. In § 771.109 (a) and (b)(2), change "Part 713 of this chapter" to "Part 1613 of Title 29, Code of Federal Regulations."

O. Part 900

1. For entire Part (except where otherwise noted below) change "Commission" to "Office of Personnel Management."

2. In Subpart B, § 900.204(d)(2) change the word "its" to "his/her" and change "Commission" to "Director, Office of Personnel Management."

3. In § 900.204 (b) (2), (3), (g) (1), (2), (3), (4), and (5), change "Commission" to "Director, Office of Personnel Management" except: the last use of "Commission" in paragraph (g)(2) and the first use of "Commission" in paragraph (g)(5). Also, in § 900.204(g)(2), in the second sentence, substitute "his/her" for "its"; also, for the term "it", substitute "he/she." In the third sentence of paragraph (g)(2), replace "its" with "his/her." In the last sentence of paragraph (h)(2) substitute "he/she" for "it."

4. In Subpart C, § 900.301(a) change "Commission" to "Office of Personnel Management."

5. In Subpart D, § 900.407(b) replace the first use of the word "Commission" with "Director, Office of Personnel Management."

6. In § 900.408(c)(3), change "Commission" to "Office of Personnel Management."

7. In § 900.409(b), change "Commission" to "Director, Office of Personnel Management" the first time it is used in the second sentence. Also, in the second sentence, change "its" to "his/her."

8. In § 900.410(a), in the third sentence change "it" to "he/she", and change "its" to "his/her." Except for the last use of the word "Commission" in this paragraph, the term "Commission" should be changed to "Director, Office of Personnel Management."

9. In § 900.410 (b), (c), (d), change "Commission" to "Office of Personnel Management."

10. In § 900.410(e), the second and third times that the term "Commission" is used in this part substitute "Director, Office of Personnel Management."

11. In § 900.410(g)(2), change "Commission" to "Director, Office of Personnel Management" throughout the paragraph. Also, in the last sentence, replace "it" with "he/she."

12. In § 900.412(c), change "Commission" to "Director, Office of

Personnel Management" the first time it appears.

(5 U.S.C. 1101 note)

[FR Doc. 79-25033 Filed 8-13-79; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 1001

Employee Responsibilities and Conduct

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Subpart D of Part 1001 contains a list of those officials of the former U.S. Civil Service Commission who were required to file statements of employment and financial interests under Executive Order 11222 of May 8, 1965 (30 FR 6469). Reorganization into the Office of Personnel Management has changed the title, and in some cases, the requirements of many of these positions for which incumbents were required to file financial statements. In addition, employees in positions covered under the financial reporting requirements of the Ethics In Government Act of 1978, P.L. 95-521, need not file reports under Executive Order 11222. Changes have been made so that only those OPM officials required to file statements of employment and financial interests under Executive Order 11222 are listed.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Llewellyn M. Fischer, Ethics Counsel, Office of the General Counsel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, (202) 632-5524.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Subpart D—Statements of Employment and Financial Interests

Accordingly, Subpart D of Part 1001 is amended by revising § 1001.735-401 to read as follows:

§ 1001.735-401 Employees required to submit statements.

The following employees shall submit statements of employment and financial interests in accordance with §§ 1001.735-402 through 1001.735-411:

(a) *Office of Management.* (1) Chief, Office Services Division.

(2) Chief, Procurement and Property Section.

(3) Chief, Procurement Unit.

(4) Chief, Procurement and Property Services Unit.

(5) Chief, Publications Section.

(6) Chief, Printing Management Unit.

(7) Chief, Budget and Finance Division.

(8) Assistant Chief, Budget and Finance Division.

(9) Chief, ADP Division.

(10) Chief, Data Center Operations Section.

(11) Chief, Information Technology Section.

(12) Chief, Application Development Section.

(b) *Office of Intergovernmental Personnel Programs.* (1) Deputy Assistant Director for Personnel Management Assistance.

(2) Personnel Management Specialists or Program Analysts, GS-13 and above, who as a significant part of their duties have responsibility for the management of national discretionary grants.

(c) *Compensation Group.* (1) Deputy Assistant Director for Retirement Programs.

(2) Director, Office of Legislative and Regulatory Analysis.

(3) Director, Office of Automated Systems Development.

(4) Director, Office of Program Management.

(5) Director, Office of Fiscal Control and Audit.

(6) Auditors (Financial Activities), GS-13 and GS-14, Office of Fiscal Control and Audit.

(d) *Workforce Effectiveness and Development Group.* (1) Chief, Research and Development Division.

(2) Director, Automatic Data Processing Training Center.

(3) Director, Communications and Office Skills Training Center.

(4) Chief, Training Information and Coordination Division.

(5) Director, Office of Management Support.

(e) *Executive Personnel and Management Development Group.* (1) Director, Office of Administrative Law Judges.

(2) Directors, Executive Seminar Centers.

(f) *Staffing Services Group.* (1) Director, Staffing Service Center (Macon, GA).

(2) Chief, Policy Analysis and Development Office.

(3) Chief, Examination Planning Section.

(4) Chief, Systems Development and Maintenance Branch.

(5) Chief, Recruiting and Job Information Section.

(6) Chief, Student Programs Section.

(g) *Regional Offices.* (1) Chiefs, Intergovernmental Personnel Programs Divisions (IPPD).

(2) Assistant Chiefs, IPPD.

(3) Chiefs, Grants Branch, IPPD.

(4) Chiefs, Merit Systems and Technical Assistance Branch, IPPD.

(5) Regional IPP Specialists, GS-13 and above.

(6) Occupational Health Representatives.

[FR Doc. 79-24969 Filed 8-13-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 417

Sugarcane Crop Insurance Regulations: Corrections

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Corrections of Omission Errors.

SUMMARY: This action corrects two omissions in the Sugarcane Crop Insurance Regulations as published in the **Federal Register** on Thursday, June 21, 1979 (44 FR 36161), as Final Rule.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325. On June 8, 1979, the Board of Directors of the Federal Crop Insurance Corporation adopted regulations for insuring sugarcane crops effective with the 1980 and succeeding crop years. These regulations were published in the **Federal Register** as a final rule on June 21, 1979 (44 FR 36161). Two omissions were noted and are hereby corrected, as follows:

1. On page 36164, section 8(b)(2) is corrected to read "subtracting therefrom the total production of standard sugarcane to be counted for the unit."

2. On page 36165, section 1(k) of the Appendix is corrected to read "'Standard sugarcane' means net sugarcane containing the percent sucrose in the normal juice or in the cane and, where applicable, the percent purity factor in normal juice as shown on the actuarial table."

Dated: August 8, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-25014 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Stabilization and Conservation Service

7 CFR Part 781

Disclosure of Foreign Investment in Agricultural Land; Corrections and Interpretations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Corrections and interpretations.

SUMMARY: This corrects certain inaccuracies in and supplies certain interpretations to the final rule concerning disclosure of foreign investment in U.S. agricultural land published in the **Federal Register** on May 18, 1979 (44 FR 29029). The first interpretation is added in order to indicate when a U.S. legal entity holding, acquiring, or transferring U.S. agricultural land is considered to have 5 percent or more of its total ownership interest held, indirectly, by foreign individuals, foreign governments, or other foreign legal entities. The second interpretation provides some indication as to what efforts a U.S. legal entity holding, acquiring, or transferring U.S. agricultural land must undertake in order to satisfy the Agricultural Stabilization and Conservation Service that it has attempted to determine whether foreign persons hold, directly or indirectly, 5 percent or more of its total ownership interest. These interpretive rules should assist the public in attempting to decide whether a reporting obligation exists.

FOR FURTHER INFORMATION CONTACT: George M. Nelson, Jr., Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–4541.

In FR Doc. 79–15373 appearing at page 29029 in the **Federal Register** of Friday, May 18, 1979, the following corrections should be made and the following interpretations should be added:

§ 781.2 [Amended]

1. On page 29031, § 781.2(f) is corrected by deleting "(f)(1)" and inserting in lieu thereof "(g)(1)."

2. On page 29032, § 781.2(g) *Interpretation* is corrected by deleting "§ 781.4(f)(4)(ii)(d)" and inserting in lieu thereof "§ 781.2(g)(4)(ii)(d)."

3. On page 29032, following the *Interpretation* at the end of § 781.2(g), add:

Interpretation

In a case where one or more legal entitites intervene between the interest holding foreign person(s) and the legal entity actually holding the U.S. agricultural land, then such foreign person(s) will be said to indirectly hold significant interest or substantial control pursuant to § 781.2(g)(4)(ii) in the land holding entity only if each of the legal entities intervening between the legal entity in which the foreign person(s) hold significant interest or substantial control, hold, themselves, five percent or more interest in each succeeding intervening legal entity or, if when taken together with holdings by other foreign persons, the total amount of interest held in each succeeding intervening entity is five percent or more.

§ 781.3 [Amended]

4. On page 29032, § 781.3(b)(7)(i), the first line is corrected by deleting the word "and" and inserting in lieu thereof the word "land."

5. On page 39033, following § 781.3, add:

Interpretation

1. Any legal entity which has issued fewer than 100,000 shares of common and preferred stock, and instruments convertible into equivalents thereof, shall be considered to have satisfactorily determined whether it has an obligation to file a report pursuant to § 781.3 if, in addition to information within its knowledge, a quarterly examination of its business records fails to reveal that entities with foreign mailing addresses hold five percent or more interest in such legal entity.

2. Any legal entity which has issued 100,000 or more shares of common and preferred stock, and instruments convertible into equivalents thereof, shall be considered to have satisfactorily determined whether it has an obligation to file a report pursuant to § 781.3 if, in addition to information within its knowledge, a quarterly examination of its business records fails to reveal that the percentage of shares held in such legal entity both by entities with foreign mailing addresses and investment institutions which manage shares does not equal or exceed five percent interest in such legal entity.

3. If the legal entity in paragraph 2 above determines that the percentage of shares, held in it both by entities with foreign mailing addresses and investment institutions which manage shares, equals or exceeds five percent interest, then such legal entity shall be considered to have satisfactorily attempted to determine whether it has an obligation to file a report pursuant to § 781.3 if it sends questionnaires to each such investment institution holding an interest in it inquiring as to whether the entities for which they are investing are foreign persons and the percentage of shares reflected by the affirmative responses form each such investment institution plus the percentage of shares held by entities listed on the business records with foreign mailing addresses does not reveal that foreign persons hold five percent or more interest in such legal entity.

6. On page 29033, following § 781.4, delete the final paragraph and insert in lieu thereof the following paragraph:

The reporting and recordkeeping requirements contained in the revision published on May 18, 1979, (44 FR 29029) were approved by the Office of Management and Budget on July 9, 1979.

(Secs. 1–10, 92 Stat. 1266 (7 U.S.C. 3501 *et seq*).)

Signed at Washington, D.C., on August 6, 1979.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79–24989 Filed 8–13–79; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

7 CFR Part 1421

[CCC Grain Price Support Regs., 1979 Crop Wheat Supplement]

1979 Crop Wheat Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the (1) Final loan and purchase availability dates, (2) maturity dates, and (3) county loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1979 crop wheat. This rule is needed in order to provide a price support program for wheat. This rule will enable eligible wheat producers to obtain loans and purchases on their eligible 1979 crop wheat.

EFFECTIVE DATE: August 14, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3727 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Merle Strawderman, ASCAS, (202) 447–7973.

SUPPLEMENTARY INFORMATION: A notice of determination was published in the **Federal Register** on August 18, 1978, 43 FR 36665 stating that the 1979 crop wheat loan and purchase level shall be $2.35 per bushel, the same as for the 1978 crop. It was determined that this level was appropriate, taking into consideration competitive world prices of wheat and the feeding value of wheat in relation to feed grains, and that it will maintain the competitive relationship of wheat to other grains in domestic and export markets.

Producers who wish to secure loans can do so by contacting their local Agricultural Stabilization and Conservation Service county office or Agricultural Service Center.

Final Rule

The General Regulations Governing Price Support for 1978 and Subsequent Crops, and any amendments thereto, and the 1978 and Subsequent Crops Wheat Loan and Purchase Regulations, and any amendments thereto in Part 1421 are further supplemented for the 1979 crop of wheat. Accordingly, the regulations in 7 CFR 1421.485 through 1421.489 and the title of the subpart are revised to read as provided below effective as to the 1979 crop of wheat. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1979 Crop Wheat Loan and Purchase Program

Sec.

1421.485 Purpose.
1421.486 Availability.
1421.487 Maturity of loans.
1421.488 Ineligible classes.
1421.489 Warehouse charges.
1421.490 Loan and purchase rates, premiums and discounts.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 107A, 401, 63 Stat. 1051, as amended (7 U.S.C. 1445b, 1421).

Subpart—1979 Crop Wheat Loan and Purchase Program

§ 1421.485 Purpose.

This supplement contains additional program provisions which together with the provisions of the General Regulations Governing Price Support for the 1978 and Subsequent Crops, the 1978 and Subsequent Crops Wheat Loan and Purchase Program regulations, and any amendments thereto, apply to loans on and purchases of the 1979 crop of wheat.

§ 1421.486 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1979 crop of eligible wheat on or before March 31, 1980.

(b) *Purchases.* A producer desiring to offer eligible 1979 crop wheat not under loan for purchase must execute and deliver to the county ASC office on or before March 31, 1980, a Purchase Agreement (Form CCC–614) indicating the approximate quantity of 1979 crop wheat the producer will sell to CCC.

§ 1421.487 Maturity of loans.

Loans mature on demand but not later than the last day of the ninth calendar month following the month in which the loan is disbursed.

§ 1421.488 Ineligible classes.

Unclassed wheat which includes red durum shall not be eligible for loan or purchase.

§ 1421.489 Warehouse charges.

If storage is not provided for through loan maturity the county office shall deduct storage charges at the daily storage rate for the storing warehouse times the number of days from the date the commodity was received or date through which storage has been provided for to the maturity date.

§ 1421.490 Loan and purchase rates.

(a) *Basic loan and purchase rates (counties).* Basic rates per bushel for loan and settlement purposes for wheat are established for wheat grading U.S. No. 1 and are as follows:

1979—Crop Wheat Loan and Purchase Rates

County	Rate per bushel
ALABAMA	
Mobile	$2.46
All other counties	2.27
Wght. State Avg.	2.27
ARIZONA	
All counties	2.37
ARKANSAS	
All counties	2.28
CALIFORNIA	
Alameda	2.53
Alpine	2.35
Amador	2.48
Butte	2.42
Calaveras	2.48
Colusa	2.47
Contra Costa	2.48
El Dorado	2.47
Fresno	2.43
Glenn	2.41
Humbolt	2.30
Imperial	2.45
Inyo	2.41
Kern	2.48
Kings	2.45
Lake	2.41
Lassen	2.30
Los Angeles	2.53
Madera	2.46
Marin	2.46
Mariposa	2.46
Mendocino	2.35
Merced	2.49
Modoc	2.30
Monterey	2.43
Napa	2.47
Orange	2.53
Placer	2.47
Plumas	2.30
Riverside	2.45
Sacramento	2.53
San Benito	2.46
San Bernardino	2.54
San Diego	2.53
San Francisco	2.53
San Joaquin	2.53
San Luis Obispo	2.42
San Mateo	2.53
Santa Barbara	2.43
Santa Clara	2.47
Santa Cruz	2.48
Shasta	2.31
Sierra	2.32
Siskiyou	2.30
Solano	2.48
Sonoma	2.45
Stantislaus	2.50
Sutter	2.47
Tehama	2.37
Tulare	2.45
Tuolumne	2.46
Ventura	2.50
Yolo	2.48
Yuba	2.47
Wght. State Avg	2.46
COLORADO	
Adams	2.17
Alamosa	2.14
Arapahoe	2.17
Archuleta	2.11
Baca	2.21
Bent	2.17
Boulder	2.16
Chaffee	2.14
Cheyenne	2.18
Conejos	2.14
Costilla	2.14
Crowley	2.17
Custer	2.16
Delta	2.08
Denver	2.17
Dolores	2.08
Douglas	2.17
Eagle	2.11
Elbert	2.17
El Paso	2.17
Fremont	2.16
Garfield	2.11
Grand	2.14
Huerfano	2.18
Jackson	2.14
Jefferson	2.16
Kiowa	2.18
Kit Carson	2.18
La Plata	2.08
Larimer	2.17
Las Animas	2.20
Lincoln	2.17
Logan	2.17
Mesa	2.08
Moffat	2.14
Montezuma	2.08
Montrose	2.08
Morgan	2.17
Otero	2.17
Ouray	2.08
Phillips	2.17
Pitkin	2.08
Prowers	2.19
Pueblo	2.17
Rio Blanco	2.11
Rio Grande	2.14
Routt	2.14
Saguache	2.14
San Miguel	2.08
Sedgwick	2.17
Summit	2.11
Teller	2.16
Washington	2.17
Weld	2.17
Yuma	2.18
Wght. State Avg	2.17
CONNECTICUT	
All counties	2.29
DELAWARE	
All counties	2.32
FLORIDA	
All counties	2.26
GEORGIA	
All counties	2.26
IDAHO	
Ada	2.31
Adams	2.31
Bannock	2.29
Bear Lake	2.27
Benewah	2.41
Bingham	2.27
Blaine	2.27
Boise	2.31
Bonner	2.34
Bonneville	2.26
Boundary	2.32
Butte	2.26
Camas	2.28
Canyon	2.31
Caribou	2.28
Cassia	2.30
Clark	2.24
Clearwater	2.40
Custer	2.26

IDAHO —Continued

County	Rate per bushel
Elmore	2.30
Franklin	2.30
Fremont	2.25
Gem	2.31
Gooding	2.31
Idaho	2.39
Jefferson	2.26
Jerome	2.31
Kootenai	2.39
Latah	2.42
Lemhi	2.26
Lewis	2.41
Lincoln	2.30
Madison	2.26
Minidoka	2.30
Nez Perce	2.44
Oneida	2.30
Owyhee	2.30
Payette	2.31
Power	2.30
Shoshone	2.40
Teton	2.25
Twin Falls	2.31
Valley	2.30
Washington	2.31
Wght. State Avg	2.32

ILLINOIS

Adams	2.30
Alexander	2.33
Bond	2.36
Boone	2.38
Brown	2.30
Bureau	2.36
Calhoun	2.37
Carroll	2.35
Cass	2.32
Chanpaign	2.36
Christian	2.34
Clark	2.32
Clay	2.32
Clinton	2.36
Coles	2.32
Cook	2.38
Crawford	2.31
Cumberland	2.32
De Kalb	2.38
DeWitt	2.32
Douglas	2.33
DuPage	2.38
Edgar	2.34
Edwards	2.32
Effingham	2.34
Fayette	2.35
Ford	2.36
Franklin	2.36
Fulton	2.34
Gallatin	2.29
Greene	2.36
Grundy	2.38
Hamilton	2.30
Hancock	2.30
Hardin	2.29
Henderson	2.32
Henry	2.35
Iroquois	2.38
Jackson	2.35
Jasper	2.31
Jefferson	2.36
Jersey	2.37
Jo Daviess	2.35
Johnson	2.33
Kane	2.38
Kankakee	2.38
Kendall	2.38
Knox	2.34
Lake	2.38
La Salle	2.38
Lawrence	2.31
Lee	2.37
Livingston	2.37
Logan	2.32
McDonough	2.32
McHenry	2.38
McLean	2.34
Macon	2.32
Macoupin	2.36
Madison	2.37
Marion	2.36
Marshall	2.35
Mason	2.30
Massac	2.32
Menard	2.30
Mercer	2.34
Monroe	2.37
Montgomery	2.36

ILLINOIS —Continued

County	Rate per bushel
Morgan	2.34
Moultire	2.33
Ogle	2.36
Peoria	2.34
Perry	2.36
Piatt	2.32
Pike	2.31
Pope	2.30
Pulaski	2.33
Putnam	2.35
Randolph	2.37
Richland	2.31
Rock Island	2.35
Saint Clair	2.37
Saline	2.30
Sangamon	2.34
Schuyler	2.30
Scott	2.32
Shelby	2.34
Stark	2.34
Stephenson	2.37
Tazewell	2.32
Union	2.33
Vermilion	2.37
Wabash	2.31
Warren	2.34
Washington	2.36
Wayne	2.32
White	2.29
Whiteside	2.36
Will	2.38
Williamson	2.34
Winnebago	2.37
Woodford	2.34
Wght. State Avg	2.34

INDIANA

Adams	2.31
Allen	2.31
Bartholomew	2.31
Benton	2.36
Blackford	2.31
Boone	2.30
Brown	2.31
Carroll	2.34
Cass	2.34
Clark	2.36
Clay	2.32
Clinton	2.30
Crawford	2.36
Daviess	2.32
Dearborn	2.31
Decatur	2.31
De Kalb	2.31
Delaware	2.31
Dubois	2.33
Elkhart	2.33
Fayette	2.31
Floyd	2.36
Fountain	2.34
Franklin	2.31
Fulton	2.34
Gibson	2.31
Grant	2.30
Greene	2.32
Hamilton	2.31
Hancock	2.31
Harrison	2.36
Hendricks	2.30
Henry	2.31
Howard	2.30
Huntington	2.30
Jackson	2.32
Jasper	2.37
Jay	2.31
Jefferson	2.34
Jennings	2.32
Johnson	2.30
Knox	2.31
Kosciusko	2.34
Lagrange	2.30
Lake	2.38
La Porte	2.38
Lawrence	2.32
Madison	2.31
Marion	2.31
Marshall	2.34
Martin	2.32
Miami	2.30
Monroe	2.31
Montgomery	2.32
Morgan	2.30
Newton	2.37
Noble	2.31
Ohio	2.31
Orange	2.34

INDIANA —Continued

County	Rate per bushel
Owen	2.31
Parke	2.34
Perry	2.32
Pike	2.32
Porter	2.38
Posey	2.29
Pulaski	2.37
Putnam	2.30
Randolph	2.31
Ripley	2.31
Rush	2.31
Saint Joseph	2.36
Scott	2.34
Selby	2.31
Spencer	2.32
Starke	2.37
Steuben	2.31
Sullivan	2.32
Switzerland	2.32
Tippecanoe	2.33
Tipton	2.30
Union	2.31
Vanderburgh	2.31
Vermillion	2.34
Vigo	2.33
Wabash	2.30
Warren	2.36
Warrick	2.32
Washington	2.34
Wayne	2.31
Wells	2.31
White	2.36
Whitley	2.30
Wght. State Avg	2.32

IOWA

Pottawattamie	2.41
All other counties	2.30
Wght. State Avg	2.30

KANSAS

Allen	2.36
Anderson	2.39
Atchison	2.41
Barber	2.25
Barton	2.25
Bourbon	2.37
Brown	2.39
Butler	2.29
Chase	2.32
Chautauqua	2.32
Cherokee	2.34
Cheyenne	2.18
Clark	2.22
Clay	2.30
Cloud	2.30
Coffey	2.37
Comanche	2.23
Cowley	2.29
Crawford	2.35
Decatur	2.22
Dickinson	2.29
Doniphan	2.39
Douglas	2.40
Edwards	2.25
Elk	2.32
Ellis	2.25
Ellsworth	2.28
Finney	2.22
Ford	2.23
Franklin	2.40
Geary	2.32
Gove	2.22
Graham	2.24
Grant	2.20
Gray	2.22
Greeley	2.18
Greenwood	2.32
Hamilton	2.19
Harper	2.27
Harvey	2.28
Haskell	2.21
Hodgeman	2.24
Jackson	2.38
Jefferson	2.40
Jewell	2.29
Johnson	2.41
Kearny	2.20
Kingman	2.28
Kiowa	2.25
Labette	2.34
Lane	2.22
Leavenworth	2.41
Lincoln	2.28
Linn	2.39
Logan	2.19

KANSAS—Continued

County	Rate per bushel
Lyon	2.34
McPherson	2.28
Marion	2.28
Marshall	2.34
Meade	2.22
Miami	2.40
Mitchell	2.28
Montgomery	2.34
Morris	2.32
Morton	2.21
Nemaha	2.36
Neosho	2.35
Ness	2.24
Norton	2.24
Osage	2.37
Osborne	2.28
Ottawa	2.29
Pawnee	2.25
Phillips	2.25
Pottawatomie	2.36
Pratt	2.25
Rawlins	2.20
Reno	2.28
Republic	2.30
Rice	2.28
Riley	2.34
Rooks	2.26
Rush	2.25
Russell	2.26
Saline	2.29
Scott	2.20
Sedgwick	2.28
Seward	2.21
Shawnee	2.38
Sheridan	2.22
Sherman	2.18
Smith	2.28
Stafford	2.25
Stanton	2.19
Stevens	2.21
Sumner	2.28
Thomas	2.20
Trego	2.24
Wabaunsee	2.35
Wallace	2.18
Washington	2.32
Wichita	2.19
Wilson	2.34
Woodson	2.35
Wyandotte	2.41
Wght. State Avg	2.26

KENTUCKY

Jefferson	2.37
All other counties	2.29
Wght. State Avg	2.29

LOUISIANA

East Baton Rouge	2.47
Jefferson	2.47
Orleans	2.47
Saint Charles	2.47
West Baton Rouge	2.47
All Other counties	2.32
Wght. State Avg	2.32

MAINE

All counties	2.26

MARYLAND

Baltimore	2.45
All other counties	2.32
Wght. State Avg	2.32

MASSACHUSETTS

All counties	2.28

MICHIGAN

Alcona	2.21
Alger	2.22
Allegan	2.30
Alpena	2.18
Antrim	2.18
Arenac	2.22
Baraga	2.22
Barry	2.29
Bay	2.26
Benzie	2.21
Berrien	2.34
Branch	2.31
Calhoun	2.30
Cass	2.31
Charlevoix	2.17
Cheboygan	2.17
Chippewa	2.22
Clare	2.24
Clinton	2.27
Crawford	2.21
Delta	2.22

MICHIGAN—Continued

County	Rate per bushel
Dickinson	2.22
Eaton	2.29
Emmet	2.15
Genesee	2.29
Gladwin	2.24
Gogebic	2.22
Grand Traverse	2.21
Gratiot	2.27
Hillsdale	2.32
Houghton	2.22
Huron	2.28
Ingham	2.29
Ionia	2.27
Iosco	2.22
Iron	2.22
Isabella	2.26
Jackson	2.30
Kalamazoo	2.30
Kalkaska	2.21
Kent	2.27
Keweenaw	2.22
Lake	2.23
Lapeer	2.29
Leelanau	2.20
Lenawee	2.33
Livingston	2.30
Luce	2.22
Mackinac	2.22
Macomb	2.32
Manistee	2.22
Marquette	2.22
Mason	2.25
Mecosta	2.26
Menominee	2.22
Midland	2.26
Missaukee	2.21
Monroe	2.35
Montcalm	2.27
Montmorency	2.18
Muskegon	2.27
Newaygo	2.25
Oakland	2.32
Oceana	2.25
Ogemaw	2.22
Ontonagon	2.22
Osceola	2.23
Oscoda	2.21
Otsego	2.18
Ottawa	2.27
Presque Isle	2.17
Roscommon	2.21
Saginaw	2.29
Saint Clair	2.32
Saint Joseph	2.31
Sanilac	2.29
Schoolcraft	2.22
Shiawassee	2.29
Tuscola	2.29
Van Buren	2.30
Washtenaw	2.32
Wayne	2.32
Wexford	2.21
Wght. State Avg	2.29

MINNESOTA

Aitkin	2.53
Anoka	2.53
Becker	2.43
Beltrami	2.46
Benton	2.52
Big Stone	2.44
Blue Earth	2.51
Brown	2.51
Carlton	2.53
Carver	2.53
Cass	2.49
Chippewa	2.47
Chisago	2.53
Clay	2.41
Clearwater	2.45
Cottonwood	2.48
Crow Wing	2.51
Dakota	2.53
Dodge	2.53
Douglas	2.48
Faribault	2.50
Fillmore	2.49
Freeborn	2.49
Goodhue	2.53
Grant	2.46
Hennepin	2.53
Houston	2.46
Hubbard	2.46
Isanti	2.53
Itasca	2.51
Jackson	2.47

MINNESOTA—Continued

County	Rate per bushel
Kanabec	2.52
Kandiyohi	2.51
Kittson	2.37
Koochiching	2.47
Lac Qui Parle	2.45
Lake of the Woods	2.41
Le Sueur	2.53
Lincoln	2.43
Lyon	2.46
McLeod	2.53
Mahnomen	2.43
Marshall	2.40
Martin	2.49
Meeker	2.53
Mille Lacs	2.52
Morrison	2.51
Mower	2.51
Murray	2.46
Nicollet	2.53
Nobles	2.45
Norman	2.41
Olmsted	2.51
Otter Tail	2.46
Pennington	2.42
Pine	2.52
Pipestone	2.43
Polk	2.42
Pope	2.49
Ramsey	2.53
Red Lake	2.42
Redwood	2.49
Renville	2.51
Rice	2.53
Rock	2.43
Roseau	2.38
Saint Louis	2.53
Scott	2.53
Sherburne	2.53
Sibley	2.53
Stearns	2.51
Steele	2.51
Stevens	2.47
Swift	2.47
Todd	2.49
Traverse	2.43
Wabasha	2.52
Wadena	2.47
Waseca	2.52
Washington	2.53
Watonwan	2.50
Wilkin	2.43
Winona	2.50
Wright	2.53
Yellow Medicine	2.47
Wght. State Avg	2.44

MISSISSIPPI

Harrison	2.47
Jackson	2.47
All other counties	2.28
Wght. State Avg	2.28

MISSOURI

Adair	2.27
Andrew	2.39
Atchison	2.34
Audrain	2.32
Barry	2.29
Barton	2.33
Bates	2.37
Benton	2.33
Bollinger	2.32
Boone	2.29
Buchanan	2.41
Butler	2.31
Caldwell	2.38
Callaway	2.32
Camden	2.30
Cape Girardeau	2.33
Carroll	2.36
Carter	2.29
Cass	2.39
Cedar	2.32
Chariton	2.33
Christian	2.26
Clark	2.28
Clay	2.39
Clinton	2.39
Cole	2.30
Cooper	2.30
Crawford	2.32
Dade	2.31
Dallas	2.28
Daviess	2.36
De Kalb	2.38
Dent	2.30

MISSOURI—Continued

County	Rate per bushel
Douglas	2.25
Dunklin	2.32
Franklin	2.36
Gasconade	2.34
Gentry	2.35
Greene	2.28
Grundy	2.33
Harrison	2.35
Henry	2.36
Hickory	2.33
Holt	2.37
Howard	2.32
Howell	2.23
Iron	2.32
Jackson	2.41
Jasper	2.32
Jefferson	2.35
Johnson	2.37
Knox	2.27
Laclede	2.27
Lafayette	2.39
Lawrence	2.29
Lewis	2.29
Lincoln	2.36
Linn	2.33
Livingston	2.35
McDonald	2.29
Macon	2.30
Madison	2.32
Maries	2.32
Marion	2.31
Mercer	2.32
Miller	2.29
Mississippi	2.34
Moniteau	2.30
Monroe	2.31
Montgomery	2.34
Morgan	2.31
New Madrid	2.34
Newton	2.29
Nodaway	2.37
Oregon	2.27
Osage	2.31
Ozark	2.24
Pemiscot	2.32
Perry	2.33
Pettis	2.33
Phelps	2.30
Pike	2.34
Platte	2.39
Polk	2.31
Pulaski	2.28
Putnam	2.29
Ralls	2.32
Randolph	2.30
Ray	2.39
Reynolds	2.30
Ripley	2.29
Saint Charles	2.37
Saint Clair	2.34
Saint Francois	2.33
Sainte Genevieve	2.34
Saint Louis	2.37
Saline	2.34
Schuyler	2.25
Scotland	2.25
Scott	2.34
Shannon	2.27
Shelby	2.30
Stoddard	2.33
Stone	2.29
Sullivan	2.30
Taney	2.26
Texas	2.26
Vernon	2.35
Warren	2.36
Washington	2.33
Wayne	2.31
Webster	2.27
Worth	2.35
Wright	2.27
Wght. State Avg	2.34

MONTANA

Beaverhead	2.23
Big Horn	2.24
Blaine	2.25
Broadwater	2.29
Carbon	2.25
Carter	2.25
Cascade	2.28
Chouteau	2.28
Custer	2.24
Daniels	2.23
Dawson	2.25
Deer Lodge	2.30

MONTANA—Continued

County	Rate per bushel
Fallon	2.28
Fergus	2.27
Flathead	2.31
Gallatin	2.30
Garfield	2.23
Glacier	2.28
Golden Valley	2.27
Granite	2.30
Hill	2.26
Jefferson	2.30
Judith Basin	2.27
Lake	2.30
Lewis and Clark	2.28
Liberty	2.27
Lincoln	2.31
McCone	2.24
Madison	2.30
Meagher	2.28
Mineral	2.30
Missoula	2.30
Musselshell	2.25
Park	2.29
Petroleum	2.25
Phillips	2.24
Pondera	2.28
Powder River	2.24
Powell	2.30
Prairie	2.25
Ravalli	2.28
Richland	2.25
Roosevelt	2.24
Rosebud	2.23
Sanders	2.30
Sheridan	2.24
Silver Bow	2.30
Stillwater	2.27
Sweet Grass	2.28
Teton	2.28
Toole	2.27
Treasure	2.24
Valley	2.23
Wheatland	2.28
Wibaux	2.26
Yellowstone	2.25
Wght. State Avg	2.26

NEBRASKA

Adams	2.28
Antelope	2.36
Arthur	2.19
Banner	2.16
Blaine	2.26
Boone	2.36
Box Butte	2.16
Boyd	2.33
Brown	2.26
Buffalo	2.29
Burt	2.41
Butler	2.38
Cass	2.40
Cedar	2.37
Chase	2.18
Cherry	2.22
Cheyenne	2.16
Clay	2.29
Colfax	2.38
Cuming	2.40
Custer	2.26
Dakota	2.40
Dawes	2.16
Dawson	2.28
Deuel	2.17
Dixon	2.37
Dodge	2.40
Douglas	2.41
Dundy	2.18
Fillmore	2.31
Franklin	2.26
Frontier	2.21
Furnas	2.24
Gage	2.34
Garden	2.17
Garfield	2.30
Gosper	2.24
Grant	2.19
Greeley	2.32
Hall	2.30
Hamilton	2.32
Harlan	2.25
Hayes	2.20
Hitchcock	2.20
Holt	2.33
Hooker	2.20
Howard	2.30
Jefferson	2.33
Johnson	2.34

NEBRASKA—Continued

County	Rate per bushel
Kearney	2.26
Keith	2.19
Keya Paha	2.28
Kimball	2.16
Knox	2.36
Lancaster	2.37
Lincoln	2.23
Logan	2.23
Loup	2.26
McPherson	2.22
Madison	2.36
Merrick	2.33
Morrill	2.16
Nance	2.34
Nemaha	2.34
Nuckolls	2.28
Otoe	2.37
Pawnee	2.36
Perkins	2.18
Phelps	2.25
Pierce	2.36
Platte	2.36
Polk	2.35
Red Willow	2.21
Richardson	2.37
Rock	2.29
Saline	2.33
Sarpy	2.41
Saunders	2.40
Scotts Bluff	2.16
Seward	2.36
Sheridan	2.17
Sherman	2.29
Sioux	2.14
Stanton	2.38
Thayer	2.31
Thomas	2.23
Thurston	2.40
Valley	2.29
Washington	2.41
Wayne	2.37
Webster	2.28
Wheeler	2.32
York	2.33
Wght. State Avg	2.24

NEVADA

All counties	2.31

NEW HAMPSHIRE

All counties	2.28

NEW JERSEY

All counties	2.32

NEW MEXICO

All counties	2.34

NEW YORK

Albany	2.45
New York City	2.45
All other counties	2.30
Wght. State Avg	2.30

NORTH CAROLINA

All counties	2.26

NORTH DAKOTA

Adams	2.25
Barnes	2.38
Benson	2.31
Billings	2.24
Bottineau	2.25
Bowman	2.25
Burke	2.23
Burleigh	2.29
Cass	2.40
Cavalier	2.32
Dickey	2.38
Divide	2.22
Dunn	2.25
Eddy	2.34
Emmons	2.32
Foster	2.35
Golden Valley	2.24
Grand Forks	2.39
Grant	2.27
Griggs	2.38
Hettinger	2.25
Kidder	2.32
La Moure	2.36
Logan	2.34
McHenry	2.26
McIntosh	2.34
McKenzie	2.23
McLean	2.25
Mercer	2.25
Morton	2.28
Mountrail	2.24

NORTH DAKOTA—Continued

County	Rate per bushel
Nelson	2.37
Oliver	2.26
Pembina	2.36
Pierce	2.28
Ramsey	2.33
Ransom	2.41
Renville	2.25
Richland	2.42
Rolette	2.28
Sargent	2.41
Sheridan	2.28
Sioux	2.27
Slope	2.25
Stark	2.25
Steele	2.38
Stutsman	2.36
Towner	2.29
Traill	2.39
Walsh	2.38
Ward	2.24
Wells	2.32
Williams	2.23
Wght. State Avg	2.31

OHIO

Adams	2.32
Allen	2.33
Ashland	2.36
Ashtabula	2.38
Athens	2.35
Auglaize	2.32
Belmont	2.36
Brown	2.32
Butler	2.32
Carroll	2.36
Champaign	2.32
Clark	2.32
Clermont	2.32
Clinton	2.32
Columbiana	2.37
Coshocton	2.36
Crawford	2.35
Cuyahoga	2.36
Darke	2.32
Defiance	2.32
Delaware	2.35
Erie	2.35
Fairfield	2.35
Fayette	2.32
Franklin	2.35
Fulton	2.34
Gallia	2.32
Geauga	2.38
Greene	2.32
Guernsey	2.36
Hamilton	2.32
Hancock	2.35
Hardin	2.35
Harrison	2.36
Henry	2.34
Highland	2.32
Hocking	2.35
Holmes	2.36
Huron	2.35
Jackson	2.32
Jefferson	2.36
Knox	2.36
Lake	2.38
Lawrence	2.32
Licking	2.36
Logan	2.32
Lorain	2.36
Lucas	2.35
Madison	2.32
Mahoning	2.38
Marion	2.35
Medina	2.36
Meigs	2.32
Mercer	2.32
Miami	2.32
Monroe	2.36
Montgomery	2.32
Morgan	2.36
Morrow	2.36
Muskingum	2.36
Noble	2.36
Ottawa	2.35
Paulding	2.32
Perry	2.35
Pickaway	2.35
Pike	2.32
Portage	2.36
Preble	2.32
Putnam	2.34
Richland	2.36
Ross	2.35

OHIO—Continued

County	Rate per bushel
Sandusky	2.35
Scioto	2.32
Seneca	2.35
Shelby	2.32
Stark	2.36
Summit	2.36
Trumbull	2.38
Tuscarawas	2.36
Union	2.35
Van Wert	2.32
Vinton	2.35
Warren	2.32
Washington	2.36
Wayne	2.36
Williams	2.32
Wood	2.35
Wyandot	2.35
Wght. State Avg	2.34

OKLAHOMA

Adair	2.35
Alfalfa	2.32
Atoka	2.37
Beaver	2.27
Beckham	2.36
Blaine	2.36
Bryan	2.37
Caddo	2.37
Canadian	2.37
Carter	2.37
Cherokee	2.35
Choctaw	2.37
Cimarron	2.27
Cleveland	2.37
Coal	2.37
Comanche	2.37
Cotton	2.37
Craig	2.34
Creek	2.36
Custer	2.36
Delaware	2.35
Dewey	2.35
Ellis	2.30
Garfield	2.34
Garvin	2.37
Grady	2.37
Grant	2.32
Greer	2.37
Harmon	2.37
Harper	2.27
Haskell	2.37
Hughes	2.37
Jackson	2.37
Jefferson	2.37
Johnston	2.37
Kay	2.33
Kingfisher	2.36
Kiowa	2.37
Latimer	2.37
Le Flore	2.37
Lincoln	2.37
Logan	2.36
Love	2.37
McClain	2.37
McCurtain	2.37
McIntosh	2.37
Major	2.34
Marshall	2.37
Mayes	2.35
Murray	2.37
Muskogee	2.37
Noble	2.34
Nowata	2.34
Okfuskee	2.37
Oklahoma	2.37
Okmulgee	2.37
Osage	2.34
Ottawa	2.34
Pawnee	2.34
Payne	2.36
Pittsburg	2.37
Pontotoc	2.37
Pottawatomie	2.37
Pushmataha	2.37
Roger Mills	2.34
Rogers	2.35
Seminole	2.37
Sequoyah	2.37
Stephens	2.37
Texas	2.27
Tillman	2.37
Tulsa	2.35
Wagoner	2.35
Washington	2.34
Washita	2.36
Woods	2.32

OKLAHOMA—Continued

County	Rate per bushel
Woodward	2.32
Wght. State Avg	2.34

OREGON

Baker	2.41
Benton	2.48
Clackamas	2.55
Clatsop	2.62
Columbia	2.62
Coos	2.26
Crook	2.46
Curry	2.27
Deschutes	2.46
Douglas	2.32
Gilliam	2.51
Grant	2.46
Harney	2.32
Hood River	2.57
Jackson	2.32
Jefferson	2.49
Josephine	2.32
Klamath	2.40
Lake	2.37
Lane	2.46
Lincoln	2.38
Linn	2.49
Malheur	2.32
Marion	2.53
Morrow	2.49
Multnomah	2.62
Polk	2.51
Sherman	2.51
Tillamook	2.55
Umatilla	2.48
Union	2.44
Wallowa	2.42
Wasco	2.53
Washington	2.55
Wheeler	2.48
Yamhill	2.53
Wght. State Avg	2.49

PENNSYLVANIA

Philadelphia	2.45
All other counties	2.30
Wght. State Avg	2.30

RHODE ISLAND

All counties	2.29

SOUTH CAROLINA

Charleston	2.45
All other counties	2.26
Wght. State Avg	2.26

SOUTH DAKOTA

Aurora	2.38
Beadle	2.37
Bennett	2.25
Bon Homme	2.39
Brookings	2.41
Brown	2.37
Brule	2.35
Buffalo	2.35
Butte	2.23
Campbell	2.30
Charles Mix	2.35
Clark	2.37
Clay	2.41
Codington	2.41
Corson	2.27
Custer	2.17
Davison	2.41
Day	2.41
Deuel	2.44
Dewey	2.27
Douglas	2.37
Edmunds	2.34
Fall River	2.15
Faulk	2.36
Grant	2.44
Gregory	2.32
Haakon	2.30
Hamlin	2.40
Hand	2.37
Hanson	2.38
Harding	2.24
Hughes	2.33
Hutchinson	2.40
Hyde	2.35
Jackson	2.29
Jerauld	2.38
Jones	2.31
Kingsbury	2.38
Lake	2.40
Lawrence	2.23
Lincoln	2.43
Lyman	2.32

SOUTH DAKOTA—Continued

County	Rate per bushel
McCook	2.41
McPherson	2.34
Marshall	2.41
Meade	2.24
Mellette	2.30
Miner	2.39
Minnehaha	2.42
Moody	2.42
Pennington	2.24
Perkins	2.24
Potter	2.32
Roberts	2.43
Sanborn	2.38
Shannon	2.22
Spink	2.37
Stanley	2.31
Sully	2.32
Todd	2.27
Tripp	2.30
Turner	2.42
Union	2.41
Walworth	2.32
Yankton	2.39
Ziebach	2.25
Wght. State Avg	2.34

TENNESSEE

Shelby	2.38
All other counties	2.27
Wght. State Avg	2.27

TEXAS

Anderson	2.49
Andrews	2.35
Archer	2.40
Armstrong	2.35
Atascosa	2.49
Bailey	2.35
Bandera	2.45
Bastrop	2.49
Baylor	2.39
Bee	2.57
Bell	2.49
Bexar	2.49
Blanco	2.47
Borden	2.35
Bosque	2.46
Bowie	2.42
Brazos	2.54
Briscoe	2.35
Brown	2.43
Burleson	2.54
Burnet	2.47
Caldwell	2.49
Calhoun	2.53
Callahan	2.39
Carson	2.35
Castro	2.35
Chambers	2.59
Cherokee	2.51
Childress	2.37
Clay	2.41
Cochran	2.35
Coke	2.36
Coleman	2.40
Collin	2.44
Collingsworth	2.35
Comal	2.49
Comanche	2.44
Concho	2.41
Cooke	2.42
Coryell	2.48
Cottle	2.35
Crockett	2.37
Crosby	2.35
Culberson	2.35
Dallam	2.32
Dallas	2.46
Dawson	2.35
Deaf Smith	2.35
Delta	2.45
Denton	2.44
De Witt	2.51
Dickens	2.35
Dimmit	2.43
Donley	2.35
Eastland	2.39
Edwards	2.39
Ellis	2.46
El Paso	2.35
Erath	2.44
Falls	2.48
Fannin	2.42
Fisher	2.36
Floyd	2.35

TEXAS—Continued

County	Rate per bushel
Foard	2.37
Frio	2.47
Gaines	2.35
Galveston	2.59
Garza	2.35
Gillespie	2.43
Glasscock	2.35
Goliad	2.53
Gonzales	2.51
Gray	2.35
Grayson	2.42
Grimes	2.54
Guadalupe	2.49
Hale	2.35
Hall	2.35
Hamilton	2.46
Hansford	2.32
Hardeman	2.37
Harris	2.59
Hartley	2.32
Haskell	2.37
Hays	2.49
Hemphill	2.32
Henderson	2.47
Hill	2.46
Hockley	2.35
Hood	2.43
Houston	2.51
Howard	2.35
Hudspeth	2.35
Hunt	2.45
Hutchinson	2.32
Irion	2.37
Jack	2.41
Jackson	2.49
Jeff Davis	2.35
Jefferson	2.55
Johnson	2.45
Jones	2.37
Karnes	2.53
Kaufman	2.47
Kendall	2.47
Kent	2.35
Kerr	2.43
Kimble	2.41
King	2.35
Kinney	2.39
Knox	2.37
Lamar	2.42
Lamb	2.35
Lampasas	2.48
Limestone	2.48
Lipscomb	2.32
Live Oak	2.55
Llano	2.45
Loving	2.35
Lubbock	2.35
Lynn	2.35
McCulloch	2.43
McLennan	2.48
Martin	2.35
Mason	2.43
Maverick	2.39
Medina	2.45
Menard	2.41
Midland	2.35
Milam	2.52
Mills	2.44
Mitchell	2.36
Montague	2.41
Moore	2.32
Motley	2.35
Navarro	2.47
Nolan	2.36
Nueces	2.59
Ochiltree	2.32
Oldham	2.35
Palo Pinto	2.41
Parker	2.43
Parmer	2.35
Pecos	2.35
Potter	2.35
Presidio	2.35
Randall	2.35
Real	2.41
Red River	2.42
Reeves	2.35
Refugio	2.56
Roberts	2.32
Robertson	2.51
Rockwall	2.45
Runnels	2.39
San Patricio	2.59
San Saba	2.44
Schleicher	2.37
Scurry	2.36

TEXAS—Continued

County	Rate per bushel
Shackelford	2.39
Sherman	2.32
Somervell	2.43
Stephens	2.40
Sterling	2.36
Stonewall	2.35
Sutton	2.37
Swisher	2.35
Tarrant	2.46
Taylor	2.37
Terry	2.35
Throckmorton	2.39
Tom Green	2.38
Travis	2.49
Uvalde	2.42
Van Zandt	2.47
Victoria	2.53
Waller	2.54
Ward	2.35
Wharton	2.54
Wheeler	2.35
Wichita	2.39
Wilbarger	2.39
Williamson	2.49
Wilson	2.51
Wise	2.42
Yoakum	2.35
Young	2.40
Zavala	2.43
Wght. State Avg	2.37

UTAH

All counties	2.31

VERMONT

All counties	2.28

VIRGINIA

Chesapeake (Norfolk)	2.45
All other counties	2.30
Wght. State Avg	2.30

WASHINGTON

Adams	2.46
Asotin	2.45
Benton	2.48
Chelan	2.49
Clallam	2.41
Clark	2.62
Columbia	2.47
Cowlitz	2.62
Douglas	2.47
Ferry	2.39
Franklin	2.48
Garfield	2.47
Grant	2.47
Grays Harbor	2.54
Island	2.43
Jefferson	2.43
King	2.62
Kitsap	2.44
Kittitas	2.51
Klickitat	2.53
Lewis	2.57
Lincoln	2.44
Mason	2.51
Okanogan	2.44
Pacific	2.54
Pend Oreille	2.34
Pierce	2.62
San Juan	2.43
Skagit	2.51
Skamania	2.57
Snohomish	2.56
Spokane	2.43
Stevens	2.39
Thurston	2.56
Wahkiakum	2.56
Walla Walla	2.48
Whatcom	2.48
Whitman	2.46
Yakima	2.49
Wght. State Avg	2.46

WEST VIRGINIA

All counties	2.31

WISCONSIN

Douglas	2.48
All other counties	2.26
Wght. State Avg	2.26

WYOMING

All counties	2.18

(b) Schedule of premiums and discounts for 1979-crop wheat:

	Cents per bushel
1. Class premiums and discounts:	
(i) Premiums:	
Hard Amber Durum, No. 3 or better	+7½
(ii) Discounts:	
Durum	−10
Mixed wheat (mixes of classes other than contrasting classes)	−3
Mixed wheat (mixture of contrasting classes)	−10
(iii) Unclassed wheat which includes Red Durum[1]	
2. Grade discounts:	
(i) Grade discounts:	
No. 2	−2
No. 3	−4
No. 4	−6
No. 5	−9
(ii) Special grade discounts:	
Smut:	
Light smutty	−3
Smutty	−9
Garlicky:	
Light garlicky	−10
Garlicky	−20
3. Weed control laws (discount where required by section 1421.24)	−15

[1] Unclassed wheat which includes Red Durum is ineligible for loan.

4. Premiums for protein content: Applicable to wheat grading No. 5 or better of the classes Hard Red Winter and Hard Red Spring.

Percent protein	Cents/Bu.
Hard Red Winter	
10.50 to 10.99	0
11.00 to 11.49	½
11.50 to 11.99	1
12.00 to 12.49	2
12.50 to 12.99	3
13.00 to 13.49	4½
13.50 to 13.99	6
14.00 to 14.49	8
14.50 to 14.99	10
15.00 and over	12
Hard Red Spring	
11.50 to 11.99	0
12.00 to 12.49	1
12.50 to 12.99	2
13.00 to 13.49	4
13.50 to 13.99	6
14.00 to 14.49	9
14.50 to 14.99	12
15.00 to 15.49	16
15.50 to 15.99	20
16.00 to 16.49	25
16.50 to 16.99	30
17.00 and over	36

(c) *Other.* Wheat with quality factors exceeding limits shown in foregoing schedule or wheat that (1) contains in excess of 13.5 percent moisture, (2) is weevily, (3) is musty, on (4) is sour, and heating shall not be eligible for loan. In the event quantities of wheat exceeding limits shown are delivered in satisfaction of loan obligations such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes. Such discounts will be established not later than the time delivery of wheat to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Note.—Producers are now harvesting 1979-crop wheat and the provisions of these regulations are needed in order to carry out the loan and purchase program.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Mr. Jerome Sitter, Director, Price Support and Loan Division, ASCS, that the emergency nature of this final rule warrants publication without opportunity for public comment at this time. This regulation contains necessary operating provisions needed to implement the national average wheat loan rate, which was determined to be significant, announced on August 18, 1978, for which an approved impact statement is available from Bruce Weber, ASCS, (202) 447–7987.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Signed at Washington, D.C., on August 6, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79–24967 Filed 8–13–79; 8:45 am]

BILLING CODE 3410–05–M

7 CFR Part 1464

Tobacco Loan Program; Price Support on 1979 Flue-Cured Tobacco Showing Evidence of Contamination by the Herbicide, Picloram

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule provides that producers of harvested flue-cured tobacco that has been contaminated with the herbicide, picloram may destroy such harvested tobacco instead of delivering it for price support without affecting the producers' eligibility to obtain price support for the remainder of the tobacco produced on the same farm. This option, in addition to the earlier published requirement that all unharvested contaminated tobacco be delivered for price support, is being provided to protect the integrity of the tobacco price support program and to maintain stable economic conditions for marketing flue-cured tobacco throughout the 1979 marketing season.

EFFECTIVE DATE: August 13, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas A. VonGarlem, (202) 447–7954, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: On July 18, 1979, The Secretary of Agriculture published in the **Federal Register** (44 FR 41759) a rule that established special requirements of price support eligibility which apply only to 1979-crop flue-cured tobacco which was contaminated by the herbicide, picloram. This amendment to that rule will provide an option to producers who have already harvested tobacco from plants that show evidence of having been contaminated by the herbicide, picloram. These producers will now have the option of destroying the already harvested tobacco or delivering the tobacco to the Flue-Cured Tobacco Cooperative Stabilization Corporation. Any tobacco which has been harvested from fields containing both contaminated and uncontaminated tobacco plants and which cannot be segregated shall be considered to be contaminated tobacco.

Final Rule

Accordingly, 7 CFR part 1464 is amended by revising section 1464.11 as follows, effective only for the 1979 crop.

§ 1464.11 1979 Flue-cured tobacco showing evidence of contamination by the herbicide, Picloram.

(a) This section shall apply only to 1979 crop flue-cured tobacco produced on farms on which tobacco plants show evidence of having been contaminated by the herbicide, picloram, as determined by a representative of the county ASC Committee. Tobacco produced on such farms will be eligible for price support only if the conditions set forth in this section are met.

(1) All unharvested tobacco plants on the farm which show evidence of having been contaminated by picloram, as determined by a representative of the county ASC committee, have been destroyed. All tobacco previously harvested and cured or in the process of curing that was harvested from tobacco plants that show evidence of having been contaminated by picloram (a) has been segregated from all other tobacco and delivered to the Flue-Cured Tobacco Cooperative Stabilization Corporation at designated locations and delivery points, or (b) has been destroyed; *Provided, however,* That in determining whether tobacco is

contaminated by picloram, any tobacco, which has been harvested from fields containing both contaminated and uncontaminated tobacco plants and which cannot be segregated, shall be considered to be contaiminated tobacco.

(2) The producer shall certify on a form prescribed by ASCS compliance with the conditions specified in this section. Failure to fulfill the conditions specified in this section shall render all tobacco produced on the farm will be ineligible for price support and any marketing card issued for such farm will be marked "No Price Support."

(3) The destruction of all tobacco previously harvested and cured or in the process of being cured from tobacco plants which show evidence of having been contaminated by picloram, or the destruction of unharvested tobacco plants which show evidence of having been contaminated by picloram, must be witnessed by a representative of the county ASC committee, or the producer must demonstrate to the satisfaction of a representative of the county ASC committee that such tobacco has already been destroyed.

(b) Tobacco already harvested and cured or in the process of curing that was harvested from tobacco plants that show evidence of having been contaminated by picloram, which has been delivered for price support in accordance with the terms and conditions specified in this section, shall be placed in a pool separate and apart from all other 1979 crop flue-cured tobacco. The profits or losses from the separate pool shall be totally independent of any other crop year pool established in accordance with this subpart.

Because the contamination of a portion of the 1979 crop threatens the marketability of the entire 1979 crop of flue-cured tobacco and since farmers are presently harvestly tobacco that shows evidence of contamination by picloram and need to know immediately the changes in the price support eligibility requirements for such tobacco, it is necessary that this rule become effective as soon as possible.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest.

Further, this final rule has not been designated as "significant" and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Jerome F. Sitter, Director, Price Support and Loan Division, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Dated: August 3, 1979.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79-25089 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments add the counties of Appanoose and Wayne in Iowa, to the list of Certified Brucellosis-Free Areas and delete such counties from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas. These amendments also add the country of Dona Ana in New Mexico, to the list of Modified Certified Brucellosis Areas and delete it from the list of Certified Brucellosis-Free Areas because it has been determined that this county now qualifies only as a Modified Certified Brucellosis Area. The Effect of this action will provide for more restrictions on cattle and bison moved interstate from this area.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the **Federal Register** (44 FR 36373-36375) effective June 22, 1979. These amendments add the counties of Appanoose and Wayne in Iowa, to the list of Certified Brucellosis-Free Areas in § 78.20 and delete such counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area contained in § 78.1(l) of the regulations. These amendments add the county of Dona Ana in New Mexico to the list of Modified Certified Brucellosis Areas in § 78.21 and delete this county from their list of Certified Brucellosis-Free Areas in § 78.20, because it has been determined that it now qualifies only as a Modified Certified Brucellosis Area as defined in § 78.1(m) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by adding: *Iowa.* Appanoose, Wayne; and deleting: *New Mexico.* Dona Ana.

§ 78.21 [Amended]

2. In § 78.21, paragraph (b) is amended by adding: *New Mexico.* Dona Ana; and by deleting: *Iowa.* Appanoose, Wayne.

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

The amendment designating areas as Certified Brucellosis-Free Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

The restrictions are no longer deemed necessary to prevent the spread of brucellosis from such areas and, therefore, the amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendment designating an area as a Modified Certified Brucellosis Area imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 7th day of August 1979.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-24879 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 19 and 20

Notices, Instructions and Reports to Workers; Inspections and Standards for Protection Against Radiation; Control of Radiation Exposure to Transient Workers

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Approval of reporting requirement by Comptroller General.

SUMMARY: On June 6, 1979, the Nuclear Regulatory Commission published in the **Federal Register** a notice of rulemaking, effective August 20, 1979 amending its regulations to require licensees to control the total occupational radiation dose of individuals who work in NRC-licensed activities.

The notice included the following note:

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45 day period which that statute allows for this review (44 U.S.C. 3512(c)(2)).

The reporting requirement of the regulation has been approved by the Comptroller General.

EFFECTIVE DATE: August 20, 1979. The reporting requirements set out in the notice of rulemaking amending 10 CFR Parts 19 and 20 which was published in the **Federal Register** on June 6, 1979 (44 FR 32349) have been approved or cleared by the U.S. General Accounting Office.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7211.

Dated at Bethesda, Maryland this 8th day of August 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-25106 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Reg. Q, Docket No. R-0242]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the severe storms and flash flooding beginning on or about July 24, 1979, in the State of Texas.

EFFECTIVE DATE: July 28, 1979.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3281).

SUPPLEMENTARY INFORMATION: On July 28, 1979, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 20, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the following counties of the State of Texas a major disaster area: Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange. The Board regards the President's action as recognition by the Federal Government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to July 28, 1979, and will remain in effect until 12 midnight January 31, 1980.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within those geographical areas of the State of Texas officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the storms and flooding in the designated counties of Texas, good cause exists for dispensing with notice and public participation referred to in

[1] Effective July 1, 1979, § 217.4(d) of Regulation Q provides that where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. Time deposits with original maturities of greater than one year require the forfeiture of at least six months' interest when paid prior to maturity. With respect to time deposits issued prior to July 1, 1979, where such deposits, or any portion therefor, are paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed the current ceiling rate for a savings deposit under § 217.7 and the depositor shall forfeit three months of interest payable at such rate. Effective August 1, 1979, a member bank may apply the new, generally less restrictive, penalty to time deposits issued prior to July 1, 1979, with the consent of the depositor.

section 553(b) of Title 5 of the United States Code with respect to this action and public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), August 3, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-24939 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 207

[Regulation ER-1137; Amendment No. 19]

Charter Trips and Special Services; Approval by the General Accounting Office

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. August 9, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has approved the reporting and recordkeeping requirements contained in the subject regulation. This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated July 30, 1979.

DATES: Adopted: August 9, 1979; Effective: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6044.

Accordingly, the Civil Aeronautics Board amends Part 207 of its Economic Regulations (14 CFR 207) by adding the following note at the end of part 207:

Note.—The reporting and recordkeeping requirements contained in §§ 207.9, 207.14(b), 207.16, 207.17(a), 207.22(b), 207.24, 207.25, 207.31, 207.41. 207.45, 207.46 and 207.47 have been approved by the U.S. General Accounting Office under B-180226 (RO 347).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-25042 Filed 8-13-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 208

[Regulation ER-1138; Amendment No. 19]

Terms, Conditions, and Limitations of Certificates to Engage in Supplemental Air Transportation; Approval by the General Accounting Office

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. August 9, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has approved the reporting and recordkeeping requirements contained in the subject regulation. This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated July 30, 1979.

DATES: Adopted: August 9, 1979; Effective: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6044.

Accordingly, the Civil Aeronautics Board amends Part 208 of its Economic Regulations (14 CFR 208) by adding the following note at the end of Part 208:

Note.—The reporting and recordkeeping requirements contained in §§ 208.3a, 208.4, 208.7, 208.36, 208.40(a), 208.201(b), 208.202a, 208.202b, 208.204, 208.211, 208.215, 208.216 and 208.217 have been approved by the U.S. General Accounting Office under B-180226 (R0030).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-25043 Filed 8-13-79; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 300

[Regulation PR-211; Amendment No. 3]

Rules of Conduct in Board Proceedings; Reporting of Communications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. August 8, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: CAB Rules currently direct Board Members to refer status and expedition requests to the Office of the Managing Director or the General Counsel. This final rule amends those rules to require that all inquires of this nature be referred to the Office of the Secretary. This revision promotes efficient administration by centralizing all status and expedition requests in the Office of the Secretary.

DATES: Adopted: August 8, 1979; Effective: August 8, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442.

Since this amendment affects only a matter of agency practice and procedure, the Board finds for good cause that notice and public procedure are unnecessary and the amendment may be effective immediately.

Accordingly, the Board amends § 300.3(c)(1) of 14 CFR Part 300, *Rules of Conduct In Board Proceedings,* to read as follows:

§ 300.3 Reporting of communications.

* * * * *

(c) *Status and expedition requests.* A Board Member who receives a communication asking about the status or requesting expeditious treatment of a public proceeding, other than a communication concerning national defense or foreign policy (including international aviation), shall either:

(1) Refer the communicator to the Office of the Secretary; or

(2) * * *

(Sec. 204 and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788, 49 U.S.C. 1324, 1481)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-25044 Filed 8-13-79; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release SAB-34]

Interpretative Releases Relating to Accounting Matters; Staff Accounting Bulletin No. 34

AGENCY: Securities and Exchange Commission.

ACTION: Deletion of a Staff Accounting Bulletin.

SUMMARY: The purpose of this release is to delete Staff Accounting Bulletin No. 5 (Topic 5–F) Exchanges of Assets Between Debtors and Creditors.

DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Howard P. Hodges, Jr., Division of Corporation Finance (202–755–1744), or Lawrence C. Best, Office of the Chief Accountant (202–472–3782), Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Shirley D. Hollis,

Assistant Secretary.

August 9, 1979.

Staff Accounting Bulletin No. 34

In February 1976, SAB No. 5 was issued describing the staff's views as to the appropriate accounting for various exchanges of assets between debtors and creditors. Since its issuance, the Financial Accounting Standards Board has issued Statement of Financial Accounting Standards No. 15, "Accounting by Debtors and Creditors for Troubled Debt Restructurings," which established standards for financial accounting and reporting in this area. Accordingly, the separate interpretations contained in SAB No. 5 are no longer necessary in administering disclosure requirements of the Federal securities laws. SAB No. 5 (Topic 5–F) is hereby deleted.

[FR Doc.79–25088 Filed 8–13–79; 8:45 am

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 178

[Docket No. 78F–0328]

Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of 2- (2*H*-benzotriazol-2-yl) -4-(1, 1, 3, 3-tetramethylbutyl) phenol as an antioxidant and/or stabilizer in polycarbonate resins intended for food contact use.

DATE: Effective August 14, 1979; objections by September 13, 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: Gerad L. McCowin, 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 published in the **Federal Register** of January 12, 1979 (44 FR 2686) announced that a food additive petition (FAP 8B3399) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing that the food additive regulations be amended to provide for the safe use of 2- (2*H*-benzotriazol-2-yl) -4- (1, 1, 3, 3-tetramethylbutyl) phenol as a stabilizer in polycarbonate resins intended for food contact use.

Having evaluated data in the petition and other relevant material, the Food and Drug Administration concludes that the food additive regulations should be amended as set forth below to include the petitioned additive. The additive is approved for use at room temperature or below.

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), § 178.2010 is amended in paragraph (b) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * * * *	
2-(2*H*-Benzotriazol-2-yl) -4-(1, 1, 3, 3-tetramethylbutyl) phenol (CAS Reg. No. 3147–75–9).	For use only at levels not to exceed 0.5 percent by weight of polycarbonate resins complying with § 177.1580 of this chapter: *Provided,* That the finished resins contact food only under conditions of use E, F, and G described in table 2 of § 176.170(c) of this chapter.
* * * * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 13, 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 August 14, 1979.

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

Dated: August 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24902 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 178

[Docket No. 78F-0264]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers, Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of 1, 3, 5-tris(4-*tert*-butyl-3-hydroxy-2, 6-dimethylbenzyl)-1, 3, 5-triazine-2, 4, 6-(1*H*, 3*H*, 5*H*) trione as an antioxidant and/or stabilizer for polymers in food-contact applications. This action responds to a food additive petition filed by the American Cyanamid Co.

DATES: Effective August 14, 1979; objections by September 13, 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: Gerad L. McCowin, 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 published in the **Federal Register** of October 3, 1978 (43 FR 45644) announced that a food additive petition (FAP 8B3348) had been filed by American Cyanamid Co., Wayne, NJ 07470, proposing to amend § 178.2010 (21 CFR 178.2010) to provide for the safe use of 1, 3, 5-tris(4-*tert*-butyl-3-hydroxy-2, 6-dimethylbenzyl)-1, 3, 5-triazine-2, 4, 6-(1*H*, 3*H*, 5*H*) trione with the limitation for use at levels not to exceed 0.1 percent by weight of olefin polymers complying with § 177.1520 of the food additive regulations (21 CFR 177.1520).

Having evaluated data in the petition and other relevant material, the Food and Drug Administration concludes that § 178.2010 should be amended as set forth below to provide for the safe use of the petitioned additive.

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), Part 178 is amended in § 178.2010(b) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * * * *	
1,3,5-Tris(4-*tert*-butyl-3-hydroxy-2,6-dimethylbenzyl)-1,3,5-triazine-2,4,6-(1*H*,3*H*,5*H*)trione [Chemical Abstracts Service Registry No. 40601-76-1].	For use only at levels not to exceed 0.1 percent by weight of polypropylene and polyethylene complying with § 177.1520 of this chapter, used in articles that contact food only under the conditions described in § 176.170(c) of this chapter, Table 2, under conditions of use E through G.
* * * * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before September 13, 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 consititute 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 consitute 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 August 14, 1979.

Dated: August 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24903 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 520, 522

[Docket No. 79N-0215]

Trifluprom azine Hydrochloride Tablets, Trifluprom azine Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for trifluprom azine hydrochloride tablets and trifluprom azine hydrochloride injection to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the products. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication has reflected these products' compliance with the conclusions of the review.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of these products was published in the **Federal Register** of November 18, 1969 (34 FR 18394). In that document, the Academy concluded, and FDA concurred, that the products were probably effective as tranquilizers for veterinary use.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540, responded to the notice by submitting a supplemental NADA (11–482V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the products as transquilizers for animals. The supplemental application was approved by a regulation issued in the **Federal Register** of August 3, 1973 (38 FR 20822). The regulation reflecting this approval established a new section for the drug in tablet form (21 CFR 135c.112, recodified 21 CFR 520.2582) and a new section for the drug in the injectable form (21 CFR 135b.95, recodified 21 CFR 522.2582). The new sections did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guidelines for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

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), Parts 520 and 522 are amended to read as follows:

1. Part 520 is amended in § 520.2582 by adding after paragraph (c) (1), (2), (3), and (4) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 520.2582 Triflupromazine hydrochloride tablets.

* * * * *

(c) *Conditions of use.* (1) * * *[1]

(2) * * *[1]

(3) * * *[1]

(4) * * *[1]

2. Part 522 is amended in § 520.2582 by adding after paragraph (c) (1), (2), (3), (4) and (5), the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 522.2582 Triflupromazine hydrochloride injection.

* * * * *

(c) *Conditions of use.* (1) * * *[1]

(2) * * *[1]

(3) * * *[1]

(4) * * *[1]

(5) * * *[1]

Effective date. This regulation is effective August 14, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)))

Dated: August 8, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-24901 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 524

[Docket No. 79N-0217]

Nitrofurazone-Nifuroxime-Diperodon Hydrochloride Ear Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for nitrofurazone-nifuroxime-diperodon hydrochloride ear solution to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data. These conditions of use were classified as probably effective as a result of a National Academy of Science/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation of the product. In lieu of certain efficacy data, approval may require submission of bioequivalence or similar data. An earlier **Federal Register** publication has reflected this product's compliance with the conclusions of the review.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Donald A. Gable, Bureau of Veterinary Medicine (HFV–100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the **Federal Register** of August 26, 1970 (35 FR 13611). In that document, the Academy concluded, and FDA concurred, that the product was probably effective for treatment of bacterial ear infections in dogs when the infections are caused by organisms sensitive to the drug.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

Eaton Laboratories, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815, responded to the notice by submitting a supplemental NADA (12–612V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the product for the treatment of dogs. The supplemental application was approved by regulation issued in the **Federal Register** of November 19, 1971 (36 FR 22059). The regulation reflecting this approval (21 CFR 135a.19, recodified 21 CFR 524.1580) did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval by § 514.111(a)(5)(vi) of the animal drug regulations. In lieu of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

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 524 is amended in § 524.1580 by adding after paragraph (c) the footnote reference "[1]" and by adding at the end of the section the footnote to read as follows:

§ 524.1580 Nitrofurazone-nifuroxime-diperodon hydrochloride ear solution.

* * * * *

[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.

(c) *Conditions of use.* * * *[1]

Effective date. This regulation is effective August 14, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 8, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-24900 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 879

Amendment of Personnel Records—Recording Basic Identifying Data; Deletion

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII, of the Code of Federal Regulations, by deleting Part 879—Amendment of Personnel Records—Recording Basic Identifying Data. This rule is deleted because the revised source document pertains only to service members and is not of public interest. Intended effect is to insure that only regulations which substantially affect the public be maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, Air Force Federal Register Liaison Officer, AS/DASJR, Pentagon, Washington, DC 20330, phone (202) 697-1861.

SUPPLEMENTARY INFORMATION: The Air Force is involved in an effort to delete those rules from the Code of Federal Regulations which do not affect a significant portion of the general public. Accordingly, 32 CFR, Chapter VII, is amended by deleting Part 879.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012)

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-25015 Filed 8-13-79; 8:45 am]

BILLING CODE 3910-01-M

[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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1293-5]

Delayed Compliance Order for the City of St. Marys, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to the City of St. Marys, Ohio (City). The Order requires the City to bring air emissions from its coal-fired boiler at the power-plant on North Street into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). The City's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082

SUPPLEMENTARY INFORMATION: On June 5, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 32254) a notice setting out the provisions of a proposed Delayed Compliance Order for the City of St. Marys, Ohio. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to the City by the Administrator of U.S. EPA pursuant to the authority of section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places the City on a schedule to bring its coal-fired boiler at the power-plant on North Street into compliance as expeditiously as practicable with Regulations OAC 3745-17-07 and OAC 3745-17-10, a part of the federally approved Ohio State Implementation Plan. The City is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit the City to delay compliance with the SIP regulations covered by the Order until December 31, 1979.

Compliance with the Order by the City will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order wich occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that the City is in violation of a requirement contained in the Order, one or more of the actions required by section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place the City of St. Marys, Ohio, on a schedule for compliance with the Ohio State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601.)

Dated: August 8, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.401 to read as follows:

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with section 113(d)(2) of the Act and with this part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
Power Plant	St. Marys, Ohio	None	6/6/79	OAC 3745-17-07, OAC 3745-17-10.	12/31/79
*	*	*	*	*	*

[FR Doc. 79-25090 Filed 8-13-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 80

[FRL 1260-6]

Regulation of Fuels and Fuel Additives; Small Refinery Amendment

Correction

In FR Doc. 79-24079 appearing at page 46275 in the issue for Tuesday, August 7, 1979, on page 46277, in the second column, in the 10th line, in the amendatory language for § 80.2, the citation "10 CFR Part 40" should be "10 CFR Part 80".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1036

[Ex Parte Nos. 252, Sub-No 1, 2]

Incentive Per Diem Charges-1968 and Gondolas

AGENCY: Interstate Commerce Commission.

ACTION: Amendment of Regulations.

SUMMARY: Certain incentive hourly charges for boxcars and gondolas published in 49 CFR 1036.2 are corrected because of modification in the Association of American Railroads rounding procedures and a mathematical error. Also, 49 CFR 1036.1, which listed mechanical designations for guaranteed cars, is amended in order to eliminate surplus language.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Harvey Gobetz, (202) 275-7693 or 275-7656.

SUPPLEMENTARY INFORMATION: The incentive hourly charges for plain and XF boxcars are amended as follows:

(1) The incentive charge for a 11-15 year old boxcar in the $5,001-$7,000 cost bracket is amended from 6 cents to 5 cents per hour.

(2) The incentive charge for a 16-20 year old boxcar in the $17,001-$19,000 cost bracket is amended from 12 cents to 13 cents per hour.

(3) The incentive charge for a 6-10 year old boxcar in the $33,001-$35,000 cost bracket is amended from 38 cents to 39 cents per hour.

The incentive hourly charges for gondolas are amended as follows:

(1) A gondola car in the 6-10 year age bracket and the $33,001-$35,000 cost bracket is modified from 26 cents to 27 cents per hour.

(2) A gondola car in the 11-15 year age bracket and the $5,001-$7,000 cost bracket is modified from 4 cents to 3 cents per hour.

(3) A gondola car in the 16-20 year age bracket and in the $17,001-$19,000 cost bracket is modified from 8 cents to 9 cents per hour.

(4) A gondola car in the 26-30 year age bracket and the $39,001-$41,000 cost bracket is modified from 7 cents to 6 cents per hour.

Also 49 CFR 1036.1 is amended in order to eliminate surplus language. In the Commission's decision in Ex Parte No. 252 (Sub-No. 2), served May 16, 1979, the Commission eliminated regulations which had proposed a 15-year guarantee of incentive charges on gondola cars. See 44 FR page 29476 published May 21, 1979. However, the Commission inadvertently failed to amend 49 CFR 1036.1 which listed mechanical designations for guaranteed cars. The Commission finds that Section 1036.1 should be amended, so as to eliminate the mechanical designations for guaranteed cars.

Section 1036.1 of Title 49 of the Code of Federal Regulations is amended to read as follows:

§ 1036.1 Application.

Each common carrier by railroad subject to the Interstate Commerce Act shall pay to the owning railroads, including the owning railroads of Canada, the additional per diem charges set forth in § 1036.2 on all boxcars and gondola cars shown below, while in the possession of non-owning railroads and subject to per diem rules. These charges are in addition to all other per diem charges currently in effect or prescribed. Mexican owned cars are exempt from the operation of these rules. The rules of this part shall apply regardless of whether the foregoing boxcars and gondola cars are in intrastate, interstate, or foreign commerce.

Mechanical designation: *Code No.*	
XM	B100-109, B200-209, B300-309
XMI	B110-119, B210-219, B310-319
XMIH	B120-129, B220-229, B320-329
XF	A120, A220, A320, A420
GB	G111, G112, G211, G212, G311, G312, G411, G412, G121, G122, G221, G222, G321, G322, G421, G422, G131, G132, G231, G232, G331, G332, G431, G432, G141, G142, G241, G242, G341, G342, G441, G442

The tables of incentive charges applicable to plain boxcars, XF boxcars, and gondolas prescribed in section 1036.2 are amended to read as set forth below.

Dated: August 6, 1979.

By the Commission. Chairman O'Neal, Commissioners Stafford, Gresham, Clapp, Christian, Trantum and Gaskins.

Agatha L. Mergenovich,

Secretary.

Amount of Incentive Hourly Charge in Cents Collectible on Unequipped Gondola Cars on a Year-Round Basis

Cost bracket	0–5 years (cents)	6–10 years (cents)	11–15 years (cents)	16–20 years (cents)	21–25 years (cents)	26–30 years (cents)	Over 30 years (cents)
0 to $1,000	1	1	1	1	1	1	1
$1,001 to $3,000	2	1	1	1	1	1	1
$3,001 to $5,000	3	3	3	2	1	1	1
$5,001 to $7,000	5	5	3	3	2	2	1
$7,001 to $9,000	8	6	5	4	3	2	1
$9,001 to $11,000	9	7	6	5	3	2	1
$11,001 to $13,000	11	10	8	5	4	2	1
$13,001 to $15,000	12	11	9	7	5	3	2
$15,001 to $17,000	15	12	10	8	6	3	2
$17,001 to $19,000	16	14	10	9	6	4	2
$19,001 to $21,000	18	16	12	10	6	4	2
$21,001 to $23,000	20	17	13	10	6	4	2
$23,001 to $25,000	22	18	15	12	8	4	3
$25,001 to $27,000	23	20	16	13	8	5	3
$27,001 to $29,000	26	22	18	13	9	5	3
$29,001 to $31,000	28	23	18	15	9	5	3
$31,001 to $33,000	29	25	20	15	11	5	3
$33,001 to $35,000	31	27	21	17	11	6	3
$35,001 to $37,000	34	28	23	17	11	6	3
$37,001 to $39,000	34	29	24	18	12	6	4
$39,001 to $41,000	37	31	26	20	12	6	4

Amount of Incentive Hourly Charge Collectible on Unequipped Boxcars for a 6-Month Period From September 1, of Each Year Through February 28 of the Following Year and a Year-Around Basis for XF-Cars

Cost bracket	0–5 years hourly charge (cents)	6–10 years hourly charge (cents)	11–15 years hourly charge (cents	16–20 years hourly charge (cents)	21–25 years hourly charge (cents)	26–30 years hourly charge (cents)	Over 30 years hourly charge (cents)
0 to $1,000	1	1	1	1	1	1	1
$1,001 to $3,000	3	2	2	1	1	1	1
$3,001 to $5,000	5	5	4	3	2	1	1
$5,001 to $7,000	8	7	5	4	3	2	1
$7,001 to $9,000	11	9	7	6	4	2	1
$9,001 to $11,000	14	11	9	7	5	3	1
$11,001 to $13,000	16	14	11	8	6	3	2
$13,001 to $15,000	19	16	13	10	7	4	2
$15,001 to $17,000	22	18	15	11	8	4	2
$17,001 to $19,000	24	20	16	13	9	5	3
$19,001 to $21,000	27	23	18	14	10	5	3
$21,001 to $23,000	30	25	20	15	10	6	3
$23,001 to $25,000	32	27	22	17	11	6	4
$25,001 to $27,000	35	29	24	18	12	7	4
$27,001 to $29,000	38	32	26	19	13	7	4
$29,001 to $31,000	41	34	27	21	14	8	4
$31,001 to $33,000	43	36	29	22	15	8	5
$33,001 to $35,000	46	39	31	24	16	9	5
$35,001 to $37,000	49	41	33	25	17	9	5
$37,001 to $39,000	51	43	35	26	18	10	6
$39,001 to $41,000	54	45	37	28	19	10	6

[FR Doc. 79–24965 Filed 8–13–79; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 44, No. 158
Tuesday, August 14, 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.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 733]

Political Participation by United States Government Employees in Local Elections in Stafford County

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: In response to a request from a Federally employed resident of Stafford County, Virginia, OPM proposes to designate that county as one where Government employees may participate in local elections subject to the limitations established by OPM, pursuant to the authority of 5 U.S.C. 7327.

DATE: Written comments will be considered if received on or before October 15, 1979.

ADDRESS: Submit written comments to Office of the General Counsel, Office of Personnel Management, Room 5H30, 1900 E Street, N.W., Washington, D.C. 20415. All comments received on this proposed rule will be available for public inspection at the above address on business days between 9 a.m. and 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ann Wilson, 202–632–5524.

SUPPLEMENTARY INFORMATION: The Hatch Act at 5 U.S.C. 7321 *et seq.* controls the political activity of Federal employees and individuals employed by the District of Columbia. 5 U.S.C. 7324 generally prohibits Government employees form taking an active part in political campaigns, 5 U.S.C. 7327, however, authorizes OPM to prescribe regulations permitting Government employees to be politically active to the extent OPM considers it to be in their domestic interest.

Under the authority of 5 U.S.C. 7327, OPM can allow Government employees to participate in political campaigns involving the municipality where they reside when two conditions exist. One condition is met if the municipality is in Maryland or Virginia and is in the immediate vicinity of the District of Columbia. The seond condition is met if OPM determines that the domestic interest of employees is served by permitting their political participation in accordance with regulations prescribed by OPM.

In regulations at 5 CFR 733.124(b) OPM has designated municipalities and political subdivisions in which Government employees may participate in local elections. At 5 CFR 733.124(c) OPM has established the following limitations on political participation by employees residing in designated municipalities and subdivisions:

(1) Participation in politics shall be as an independent candidate or on behalf of, or in opposition to, an independent candidate.

(2) Candidacy for, and service in, an elective office shall not result in neglect of or interference with the performance of the duties of the employee or create a conflict, or apparent conflict, of interests.

This proposal reflects OPM's determination that it is in the domestic interest of Government employees residing in Stafford County to permit their local political participation in connection with independent candidacies. This determination is based on evidence developed during an OPM investigation of the eligibility of Stafford County for a partial exemption from political activity restrictions.

The OPM investigation included inspection of election records and other official documents of Stafford County, consultation with County officials, and interviews with officials of local politicals, and interviews with officials of local political organizations. Principal factors leading to OPM's determination are the proximity of Stafford County to the District of Columbia, the substantial proportion of County residents who are Federal Government employees, and a significant historical role of nonpartisan independent participation in local County elections.

A copy of this notice will be published in local newspapers serving Stafford County.

if this proposed rule is adopted, OPM will revise 5 CFR 733.124(b) to add Stafford County to the list of designated Virginia municipalities and political subdivisions in which Federal Government employees may participate in local elections.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 79–25058 Filed 8–13–79; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

1980 Extra Long Staple Cotton Program; Proposed Determinations Regarding National Marketing Quota, National Acreage Allotment, and Other Related Operating Provisions for 1980

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Propose rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1980 crop of extra long staple cotton (referred to as "ELS cotton"):

(1) National marketing quota.

(2) National acreage allotment.

(3) Apportionment of the national acreage allotment to States and counties.

(4) Date or period for conducting the national marketing quota referendum.

The above determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Adjustment Act of 1938, as amended.

This notice invites written comments on these proposed determinations.

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

ADDRESS: Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham (ASCS) 202–447–7873.

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1980 crop of ELS cotton are to be made pursuant to the Agricultural

Adjustment Act of 1938, as amended, (52 Stat. 31, 7 U.S.C. 1281) (hereinafter referred to as the "Act"):

(a) *National marketing quota.* Section 347(b)(1) of the Act requires the Secretary to proclaim the amount of the national marketing quota for the 1980 crop of ELS cotton by October 15, 1979. Such marketing quota shall be the number of standard bales of ELS cotton equal to the sum of the estimated domestic consumption and estimated exports, less estimated imports, for the 1980–81 marketing year, which begins August 1, 1980, plus such additional number of bales, if any, as the Secretary determines necessary to assure adequate working stocks in trade channels until ELS cotton from the 1980 crop becomes readily available without resort to Commodity Credit Corporation stocks. The Secretary may reduce the quota so determined for the purpose of reducing surplus stocks, but not below the minimum quota of 82,481 standard bales prescribed under section 347(b)(2) of the Act.

(b) *National acreage allotment.* Pursuant to section 344(a) of the Act, the national acreage allotment for the 1980 crop of ELS cotton shall be that acreage determined by multiplying the national marketing quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield per acre of ELS cotton for the four calendar years 1975, 1976, 1977, and 1978. The national average yield per planted acre during this four year period was 587 pounds.

If favorable growing conditions exist throughout the 1979–80 season, the carryover of ELS cotton as of August 1, 1980, could be as high as 84,000 bales. If poor weather should prevail during the 1979–80 season, carrover on August 1, 1980, could fall to as low as 47,000 bales. A carryover of about 40,000 to 50,000 bales is generally considered desirable.

Based on these carryover projections, and tentative projections of domestic use, exports and imports for the 1980–81 season, the marketing quota should be between 92,000 and 135,000 bales, and the national acreage allotment should be between 75,000 to 110,000 acres in order to maintain the desirable carryover level at the end of the 1980–81 marketing year.

c. *Apportionment of the national acreage allotment to States and counties.* Sections 344 (b) and (e) of the Act provide that the national acreage allotment for the 1980 crop of ELS cotton shall be apportioned to States and counties on the basis of the acreage planted to ELS cotton, (including acreage regarded as having been planted) during the five calendar years 1974, 1975, 1976, 1977, and 1978, adjusted for abnormal weather conditions during such period. Section 344(e) further provides that the State committee may reserve not to exceed 10 percent of its State allotment to adjust county allotments for trends in acreage, for counties adversely affected by abnormal conditions affecting plantings, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship.

(d) *Date or period for conducting the national marketing quota referendum.* Section 343 of the Act requires the Secretary to conduct a referendum by secret ballot of the farmers engaged in the production of ELS cotton during 1979 by December 15, 1979, to determine whether such farmers are in favor of or opposed to the quota. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. Section 343 further requires the Secretary to proclaim the results of the referendum within 30 days after the date of such referendum.

Pursuant to section 343, the Secretary proposes that said referendum be held during the period December 3–7, 1979, inclusive.

Prior to determining these provisions, consideration will be given to any data, views, and recommendations that may be received relative to the above items.

Comments will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under these criteria. A Draft Impact Analysis Statement has been prepared and is available from Charles V. Cunningham (ASCS), 202–447–7873.

Signed at Washington, D.C. on August 9, 1979.

John W. Goodwin,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79–25079 Filed 8–13–79; 8:45 am]

BILLING CODE 3410–05–M

Commodity Credit Corporation

[7 CFR Part 1427]

Cotton; Proposed Determinations Regarding 1980-Crop Loan and Payment Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1980 crops of upland and extra long staple cotton (referred to as "ELS cotton"):

a. Loan level for upland lint cotton.

b. Loan level and payment rate for ELS lint cotton.

c. Specifications for bale packaging materials.

d. Premiums and discounts for grade, staple, and micronaire and base loan rates by warehouse location for the 1980-crop loan program.

e. Resale policy on cotton owned by the Commodity Credit Corporation.

f. Whether a seed cotton loan program shoud be offered and, if so, the loan levels for such seed cotton.

The above determinations are authorized by the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act, as amended. This notice invites written comments on these proposed determinations.

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

ADDRESS: Mail comments to Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham (ASCS) 202–447–7873.

SUPPLEMENTARY INFORMATION:

1. The following determinations with respect to the 1980 crops are to be made pursuant to the Agricultural Act of 1949 (63 Stat. 1051, 7 U.S.C. 1421), as amended (hereinafter referred to as the "Act"):

a. *Loan level for upland lint cotton.* Section 103(f)(1) of the Act requires the Secretary to determine and announce the loan level for the 1980 crop by November 1, 1979. Such loan level must reflect for Strict Low Middling (SLM) 1 1/16 inch upland cotton (micronaire 3.5 through 4.9), at average location in the United States the smaller of (1) 85 percent of the average price (weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during the

five year period ending July 31, 1979, excluding the year with the highest and the year with the lowest average price, or (2) 90 percent of the average, for the fifteen-week period beginning July 1, 1979, of the five lowest priced growths of the growths quoted for Strict Middling (SM) 1 1/16 inch cotton, C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15, 1979, through October 15, 1979, between such average Northern Europe price quotation for such quality of cotton and the market quotations in the designated United States spot markets for SLM 1 1/16 inch cotton (micronaire 3.5 through 4.9)).

In no event, however, shall such loan level be less than 48 cents per pound. Further, if the Northern Europe calculation results in a loan level less than that derived from the spot market calculation, the Secretary may increase the loan level up to that level provided by the spot market calculation.

The spot market calculation is as follows:

(1) Weighted average spot market prices for SLM 1 1/16 inch upland cotton, micronaire 3.5 through 4.9:

August 1974 through July 1975, 38.89 cents.
August 1975 through July 1976, 55.29 cents.
August 1976 through July 1977, 71.59 cents.
August 1977 through July 1978, 51.15 cents.
August 1978 through July 1979, 61.50 cents (estimated).

(2) Average of the five years, excluding the highest and lowest years: $(55.29+51.15+61.50)/3=55.98$ cents.

(3) Loan rate based on U.S. spot market: $55.98\times0.85=47.58$ cents, less than the legal minimum.

Since the loan rate based on the spot market calculation must be the statutory minimum, the Northern Europe calculation is not necessary.

The 1980 loan rate must be set at the statutory minimum of 48.00 cents per pound:

b. *Loan level and payment rate for ELS lint cotton.* Section 101(f) of the Act requires that price support shall be made available to cooperators for the 1968 and each subsequent crop of ELS cotton, if producers have not disapproved marketing quotas therefore, through loans at a level which is not less than 50 percent or more than 100 percent in excess of the loan level established for Strict Low Middling 1 1/16 inch upland cotton of such crop at average location in the United States (except that such loan level for ELS cotton shall in no event be less then 35 cent per pound). Section 101(f) also provides for price support payments at a rate which, together with the loan level established for such crop, shall be not less than 65 percent or more than 90 percent of the parity price for ELS cotton as of the month in which the payment rate provided for is announced. Section 401 of the act requires that, in determining the level of support in excess of the minimum level prescribed for ELS cotton, consideration shall be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

The loan rate of 48.00 cents per pound for upland cotton is basis good micronaire. This rate must be converted to average micronaire by deducting 50 points (one-half cent) before it can serve as the basis for the ELS loan rate. The possible range of the loan rate for ELS cotton would be 71.25 to 95.00 cents.

The August 1979 parity price for ELS cotton is $1.61 per pound. If the total support (loan rate plus payment rate) were being determined during August, the minimum support would be 104.7 cents per pound, or 65 percent of parity. Total support could be set as high as 144.9 cents per pound, or 90 percent of parity. Since it is estimated that the ELS loan rate for 1980 will be less than the total support, the difference would be paid directly to ELS producers as support payments.

c. *Specifications for bale packaging materials.* The specifications for bale packaging materials used for cotton tendered to the Commodity Credit Corporation under its cotton loan program are being reviewed for 1980. The latest revision of the bale packaging specifications was published in the **Federal Register** on June 7, 1979, (44 FR 32637). Consideration will be given to amending the specifications as recommended by the Cotton Industry Bale Packaging Committee.

d. *Premiums and discounts.* National average loan rates must be adjusted to reflect differences in grade, staple, and micronaire, as well as location, so as not to favor one quality of cotton over any other.

e. *Resale policy on cotton owned by CCC.* Under section 407 of the Agricultural Act of 1949, as amended, Commodity Credit Corporation ("CCC") (1) shall sell upland cotton for unrestricted use at the same prices as it sells cotton for export, in no event, however, at less than 115 per centum of the loan rate for Strict Low Middling one and one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) adjusted for such current market differentials reflecting grade, quality, location, and other value factors as the Secretary determines appropriate plus reasonable carrying charges, and (2) shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of part (2) above and such quantities of cotton as are required to be sold under (2) shall be offered for sale in an orderly manner and so as not to affect market prices unduly.

CCC shall make available during each marketing year for sale for unrestricted use at market prices at the time of sale, a quantity of American grown extra long staple cotton ("ELS") equal to the amount by which the production of such cotton in the calendar year in which such marketing year begins is less than the estimated requirements of American grown extra long staple cotton for domestic use and for export for such such marketing year: *Provided,* That no sales shall be made at less than 115 per centum of the loan rate for ELS cotton under section 101(f) of this Act beginning with the marketing year for the first crop for which the national marketing quota for ELS is not established under paragraph (3) of section 347(b) of the Agricultural Adjustment Act of 1938, as amended. The Secretary may make such estimates and adjustments therein at such times as he determines will best effectuate the provisions of the foregoing sentence and such quantities of cotton as are required to be sold under such sentence shall be offered for sale in an orderly manner and so as not to affect market prices unduly.

2. The following determinations are to be made pursuant to Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c):

a. *Whether a seed cotton loan program should be offered.* The Department is not required to offer a seed cotton loan program. However, such a program—providing for recourse-type loans—was instituted by the Commodity Credit Corporation for 1971-crop seed cotton and has been renewed each crop year since. The program is

being reviewed to determine whether it should be continued for 1980. Recourse loans are offered under this program as a means of affording interim financing to producers until their cotton is ginned in the form in which it can be marketed and eligible for regular loans under the Agricultural Act of 1949, as amended.

b. *Loan levels for seed cotton if program is offered.* Consideration is being given to the levels at which loans should be made available for seed cotton under the 1980 program.

Prior to determining the provisions for the 1980 programs, the Secretary will consider any views or recommendations relative to the above items. Comments will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

These proposals have been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that these actions should not be classified "significant" under the criteria. A Draft Impact Analysis Statement has been prepared and is available from Charles V. Cunningham (ASCS), 202–447–7873.

Signed at Washington, D.C. on August 9, 1979.

John W. Goodwin,

Acting Administrator, Agricultural Stabilization and Conservation Service, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79–25080 Filed 8–13–79; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

[Docket No. ERA–R–79–34]

Mandatory Petroleum Allocation Regulations; Governors' Motor Gasoline Allocation Authority

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Cancellation of Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the cancellation of a public hearing on the Governors' Motor Gasoline Allocation Authority scheduled for 9:30 a.m. on August 14, 1979 at 2000 M Street, N.W., Washington, D.C. The hearing is being cancelled because only one person indicated an interest in testifying at the hearing, and, when infomred that he would be the only witness, he stated that he preferred to provide his comments in writing.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, 2000 M Street NW., Room 2214, Washington, D.C. 20461, (202) 254–5201.

William Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street N.W., Room 2304, Washington, D.C. 20461, (202) 254–8034.

Kristina A. Clark (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Room 6A–127, Washington, D.C. 20585, (202) 252–6744.

Issued in Washington, D.C., August 8, 1979.

Douglas G. Robinson,

Deputy Administrator for Policy, Economic Regulatory Administration.

[FR Doc. 79–25077 Filed 8–13–79; 8:45 am]

BILLING CODE 6450–01–M

[10 CFR Part 212]

[Docket No. ERA–R–79–32]

Retailer Price Rule for Motor Gasoline

AGENCY: Economic Regulatory Administration.

ACTION: Change of Hearing Location.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that the public hearing scheduled on August 20, 1979 (44 FR 45957, August 6, 1979), regarding the portion of the final rule that relates to the governors' authority under the rule to grant increases in the allowable margins for retail dealers, scheduled to be held at the John C. Kluczinski Building, 230 S. Dearborn Street, Chicago, Illinois, will be held instead at the Marriott Hotel, 540 N. Michigan Avenue, Chicago, Illinois. The change is being made to allow more room for attendees.

DATES: Requests to speak by August 14, 1979, 4:30 p.m.; hearing date: August 20, 1979, 9:30 a.m.

ADDRESSES: All comments and requests to speak to: Economic Regulatory Administration, Office of Public Hearings Management, Docket No. ERA–R–79–32, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. Hearing location: Marriott Hotel, 540 N. Michigan Avenue, Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214–B, 2000 M Street NW., Washington, D.C. 20461, (202) 254–5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C. 20461, (202) 634–2170.

Issued in Washington, D.C., August 9, 1979.

F. Scott Bush,

Assistant Administrator, Regulations & Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79–25078 Filed 8–13–79; 8:45 am]

BILLING CODE 6450–01–M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC–10822, File No. S7–513]

Investment Company Contracts for Services With Affiliated Persons; Withdrawal of Proposed Rule Amendment

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed rule amendment.

SUMMARY: The Securities and Exchange Commission is withdrawing a proposed amendment to a rule which would have exempted investment companies entering into contracts for services with their affiliated persons from the requirement of filing an application with the Commission for an order approving such contracts, if the contracts met with certain conditions. The proposed amendment is being withdrawn because of the lapse of time since its proposal. It is expected that the subject matter of the proposal will be reconsidered by the Investment Company Act Study Group.

EFFECTIVE DATE: August 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Dianne E. O'Donnell, Esq., Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755–1796.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is withdrawing a proposed amendment to rule 17d–1 (17 CFR 270.17d–1) under the Investment Company Act of 1940 (the "Act") (15 U.S.C. 80a–1 et seq.) regarding contracts for non-advisory services entered into by investment companies with their affiliated persons or principal underwriters. The amendment, which was proposed in Investment Company Act Release No. 8245 (Feb. 25, 1974) (39 FR 8935, March 7, 1974), would have excluded such service contracts from the definition of "joint enterprise or other joint arrangement or profit-sharing

plan" in paragraph (c) of rule 17d–1, if the contract complied with certain conditions. The effect of the proposed amendment would have been to exempt service contracts with affiliates from the requirement of prior Commission review and approval which is prescribed by section 17(d) of the Act (15 U.S.C. 80a–17(d)) and rule 17d–1 thereunder for joint transactions of investment companies with their affiliated persons. The proposed exemption was conditioned on approval and renewal of the service contract in the manner required for investment advisory contracts by sections 15(a) and (c) of the Act (15 U.S.C. 80a–15 (a), (c)) and findings by a majority of the disinterested directors of the investment company, made in the course of a review such as would have been made if section 15 were applicable, that: (A) The contract was in the best interest of the company and its shareholders; (B) the services to be performed pursuant to the contract were services required for the operation of the company; (C) the affiliated person could provide services the nature and quality of which were at least equal to those provided by others offering the same or similar services; and (D) the fees for such services were fair and reasonable in light of the usual and customary charges made by others for services of the same nature and quality.

Ten letters of comment were received on the proposed amendment to rule 17d–1(c). A majority of the commentators questioned the Commission's authority to make rules regarding service contracts with affiliates pursuant to section 17(d) of the Act. The proposed requirement of shareholder approval of such contracts was also criticized as being inefficient and inappropriate.

The Commission has not taken any action on the proposed amendment to rule 17d–1 since its issuance in 1974. In addition, it is expected that the subject matter of the proposal will be reconsidered by the Investment Company Act Study Group. In view of the lapse of time since the amendment was proposed, the Commission believes it would be advisable to withdraw it at this time.[1]

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

August 8, 1979.

[FR Doc. 79–24971 Filed 8–13–79; 8:45 am]

BILLING CODE 8010–01–M

[1] The Division of Investment Management has taken no-action positions with regard to service contracts which comply with the provisions of the proposed rule. See Pegasus Income & Capital Fund, Inc. (available Dec. 31, 1977) (transfer agency, registrar, dividend disbursing and fund management services); Investors Syndicate of America, Inc. (available May 19, 1977) (mortgage servicing and management services); Funds, Inc. (available Oct. 4, 1975) (transfer agency, dividend disbursing and other administrative services); Arnold Bernhard & Co. (1974–1975 Transfer Binder) Fed. Sec. L. Rep. (CCH) ¶80,071 (available Sept. 18, 1974) (transfer agency, computer and shareholder services). In addition, it appears that some investment companies informally rely upon the provisions of the proposed amendment in entering into service contracts with affiliates. Withdrawal of the proposed amendment is not intended to indicate any change in the no-action positions of the Division of Investment Management. Moreover, the Commission does not intend its withdrawal of the proposed rule to indicate that action in accordance with its provisions would be inappropriate.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 201, 701]

[79N–0248]

Labels of Drug and Cosmetic Products: Placement of Required Information; Withdrawal of Proposal and Termination of Rulemaking Proceeding

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a proposal to amend the drug and cosmetic regulations regarding the use of labels that can be read only through the container and its contents. Too much time has elapsed since the proposal was published, and it is being withdrawn for reconsideration.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Philip L. Paquin, 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 July 10, 1974 (39 FR 25328), FDA issued a proposal to amend the drug and cosmetic regulations in § 1.103 (21 CFR 1.103, recodified as § 201.15 (21 CFR 201.15) in the **Federal Register** of March 27, 1975 (40 FR 13996)) and § 701.2 (21 CFR 701.2). The proposal concerned the use of drug and cosmetic product labels that are designed so that some of the required information is on the back of the label and can be read only by looking through the container and its contents. Under the proposal, products labeled in that manner would be considered misbranded.

Because of the time that has elapsed since the proposal was published, FDA has decided to withdraw it for reconsideration. If the agency concludes that action is required on this matter, it will issue a new proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201, 502, 602, 701(a), 52 Stat. 1041–1042, 1050–1051 as amended by 76 Stat. 791, 1054–1055 as amended (21 U.S.C. 321, 352, 362, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the proposal published in the **Federal Register** of July 10, 1974, on this matter (the additions of new paragraph (a)(7) to § 1.103 (now § 201.15) and new paragraph (a)(7) to § 701.2) is hereby withdrawn.

Dated: August 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–24790 Filed 8–13–79; 8:45 am]

BILLING CODE 4110–03–M

[21 CFR Part 207]

[79N–0253]

Foreign Drug Establishments; Registration Procedures: Withdrawal of Proposal and Termination of Rulemaking Proceeding

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of Proposal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a proposal to adopt procedures under which foreign drug establishments may register with the agency. Too much time has elapsed since the proposal was published, and it is being withdrawn for reconsideration.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Philip L. Paquin, 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 24, 1972 (37 FR 10510), FDA proposed to establish procedures by which foreign drug establishments could register with FDA under provisions of section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360). Section 510(i) of the act permits, but does not require, any foreign establishment that manufactures, prepares, propagates, compounds, or processes drugs to be registered. The proposal would have added the procedures to Part 132 (recodified as Part 207 in the **Federal Register** of March 27, 1975 (40 FR 13996)). (Specifically, the proposal would have added new §§ 132.21–132.30 to Subpart C of Part 132.)

Since the proposal was published, significant changes to the act and regulations have occurred—implementation of the Drug Listing Act of 1972, enactment of the Device Amendments of 1976, promulgation of device establishment registration and device listing regulations. Because of these changes and the time that has elapsed since the proposal was published, FDA has decided to withdraw it for reconsideration. If the agency concludes that action is required on this matter, it will issue a new proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 506, 507, 510(i), 801(a), 52 Stat. 1052–1053 as amended, 1058 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 76 Stat. 795 (21 U.S.C. 355, 356, 357, 360(i), 381(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the proposal published in the **Federal Register** of May 24, 1972, on this matter is hereby withdrawn.

Dated: August 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24791 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Parts 429, 431, 514]

[Docket No. 79N-0175]

Certification of Antibiotics and Insulin Financial Responsibility of Agents

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the regulations on certification of antibiotic drugs for human use, certifiable antibiotics for veterinary use, and insulin, to revoke the requirement that a request for batch certification from a foreign manufacturer be signed by an agent of the foreign manufacturer who resides in the United States. The agent's signature has become unnecessary because other regulations ensure the financial accountability of the foreign manufacturer and because other antibiotic and insulin drug approval requests adequately provide for the appointment of an agent for service of process.

DATES: Comments by October 15, 1979. Proposed effective date: 30 days after date of publication of a final rule in the **Federal Register**.

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: Howard P. Muller, Jr., 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: Section 431.1(a) (21 CFR 431.1(a)) requires that a request from a foreign manufacturer for certification of a batch of antibiotic drugs for human use (Form 7) be signed by the manufacturer and by an agent of the manufacturer who resides in the United States. Similarly, §§ 429.40(a) and 514.50(a) (21 CFR 429.40(a) and 514.50(a)) require this cosigning for insulin and for antibiotics for veterinary use, respectively. The agent is held accountable for all outstanding certification fees and is financially responsible for any certification debts incurred by the manufacturer. This provision of accountability was originally included in the regulations because FDA believed that the fee estimated in advance for certification services might be insufficient to cover the actual services required and because it might be difficult for the agency to collect certification fees when, for example, the firm subsequently went out of business or discontinued using the certification services.

Since publication of the financial responsibility requirement in the **Federal Register** of September 19, 1974 (39 FR 33664), the requirement has proven to be an additional expense for foreign manufacturers who must compensate agents for the service, with no apparent benefits accruing to the manufacturer, the consumer, or FDA. The other sections of the regulations that provide safeguards for financial responsibility have made the cosigning provision unnecessary. Section 429.55 (a) and (b) (insulin) (21 CFR 429.55 (a) and (b)), § 431.53(e) (antibiotics for human use) (21 CFR 431.53(e)), and § 514.60 (certifiable antibiotics for veterinary use) (21 CFR 514.60) all provide that fees for certification services rendered accompany the request for certification, unless the fees are covered by an advance deposit maintained in accordance with § 429.55(c) (for insulin) or § 431.53(d) (for human and animal antibiotics). Moreover, the fee estimated for certification services has rarely been insufficient to cover the actual services required. If additional fees are required, FDA requires payment of these fees before releasing or certifying the batch.

Before it included requirements for the financial accountability of agents, § 431.1(a) required agents to sign a request for certification (Form 7) solely to assure FDA of the availability of a domestic agent for service of legal process, e.g., notices of opportunity for hearing and notices revoking certification. The signature on the Form 7, however, now appears unnecessary for this purpose as well, for other documents already serve this purpose. The request for certification for a wholly new antibiotic drug for which no monograph exists, i.e., an FDA Form 5, and a request for certification for a new antibiotic drug for which a monograph has been published, i.e., an FDA Form 6, that are submitted by a foreign manufacturer, must also be signed by an agent of the manufacturer who resides in the United States. This appointment is sufficient to ensure the availability of a domestic agent for service of legal process for purposes of the individual batches whose certification is subsequently requested and, therefore, makes the signature of the agent on the Form 7 superfluous. Provisions for the countersigning by a U.S. agent for batch certification for antibiotic drugs for veterinary use are currently provided for under the New Animal Drug Application (NADA) provisions (§ 514.50(a)) and, for insulin, under § 429.40(a). Conforming amendments are proposed for these sections on the same basis as the proposed changes in § 431.1. The cosigning requirements for agents in the NADA provisions (§ 514.1(a)) and, in the case of insulin, in the new drug application provision (§ 314.1), are adequate to ensure the appointment of agents for certification purposes for these drugs.

The agency has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)) and, therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 506, 507, 512(n), 701(a), 52 Stat. 1055, 55 Stat. 851, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 356, 357, 360b(n), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Parts 429, 431, and 514 be amended as follows:

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

1. Part 429 is amended in § 429.40 by revising paragraph (a) to read as follows:

§ 429.40 Requests for certification; samples; storage; approvals preliminary to certification.

(a) A request for certification of a batch shall be addressed to the Food and Drug Administration, Division of Drug Biology (HFD–410), 200 C St. SW., Washington, DC 20204.

* * * * *

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

2. Part 431 is amended in § 431.1 by revising paragraph (a) to read as follows:

§ 431.1 Requests for certification, check tests and assays, and working standards; information and samples required.

(a) A request for certification of a batch (Antibiotic Form 7/Form FD–1677) shall be addressed to the Food and Drug Administration, National Center for Antibiotic Analysis (HFD–430), 200 C St. SW., Washington DC 20204.

* * * * *

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 514—NEW ANIMAL DRUG APPLICATIONS

3. Part 514 is amended in § 514.50 by revising paragraph (a) to read as follows:

§ 514.50 Requests for certification, check tests and assays, and working standards for animal drugs subject to section 512(n) of the act; information and samples required.

(a) A request for certification of a batch (Antibiotic Form 7/Form FD–1677) shall be addressed to the Food and Drug Administration, National Center for Antibiotic Analysis (HFD–430), 200 C St. SW., Washington DC 20204.

* * * * *

Interested persons may, on or before October 15, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before September 13, 1979 submit to the Hearing Clerk (address above) a request for an informal conference. The participants in an informal conference, if one is held, will have until October 15, 1979, or 15 days from the day of the conference, whichever is later, to submit their comments.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 7, 1979.

William F. Randolph,

Acting Associate Commissioner Regulatory Affairs.

[FR Doc. 79–24899 Filed 8–13–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 203]

[Docket No. R–79–702]

Mutual Mortgage Insurance and Insured Home Improvement Loans; Mortgage Financing Changes

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This rule proposes to change Chapter II, 24 CFR, Part 203 by amending Subsection 203.27(e) to prohibit the mortgagee from disbursing loan funds to financial consultants or other persons or organizations assisting the mortgagor in obtaining mortgage financing or in refinancing an existing mortgage. There have been brought to the attention of the Department several incidents where fees which the Department considers exorbitant were charged by persons or organizations counseling in financial matters to mortgagors wishing to refinance their existing mortgages with HUD's mortgage insurance. This type of loan information service is available through HUD counseling services, some non-profit organizations and HUD approved lending institutions with little or no fee charged.

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

ADDRESSES: Written comments should refer to the docket number and date and should be submitted to the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

A copy of each communication will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: William L. Halpern, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6720. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: There have been brought to the attention of the Department several incidents where fees which the Department considers exorbitant were charged by persons or organizations counseling in financial matters to mortgagors wishing to refinance their existing mortgages with HUD's mortage insurance. This type of loan information service is available through HUD counseling services, some non-profit organizations and HUD approved lending institutions with little or no fee charged. The amendment of § 203.27(e) will prohibit the mortgagee from paying any charges out of the mortgage proceeds, except those expressly permitted by regulations, to a person or organization giving financial advice, securing mortgage financing, arranging mortgage refinancing with mortgagees or performing debt consolidation aid to mortgagors wishing to refinance their existing mortgages under any of HUD's mortgage insurance programs.

The existing 24 CFR 203.27(e) permits the payment of a fee, satisfactory to the mortgagor, to a mortgage broker who does not represent the mortgagee. Closely allied to such payments is the payment of a fee to persons or organizations, not qualified as mortgage brokers, who counsel mortgagors in refinancing their existing mortgages.

The amended regulation does not prohibit a mortgagor from paying a fee to a mortgage broker, a financial consultant or others for financial assistance but it does prohibit the mortgagee from disbursing funds for this purpose out of loan proceeds. Limitations on the amount charged for originating and closing the loan and

prohibitions against kickbacks and referral fees are not affected by the amendment.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of Rules Docket Clerk at the address set forth above.

Accordingly, it is proposed that 24 CFR Part 203.27(e) be amended as follows:

§ 203.27 Maximum charges, fees or discounts.

* * * * *

(e) The mortgagee may not disburse loan funds to financial consultants or other persons or organizations assisting the mortgagor in securing mortgage financing or in refinancing an existing mortgage.

Authority: The provisions of this Part 203 issued under secs. 203, 211, 52 Stat. 10, as amended, 23; 12 U.S.C. 1709, 1715b.

Issued at Washington, D.C., August 2, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-25095 Filed 8-13-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-1386]

Consolidated Returns; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Change of date of public hearing on proposed regulations.

SUMMARY: This document provides notice of a change of date of a public hearing on proposed regulations relating to the tax imposed with respect to certain accumulated earnings in the case of an affiliated group of corporations which makes a consolidated income tax return.

DATES: The public hearing will be held on October 3, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by September 20, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-1386), Washington,D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: By a notice appearing in the **Federal Register** for Monday, July 30, 1979 (44 FR 44553), it was announced, among other things, that a public hearing on proposed regulations relating to consolidated returns would be held on, September 19, 1979, beginning at 10:00 a.m. in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The proposed regulations were published in the **Federal Register** for Monday, May 14, 1979 (44 FR 28001).

The date for the public hearing has been changed, and it will be held on Wednesday, October 3, 1979.

Outlines of oral comments must be delivered or mailed by September 20, 1979.

In all other respects the details with respect to the hearing remain the same.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 79-25045 Filed 8-13-79; 8:45 am]

BILLING CODE 4830-01-M

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 79-1]

Statements Identifying One or More Authors of an Anonymous or Pseudonymous Work; Statements of the Date of Death of an Author, or That an Author is Still Living; Registry of Vital Information Concerning Authors

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to inform the public that the Copyright Office of the Library of Congress is considering the adoption of regulations to implement section 302 of the Copyright Act of 1976 (17 U.S.C. 302). That section provides for the recording in the Copyright Office of two types of statements: (1) statements revealing the identity of particular authors of anonymous and pseudonymous works; and (2) statements as to whether particular authors are still living and, if not, the date of the authors' deaths. The effect of filing a statement of the first type may be to change the basis for calculating the term of copyright protection of works by the particular author, and thus to change the duration of copyright in those works. The effect of filing a statement of the second type may be to deprive potential users of a copyrighted work of a statutory presumption, under which a particular author is presumed to have been dead for at least fifty years. The proposed regulation establishes requirements governing the form, content, and recordation of statements filed under section 302 of the Copyright Act, sets forth the persons entitled to file these statements, and establishs a special registry of these statements and of other vital information concerning authors.

DATES: Initial comments should be received on or before October 1, 1979. Reply comments should be received on or before October 15, 1979.

ADDRESSES: Interested persons should submit five copies of their written comments, if by mail, to: Office of the General Council, Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202; or, if by hand, to: Office of the General Counsel, Copyright Office, Library of Congress, Room 519, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

Copies of all comments received will be available for inspection and copying between the hours of 8 a.m. and 4 p.m., Monday through Friday, in the Public Information Office of the Copyright Office, Room No. 101, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, (703) 557-8731.

SUPPLEMENTARY INFORMATION:

1. The Basic Statutory Term of Copyright

The Copyright Act of 1976 (title 17 of the United States Code, 90 Stat. 2541) establishes a new system for computing the length of the copyright term for two types of works: (1) works created on or after January 1, 1978; and (2) works created before January 1, 1978, but neither published not copyrighted before that date. The basic copyright term for both of these types of works [1] is the life of the author and fifty years after the author's death; for works of joint authorship the term ends fifty years after the death of the last surviving author. There are three major exceptions to this general rule of basing the copyright term on the life of the author: (1) anonymous works; [2] (2) pseudonymous works,[3] and (3) works made for hire. For works of these three types—that is, works whose authorship is not revealed or whose "author" is not an individual—section 302(c) of the statute establishes a term of 75 years from publication or 100 years from creation, whichever is shorter.

2. Converting the Term of Anonymous and Pseudonymous Works

Section 302(c) of the Act (17 U.S.C. § 302(c)) establishes a procedure for converting the 75- and 100-year terms for anonymous and pseudonymous works to the ordinary life-plus-fifty-years term by disclosing the author's identity in certain records of the Copyright Office. The statute provides: "If, before the end of [the 75- or 100-year] term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in records provided by this subsection, the copyright in the work endures for [the standard term of life-plus-fifty years], based on the life of the author or authors whose identity has been revealed."

Thus, under the statute, there are three places where revealing the identity of one or more authors of an anonymous or pseudonymous work will change the length of the copyright term: (1) in the records of copyright registration for the work under section 408(a) of the statute and section 202.3 of the Copyright Office Regulations; (2) in the records of a supplementary registration for the work under section 408(d) of the statute and section 201.5 of the Copyright Office Regulations; and (3) in special records established under section 302(c) of the statute and the regulations proposed in this notice of proposed rulemaking. With respect to these special records, section 302(c) of the statute provides: "Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of that person's interest, the source of the information recorded, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation."

This notice proposes the addition of a new § 201.21 to the Regulations of the Copyright Office, to establish requirements governing the form, content, and recordation of these statements, and setting forth the persons entitled to file them.

3. Records and Presumption as to Author's Death

Subsections (d) and (e) of section 302 of the Copyright Act are intended to deal with the practical problem of computing the term of copyright for works by authors who, although identfied by name, are obscure or unknown. Since works of this sort are not "anonymous" or "pseudonymous," the length of the copyright term must be based on the date of the author's death, but this date may be difficult to establish where biographical information is scanty or lacking. Section 302 seeks to answer this problem in two ways: by setting up in the Copyright Office a registry of vital information concerning authors, and by establishing presumptions concerning the date of an author's death that can be relied on in the absence of contrary information in the Copyright Office's records.

Specifically, section 302(d) provides: "any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date." The form and content of the statement is to comply with Copyright Office Regulations, and the statement must identify "the person filing it, the nature of that person's interest, and the source of the information recorded." The Register of Copyrights is made responsible for maintaining "current records of information relating to the death of authors of copyrighted works," based on the recorded statements and also, "to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources."

Section 302(e) ties these Copyright Office records in with a presumption concerning the date of an author's death. After a stated period—75 years from publication or 100 years from creation, whichever occurs earlier—anyone who obtains certification from the Copyright Office that its records show nothing to indicate that the author is living or died less than 50 years before, is entitled to rely on a presumption that the author has been dead for more than 50 years. Thus, assuming that it is the lifespan of the author in question that controls the length of the copyright, anyone who in good faith relies on this presumption can use the work as if it is in the public domain and will have a "complete defense to any action for infringement."

This notice proposes to include in the new § 201.21 of the Regulations of the Copyright Office, to be issued under section 302(c) of the statute, additional requirements governing the form, content, and recordation of statements filed under section 302(d), and setting forth the persons entitled to file them.

4. Copyright Office Registry of Vital Information Concerning Authors

Both subsection (c) and (d) of section 302 require the Copyright Office to establish and maintain records concerning the identity and dates of death of authors, based upon the statements recorded under those subsections. Subsection (d) also gives the Register of Copyrights discretionary authority to compile obituary data from other Copyright Office records and general reference sources. This notice proposes including, in the new § 201.21 of the Regulations of the Copyright Office, a provision establishing a special registry for these purposes, describing its organization and scope, and setting forth conditions governing the issuance of certified reports under section 302(e). The word "vital" in the name of the registry is intended to have the same

[1] The basic term for works created on or after January 1, 1978, is provided in section 302 of the Act (17 U.S.C. § 302). The term for works created but neither published nor copyrighted before 1978 is provided in section 303 (17 U.S.C. § 303). Section 303 also establishes minimum terms of protection for the works it covers: copyright in a work created but not in the public domain or copyrighted before 1978 will last at least until the end of 2002, and if the work is published between 1978 and 2002 the copyright will last through 2027.

[2] An "anonymous work" is defined in section 101 of the Copyright Act (17 U.S.C. § 101) as "a work on the copies or phonorecords of which no natural person is identified as author."

[3] A "pseudonymous work" is defined in section 101 of the Act (17 U.S.C. § 101) as "a work on the copies or phonorecords of which the author is identified under a fictitious name."

meaning as in the phrase "vital statistics," namely, information about the identity, lifespan, and death of authors.

5. Specific Issues Raised by Proposed Regulations

a. *Persons entitled to file.* Both subsections (c) and (d) of section 302 of the statute give the right to file the statements referred to in those subsections to "any person having an interest in the copyright." The legislative history of section 302 casts little or no light on the intended scope of this phrase, and it might be argued that, in a sense, a potential user wishing copyright restrictions on a work to end as soon as possible has "an interest in the copyright." However, the use of the term "interest" elsewhere in the copyright statute (sections 203, 304, 501(b), 602(b), and 603(b)) suggests a narrower interpretation, involving at least some right in the nature of a property right under the copyright. Moreover, where there has been a deliberate decision to conceal the author's identity by anonymous or pseudonymous publication, it is certainly arguable that only someone with a significant property interest in the copyright should be able to disclose the author's identity and thereby change the term of protection in a given work. The phrase "any person having an interest in the copyright" is used in parallel provisions in subsections (c) and (d) of section 302, and should clearly be given idential interpretations.

Our proposed regulations adopt a fairly broad interpretation of "an interest," encompassing beneficial ownership as well as legal title; partial as well as undivided rights; future, contingent, and conditional rights and expectancies as well as vested and absolute rights; and nonexclusive rights under a contract or license as well as exclusive rights under an assignment or absolute transfer. This interpretation as based on three conclusions: (1) that a person must have some proprietary interest in a copyright to be entitled to file a statement under section 302 (c) and (d); (2) that a peson having a proprietary interest can be assumed to have some direct knowledge or access to direct knowledge about the author of the copyrighted work; and (3) that, as indicated in paragraph (c), below, no independent verification of the information given in a statement is necessary or appropriate.

We invite detailed comments on this interpretation, on the conclusions underlying it, and on the proposed regulations embodying it. Specifically: Is our interpretation of "interest" too broad or too narrow? Should nonexclusive licensees be entitled to file? Should persons with a nonproprietary "interest" in a copyright (that is, persons who want to use a copyrighted work and see an advantage in putting the identity or death date of the author on record under section 302 (c) or (d)) be entitled to file? If so, should there be any safeguards to ensure the validity of the information put on record? In this connection, we call attention to an alternative proposal involving verification of information in statements, which is outlined below in paragraph (c) and on which we would also appreciate comments.

b. *Form and content of statements.* The Copyright Office considered the possibility of providing standardized forms for the filing of statements under section 302 (c) and (d), but decided against it because of the many variables involved and the lack of any experience with records of this sort. We plan to review this decision later on, after we have had some opportunity to evaluate the system in operation and to determine whether the volume of work justifies the use of automated storage and retrieval techniques.

Under the proposed regulations, a statement would be required to include the name, address, and handwritten signature of the person signing it, together with a declaration attesting that the facts given are true to that person's best knowledge and belief.

One of the items specifically required to be included in statements filed under subsection (c) of section 302 is "the particular work affected"; our proposed regulations would permit more than one anonymous or pseudonymous work to be identified in a single statement, but would preclude the recordation of blanket statements (such as " 'Robert Rusk' is the real name of the author of all works listing the pseudonym 'William Robinson' as author"; or " 'Richard Ian Blaney' is the author of all works published in the 'Continental School of Gourmet Cooking' series"). Since subsection (d) of section 302 does not require identification of individual works, the proposed regulations would permit, but not require, identification of specific titles in connection with statements of dates of death or statements that particular authors are still living. However, since the person filing the statement must have "an interest in a copyright," statements submitted under section 302(d) would have to identify the copyright or copyrights in which the person filing it has an interest.

The statute requires all statements to disclose the source of the information given, and the proposed regulations would require a clear statement of that source. A declaration that the source of the information is the personal knowledge of the person signing the statement would be acceptable, if accompanied by a description of how the personal knowledge was obtained. if the information is derived from documentary material (such as affidavits, death certificates, obituaries, etc.), the statement would be required to describe the material and to "give enough information about its nature, content, and location as fully to identify it." Alternatively, copies of the documentary material could be attached for recording with the statement, but would not be required in any case.

c. *The Question of Verification.* A point on which we are particularly anxious to have comments is the question of whether the Copyright Office should seek to verify—from its own records and from the vast body of reference information available in the library of Congress—the information given in the statement as filed. Should the regulations make clear that the Copyright Office will not seek to verify the factual accuracy of the information in any statement, and will merely put it on public record for whatever legal effect it is later determined to have? Alternatively, should the regulations permit, but not require, the Office to seek to verify the information, and to notify the person filing the statement of any conflicting or contrary information? Or should the Copyright Office be required to seek to verify the information in every case? Should the Office ever refuse to record a statement on the ground that the verification process has shown the information it gives to be untrue?

As indicated above in paragraph (a), our proposed regulations are based on an interpretation of the statute under which only persons having some sort of proprietary interest in a copyright can file statements; since persons with a proprietary interest can be assumed to have knowledge about the author, no verification is necessary. We also have doubts as to whether the Office should put itself in the position of undertaking verification as a routine matter in some or all cases. The proposed regulations would not preclude the Office from questioning the information in a document when there are valid reasons to do so. However, the Office would not be required to make searches for verification purposes as a condition of recording statements in any case; and,

even where the Office has raised questions, it could not refuse recordation if the person requesting recordation reaffirms the request.

In the course of our initial review of this whole question we considered the possibility of adopting a broader interpretation of the phrase "any person having an interest in the copyright," coupled with more rigid requirements concerning documentation and verification of the information being placed on record. Under this possible alternative, the provisions of the proposed regulations would still apply to statements filed by persons claiming and identifying some sort of proprietary interest in a copyright. However, the Office would also accept for recordation statements filed by persons having a nonproprietary "interest"—that is, some identifiable advantage or benefit deriving form the status of the copyright in a particular work. In most cases, of course, this "interest" would be in seeing the copyright end as soon as possible so that the work could be used without restrictions.

Assuming that the Office accepted statements from persons having nonproprietary "interests" of this sort, what should be the conditions for recordation? Under the alternative proposal, these statements would not only have to meet the requirements for statements signed by persons with proprietary interests, but would also have to include, as the source of the information given, identifiable and readily verifiable documentation. A mere declaration of personal knowledge would not be sufficient for this purpose. Under this alternative, the documentary material on which the information is based would have to be reproduced in the statement itself or would have to be clearly identified as to source, location, and content; and the Copyright Office would not record the statment in the registry without attempting to verify the information and making the results of this verification process a part of the record. We invite comments on this possible alternative approach.

d. *The Registry of Information Concerning Authors.* As we interpret section 302, the Copyright Office has a legal obligation to set up special registries consisting of statements filed under subsections (c) and (d), and may, in its discretion, expand "the information relating to the death of authors of copyrighted works" in the registry on the basis of other copyright, bibliographic, and general reference sources. It is arguable that the building up of obituary records by the Copyright Office itself is premature, since, under section 303 of the statute, no copyright term based on the life of the author will expire before the end of 2002. Nevertheless, we believe there may be cases where, even in advance of 2002, the death date of the author could be relevant information for various purposes. And, in any case, we believe it would be simpler and more efficient to build these records contemporaneously rather than retrospectively. We are therefore proposing to establish a single registry for recording documents under both subsections (c) and (d) of section 302, and to identify, as part of the Copyright Office's obligation with regard to the registry, the building of obituary records concerning authors. We invite comments on this question, and we are particularly anxious to learn of bodies of information of this type already in existence.

e. *Certified Reports under Section 302(e).* Under section 302(d), the certified reports to be issued by the Copyright Office, on which presumptions as to authors' deaths can be based, will have no legal significance until the minimum term provided by section 303 expires at the end of 2002. However, it seems probable that in the meantime the Office will be requested to supply certified search reports of information in the special registry, and we have therefore included provisions to deal with requests of this sort in the proposed regulations. A point of particular concern is this: suppose the Office is asked for a certified report stating whether its records under section 302(d) contain any information on a particular author; let us say that no statements have been filed, but the Office's search of other records (including those of the Library of Congress) reveals information showing that the author died on a particular date. Should the Office add that information to the registry and then include it in the certified report, or should it certify only to the information that was in the registry on the date it received the request?

Proposed Regulation

In consideration of the foregoing, we propose to amend Part 201 of 37 CFR, Chapter II by adding a new § 201.21 to read as follows:

§ 201.21 Statements identifying one or more authors of an anonymous or pseudonymous work; statements of the date of death of an author, or that an author is still living; registry of vital information concerning authors.

(a) *Recordation of Statements.* (1) Any person having an interest in the copyright in an anonymous or pseudonymous work may record, in the Copyright Office Registry provided by paragraph (e) of this section, a statement identifying one or more authors of that work.

(2) Any person having an interest in a copyright in any work may record, in the Copyright Office Registry provided by paragraph (e) of this section, a statement of the date of death of a particular author of the work in which such person has an interest, or a statement that such an author is still living on a particular date.

(b) *Persons Entitled to File.* For purposes of this section any of the following persons shall be considered to have an interest in the copyright in a work:

(1) The author of the work; or

(2) The spouse of the author of the work; or

(3) The widow or widower or any of the children or grandchildren of the author of the work; or

(4) Any legal or beneficial owner of an exclusive right under copyright in the work; or

(5) Any person claiming a future, contingent, or conditional expectancy or right of ownership in the copyright in the work, under a will or trust or under the applicable laws of intestate succession; or

(6) Any person who, on the date the statement is executed, is the nonexclusive licensee of any rights under copyright in the work.

(c) *Form and Contents of Statement.* (1) The Copyright Office does not provide printed forms for the use of persons recording statements under this section.

(2) Any statement submitted for recording under this section shall be accompanied by the fee prescribed by paragraph (d) of this section, and shall contain the information specified in this paragraph:

(i) The statement shall include the name, address, and handwritten signature of the person submitting the statement, together with the date on which the signature was affixed and a declaration that the facts attested to in the statement are true to the best knowledge and belief of the person signing it.

(ii) The statement shall include a full description of the nature of the interest of the person submitting the statement, clearly showing that the person comes within one of the categories specified in subsection (b) of this section. In the case of a statement of the date of death of an author, or a statement that the author is still living, the description shall include

idenfication of one or more works by the author in question that are covered by a copyright in which the person filing the statement has an interest.

(iii) In the case of statements identifying the authorship of anonymous or pseudonymous works, the statement shall include a separate listing of the title of each such work affected, and the copyright registration number of each such work, if known. Blanket descriptions are not acceptable for this purpose. In the case of statements of the date of death of an author, or statements that the author is living, the identification of specific works, by title or otherwise, is not required (except to show the interest of the person filing the statement, as provided in paragraph (c)(2)(ii) of this section); however, titles of copyrighted works by the author or authors covered by the statement may be included at the option of the person filing the statement.

(iv) In the case of statements identifying the authorship of anonymous or pseudonymous works, the statement shall clearly identify one or more authors of the work or works listed in accordance with paragraph (c)(2)(ii) of this section. Where the work was pseudonymous, the identification shall clearly relate the actual identity of the author to the fictitious name used as a pseudonym. The disclosure of the identity of one or more authors of an anonymous or pseudonymous work shall include at least the full legal name of the person or persons in question and should include whatever other biographical or bibliographical data is needed to leave the author's identity in no doubt. Such data may include, among other things, dates of birth and death, addresses, names of parents, and the titles of other works by the author in question.

(v) In the case of a statement of date of death of the author, the full date (month, day, and year) shall be given. In the case of a statement that the author is living on a particular date, the full date (month, day, and year) on which the author is clearly averred to be alive shall be given.

(vi) In the case of all statements filed for recording under this section, the source of the information given (that is, the identify of the author, the date of the author's death, or the fact that the author is still living on a particular date, as the case may be) shall be clearly stated. If the source of the information is the personal knowledge of the person signing the statement, the statement shall so declare, and shall describe how that personal knowledge was obtained. If the source of the information is documentary (for example, published or unpublished reference works, bibliographical or biographical publications, news stories, obituary notices, books, articles, reports, manuscripts, public records, certificates, affidavits, etc.), the statement shall describe the documentary material in question and shall give enough information about its nature, content, and location as fully to identify it. Copies of documentary material may be included for recording with the statement as an alternative to describing the material in detail.

(d) *Recordation and Fee.* (1) Upon receipt of a statement which, on its face, appears to meet the requirements of this section, and which is accompanied by the fee prescribed in this subsection, the Copyright Office will record the statement in the Registry of Vital Information Concerning Authors, and will return the original statement to the sender with a certificate of record.

(2) As a general rule, the Copyright Office will not attempt to verify the information given in any statement recorded under this section, but will put it on public record for whatever legal effect it may later be determined to have by a court of competent jurisdiction. The evidentiary weight, if any, to be given to any certificates, certified copies, or certified reports issued by the Copyright Office under this section shall similarly be a matter for judicial determination. The Copyright Office may, whenever it considers it appropriate and practicable, search its records and reference sources available in the Library of Congress with respect to information given in a statement, and may inform the person submitting the statement of the results of its search before completing recordation; however, the Copyright Office will not refuse recordation if the person submitting the statement reaffirms the request that it be recorded.

(3) For a statement consisting of six pages or less, listing no more than one title of a copyrighted work, the basic recordation fee is $10; an additional charge of $1 is made for each page over six and each title over one. Any documentary material attached to or incorporated in the statement will be considered a part of the statement in calculating the fee under this paragraph.

(e) *Copyright Office Registry of Vital Information Concerning Authors.* (1) There is hereby established in the Copyright Office of the Library of Congress a Registry of Vital Information Concerning Authors, in accordance with section 302 of title 17 of the United States Code, as amended by Pub. L. 94–553.

(2) All statements recorded in the Copyright Office in accordance with paragraph (a) of this section shall be made a part of the public records of such special Registry, and all certified and uncertified copies of such records, and all certified reports concerning them, shall clearly identify them as being part of the Registry.

(3) On and after October 1, 1980, the Copyright Office will undertake to begin placing in the public records of the Registry information relating to the death of authors compiled from sources other than statements recorded under paragraph (a) of this section, as provided by section 302(d) of title 17 of the United States Code as amended by Pub. L. 94–553. Such information will be derived from Copyright Office records and catalogs, Library of Congress catalogs and bibliographic publications, and other primary and secondary biographical and bibliographical reference sources. No information concerning the death of an author will be made a part of the records of the Registry unless it is supported by at least two documentary sources, and these sources will be clearly identified in the record in question. The information placed in the Registry under this paragraph will be maintained on a current basis and will be augmented as rapidly and as broadly as possible under existing staffing and budgetary constraints.

(4) In a case where the Copyright Office receives a request for a search of its records concerning the possible death of a particular author, if the records of the Registry contain no information on the point but, in the course of searching other records, the Office finds at least two documentary sources showing the date of the author's death, it shall add this information to the Registry in accordance with paragraph (e)(3) of this section and include this information in its search report.

(17 U.S.C. 302, 702, 705, 708(6)).

Dated: August 8, 1979.

Barbara Ringer,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 79-24972 Filed 8-13-79; 8:45 am]

BILLING CODE 1410-03-M

[37 CFR Part 202]

[Docket RM 79-2]

Registration of Claims to Copyright in the Graphic Elements Involved in the Design of Books and Other Printed Publications

AGENCY: Library of Congress, Copyright Office.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This advance notice of proposed rulemaking is issued to advise the public that the Copyright Office is considering adoption of regulations concerning the registration of claims to coypright in the graphic elements involved in the design of books, periodicals, pamphlets, brochures, and other printed publications. This notice announces and invites participation in a public hearing intended to elicit comments, views, and information to assist the Copyright Office in considering all aspects of the question and in drafting regulations to be issued as proposed rules for additional comment at a later time.

DATES: The hearing will be held on October 10, 1979, commencing at 9:30 a.m. Written requests to testify at the hearing must be submitted on or before September 26, 1979.

Ten copies of written statements must be received by the Copyright Office by 4 p.m. on October 5, 1979.

Supplemental statements will be entered into the record until November 12, 1979. Ten copies of all comments should be submitted.

ADDRESSES: The October 10 hearing will be in Room 910, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

Written requests to present testimony should be submitted to: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Arlington, Va. 22202.

Ten copies of written statements or of supplemental statements should be submitted as follows:

If sent by mail: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Caller No. 2999, Arlington, Virginia 22202.

If delivered by hand, the copies should be brought to: Office of the General Counsel, Room 519, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

All requests to testify should clearly identify the individual or group requesting to testify and the amount of time desired. The Copyright Office will undertake to contact all of the witnesses to confirm the times of their appearances.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, D.C. 20559, (703) 557-8731.

SUPPLEMENTARY INFORMATION: (1) *General.* The Copyright Office is considering the formulation of regulations governing our policies and practices in cases where claims to copyright registration are asserted in the graphic elements involved in the design of books and other printed publications. We believe our regulations on this question could have considerable impact on a number of persons and organizations, including: graphic artists and designers; authors; publishers of books, newspapers, periodicals, and a variety of other types of publications; and various segments of the book manufacturing and printing industries. We are therefore urging wide representation at the hearing and broad testimony on all aspects of the problem.

(2) *The Statutory Framework of the Problem.* Section 410(a) of title 17 of the United States Code (as amended by Pub. L. 94-553, 90 Stat. 2541), which became effective on January 1, 1978, authorizes the Register of Copyrights to issue a certificate of registration, after determining that the deposited material constitutes copyrightable subject matter and that the other legal and formal requirements for copyright registration have been met. The scope of copyrightable subject matter is governed by section 102, which generally provides copyright protection for "original works of authorship fixed in any tangible medium of expression." Section 102 enumerates seven broad categories of copyrightable subject matter, including "literary works," and "pictorial, graphic, and sculptural works." These terms are defined by section 101 as follows:

> "Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.
>
> "Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

It is also clear under the statute that the categories listed in section 102 are "illustrative and not limitative"; and the legislative reports on the Copyright Act of 1976 (S. Rep. No. 94-473, H.R. Rep. No. 94-1476) state:

> * * * The definition of "pictorial, graphic, and sculptural works" carries with it no implied criterion of artistic taste, aesthetic value, or intrinsic quality. The term is intended to comprise not only "works of art" in the traditional sense but also works of graphic art and illustration, art reproductions, plans and drawings, photographs and reproductions of them, maps, charts, globes, and other cartographic works, works of these kinds intended for use in advertising and commerce, and works of "applied art."

Subsection (b) of section 102 seeks to make clear, in express language, that copyright protection for an original work of authorship does not extend to any ideas, systems, or concepts that are "described, explained, illustrated, or embodied in such work." In commenting on this provision, the legislative reports say this:

> Copyright does not preclude others from using the ideas or information revealed by the author's work. It pertains to the literary, musical, graphic, or artistic form in which the author expressed intellectual concepts.

(3) *The Present Regulatory Framework.* On January 5, 1978, the Copyright Office published interim regulations (43 FR 965) establishing the essentials of the registration system. At that time some portions of the existing Copyright Office regulations concerning registration were repealed, while other provisions were allowed to remain in effect for the time being. One provision not repealed was Copyright Office Regulation 202.1(a) prohibiting registration of "mere variations of typographic ornamentation, lettering, or coloring."

(4) *The Scope of the Present Inquiry.* What we are interested in exploring at the hearing are those elements going into the production of a book or other printed publication that, taken together, could be considered a copyrightable "work of applied art." We are not speaking here of the text as such or the illustrations as such—including ornamental illustrations and embellishments such as chapter headings and illuminated initial letters. We are inquiring about less obvious design elements such as the arrangement or juxtaposition of text matter, pictorial matter, or combinations

of text and pictorial matter on a page or a group of pages, and typography in a narrower sense, including selections of typefaces and sizes, margins, spacing, color, and a range of other choices having design consequences. The problem is sometimes loosely referred to as "book design," but we are also interested in the graphic or design elements involved in all types of printed publications—hardcover books, paperbacks, catalogs, newspapers, magazines, pamphlets, leaflets, folders, booklets, card sets, broadsides, and advertisements, among a host of others. We are interested in finding out what goes into elements variously known as "layout," "format," "typography," "composition," "arrangement," "makeup," and "color schemes," and in exploring whether these elements should be regarded as uncopyrightable ideas or concepts, or whether, alone or in combination, they can be considered copyrightable "works of authorship."

(5) *Specific Questions to be Considered.* In receiving testimony and written comments, the Copyright Office is particularly interested in information on the following questions:

(a) *Terminology.* We are anxious to find out what applicants mean when they use terms like "typography," "format," "book design," "makeup," "color combinations," "layout," "composition," and "typographical arrangement" in their applications for copyright registration. Do these terms have settled meanings and, if so, are they used in the same way by artists and by publishers of various types of works?

(b) *Copyrightable Elements.* What, if any, of the graphic elements in the design of a book or other printed publication can be identified as an "original work of authorship"? Assuming copyrightability, in theory at least, what would infringement of a copyrighted book design by another publication consist of? Assuming copyrightability in some cases, what standards should the Copyright Office use in distinguishing between standard public domain, or minimal elements and elements consisting of original, creative authorship? What is the dividing line between the idea or concept for a book design and its copyrightable expression in tangible form?

(c) *Typeface design and color combinations.* Note that this hearing is *not intended* to reopen issues concerning the copyrightability of the designs of individual type faces or type fonts. However, we are interested in exploring whether choices of type faces or conbinations of them, or choices of colors or combinations of them, can ever constitute copyrightable elements.

(d) *Applicability of Definitions.* How do the definitions under section 101 of the terms "compilation," "derivative work," and "joint work" apply, if at all, to designs of books and other printed publications? Assuming these definitions to be applicable in at least some cases, what are the consequences with respect to ownership, termination rights, the definition of "works made for hire," and term of copyright?

(6) *Book jackets and cover designs.* The inquiry to which this hearing is addressed does not include a consideration of the whole range of copyright problems presented by "book jackets"—the detachable dust jackets of hard-bound books. We plan to focus on these questions in a separate proceeding—whether or not the jacket should be considered an integral part of the book as part of a "unit of publication" or whether it should be treated as a separate work (such as a label or container of an article of merchandise; whether the copyright notice in the book covers copyrightable material on the jacket; the effect of a separate notice on the jacket; whether the authorship of the jacket can or should be refected in an application for the book proper; questions of separate ownership; questions of separate registration, deposit, and record-keeping, and so forth. We should prefer not to go into all of these questions here. However, it is true that when people speak of "book design" they are often thinking of the contents of the jacket as part of the over-all design; and in the case of paperbacks the cover, with its design, is physically a part of the book. We therefore should like information and comments as to the circumstances under which the designs of book jackets and book covers should be considered a part of the graphic elements involved in the book as a whole, and the circumstances under which they should be considered separate and independent works.)

(7) *"Format Copyright."* Representatives of the information industry have strongly urged the creation or clear-cut recognition of copyright protection for the arrangement or "formating" of factural data not copyrightable in itself. While this issue may be somewhat different from that of the design of books and other printed publications by artists, the problems of copyrightability have common factors. We therefore invite comments on this question for consideration in connection with revision of our regulations on registrability.

(8) *Notice of Copyright.* Assuming, for the sake of argument, that some designs of books and other printed publications are potentially copyrightable, how should the notice requirements of Chapter 4 of the copyright law be observed? Could a notice in the name of the author of the text ever cover the design elements in the book? Could a simple notice in the name of the publisher cover both the text and the design elements where the designer was an employee for hire? Where the designer was not an employee for hire but had transferred all rights? Where the designer was not an employee for hire and had transferred only certain publication rights?

(9) *Relation Between Protection for Design and Protection for Contents of Books or Other Publications.* In earlier debates concerning the possible copyrightability of typeface designs, representatives of authors and, to some extent, publishers, expressed concern that the adding of protection for the design of the actual printed characters reproducing the author's work—the "clothing" in which the author's work is garbed—could impair protection for the basic work itself. Are the same arguments applicable in the case of the design elements of a book or other publication? Could, for example, a designer's copyright limit an author's ability to license the basic work freely, or give rise to claims of rights by the designer in the basic work?

(17 U.S.C. 408,702).

Dated: August 8, 1979.

Barbara Ringer,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 79-24976 Filed 8-13-79; 8:45 am]

BILLING CODE 1410-03-M

POSTAL SERVICE

[39 CFR Part 10]

Articles Mailed Abroad By or In Behalf of Senders in the United States

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Part 661 of Postal Service Publication 42, *International Mail,* specifies the conditions under which items for delivery in the United States mailed in another country are subject to the payment of United States postage. This provision currently provides that such items mailed within a 30-day period are subject to the payment of U.S.

domestic postage if (a) in excess of 200 items when the foreign postage rate is lower than the comparable U.S. domestic rate, or (b) in excess of 5,000 items regardless of the foreign postage rate. This provision was intended to waive, with respect to such mailings below these levels, the rights of the Postal Service under article 20 of the Universal Postal Convention to collect postage on all such mailings.

The Postal Service has recently found that certain domestic mailers and mailing services are exploiting Part 661 by using its limits to make large volume mailings from Mexico, often disguised as mail originating in Mexico. In order to facilitate identification of such mailings and collection of United States postage, the Postal Service proposes to amend Part 661 by adopting language which generally conforms to article 20 of the Universal Postal Convention.

DATE: Comments must be received on or before September 12, 1979.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all comments will be available for public inspection and photocopying in Room 1610, 475 L'Enfant Plaza West, S.W., Washington, D.C. between the hours of 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Bruce S. Hirt, (202) 245–4518.0

SUPPLEMENTARY INFORMATION:
Article 20 of the Convention provides that:

> A member country shall not be bound to forward or deliver to the addressee letter-post items which senders resident in its territory post or cause to be posted in a foreign country with the object of profiting by the lower charges in force there; the same shall apply to such items posted in large quantities whether or not such postings are made with a view to benefiting from lower charges. The rule shall be applied without distinction both to correspondence made up in the country where the sender resides and then carried across the frontier, and to correspondence made up in a foreign country. The administration concerned may either return the items to origin or charge postage on the items at its internal rates. In the latter case, the items may be disposed of in accordance with the internal legislation of the administration concerned if the sender refuses to pay the postage. Universal Postal Convention, July 5, 1974 (Lausanne), T.I.A.S. No. 8231, Article 20.

The Postal Service, for the purposes described above, is proposing to revise existing §§ 661.1 and 661.2 in Publication 42, *International Mail*, which have been incorporated by reference in the **Federal Register**, see 39 CFR 10.5(f)(6)(i).[1] Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirement of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites public comment on the following proposed changes to Publication 42:

SUBCHAPTER 660—ARTICLES MAILED ABROAD BY OR ON BEHALF OF SENDERS IN THE UNITED STATES

PART 661—SCOPE AND APPLICABILITY

Revise §§ 661.1 and 661.2 to read as follows:

§ 661.1 Mailings affected.

The special conditions described in this subchapter apply to items of mail posted in foreign countries by or on behalf of persons or firms whose residence or place of business is in the United States.

§ 661.2 Postage payment requirement.

Payment of United States postage is required to secure delivery of items of mail described in § 661.1 under the following circumstances:

(a) When the foreign rate of postage applied to such items is lower than the comparable United States domestic rate of postage.

(b) When 1000 or more such items are mailed, regardless of whether the foreign postage rate is lower than the comparable United States domestic rate.

If the above changes are adopted, an appropriate amendment to 39 CFR 10.3 will be published.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,
Acting Deputy General Counsel.

[FR Doc. 79-24974 Filed 8-13-79; 8:45 am]
BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1295-6]

Approval and Promulgation of Implementation Plans; Georgia: Proposed Plan Revisions

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: EPA today proposes approval/disapproval action on portions of the recent State Implementation Plan (SIP) revision submittal made by the Georgia Environmental Protection Division. These portions were adopted pursuant to requirements of the Clean Air Act other than those set forth in Part D of Title I, Plan Requirements for Nonattainment Areas, or pursuant to regulations the Agency has devised to implement the Act. These revisions involve changes in the Georgia ambient air quality standards, regulations for the prevention of significant deterioriation of air quality, additional emission standards, and rules concerning source monitoring, permits, exceptions, exemptions, and enforcement. EPA is proposing approval. The public is invited to submit written comments on the proposed revisions.

DATE: To be considered, comments must be received on or before September 13, 1979.

ADDRESSES: Written comments should be addressed to Harriet Smith of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460.
Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.
Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, S.W., Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT:
Harriet Smith, Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia, 30308, 404/881–3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION: In the May 9, 1979, **Federal Register** (44 FR 27184), the Regional Administrator proposed approval action on the State Implementation Plan (SIP) revisions which the Georgia Environmental Protection Division submitted pursuant to requirements of Part D of Title I of the Clean Air Act, (CAA) with regard to nonattainment areas. At that time, it was noted that the SIP revision submittal contained changes applicable to other portions of the CAA and that these would be dealt with in a separate **Federal Register** notice. The purpose of this notice is to propose action on these

[1] For extension of approval of provisions Incorporated by Reference in 39 CFR 10.5(f)(6)(i), *see* 44 FR 32369.

revisions and to solicit public comment on them. EPA proposes to approve those portions of the "Amendments, Additions, Partial Repeals and Revisions of the Rules and Regulations of the Department of Natural Resources, Chapter 391–3–1, Air Quality Control as amended and adopted by the Board of Natural Resources on February 23, 1979" that were not addressed in the May 9, 1979, **Federal Register** notice.

The following is a discussion of the various provisions:

Rule 391–3–1–.01—Definitions—This rule is amended by striking the entire rule and inserting 62 definitions. The definitions as written are approvable.

Rule 391–3–1–.02(1) relating to general requirements for sources of air contaminants is amended by adding a new subsection (c) relating to prevention of significant deterioration (PSD) and by adding a new subsection (d) relating to areas of nonattainment with the National Ambient Air Quality Standards (NAAQS). These two requirements are added to the new source performance standard requirements and the emission standards for hazardous air pollutants requirements with which new sources must comply and which were already contained in this rule. Since there are no Federal requirements for future areas that have not been designated nonattainment, EPA proposes to approve State requirement subsections (c) and (d).

Rule 391–3–1–.02(2) relating to emission standards now contains a revised paragraph restricting unlawful air pollution to that which is "in quantities or characteristics or of a duration which is injurious or which unreasonably interferes with the enjoyment of life or use of property in such areas of the State as is affected thereby".

A new subsection is added to explain that the portion of a stack's height which exceeds good engineering practice will not be taken into account for the purpose of determining the degree of emission limitation required for control of an air pollutant.

A new subparagraph is added which states that a source may be exempt from a noncompliance penalty if it is found that the violation is *de minimis*.

A new subsection has been added concerning the conditions under which excess emissions resulting from startup, shutdown, or malfunction may be excused.

The last addition in this section is a subsection defining Equivalent Alternative Emission Reduction Options, also known as the "bubble concept".

Rule 391–3–1–.02(2) relating to smoke has been omitted and replaced by a new subsection relating to visible emissions. In addition to several other provisions, the new subsection restricts direct sources of emissions to an opacity of 40%. The 40% applies only to those facilities subject to some other emission limiting regulation.

Rule 391–3–1–.02(2)(c) relating to incinerators is amended to restrict new incinerators to visible emission of 20% opacity and old incinerators to visible emissions of 40% opacity.

Rule 391–3–1–.02(2)(d) relating to fuel-burning equipment is amended to restrict the opacity of visible emissions to 20% except one six minute period per hour not to exceed 27% opacity.

Figure 1 of that subsection concerning maximum permissible emission of fly ash and other particulate matter from fuel burning installations has been amended to correct a typographical error.

Paragraph 2 of Rule 391–3–1–.02(2)(g) concerning sulfur dioxide has been rewritten so that it now relates specifically to fossil fuels rather than to all fuels.

Rules 391–3–1–.02(2)(h), (2)(i), (2)(j) and (2)(k) relating to Portland Cement Plants, Nitric Acid Plants, Sulfuric Acid Plants, and Asphaltic Concrete Hot Mix Plants, respectively have, been amended to include applicable new source performance standards.

Rule 391–3–1–.02(2)(l) relating to conical burners has been revised so that sources in operation before January 1, 1972, are subject only to visible emissions regulations. All other conical burners are subject to visible emission regulations in addition to combustion control equipment specifications.

Rule 391–3–1–.02(n) relating to fugitive dust has been amended so that agricultural practice and roadway paving are no longer specifically listed as operations from which fugitive dust may result. The list, however, is not intended to be all inclusive. A paragraph has been added to this rule stating that fugitive dust opacity cannot exceed 20%.

Rule 391–3–1–.02(4) relating to ambient air quality standards revises to standards for sulfur dioxide, particulate matter, carbon monoxide, ozone, and nitrogen dioxide to be consistent with the Federal standards. The standard for non-methane hydrocarbons has been dropped and a standard for lead which is consistent with the Federal standard has been added.

Rule 391–3–1–.02(5)(a) related to open burning contains a revision in one paragraph which restricts the opacity of small construction fires to 40%.

Rule 391–3–1.–02(6) relating to source monitoring has been rewritten. The regulation now specifies that sources subject to Federal new source performance standards are also subject to the applicable monitoring and related requirements and that existing sources shall provide for continuous monitoring.

Rule 391–3–1–.02(7) relating to prevention of significant deterioration of air quality (PSD) is a new section which adopts by reference applicable Federal PSD standards. The Court of Appeals for the District of Columbia Circuit recently overturned EPA's PSD regulations in major respects. Although the court stayed its decision until resolution of petitions for reconsideration, the EPA regulations will have to be rewritten after the final decision. 40 CFR 51.24, which outlines requirements for Rule 391–3–1–.02(7), must also be amended by EPA. Because of the court-mandated changes, Rule 391–3–1–.02(7) will no longer be consistent with the Clean Air Act or with 40 CFR 51.24.

Rule 391–3–1–.02(8) is a new section which adopts by reference certain Federal new source performance standards. The standards are for fossil-fuel fired steam generators; incinerators; Portlant cemet plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters; secondary brass and bronze ingot production plants; sewage treatment plants; primary lead smelter; primary aluminum reduction plants; phosphate fertilizer industry: wet process phosphoric acid plants, super phosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, granular triple superphosphate storage facilities; coal preparation plants; ferroally production facilities; steel plants; kraft pulp mills; grain elevators; and lime manufacturing plants.

Rule 391–3–1–.02(9) is a new section which adopts by reference Federal emission standards for hazardous pollutants. The standards are for asbestos, beryllium rocket motor firing, mercury, and vinyl chloride.

Rule 391–3–1–.03(3) relating to the revocation and modification of permits has been amended by adding several circumstances under which a permit may be revoked, suspended, modified, or amended.

Rule 391–3–1–.03(5), Permits Public Records, has been updated to reflect a change in a statutory reference.

Rule 391–3–1–.03(6) relating to exemptions has been amended to

include sources with no emission standard or requirement and mobile sources.

Rule 391–3–1–.03(7), Combined Permits and Applications, is a new section giving the Director the authority to combine the requirements of the permits for construction and operation into one permit. He may also combine the requirements of and applications for construction and operating permits into one application.

Rule 391–3–1–.03(8), Permit Requirements, is a new subsection with several requirements. New stationary and modified sources are prohibited from degrading air quality and must comply with Part C of Title I of the Federal Clean Air Act.

Rule 391–3–1–.05, Regulatory Exceptions, replaces the subsection entitled "Variances". The new subsection describes the circumstances under which a source may receive an exception. Any exception must fully comply with an approved State Implementation Plan meeting the requirements of Title I, Part D, of the Clean Air Act, and fully comply with all the requirements of Title I, Part C of the Clean Air Act.

Rule 391–3–1–.09 relating to enforcement updates statutory references concerning enforcement of these regulations.

Rule 391–3–1–.10, Continuance of Prior Rules, states that previous rules and regulations are readopted and continued as amended.

The public is invited to participate in this rulemaking by submitting written comments on the proposed Georgia SIP revisions. After reviewing pertinent comments received and all other information available to him, the Administrator will take action on these revisions.

(Section 110(a) of the Clean Air Act (42 U.S.C. 7410(a)).)

Dated: August 3, 1979.

John A. Little,

Acting Regional Administrator.

[FR Doc. 79–25092 Filed 8–13–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1295–8]

Availability of Implementation Plan Revisions for Nonattainment Areas in the State of Indiana

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt and Availability.

SUMMARY: This Notice announces the receipt of proposed revisions to the Indiana State Implementation Plan to meet Part D requirements of the Clean Air Act. Among other things, the proposed revisions include revised Indiana Regulations APC–1 (definitions), APC–3 (visible emission limitations), APC–9 (coke oven batteries), APC–11 (malfunctions, APC–12 (air pollution episode levels and actions), APC–13 (limitations for sulfur dioxide emissions from stationary sources), APC–19 (permits, prevention of significant deterioration, emission offset), APC–22 (nonattainment/attainment/unclassifiable area designations for sulfur dioxide (SO_2), total suspended particulates (TSP), carbon dioxide (CO), ozone (O_3), and nitrogen dioxide (NOx), and APC 23 (mass emissions from stationary sources of particulates). These proposed revisions are available for public review at the offices listed below.

The State of Indiana submitted the above mentioned revised regulations to the U.S. EPA on June 26, 1979.

The purpose of these revisions, as required by the Act, is to implement new measures for controlling air pollution and to demonstrate that these measures will provide for attainment of the primary National Ambient Air Quality Standards (NAAQS) as expeditiously as practicable, but no later than December 31, 1982. Under certain conditions extensions to not later than December 31, 1987, may be granted for attaining the primary standards for CO and O_3. A notice of Proposed Rulemaking describing these revisions and the United States Environmental Protection Agency's (USEPA) rulemaking action will be published in the **Federal Register** at a later date.

DATES: See Supplementary Information.

ADDRESSES: The Indiana submittal may be examined during normal business hours at the following addresses:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Indiana Air Pollution Control Division, Indiana State Board of Health Building, 1330 W. Michigan, Indianapolis, Indiana 46206.

Written comments should be sent to: Ms. Maxine Borcherding, State Implementation Plan Coordinator, U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Borcherding, State Implementation Plan Coordinator, U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6052.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45994), USEPA designated areas in each State as nonattainment with respect to the criteria air pollutants pursuant to the requirements of Section 107 of the Clean Air Act. Part D of the Clean Air Act requires each State to revise its SIP to meet specific requirements in these nonattainment areas. These revisions to the SIP must demonstrate attainment of the primary NAAQS for TSP, SO_2, and NO_x as expeditiously as practicable, but no later than December 31, 1982. Under certain conditions, extensions up to December 31, 1987 may be granted for meeting the primary NAAQS for CO and O_3.

On June 26, 1979, the Governor of Indiana submitted to USEPA a proposed SIP revision for Indiana to address Part D requirements of the Clean Air Act. USEPA is currently reviewing the June 26, 1979 submittal. At the completion of this review, a notice will be published in the **Federal Register** proposing rulemaking action on the proposed revisions.

All interested persons are advised that the proposed revisions are available for review at the locations listed above. The proposed rulemaking notice referred to above will announce the last day for public comment.

This public comment period will extend for not less than 30 days from the date of publication in the **Federal Register** of USEPA's proposed rulemaking action.

Dated: August 6, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79–25096 Filed 8–13–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1296–1]

Availability of Implementation Plan Revisions for Nonattainment Areas in the State of Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Notice of Receipt and Availability.

SUMMARY: This Notice announces the receipt of proposed revisions to the Wisconsin State Implementation Plan (SIP) to meet the Part D requirements of the Clean Air Act. The proposed revisions include proposed and final revised portions of the Wisconsin Administrative Code which deal with the control of emissions of total suspended particulates (TSP), carbon monoxide (CO), sulfur dioxide (SO_2) and ozone (O_3). These revisions to the Wisconsin Administrative Code were submitted to the U.S. Environmental Protection Agency (U.S. EPA) July 13, 1979 and are available for public review and comment at the offices listed below.

The purpose of these revisions, as required by the Act, are to implement new measures for controlling air pollution and to demonstrate that these measures will provide for attainment of the primary national ambient air quality standards (NAAQS) as expeditiously as practicable, but no later than December 31, 1982.

Under certain conditions a five year extension, until December 31, 1987, for CO and O_3 may be granted to attain NAAQS. A Notice of Proposed Rulemaking describing the revisions received and U.S. EPA's proposed rulemaking action will be published in the **Federal Register** at a later date.

DATES: See Supplementary Information.

ADDRESSES: the Wisconsin submittal may be examined during normal business hours at the following addresses:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Bureau of Air Management, Department of Natural Resources, 4610 University Avenue, P.O. Box 7921, Madison, Wisconsin 53707.

Written comments should be sent to: Ms. Maxine Borcherding, State Implementation Plan Coordinator, U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Borcherding, State Implementation Plan Coordinator, U.S. Environmental Protection Agency Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604 [312] 886-6052.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 CFR 8962) and on October 5, 1978 (43 CFR 45994) pursuant to the requirements of Section 107 of the Clean Air Act, U.S. EPA designated specific areas in each state as nonattainment with respect to the criteria air pollutants SO_2, TSP, CO, O_3, and nitrogen dioxide. Part D of the Clean Air Act requires each State to revise its SIP to meet specific requirements in these nonattainment areas. These revisions to the SIP must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982. Under certain circumstances a five year extension, until December 31, 1987, may be granted for meeting the primary NAAQS for CO and O_3

U.S. EPA is currently reviewing the Wisconsin submittal. At the completion of this review, a notice will be published in the **Federal Register** proposing rulemaking action on the proposed revisions.

All interested persons are advised that the proposed revisions are available for review at the locations listed above. The proposed rulemaking notice referred to above will announce the last day for public comment. This public comment period will extend for not less than 30 days from the date of publication in the **Federal Register** of U.S. EPA's proposed rulemaking action.

(42 U.S.C. 7410)

Dated: August 6, 1979.

[FR Doc. 79-25097 Filed 8-13-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[44 CFR Part 67]

[Docket No. FI-5678]

National Flood Insuance Program; Proposed Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4 (a).

These elevations, together with the flood plain management measures required by section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contenst and for the second layer of insurance on existing buildings and their contents.

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

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
Colorado	Frisco (Town), Summit	Tenmile Creek	Most downstream corporate limit	*9,026
			4th Avenue (Creekside Drive) at centerline	*9,048
			Madison Avenue 50 feet upstream from centerline	*9,069
			Creekside Drive second crossing 20 feet upstream from centerline	*9,082
			U.S. Highway 6 20 feet upstream from centerline	*9,106
			Most upstream corporate limit	*9,108
			80 feet south along Madison Avenue from its intersection with Creekside Drive.	#2
		Meadow Creek	Meadow Creek Drive 40 feet downstream from centerline	*9,030
			Meadow Creek Dreive 20 feet upstream from centerline	*9,035
			Ten Mile Drive 30 feet downstream from centerline	*9,045
			Ten Mile Drive 30 feet upstream from centerline	*9,051
			Dirt Road second crossing 60 feet uptream from centerline	*9,056
			Most upstream corporate limit	*9,069
	Maps available at the Town Hall, 300 Main Street, Frisco, Colorado.			
	Send comments to: Honorable M. L. Etie, Mayor, Town of Frisco, Town Hall, Box 115, Frisco, Colorado 80443.			
Connecticut	City of Bridgeport, Fairfield County.	Pequonnock River	Connecticut Turnpike	*11
			60' upstream Roosevelt Street	*14
			North Avenue	*16
			80' upstream Boston Avenue	*17
			Upstream Hawthorne Street	*17
			Downstream Dam (800' above Hawthorne Street)	*20
			Upstream Dam (800' above Hawthorne Street)	*42
			800' downstream Corporate Limits	*45
			Corporate Limits	*53
		Island Brook	Confluence with Pequonnock River	*11
			North Avenue	*14
			Capitol Avenue	*19
			Upstream Cemetery Road	*23
			1,550' upstream Cemetery Road	*30
			100' downstream Chopsy Hill Road (Downstream Crossing)	*39
			100' upstream Chopsy Hill Road (Downstream Crossing)	*43
			750' upstream Chopsy Hill Road (Downstream Crossing)	*53
			Downstream Saunders Avenue	*55
			Upstream Saunders Avenue	*60
			50' upstream Woodrow Avenue	*66
			500' upstream Chopsy Hill Road (Upstream Crossing)	*81
			600' downstream Valley Avenue	*89
			300' downstream Valley Avenue	*97
			Upstream Valley Avenue	*106
			280' upstream Valley Avenue	*115
			75' downstream Platt Street	*125
			Upstream Platt Street	*133
			100' downstream Island Brook Lagoon Dam	*137
			Upstream Island Brook Lagoon Dam	*155
			230' downstream Lake Forrest Spillway	*157
			Upstream Lake Forrest Spillway	*179
			Upstream Lakeside Drive	*185
			Old Town Road	*189
		Yellow Mill Channel	Connecticut Turnpike	*11
			Upstream Barnum Avenue	*16
			Upstream Arctic Street	*17
			Upstream Dam (350' above Boston Post Road)	*23
			Upstream Remington Railroad (Upstream Crossing)	*33
			Downstream Dam (2,000' above Park Road)	*37
			Upstream Dam (2,000' above Park Road)	*51
			Downstream Evers Street	*54
			770' upstream Evers Street	*56
		Horse Tavern Brook	Upstream Park Avenue	*130
			700' downstream Madison Avenue	*140
			60' downstream Madison Avenue	*149
			Upstream Madison Avenue	*154
			Upstream Vincellette Street	*156
			1,000' upstream Vincellette Street	*167
			860' downstream Anton Street	*176
			Upstream Anton Street	*186
			Downstream Parking Area Culvert	*191
			Upstream Parking Area Culvert	*213
			390' upsteam Parking Area Culvert	*228
			Upstream Old Town Road	*238
			Corporate Limits	*239
		Rooster River	Mouth of River	*11
			Upstream Davis Avenue	*14
			Connecticut Turnpike	*16
			250' upstream North Avenue	*18
			270' downstream Brooklawn Avenue	*19
			130' upstream Brooklawn Avenue	*25
			Astoria Avenue	*29
			Upstream Capitol Avenue	*36
			Corporate Limits	*38

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
		Bruce Brook	Connecticut Turnpike	*11
			Downstream ConRail Bridge	*16
			Upstream ConRail Bridge	*23
			Upstream Boston Avenue Culvert	*31
			Corporate Limits	*36
		Long Island Sound	Entire Coastline	*11
Maps available at the Office of the City Clerk, Room 205, City Hall.				
Send comments to: Honorable John Mandanici, Mayor of Bridgeport, City hall, 45 Lyon Terrace, Bridgeport, Connecticut 06604.				
Idaho	Latah County, Unincorporated, Areas.	Palouse River	U.S. Highway 95 Bridge—100 feet upstream from centerline	*2,477
			County Road Bridge upstream of confluence with Deep Creek—100 feet downstream from centerline.	*2,479
			County Road Bridge upstream of confluence with Deep Creek—150 feet upstream from centerline.	*2,482
			County Road upstream of confluence with Flannigan Creek—400 feet downstream from centerline.	*2,491
			County Road upstream of confluence with Flannigan Creek—450 feet upstream from centerline.	*2,495
			County Road Bridge—20 feet upstream from centerline	*2,511
			County Road Bridge—200 feet upstream from centerline	*2,542
			State Highway 7 Bridge—200 feet upstream from centerline	*2,557
		Deep Creek	U.S. Highway 95 Alternate Bridge—1,200 feet upstream from centerline.	*2,479
			Upstream limit of detailed study—at centerline	*2,495
		Four Mile Creek	Bridge upstream from the downstream limit of Detailed Study—60 feet downstream from centerline.	*2,606
			Bridge upstream from the downstream limit of detailed study—60 feet upstream from centerline.	*2,609
			Second bridge upstream from the downstream limit of detailed study—at centerline.	*2,619
			Unnamed road—140 feet downstream from centerline	*2,685
			Unnamed road—120 feet upstream from centerline	*2,690
			Upstream limit of detailed study—at centerline	*2,823
		Paradise Creek	Burlington Northern Railroad Trestle—200 feet upstream from centerline.	*2,535
			Upstream corporate limits of City of Moscow—150 feet upstream from centerline.	*2,610
			Upstream limit of detailed study—200 feet downstream from centerline.	*2,614
		South Fork, Palouse River	Farm Road—50 feet downstream from centerline	*2,516
			County Road—350 feet downstream from centerline	*2,525
			County road—350 feet upstream from centerline	*2,530
			Most downstream corporate limits of City of Moscow—100 feet downstream from centerline.	*2,541
			Most upstream corporate limits of City of Moscow—100 feet upstream from centerline.	*2,549
			County Road upstream of U.S. Highway 95—100 feet upstream from centerline.	*2,556
			Burlington Northern Railroad—270 feet downstream from centerline	*2,585
			Burlington Northern Railroad—100 feet upstream from centerline	*2,590
			The first County Road upstream of Burlington Northern Railroad—50 feet downstream from centerline.	*2,590
			The first County Road upstream of Burlington Northern Railroad—75 feet upstream from centerline.	*2,595
			The second County Road upstream of State Highway 8–70 upstream from centerline.	*2,600
			The third County Road upstream of State Highway 8–70 upstream from centerline.	*2,615
			The fifth County Road upstream of State Highway 8–70 upstream from centerline.	*2,622
		Middle Potlatch Creek	County Road upstream from the downstream limit of detailed study—40 feet upstream from centerline.	*2,570
			Burlington Northern Railroad Bridge—140 feet upstream from centerline.	*2,590
			Street Bridge—60 feet downstream from centerline	*2,596
			County Road Bridge—60 feet upstream from centerline	*2,598
			Upstream limit of detailed study—80 feet downstream from centerline.	*2,606
		Cow Creek	Tamarac Street Bridge—70 feet downstream from centerline	*2,655
			Farm Bridge upstream of City of Genesee corporate limits—70 feet upstream from centerline.	*2,673
		Potlatch River at Kendrick	Most downstream County limits—at centerline	*991
			County Road Bridge upstream of City of Juliaetta—50 feet upstream from centerline.	*1,110
			Most downstream corporate limit of City of Kendrick—300 feet downstream from centerline.	*1,162
			Most upstream corporate limit of City of Kendrick—40 feet upstream from centerline.	*1,232
		Potlatch River at Bovill	State Highway 8 Bridge—1,500 feet upstream from centerline	*2,847
			Highway Bridge—500 feet upstream from centerline	*2,848
Maps available at Latah County Courthouse, Van Burren and 6th, Moscow, Idaho.				
Send comments to: Mr. Gary Morris, Chairman, Board of Commissioners, Latah County Courthouse, P.O. Box 8068, Moscow, Idaho 83843.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
Illinois	City of Granite Falls, Chippewa County.	Minnesota River	Downstream of corporate limits	*893
			Just upstream of U.S. Highway 212	*896
			Just downstream of City Dam	*899
			Just upstream of City Dam	*908
			Just upstream of Oak Street	*909
			Upstream corporate limits	*917
		Minnesota River overflow channel.	Mouth at Minnesota River	*895
			Just upstream of State Highway 67	*896
			Just upstream of Burlington Northern	*905
			Upstream corporate limits	*905
	Maps available at City Hall, 885 Prentice Street, Granite Falls, Minnesota 56241.			
Illinois	South Roxana, Madison County	Local runoff and ponding	Northwest corner of the village, covering Daniel Boone Trail from State Highway 111 to Smith Avenue, and Velma Avenue near the Highway.	*428
			Southwest corner of the village, covering the corporate limits east of State Highway 111 to the intersection of Sinclair Avenue and Wilson Street.	*428
	Maps available at the Office of the Mayor's Assistant, Village Hall, Box 107, 211 Sinclair Avenue, South Roxana, Illinois 62087.			
Massachusetts	Town of Conway, Franklin County.	Deerfield River	Downstream corporate limit	*170
			Just upstream of confluence of South River	*178
			Upstream corporate limit	*196
			About 0.45 mile upstream of Reeds Bridge Road	*474
			Just downstream of dam located 1.63 miles upstream of Reeds Bridge Road.	*494
			Just upstream of dam located 1.60 miles upstream of Reeds Bridge Road.	*511
			Just downstream of State Route 116 (near Shelburne Falls Road)	*545
			About 0.2 mile upstream of confluence of Pumpkin Hollow Brook	*563
			About 0.41 mile upstream of confluence of Pumpkin Hollow Brook	*590
			About 0.44 mile upstream of confluence of Pumpkin Hollow Brook (upstream of State Route 116).	*605
			Just upstream of Ashfield Road Bridge (near Delabarre Avenue)	*635
			Just upstream of Main Poland Road	*643
			Approximately 1.33 miles upstream of Main Poland Road	*682
		Pumpkin Hollow Brook	Confluence with South River	*551
			About 50 feet upstream of Academy Road	*553
			Just downstream of Hill View Road	*579
			Just upstream of Hill View Road	*585
			About 100 feet downstream of Old Cricket Hill Road	*587
			Just upstream of Cricket Hill Road	*591
			Approximately 1,025 feet upstream of Cricket Hill Road	*602
	Maps available at Selectmen's Office, Town Office, Conway, Massachusetts.			
	Send comments to: Mr. William E. Graves, Chairman, Board of Selectmen, Town of Conway, Town Hall, Conway, Massachusetts 01340.			
Massachusetts	Town of Dover, Norfolk County	Trout Brook	Confluence with Charles River	*108
			Station Location Upstream 1.00 miles of confluence	*109
		Charles River	Chestnut Street	*97
			Cochrane Dam Downstream	*100
			Willow Street	*105
			Centre Street	*107
			Charles River Street	*109
			Private Driveway	*110
			Bridge Street Corporate Limit	*122
			Upstream of Bridge Street	*123
	Maps available at the office of the Selectmen.			
	Send comments to: Ms. Ann Wise, Chairman of the Board of Selectmen of Dover, Town House, Dover, Massachusetts 02030.			
Massachusetts	City of Peabody, Essex County	Ispwich River	Downstream Corporate Limits	*49
			Upstream Corporate Limits	*53
		North River	Downstream Corporate Limits	*11
			Confluence of Proctor Brook	*28
		Proctor Brook	Confluence with North River	*28
			Endicott Street	*40
			Garden Road (Upstream)	*49
			Trask Road Culvert	*56
			Peabody Road (Upstream)	*66
		Strongwater Brook	Confluence with North River	*14
			Main Street Culvert (Upstream)	*19
			Pierpont Street (Downstream)	*24
		Goldthwaite Brook	Confluence with Proctor Brook	*28
			Boston and Maine RR near Tapley Brook (Downstream)	*39
			Boston and Maine RR near Tapley Brook (Upstream)	*45
			Summit Street (Upstream)	*60
			Dam at Corvin Street (Upstream)	*82
			First Avenue (Upstream)	*98

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
		Tapley Brook	Confluence with Goldthwaite Brook	*45
			Sidneys Pond	*48
		Beverly Harbor	Waters River	*11
Maps available at the Public Services Office, Berry Street, Peabody, Massachusetts.				
Send comments to: Honorable Peter Torigihan, Mayor of Peabody, City Hall, Lowell Street, Peabody, Massachusetts 01960.				
Massachusetts	Town of Raynham, Bristol County.	Dam Lot Brook	Orchard Street (Upstream side)	*20
			Warren Street	*13
			U.S. Route 44	*13
		Tributary to Dam Lot Brook	King Street (Upstream side)	*32
			King Street (Downstream side)	*27
			Confluence with Dam Lot Brook	*22
		Forge River	State Route 138 (Upstream side)	*80
			State Route 138 (Downstream side)	*75
			Center Street (Upstream side)	*65
			Mill Street (Upstream side)	*48
			Gardner Street (Dam) (Upstream side)	*44
			Gardner Street (Downstream side)	*31
			South Main Street (Upstream side)	*17
			South Street West	*13
		Tributary to Forge River	White Street (Upstream side)	*41
			North Main Street (Upstream side Johnson Pond Dam)	*37
			North Main Street (Downstream side)	*27
Maps available at the Office of the Town Clerk.				
Send comments to: Mr. Donald Francis, Chairman of the Board of Selectmen, Town Office, 53 Orchard Street, Raynham, Massachusetts 02676.				
Massachusetts	Town of Sandwich, Barnstable County.	Cape Cod Bay	Coastline	*11
			Cape Code Canal	*11
Maps available at the Office of the Town Clerk, Sandwich, Massachusetts.				
Send comments to: Mr. H. Eugene Carr, Chairman of the Board of Selectmen of Sandwich, Town Hall, Sandwich, Massachusetts 02563.				
New York	Green Island (Village), Albany	Hudson River	Green Island Bridge remnants—100 feet upstream from centerline	*27
			Confluence with Fifth Branch Mohawk River	*31
		Fifth Branch Mohawk River	Delaware and Hudson Railroad—50 feet upstream from centerline	*31
		State Basin	Albany Avenue—50 feet upstream from centerline	*27
Maps available at the Village Hall, 20 Clinton Street, Green Island, New York.				
Send comments to: Honorable Michael McNulty, Mayor, Village of Green Island, Village Hall, 20 Clinton Street, Green Island, New York 12183.				
New York	Town of Mount Pleasant Westchester County.	Saw Mill River	Downstream corporate limit first crossing	*191
			River Parkway upstream from corporate limit	*202
			Confluence of Fly Kill Brook	*231
			Upstream corporate limit	*253
		Nanny Hagen Brook	Confluence with Saw Mill River	*250
			Culvert approximately 300 feet upstream from Kensico Road crossing.	*257
		Fly Kill Brook	Confluence with Saw Mill River	*231
			Crossing of Chelsea Street	*250
			Conrail crossing just upstream from Bridge	*255
		Clove Brook	Confluence with Davis Brook	*244
			Wall Road crossing	*250
Maps available at the Town Hall.				
Send comments to Mr. Michael Rovello, Town Supervisor of Mount Pleasant, 1 Town Hall Plaza, Valhalla, New York 10595.				
New York	Village of Youngstown, Niagara County.	Lake Ontario	Backwater affecting reach of Niagara River in the Village of Youngstown, New York.	*249
Maps available at the Village Hall, 240 Lockport Street, Youngstown, New York.				
Send comments to: Honorable Lawrence Kew, Mayor of Youngstown, Village Hall, 240 Lockport Street, Youngstown, New York 14174.				
North Carolina	Town of Mooresville, Iredell County.	Reeds Creek Tributary	Just upstream of Hwy 152	*803
			Just upstream of Iredell Ave	*841
		Reeds Creek	Just downstream of Wilson Ave	*785
		Dye Creek	Just upstream of Cabarrus Ave	*825
		Dye Creek Tributary	White Oaks Road extended	*772
			Hampton Place extended	*788
Maps available at: City Hall, Mooresville, North Carolina 28115.				
Send comments to: Mayor Joe Knox or Mr. Tate L. Mills, City Manager, City Hall, P.O. Drawer 878, Mooresville, North Carolina 28115.				
North Dakota	Napoleon (City), Logan County	McKenna Coulee River	Downstream corporate limits—350 feet upstream from centerline	*1,947
			Third Street West—200 feet downstream from centerline	*1,952
			Soo Line Railroad—200 feet downstream from centerline	*1,957
			Upstream corporate limits—at centerline	*1,959
Maps available at City Hall, 105 West Third, Napoleon, North Dakota 58561.				
Send comments to: Honorable Rodger J. Martin, Mayor, City of Napoleon, City Hall, Napoleon, North Dakota 58561.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
Pennsylvania	Township of Bethlehem, Northampton County.	Lehigh River	Downstream corporate limits	*209
			Upstream corporate limits	*220
		Nancy Run	Washington Street	*259
			Keystone Street	*267
			Middletown Road	*272
			Willow Park Road	*293
		Monocacy Creek	Private Bridge	*316
			U.S. Route 22	*318
			Broadhead Road	*319
			Nazareth Pike (Pennsylvania Route 191)	*321
	Maps available at the Township Building.			
	Send comments to: Mr. Albert Timko, Chairman of the Township of Bethlehem, 2740 5th Street, Bethlehem, Pennsylvania 18017.			
Pennsylvania	Township of Braintrim, Wyoming County.	Susquehanna River	Downstream corporate limits	*651
			Downstream Laceyville corporate limits	*656
			Upstream corporate limits	*665
		Tuscarora Creek	Confluence with Susquehanna River	*655
			Upstream of U.S. Route 6 Bridge	*658
			Upstream corporate limits	*682
	Maps available at the residence of Mr. Heller, 14 Maple Street, Laceyville, Pennsylvania.			
	Send comments to: Mr. Burton Salsman, Chairman of the Township of Braintrim, P.O. Box 192, Laceyville, Pennsylvania 18623.			
Pennsylvania	Township of Conoy, Lancaster County.	Susquehanna River	Downstream corporate limits	*272
			Upstream corporate limits	*291
		Conoy Creek	At mouth	*278
			Confluence of Tributary A	*286
		Tributary A	At mouth	*286
			State Route 441 bridge	*325
		Conewago Creek—East	At mouth	*294
			Township Route 300 bridge	*309
			Township Route 304 bridge	*322
	Maps available at the Township Building.			
	Send comments to: Mr. Joseph C. Kauffman, III, Chairman of the Board of Supervisors of Conoy, P.O. Box 87, Bainbridge, Pennsylvania 17502.			
Pennsylvania	Borough of Laceyville, Wyoming County.	Susquehanna River	At Laceyville Bridge (LR65041)	*657
		Little Tuscarora Creek	At Conrail Bridge	*657
			At Main Street (Old U.S. 6)	*669
			At Culvert outlet	*678
			At Culvert inlet	*681
			Upstream corporate limits	*702
	Maps available at the Laceyville Public Library.			
	Send comments to: Mr. Richard Learn, President of the Borough Council of Laceyville, 32 Main Street, Laceyville, Pennsylvania 18623.			
Pennsylvania	Township of Woodbury, Blair County.	Frankstown Branch Juniata River.	Downstream corporate limits	*800
			Corporate limits at the Borough of Williamsburg (downstream)	*852
			Corporate limits at the Borough of Williamsburg (upstream)	*858
			Upstream Corporate limits	*877
		Clover Creek	Confluence with Frankstown Branch Juniata River	*824
			Township Route 435 (upstream)	*896
			Township Route 397 (upstream)	*993
			Upstream Corporate limits	*1,073
		Piney Creek	Confluence with Frankstown Branch Juniata River	*867
			Forth crossing of abandoned railroad (upstream)	*954
			First crossing of Legislative Route 07061 (upstream)	*1,003
			Upstream Corporate limits	*1,083
	Maps available at the Township Building.			
	Send comments to: Mr. Donald E. Hileman, Chairman of the Board of Supervisors of Woodbury, R.D. 1, Williamsburg, Pennsylvania 16693.			
South Carolina	City of Belton, Anderson County...	Tributary A of Broadmouth Creek.	Just upstream of O'Neal Str	*778
			Just upstream of River Street	*788
		Tributary B of Cupboard Creek	Just upstream of West Blair Mill Road	*814
			Just downstream of the Seaboard Coastline Railroad	*816
	Maps available at: City Administrator's Office, City Hall, Belton, South Carolina 29627.			
	Send comments to: Mayor Jones Ellison or Mr. Joe Murray, City Administrator, City Hall, P.O. Box 520, Belton, South Carolina 29627.			
S. Carolina	City of Cayce, Lexington County...	Congaree River	Just upstream of Seaboard Coastline Railroad	*154
			200 feet downstream of Blossom Street	*155
		Congaree Creek	At South Carolina Highway 2	*142
			At Seaboard Coastline Railroad	*142
		Six Mile Creek	50 feet downstream of the Seaboard Coastline Railroad	*142
			50 feet downstream of U.S. Highway 176 and 321	*149
			Just upstream of Interstate 76	*161

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
		Tributary SM-3	At Edmond Road	*180
		Tributary CR-1	50 feet upstream of Charlotte St	*168
			100 feet upstream of Morlaine St	*199
			25 feet upstream of Wilkinson St	*213
		Tributary CR-1-1	50 feet downstream of Southern Railway	*217
			At Lafayette Avenue	*230
Maps available at: City Hall, 1800 12th Street Extension, Cayce, South Carolina.				
Send comments to: Mayor Stanley L. Goodwin or E. H. Heustess, Jr., City Manager, City Hall, 1800 12th Street Extension, Cayce, South Carolina 29033.				
South Carolina	Town of Irmo, Richland and Lexington Counties.	Koon Branch	Just upstream of Maintenance Road	*272
			Just upstream of southern corporate limits	*263
		Rawls Creek	Just upstream of the confluence of Tributary R-2	*295
			Approximately 200 feet downstream of northern corporate limits	*319
		Tributary R-2	Just downstream of southern crossing of North Royal Tower Dr	*303
			Just upstream of northern crossing of North Royal Tower Dr	*321
Maps available at: Town Hall, Irmo, South Carolina.				
Send comments to: Mayor Donald Lovett or Louise Younginer, Town Clerk, Town Hall, P.O. Box 406, Irmo, South Carolina 29063.				
South Carolina	Town of Lexington, Lexington County.	Twelve Mile Creek	Confluence of Tributary TM-2	*273
			Just downstream of East Main St	*274
			Just upstream of Lexington Mill Pond Dam	*298
			Confluence of Tributary TM-3	*299
			Just downstream Gibsons Pond Road	*308
Maps available at: Town Hall, 111 North Church Street, Lexington, South Carolina.				
Send comments to: Mayor W. J. Brown, Sr., Town Hall, P.O. Box 397, Lexington, South Carolina 29072.				
South Carolina	Town of Pendleton, Anderson County.	Eighteen Mile Creek	Just upstream of Blue Ridge Railroad	*700
			Just downstream of US HWY 76	*602
		Shanklin Creek	Just upstream of Harrison Str	*768
			Just downstream of Queen Str	*777
		Town Creek Tributary	Just upstream of Southern corporate limits	*757
Maps available at: Town Hall, Pendleton, South Carolina.				
Send Comments to: Mayor Joe E. Davenport or Mr. Philip D. England, Administrative Assistant to the Mayor, Town Hall, 108 Depot Street, Pendleton, South Carolina 20670.				
South Carolina	Town of Springdale, Lexington County.	Six Mile Creek	Approximately 70 feet upstream of Edmund Road	*169
			Approximately 50 feet upstream of Durham Drive	*173
			Approximately 50 feet downstream of Platt Springs Rd	*185
			Approximately 30 feet upstream of Sandlewood Dr	*194
			Approximately 40 feet upstream of Franklin Str	*201
		Tributary SM-5	Approximately 40 feet downstream of Ranbow Dr	*194
			Approximately 50 feet upstream of Bensmin Rd	*199
			Just upstream of Interstate 26	*216
Maps available at: Springdale Town Hall, W. Columbia, South Carolina.				
Send comments to: Mayor Finley Kirkman, Springdale Town Hall, W. Columbia, South Carolina 29169.				
South Dakota	Mission Hill (Town), Yankton County.	Unnamed Stream	Finotti Avenue—at centerline	*1175
			Nichols Avenue—30 feet upstream from centerline	*1179
Maps available at the home of Ms. Paula Gunderson, Town Clerk, Town of Mission Hill, Mission Hill, South Dakota.				
Send comments to: Ms. Paula Gunderson, Town Clerk, Town of Mission Hill, Mission Hill, South Dakota 57078.				
Texas	City of Kemp, Kaufman County	Kings Creek Tributary	Upstream of Elm Str. (US 175)	*359
			Upstream of Old Highway 40	*354
			Upstream of Tolosa Road	*345
Maps available at: City Hall, 11th and Main Street, Kemp, Texas 75143.				
Send comments to: Mayor Charles Nichols, City Hall, P.O. Box 276, Kemp, Texas 75143.				
Texas	City of Piney Point Village, Harris County.	Buffalo Bayou	Downstream Corporate Limits	*62
			San Felipe Road Upstream	*63
			South Piney Point Road Upstream	*65
			Upstream Corporate Limits	*66
Maps available at the City Engineer's Office, 975 Corbindale, Houston, Texas.				
Send comments to: Honorable A. Lee Smith, Mayor of Piney Point Village, 7745 San Felipe, Houston, Texas 77063.				
Texas	City of Spring Valley, Harris County.	Spring Branch	Westview Drive	*62
			Bingle Road	*65
			Voss Road	*74
			Upstream Corporate Limits	*78

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD)
		Briar Branch	Bingle Road	*54
			Voss Road	*69
			Campbell Road	*75
			Adkins Road	*77
Maps available at the City Hall.				
Send comments to: Honorable Harry Badger, Mayor of Spring Valley, 1025 Campbell Road, Houston, Texas 77055.				
Utah	Mapleton (City), Utah County	Hobble Creek	3,200 East—Utah County—at centerline	*4703
			Diversion Structure (east of Main Street)—50 feet downstream of centerline.	*4712
			Diversion Structure (east of Main Street)—50 feet upstream of centerline.	*4719
			Unnamed Road upstream of confluence with Mapleton Lateral Canal—50 feet upstream of centerline.	*4771
			Upstream Corporate limits—at centerline	*4794
		Maple Creek	Area 2,300 feet southeast of the intersection of 1,200 North and 1,700 East.	#1
Maps available at City Hall, 35 East Maple, Mapleton, Utah.				
Send comments to: Honorable Edward K. Wiscomb, Mayor, City of Mapleton, City Hall, 35 East Maple, Mapleton, Utah 84663.				
Washington	Castle Rock (City), Cowlitz County.	Cowlitz River	Intersection of Front Street and Huntington Avenue	*37
			Area east of Allen Avenue on Brierwood Street	*37
			Area south of Cowlitz Avenue and southwest of Studebaker Avenue on Burlington Northern tracks.	*37
			Most downstream limit of flooding affecting the City of Castle Rock	*39
			Castle Rock Bridge (A Street Bridge)—100 feet upstream from centerline.	*45
			Most upstream corporate limit—at centerline	*49
Maps available at the City Hall, Second and A, Castle Rock, Washington.				
Send comments to: Honorable George J. Eaton, Mayor, City of Castle Rock, City Hall, P.O. Box 396, Castle Rock, Washington 98611.				
Washington	Des Moines (City), King County	Puget Sound	Unprotected area north of Des Moines Marina and area outside the breakwater.	*16
			Protected area within the breakwater and area shadowed by the breakwater.	*9
			Unprotected area south of Des Moines Marina	*9
		Des Moines Creek	Cliff Avenue south—20 feet upstream from centerline	*11
			Private Drive Bridge—70 feet upstream from centerline	*14
			Footbridge east of S. 218th Street—10 feet upstream from centerline.	*21
Maps available at City Hall, 21630 11th Avenue South, Des Moines, Washington.				
Send comments to: Honorable Lorraine Hines, Mayor, City of Des Moines, City Hall, 21630 11th Avenue South, Des Moines, Washington 98188.				
Washington	Town of Issaquah, King County	Tibbetts Creek	Just upstream of Sammamish Rd	*42
			Just downstream of Highway 900	*78
		Issaquah Creek	Approximately 200 feet upstream of 56th St. Bridge	*50
			Approximately 40 feet upstream of I-90	*58
			Approximately 30 feet downstream of Juniper St.	*66
			Approximately 30 feet upstream of W. Sunset Way	*88
			Approximately 130 feet upstream of Sycamore Drive	*126
		East Fork Issaquah Creek	Approximately 20 feet downstream of Rainier Blvd	*80
			Approximately 30 feet upstream of NE Dogwood St	*100
			Approximately 50 feet downstream of 3rd Ave, NE	*108
Maps available at: Planning and Engineering Department, Town Hall, Issaquah, Washington.				
Send comments to: Mayor H. G. Herrington, Town Hall, P.O. Box M, Issaquah, Washington 98027.				
Wisconsin	Cedarburg, Ozaukee County	Cedar Creek	At downstream of corporate limits near sewage treatment plant	*710
			At corporate limits 1,600 feet downstream of Portland Avenue	*711
			Just downstream of Columbia Mill Dam	*767
			Just upstream of North Highland Drive	*772
			Just downstream of Ruck Dam	*780
			Just upstream of Ruck Dam	*787
			Just downstream of Woolen Mill Dam	*797
			Just upstream of Woolen Mill Dam	*800
			Upstream corporate limits	*804
Maps available at the Office of the City Clerk, P.O. Box 41, Cedarburg, Wisconsin 53012.				
Wisconsin	Village of Grafton, Ozaukee County.	Milwaukee River	Approximately 0.3 mile downstream of Lime Kiln Dam	*701
			Just downstream of Lime Kiln Dam	*704
			Just upstream of Lime Kiln Dam	*712
			Just downstream of Chair Factory Dam	*715
			Just upstream of Chair Factory Dam	*727
			Just downstream of Bridge Street	*729
			Just upstream of Grafton Dam	*740
			Approximately 0.6 mile upstream of Washington Street (north of intersection of Holly Lane and Nancy-Lynn Drive).	*742
Maps available at the Office of the City Clerk, 1102 Bridge Street, Grafton, Wisconsin 53024.				

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 26, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-24806 Filed 8-13-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5673]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 of the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67.4(a).

These elevations, together with the flood plain management measures required by section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	Town of Rainsville, DeKalb County.	Town Creek	Scott Avenue (extended)	*1,161
			Just downstream of Chavies Road	*1,169
		Ivy Creek	50 feet downstream of Garrett Road	*1,189
			50 feet downstream of Dilbeck Road	*1,233
		Piney Creek	Just downstream of Horton Road	*1,223
			50 feet downstream of George Wallace Drive	*1,246
		Piney Creek Tributary	50 feet downstream of Morrison Street	*1,260
			At Highway 35	*1,282
		Phillips Branch	At Kirk Road	*1,181
			Just downstream of Chambers avenue	*1,222
	Maps available at: City Clerk's Office, City Hall, Rainsville, Alabama 35986.			
	Send Comments to: Mayor Larry Bouldin or Ms. Ann Mitchell, City Hall, P.O. Box 98, Rainsville, Alabama 35986.			
California	Adelanto (City) San Bernardino	East Adelanto Channel	Auburn Avenue (extended) 50 feet upstream from centerline	*2,842
			Crippen Avenue 200 feet upstream from centerline	*2,861
	Maps available at City Hall, 11740 Bartlett Avenue, Adelanto, California.			
	Send comments to: Mayor Hastill Hollis, City of Adelanto, City Hall, P.O. Box 10, Adelanto, California 92301, Attn: Pat Chamberlain.			
California	Anaheim (City) Orange	Santa Ana River	Imperial Highway Bridge 100 feet downstream from centerline	*283
			Confluence with Walnut Canyon Channel—25 feet upstream from centerline.	*292
			Corporate limits upstream from confluence with Walnut Canyon Channel—250 feet downstream from centerline.	*312
			Most upstream limit of flooding within the City of Anaheim	*323
		Carbon Creek Channel	Intersection of Tola Avenue and Tola Place	*85
			Intersection of Sunrise Via and Ocean Via	*85
			Area south of Lincoln Avenue and west of Stinson Street	*88
			Area west of the intersection of Chippewa Street and Crescent Avenue.	*120
		Atwood Channel	Intersection of McDowhill Avenue and Burbach Street	*259
			Intersection of Glenview Avenue and Greenwood Drive	*261
			Intersection of Holbrook Street and Tanglewood Avenue	*262
		East Richfield Channel	Intersection of Kellogg Drive and Marita Lane	*274
			Intersection of Oak Knoll Road and Pine Ridge Road	*283
		Atwood Channel	Area along Orangethrope Avenue, south of intersection with Burbach Street.	#1
			Area along Orangethorpe Avenue, south of Holbrook Street	#1
			Area north of Atchison, Topeka and Santa Fe Railroad, and north of Kellogg Drive.	#1
		East Richfield Channel	Intersection of Orangethorpe Avenue and Oak Knolls Drive	#2
			Intersection of Orangethorpe Avenue and Willow Woods Drive	#2

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Carbon Creek Channel	Areas east and west of Magnolia Avenue, north of Lincoln Avenue and south of Crescent Avenue.	#1
			Area west of Southern Pacific Railroad at the intersection of Julianna Street and Pauline Street.	#2
			Area between Orange Avenue and Bridgeport Avenue	#3
		Carbon Creek Channel	Intersection of Westhaven Drive and Westhaven Circle	#3
		Santa Ana River	Intersection of Orangewood Avenue and Levee	#1
	Maps available at the City Hall, 204 East Lincoln, Anaheim, California.			
	Send comments to: Mr. William O'Talley, City Manager, City of Anaheim, City Hall, 204 East Lincoln, Anaheim, California.			
Florida	City of Orlando, Orange Country...	Lake Winyah	Entire Shoreline	*75
		Lake Estelle	Entire Shoreline	*75
		Lake Rowena	Entire Shoreline	*75
		Lake Formosa	Entire Shoreline	*75
		Lake Ivanhoe	Entire Shoreline	*81
		Lake Highland	Entire Shoreline	*81
		Park Lake	Intersection of Park Lake Court and Park Lake Circle	*96
		Lake Dot	Entire Shoreline	*95
		Lake Eola	Entire Shoreline	*91
		Lake Lucerne	Entire Shoreline	*89
		Lake of the Woods	Entire Shoreline	*80
		Lake Copeland	Entire Shoreline	*80
		Lake Beauty	Entire Shoreline	*95
		Lake Lurna	Entire Shoreline	*93
		Lake Cherokee	Intersection of Cherokee Dr. and Osceola Ave	*75
		Lake Davis	Intersection of Cherokee Dr. and Lake Davis Dr	*75
		Lake Lancaster	Entire Shoreline	*75
		Lake Olive	Entire Shoreline	*77
		Lake Lawsona	Entire Shoreline	*78
		Lake Weldona	Entire Shoreline	*76
		Lake Greenwood	Entire Shoreline	*76
		Fern Creek	Just downstream of South St	*78
			Just downstream of Livingston Ave	*98
		Lake Corno	Entire Shoreline	*102
		Lake Baldwin	Entire Shoreline	*95
		Lake Susannah	Entire Shoreline	*99
		Lake Barton	Entire Shoreline	*963
		Lake Theresa	Entire Shoreline	*113
		Lake Underhill	Entire Shoreline	*102
		Lake Arnold	Entire Shoreline	*100
		Lake Giles	Entire Shoreline	*107
		Lake Rabama	Entire Shoreline	*111
		Pineloch Lake	Entire Shoreline	*96
		Turkey Lake	Entire Shoreline	#98
		Clear Lake	Entire Shoreline	*97
		Shingle Creek	Just upstream of Conroy Road	*97
		Sunset Lake	Entire Shoreline	*99
		Lake Beardall	Intersection of Colyer St. and Rio Grande Ave	*100
		Lake Lorna Doone	Entire Shoreline	*102
		Lake Concord	Entire Shoreline	*81
		Lake Adair	Entire Shoreline	*82
		Spring Lake	Entire Shoreline	*92
		Lake Fairhope	Entire Shoreline	*96
		Lawne Lake	Entire Shoreline	*90
		Lake Orlando	Intersection of Lake Orlando Parkway and Rosamond Dr	*90
		Lake Fairview	Entire Shoreline	*91
		Bay Lake	Entire Shoreline	*95
		Lake Mann	Entire Shoreline	*95
		Lake Walker	Entire Shoreline	*97
	Maps available at: City Hall, 400 South Orange Avenue, Orlando, Florida 32801.			
	Send comments to: Mayor Carl T. Langford, City Hall, 400 South Orange Avenue Orlando, Florida 32801.			
Georgia	City of Lawrenceville, Gwinnett County.	Pew Creek	Just upstream of Johnson Rd	*931
			Just upstream of King Arthur Drive	*976
		Pew Creek Tributary 1	Just upstream of Stone Mountain Road	*981
			Just upstream of Georgia Highway 124	*988
		Redland Creek	Just upstream of Georgia Highway 124	*987
			Just upstream of Maltbie St	*1,010
		Shoal Creek	Just upstream of Paper Mill Road	*931
			Just upstream of Ezzard Street	*977
		Yellow River	Approximately 150 feet upstream of Norcross-Lawrenceville Road	*898
			Just downstream of Georgia Highway 316	*901
	Maps available at: City Clerk's Office, City Hall, Lawrenceville, Georgia.			
	Send comments to: Mayor Tom Cain or Mr. Bob Baroni, City Clerk, City Hall, P.O. Box 191, Lawrenceville, Georgia 77617.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Georgia	City of Norcross, Gwinnett County	Beaver Ruin Creek	Just upstream of corporate limits	*913
			Just downstream of corporate limits	*917
		Beaver Ruin Creek Tributary No. 2.	Just upstream of corporate limits	*936
		Crooked Creek Tributary No. 2.1 ..	Just upstream of corporate limits	*946
		Crooked Creek Tributary No. 2.1.1.	Just upstream of corporate limits	*942
			Just upstream of Langford Drive	*951
	Maps available at: City Clerk's Office, City Hall, 39 South Peachtree Street, Norcross, Georgia 30071.			
	Send comments to: Mayor Lillian Webb or Mr. Fred Chastain, Superintendent of Utilities, City Hall, 39 South Peachtree Street, Norcross, Georgia 30071.			
Idaho	Clearwater County Unincorporated Areas.	Clear water River	100 feet upstream confluence with North Fork Clearwater River	*981
			State Highway 7—100 feet upstream of centerline	*1,013
		Orofino Creek	Private Bridge—50 feet upstream of centerline	*1,038
			Konkolville Bridge—50 feet upstream of centerline	*1,188
			1st crossing County Bridge—100 feet upstream of centerline	*1,239
			2nd crossing County Bridge—10 feet upstream of centerline	*1,329
		Whiskey Creek	Whiskey Creek Road (1st crossing)—at centerline	*1,217
			Camas Prairie Railroad Bridge—60 feet upstream of centerline	*1,229
			1st crossing Private Bridge—40 feet upstream of centerline	*1,267
			2nd crossing Private Bridge—20 feet upstream of centerline	*1,368
		Jim Ford Creek	Camas Prairie Railroad Bridge—40 feet upstream of centerline	*1,042
			County Bridge—60 feet upstream of centerline	*1,058
			Confluence with Grasshopper Creek—80 feet upstream of centerline ..	*2,985
		Grasshopper Creek	Confluence with Jim Ford Creek—80 feet upstream of centerline	*2,985
		Elk Creek	Elk River Dam—50 feet upstream of centerline	*2,823
			Elk Creek Bridge—20 feet upstream of centerline	*2,825
	Maps available at Clearwater County Courthouse, Orofino, Idaho.			
	Send comments to: Mr. William T. Bird, Chairman, Board of County Commissioners, Clearwater County, Clearwater County Courthouse, Orofino, Idaho 83544.			
Kentucky	City of Paintsville, Johnson County.	Levisa Fork	Just upstream of Rt. 40 Bridge	*613
		Paint Creek	Just upstream Rt. 1428 Bridge	*613
			Just upstream of College Street Bridge	*613
			Hoss Mill Branch Road extended	*613
	Maps available at: Flood Plain Administrator's Office, City Hall, Paintsville, Kentucky.			
	Send comments to: Mayor Trimble or Mr. David Wheeler, Flood Plain Administrator, City Hall, P.O. Box 71, Paintsville, Kentucky 41210.			
Maryland	Town of Snow Hill, Dorchester County.	Pocomoke River	Downstream Corporate Limits	*6
			State Route #13	*6
			Upstream Corporate Limits	*6
	Maps available at the Municipal Building.			
	Send comments to: Mr. George Gering, Jr., Mayor of Snow Hill, P.O. Box 348, Snow Hill, Maryland 21863.			
Missouri	City of Edgerton Platte County	Grove Creek	At wes corporate limit	*817
			300 feet downstream of county road "B"	*821
			At county road "B"	*823
			750 feet downstream of Clark Street	*826
			At Clark Street	*828
			At East corporate limit	*831
	Maps available of City Clerk's Home, Becky Sellers, Edgerton, Missouri.			
	Send comments to The Honorable Allen Constant, Mayor, City of Edgerton, Box 71, Edgerton, Missouri, 64444.			
Missouri	Kennett Dunklin County	Snipe Slough	Upstream of State Highway 25	*263
			Upstream of Seventh Street	*264
			Downstream of State Highway 25	*257
		Buffalo Ditch No. 39	Upstream of State Highway 25	*258
			Upstream of Third Street	*259
			Upstream of First Street	*261
			Downstream of Ely Street	*262
		Shipley Slough	Western Corporate limit	*260
			Northwestern corporate limit at Ely Street	*261
	Maps available at City Hall, 200 Cedar Street, Kennett, Missouri.			
	Send Comments to The Honorable, J. W. Karsten Jr., Mayor, City of Kennett, City Hall, 200 Cedar St., Kennett, Missouri 63857.			
Montana	East Helena (City) Lewis and Clark County.	Prickley Pear Creek	Groschell Street—100 feet upstream from centerline	*3,870
			Main Street—at centerline	*3,874
			Burlington Northern Railroad—60 feet upstream from centerline	*3,883
	Maps available at City Hall, 7 East Main, East Helena, MT.			
	Send comments to: Honorable John Verbanac, Mayor, City of East Helena, City Hall, Third and Lewis and Clark Streets, East Helena, MT 59635.			
New Jersey	South River (Borough), Middlesex County.	South River	Intersection of Main and Reid Streets	#12
			Intersection of Herman and Water Streets	#12
	Maps available at the Borough Clerk's Office, 61-63 Main Street, South River, New Jersey.			
	Send comments to: Honorable Charles Mannino, Mayor, Borough of South River, Borough Hall, 61-63 Main Street, South River, New Jersey, 08882.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Brunswick (Town), Rensselaer	Poesten Kill	Most downstream limit of detailed study—200 feet upstream from centerline.	*415
			Corporate limits—at centerline	*423
			Confluence with Quacken Kill—100 feet upstream from centerline	*426
		Quacken Kill	Corporate limits—60 feet downstream from centerline	*433
			Darter Hill Road—75 feet downstream from centerline	*451
			Darter Hill Road—40 feet upstream from centerline	*453
			Deerstyne Road—25 feet downstream from centerline	*461
			Deerstyne Road—70 feet upstream from centerline	*463
			White Church Road—140 feet downstream from centerline	*494
			White Church road—75 feet upstream from centerline	*497
			Country Highway 77–200 feet downstream from centerline	*514
			County Highway 77–100 feet upstream from centerline	*519
			Private Road upstream of County Highway 77–100 feet downstream from centerline.	*529
		Quacken Kill	Private Road upstream of County Highway 77–50 feet upstream from centerline.	*538
		Wynatts Kill	Most downstream limit of flooding affecting the Town of Brunswick	*324
			Most upstream limit of flooding affecting the Town of Brunswick	*327
	Maps available at the Brunswick Town Office, Enter Brunswick, Eagle Mills Road, Brunswick, New York.			
	Send comments to: Mr. Romeo Naples, Supervisor, Town of Brunswick, RD1 Box 321, Troy, New York 12180.			
North Carolina	Carteret County Unincorporated Areas.	Bogue Sound Transition Zone	Jones Street—200 feet northwest from its southernmost point	*9
		Pamlico Sound and Neuse River, Adams Creek, South River.	Piney Island	*11
			Intersection of Turnpike Road and County Highway 1316	*11
		North River	U.S. Highway 70 Bridge—at centerline	*6
			Simons Island	*8
		Bogue Sound, Newport River	Intersection of New Bern Road and County Highway 1161	*7
			Phillips Island	*7
		Adams Creek Canal and Harlowe Creek.	County Highway 1160—100 feet south from intersection with New Bern Road.	*8
		Atlantic Ocean	Wreck Point	*10
			Cape Point	*10
		Core Sound, Pamlico Sound, Atlantic Ocean.	Morgan Island	*8
			Gunning Hammock Island	*8
			Bells Island	*8
			Fortin Island	*8
			Brown Island	*8
			Cricket Island	*8
			Dump Island	*8
			Wainwright Island	*8
			Whalebone Island	*8
			Intersection of Straits Road and Gloucester Road	*8
			Intersection of Nassau Road and Interstate Highway 70	*8
			Intersection of Interstate Highway 70 and County Highway 1371	*8
			Evergreen Island	*8
			Drum Pond Point	*9
			Beach Island	*10
	Maps available at County Courthouse, Beaufort, North Carolina.			
	Send comments to: Mr. Ivey Mason, Jr., Planning Director, Carteret Country, P.O. Drawer 630, Beaufort, North Carolina 28516.			
North Dakota	Drayton (City) Pembina County	Red River of the North	Downstream corporate Limits—400 feet northeast of intersection of Mill Street and Augusta Street.	*799
			Third Street—400 feet north of intersection with Wallace Street	*799
	Maps available at City Hall, 705 Almeron Street, Drayton, ND.			
	Send comments to: Honorable Donald M. Brown, Mayor, City of Drayton, City Hall, 705 Almeron Street, Drayton, ND 58225.			
Ohio	Village of Canal Winchester, Fairfield County and Franklin County.	Little Walnut Creek	Downstream corporate limits	*741
			Just downstream of Gender Road	*748
			About 630 feet upstream of State Route 674	*760
			Upstream corporate limits	*762
		Tussing Ditch	At downstream corporate limits	*741
			Just upstream of Groveport	*752
			About 710 feet upstream of Walnut Street	*753
			Just downstream of Chessie System	*754
			About 100 feet downstream of Waterloo Street	*761
			Just upstream of Waterloo Street	*764
			Just upstream of U.S. Route 33	*766
		George Creek	About 1,270 feet downstream of U.S. Route 33	*751
			Just upstream of U.S. Route 33	*755
			At upstream corporate limits	*759
	Maps available at Village Hall, 10 North High Street, Canal Winchester, Ohio.			
	Send comments to The Honorable K. L. Miller, Mayor, Village of Canal Winchester, Village Hall, 10 North High Street, Canal Winchester, Ohio, 43110.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	Village of Dublin, Franklin and Delaware County.	Scioto River	Downstream corporate limits	*771
			400 feet upstream of confluence of Indian Run	*777
			Just upstream of Interstate 270	*779
			Just upstream of confluence of Tributary S2	*780
			Just upstream of confluence of Tributary S4	*793
			Upstream corporate limits	*795
		Indian run	250 feet upstream of High Street	*777
			At confluence with South Fork Indian Run	*804
		North Fork, Indian Run	400 feet upstream of confluence with South Fork Indian Run	*805
			Just upstream of Interstate 270	*838
			1,100 feet upstream of Interstate 270	*853
			Just upstream of Coffman Road	*884
			Just upstream of Brand Road	*886
			Just upstream of Ashbaugh Road	*895
			Just upstream of Muirfield Village Road	*902
			Upstream corporate limits	*920
		South Fork, Indian Run	Just upstream of access road, 1,025 feet upstream of confluence with Indian Run.	*853
			Just upstream of Interstate 270	*870
			100 feet upstream of access road, 2,260 feet upstream of Coffman Road.	*888
			Just upstream of access road, 4,460 feet upstream of Coffman Road	*897
			Just upstream of Avery Road 1,300 feet upstream of Avery Road	*914
		Tributary S–1	Mouth at Scioto River	*773
			600 feet upstream of mouth at Scioto River	*776
			Just upstream of High Street	*802
			Just upstream of access road, 1,520 feet upstream of High Street	*843
			Just upstream of Frantz Road	*864
			Just upstream of Interstate 270	*894
			Upstream corporate limits	*899

Maps available at Village Hall, Dublin, Ohio.

Send comments to The Honorable Robert Karrer, Mayor, Village of Dublin, 129 South High Street, Dublin, Ohio 43217.

Ohio	North Ridgeville, Lorain County	Ridgeway Ditch	Just downstream Case Road	*695
			About 900 feet upstream Case Road	*700
			Just downstream Center Ridge Road	*716
			About 1,700 feet upstream Center Ridge Road	*719
		Shallow flooding (overflow from Ridgeway Ditch.	Intersection of Maddock Road and Ridgeway Ditch	#1
		Shallow flooding (overflow from French Creek).	Intersection of French Creek and Center Ridge Road	#1
		Shallow flooding (overflow from Robinson Ditch).	Intersection of Root Road and Robinson Ditch	#1
		Shallow flooding (overflow from Mills Creek).	Intersection Chestnut Ridge Road and Mills Creek	#1
			Intersection Center Ridge Road and Mills Creek	#1

Maps available at City Hall, 7307 Avon-Belden Road, North Ridgeville, Ohio.

Send comments to the Honorable Richard Carje, Mayor, City of North Ridgeville, City Hall, 7307 Avon-Belden Road, North Ridgeville, Ohio 47039.

Ohio	Oberlin, Lorain County	Plum Creek	Just upstream of downstream corporate limit	*772
			About 1,190 feet downstream Oberlin Road at corporate limit	*778
			Approximately 300 feet downstream of Oberline Road	*780
			Just upsteam Oberline Road	*781
			Just upstream of Park Street	*789
			Just upstram of Morgan Street	*798

Maps available at City Hall, 85 South Main Street, Oberlin, Ohio.

Send Comments to Miss Sherry Sutters, City Manager, City of Oberlin, City Hall, 85 South Main Street, Oberlin, Ohio 44074.

Ohio	City of Toledo, Lucan County	Maumee Bay	Shore Line	*579
		Halfway Creek	Just downstream of State Line Road	*591
			Just upstream of Lewis Avenue	*597
			Upstream side of Jackman Road	*602
			Upstream Corporate Limits	*605
		Silver Creek	Downstream Corporate Limits	*579
			Downstream side of Hagman Road	*580
			Downstream side of Ann Arbor Railroad	*585
			Upstream side of Ann Arbor Railroad	*589
			Upstream side of Bennet Road	*594
			Just upstream of Lewis Avenue	*600
			Just upstream of Detroit Toledo Ironton Railroad 0.52 miles downstream of Jackman Road.	*606
			Just upstream of Rowland Drive West	*612
			Downstream side of Clegg Street	*617
			Upstream side of Whitmer Drive	*626
			Just upstream of Acoma Drive	*634
		Shantee Creek	Confluence with Silver Creek	*583

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Stickney Avenue	*589
			Upstream side of Conrail	*594
			Downstream of Bennett Road	*597
			Downstream side of Willys Parkway	*602
			Downstream side of Toledo Terminal Railroad 898 feet upstream of Jackman Road.	*610
			Upstream side of Toledo Terminal Railroad 898 feet upstream of Jackman Road.	*614
			Upstream side of Tremainsville Road	*614
		Tifft Ditch	Confluence with Shantee Creek	*614
			Upstream side of Douglas Road	*618
			Upstream side of Secor Road	*624
			Upstream side of Fox Glove Road	*629
			300 feet upstream of Paddington Drive	*637
		Eisenbraum Ditch	Confluence with Tifft Ditch	*619
			Downstream side of Laskey Road	*629
			Just upstream of Clover Lane	*635
			Upstream side of Talmadge Road 840 feet downstream of Private drive.	*642
			Upstream Corporate limit	*651
		Jamieson Ditch	Confluence with Silver Creek	*593
			Just upstream of Regina Parkway	*600
			Downstream side of Lewis Avenue	*602
		Ketchem Ditch	Confluence with Silver Creek	*606
			Upstream side of Jackman Road	*611
			Just upstream of Oldham Drive	*615
			Downstream side of Douglas Road	*620
		Ottawa River	Downstream Corporate limit	*579
			Just upstream of Lagrange Street	*583
			Upstream side of Berdan Avenue	*586
			Upstream of Upton Avenue	*590
			Upstream Corporate limits	*595
		Peterson Ditch	Confluence with Ottawa River	*588
			Just downstream of Algonquin Parkway	*613
			500 feet upstream of Cheltenham Road	*615
			200 feet upstream of Manchester Boulevard	*623
			Upstream side of Woodley Road	*628
		Williams Ditch	200 feet upstream of Dorr Street	*610
			Upstream side of Wamba Avenue	*617
			Just downstream of Hill Avenue	*620
			300 feet upstream of Marine Drive	*622
			0.56 miles upstream of Marine Drive	*624
		Schneider Ditch	Confluence with Williams Ditch	*619
			Downstream side of Hill Avenue	*620
		Heidman Ditch	Downstream Corporate limits	*598
			Upstream side of Inverdale Avenue	*603
			Upstream side of Hill Avenue	*614
			Upstream side of Holland-Sylvania Road	*629
			Upstream Corporate limit	*634
		Dennis Ditch	Confluence with Heidman Ditch	*598
			Just upstream of Whitegate Drive	*603
			Upstream side of Hill Avenue	*613
			Downstream side of Wenz Road	*625
		Hill Ditch	Confluence with Heidman Ditch	*598
			Upstream side of Terrace View South	*605
			Just upstream of Bancroft Street	*613
			Just upstream of Reynolds Road	*620
			Downstream side of Elmer Drive	*626
		Haefner Ditch	Confluence with Hill Ditch	*598
			Just upstream of Penn Road	*610
			300 feet downstream of Atwood Road	*615
			750 feet downstream of Olimphia Drive	*630
			Upstream Corporate limits	*638
		Deline Ditch	Confluence with Heidman Ditch	*600
			Upstream side of St. Andrews Drive	*604
			Just downstream of Reynolds Road	*620
			Upstream side of Reynolds Road	*626
			Downstream side of Hill Avenue	*628
		Mayer Ditch	Confluence with Heidman Ditch	*631
			Just upstream of Nebraska Avenue	*636
			Upstream Corporate limit	*637
		Swan Creek	Mouth at Maumee River	*579
			Upstream side of Collingwood Boulevard	*586
			Just upstream of Hawley Street	*592
			Upstream side of Byrne Road	*598
			Upstream side of Reynolds Road	*605
			Just upstream of Garden Road	*613
		Wolf Creek	Confluence with Swan Creek	*606
			Upstream Corporate limit	*606
		Good Ditch	Confluence with Wolf Creek	*606
			Just upstream of Airport Highway	*611
			Upstream Corporate limit	*618

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Delaware Creek	Mouth at Maumee River	*580
			100 feet upstream of Wildwood Road	*583
			Just upstream of Detroit Avenue	*598
			400 feet downstream of Norfolk and Western Railroad	*598
			Confluence with Gerdes Ditch	*606
			Downstream side of Glanzman Road	*606
		Maumee River	Mouth at Maumee Bay	*579
			Upstream Corporate limits	*581
	Maps available at Planning Commission, 415 North St., Clair Street, Toledo, Ohio 43624. Send comments to Mr. Michael J. Porter, City Manager, City of Toledo, City Hall, 525 North Erie Street, Toledo, Ohio, 43624.			
Ohio	Village of Wellington, Lorain County.	Wellington Creek	Approximately 1,050 feet downstream of downstream corporate limit	*834
			At the downstream corporate limit	*836
			Approximately 2,300 feet downstream of Cemetery Road	*840
			Just downstream of Cemetery Road	*843
			Approximately 150 upstream of Cemetery Road	*844
	Maps available at Village Hall, Willard Memorial Square, Wellington, Ohio 44090. Send Comments to The Honorable Lethel Edwards, Mayor, Village of Wellington, Village Hall, Willard Memorial Square, Willington, Ohio 44090.			
Oregon	Phoenix (City), Jackson County	Bear Creek	Fern Valley Road—150 feet upstream from centerline	*1,472
			Corporate limits (5th crossing)	*1,487
		Coleman Creek	U.S. Highway 99—300 feet downstream from centerline	*1,473
			U.S. Highway 99—70 feet upstream from centerline	*1,489
	Maps available at City Hall, 510 West First Street, Phoenix, Oregon. Send comments to: Honorable Otto Caster, Mayor, City of Phoenix, City Hall, P.O. Box 327, Phoenix, Oregon.			
Pennsylvania	Borough of Mount Wolf, York County.	Hartman Run	Downstream Corporate Limits	*351
			Chestnut Street (Downstream)	*359
			Chestnut Street (Downstream)	*365
			Downstream Conrail (Upstream)	*369
			Downstream Conrail (Upstream)	*374
			Maple Street, State Route 921 (Downstream)	*376
			Maple Street, State Route 921 (Upstream)	*381
			Walnut Street (Upstream)	*389
			Conrail 500 feet upstream of Walnut Street (Upstream)	*394
			Conrail 80 feet downstream of upstream Corporate Limits (Downstream).	*395
			Conrail 80 feet downstream of upstream Corporate Limits (Upstream)	*401
		Tributary No. 2 to Hartman Run	Conrail 100 feet upstream of confluence with Hartman Run (Upstream).	*383
			South Main Street (Upstream)	*385
			Walnut Street (Upstream)	*394
			Upstream Corporate Limits	*417
	Maps available at the Borough Building. Send comments to: Honorable Raymond Muth, Sr., Mayor of Mount Wolf, 200 South 4th Street, Mount Wolf, Pennsylvania 17347.			
South Carolina	City of Newberry, Newberry County.	North Fork Scotts Creek	Just downstream of Drayton St	*450
			Just downstream of Caldwell St	*462
			Just downstream of Calhoun St	*465
		South Fork Scotts Creek	Just downstream of Caldwell St	*460
			Just downstream of Glenn St	*474
	Maps available at: City Hall, 1201 McKebben Street, Newberry, South Carolina. Send comments to: Mayor Clarence A. Shealy, Jr., or Mr. W. B. Kitchens, Building Official, City Hall, 1201 McKebben Street, Newberry, South Carolina 29128.			
South Dakota	Blunt (City), Hughes County	West Fork Medicine Knoll Creek	Downstream corporate limits—150 feet upstream from centerline	*1619
			U.S. Highway 14 (Pierre Street)—100 feet upstream from centerline	*1622
			Adams Street—100 feet downstream from centerline	*1624
		Medicine Knoll Creek	Most downstream limit of flooding affecting the City of Blunt	*1614
			Most upstream limit of flooding affecting the City of Blunt	*1615
	Maps available at City Hall, Blunt, South Dakota. Send comments to: Honorable Wayne Pool, Mayor, City of Blunt, City Hall, Blunt, South Dakota 57522.			
South Dakota	Trent (Town), Moody County	Big Sioux River	Downstream Corporate Limits	*1502
			Third Street—at centerline	*1504
			Upstream Corporate Limits	*1505
	Maps available at the home of Mr. LeRoy Allen, President of the Town Board, Town of Trent, Trent, SD. Send comments to: Mr. LeRoy Allen, President of the Town Board, Town of Trent, Trent, SD 57065.			
Washington	Duvall (Town), King County	Snoqualmie River	County Road 1136—100 feet upstream from centerline	*45
			Most upstream limit of flooding affecting the Town of Duvall—at centerline.	*46
	Maps available at Town Hall, Corner of Main and Stella, Duvall, Washington. Send comments to: Honorale Ervin C. Harder, Mayor, Town of Duvall, P.O. Box 47, Duvall, Washington 98019.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Washington	Richland (City), Benton County	Yakima River	Union Pacific Railroad Bridge—at centerline	*352
			Van Giesen Street—at centerline	*374
			Upstream corporate limits	*376
	Maps available at City Hall, 505 Swift Boulevard, Richland, Washington.			
	Send comments to: Mr. Neal J. Schulman, City Manager, City of Richland, P.O. Box 190, Richland, Washington 99350.			
West Virginia	City of New Cumberland, Hancock County.	Ohio River	Downstream Corporate Limits	*677
			Confluence of Hardin Run	*678
			Upstream Corporate	*679
	Maps available at the City Building.			
	Send comments to: Honorable Amy J. Boyle, Mayor of New Cumberland, 100 North River Avenue, P.O. Box 564, New Cumberland, West Virginia 26047.			

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: July 17, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-24822 Filed 8-13-79; 8:45 am]

BILLING CODE 4210-23-M

Notices

Federal Register
Vol. 44, No. 158
Tuesday, August 14, 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

Meetings; Federal Seed Act

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of Meetings—Federal Seed Act Program Review. The Department of Agriculture announces two meetings to receive comments from State seed officials, seed marketers, farmers, gardeners, the seed trade, and other interested persons regarding the Federal Seed Act. Notice is hereby given of the following meetings:

EFFECTIVE DATES: September 5—Holiday Inn, Holiday City, 3728 Lamar Street, Memphis, Tennessee; September 7—Social Services Bldg., Basement Auditorium, 1575 Sherman Street, Denver, Colorado. Time: 8:00 a.m.

FOR FURTHER INFORMATION OR SCHEDULING COMMENTS CONTACT: Clyde R. Edwards, Chief, Seed Regulatory Branch, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, DC 20250, 202–447–9340. To assist in scheduling, it would be appreciated if persons intending to comment at either of the meetings would notify USDA before August 31, 1979, and indicate the approximate length of time for comment.

Persons unable to attend either meeting may submit comments in writing by September 13, 1979, to Assistant Secretary P. R. "Bobby" Smith, U.S. Department of Agriculture, 14th & Independence Avenue, S.W., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide an opportunity for State seed officials, seed marketers, farmers, gardeners, and other interested persons to comment on the requirements of the Federal Seed Act, its purposes, the needs for a seed regulatory program, and to suggest changes in the program to best meet the needs of users and the industry. All interested persons are encouraged to participate.

Dated: August 9, 1979.

Billiam T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-25083 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

Mechanically Deboned Poultry Report—Errata Supplement

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice.

SUMMARY: A June 29, 1979, notice published in the **Federal Register** (44 FR 37965) announced the completion and availability of a study on the health and safety aspects of a mechanically processed product commonly referred to as mechanically deboned poultry (MDP). A 60-day extension of time for comments on the report was recently announced. This notice announces the preparation of an errata supplement to correct certain items in the report.

DATE: All comments must be received on or before October 12, 1979. Any comments received after that date will not be considered.

ADDRESS: Written comments to Executive Secretariat, Attn: Annie Johnson, Room 3807, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments to Mr. Irwin Fried, (202) 447–6042

FOR FURTHER INFORMATION CONTACT: Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Background

Since 1969, the department has permitted the use of a mechanically processed product commonly referred to as mechanically deboned poultry (MDP) pursuant to section 381.117(d) of the poultry products inspection regulations (9 CFR 381.117(d)). In light of (1) the improved scientific technology now used to detect various substances, (2) the larger body of scientific knowledge now available concerning the dietary intake of potentially deleterious substances, and (3) the analogous experience and knowledge acquired during the Agency's evaluation of mechanically processed (species) product, the Food Safety and Quality Service conducted an analytical program to determine the content of nutrients and of potential problem substances in MDP. This resulted in the publication of the report titled "Health and Safety Aspects of the Use of Mechanically Deboned Poultry." The completion of this report and its availability to the public were announced in the Department's June 29, 1979, notice. The comment period was recently extended to October 12, 1979.

Corrections

As a number of errors were inadvertently included in the report, an errata supplement containing corrections has been prepared and follows this notice as an appendix. One error treated in this supplement involving Tables VII–2 and VII–3 on pages 191 and 192 was brought to the attention of FSQS by the poultry industry. The Administrator believes it is necessary to further elaborate on this correction.

Tables VII–2 and VII–3 deal with per capita consumption levels of cadmium, calcium, fluoride, lead, cholesterol, iron, and zinc. Consumption figures were based on two alternate assumptions—either that all the further processed poultry was MDP or none of it was MDP. Neither assumption is realistic, but the two extreme values are useful to describe the range within which average consumption of a potential problem component of MDP would fall. The error consisted of use of the language "No MDP" and "All 'further processed' is MDP" in these tables. The latter quoted language has been interpreted by some members of the poultry industry as a suggestion that all further processed poultry is in fact currently made entirely from MDP. Actually, the Department has recently received data to show that approximately 10–15 percent of the poultry currently used in further processing is MDP. Accordingly, to eliminate any possible confusion on this point, these tables are being rewritten to

read as follows: "If no 'further processed' poultry is MDP," and "If all 'further processed' poultry is MDP."

The errata supplement will be sent out with all future copies of the report. In addition, a copy of the errata supplement is available without charge from the Information Staff, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, and from the following regional information offices.

Connie Crunkleton, Regional Director, Information Division, USDA, 1718 Peachtree Street, NW, Room 206, Atlanta, GA 30309, (404) 257–4154.

Herb C. Jackson, Regional Director, Information Division, USDA, 536 South Clark Street, Room 936, Chicago, IL 60605, (312) 353–3631.

Harold C. Bryson, Regional Director, Information Division, USDA, 1100 Commerce Street, Room 5C40, Dallas, TX 75242, (214) 749–3331.

Brian Killikelly, Regional Director, Information Division, USDA, 26 Federal Plaza, Room 1653, New York, NY 10007, (212) 264–1145.

Ben Darling Regional Director, Information Division, USDA, 630 Sansome Street, Room 702, San Francisco, CA 94111, (415) 556–6464.

In all other respects, the procedure specified in the notice published on June 29, 1979, shall continue to apply. .

Done at Washington, DC, on: August 9, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

Errata Supplement to the Report on the "Health and Safety Aspects of the Use of Mechanically Deboned Poultry."

1. Title page: add a date line—"June 18, 1979"

2. Page 1, line 16: change "focused attention of" to "focused attention on"

3. Page 28, line 14: change "82 percent" to "28 percent"

4. Page 87, line 16: change "possible" to "possibly"

5. Page 95, last column heading, change: "Particles with Lengths Equal to or Greater than 500 Microns or 850 Microns" to Particles with Lengths Equal to or Less than 500 Microns or 850 Microns"

6. Page 120, under "DDT, Fat from hand-deboned poultry," line 3 ("Turkey") column 4, change: "2(.2)" to "2(.4)"

7. Page 120, under "Hexachlorobenzene (HBC), Fat from hand-deboned poultry," line 2 ("Chicken") column 1, change: "759(87)" to "759(82)"

8. Page 125, under 3rd column heading, change: "o" to "No"

9. Page 126, Footnote 6, change: "Source of data: reference P–1" to "Source of data: reference P–15"

10. Page 128, under "Rat Growth Assay" column: 5th value should be "2.61"

11. Page 162, Section B, Row 4, change: "Glen W. Froning" to "Glenn W. Froning"

12. Page 176, row 5 (Arsenic) change:

"25	26	<.02	< .02	<.01	<.01	<.01	<.01"	
to								
"25	26	<.02	<.02	<.02	<.02	<.02	<.02"	

13. Page 186, Note for Appendix Table V–1: Poultry consumption per capita per year was 52.9 lbs. in 1976. *from* Marston, R. and Friend, B. (1978) Nutrient Content of the National Food Supply. National Food Review, January. *and* A Table of Food Consumption Per Capita for 1947–49, 1957–59 Averages, and Annual 1967 and 1970–77. Consumer and Food Economics Institute, U.S. Dept. Agric. (CFE (Adm.)—299–12 April, 1978)

14. Page 189, change title to read: "Possible Ranges of Daily Per Capita Consumption of Selected Minerals from Mechanically Deboned Poultry"

15. Page 190, Further processed, MDP: change weighted value per gram of calcium from ".653" to "1.653"

16. Page 190, add to Footnote 1: "Calculations were made using average values for minerals and cholesterol contents of hand-deboned poultry and MDP. Data on 1976 production from Appendix Table V–1"

17. Page 190, in first column, change: "Further processed, hand-deboned" to read "Further processed, if all hand-deboned" and add "[7]" (Footnote 7) at the end of above change.

18. Page 190, in first column, change: "Further processed, MDP" to read "Further processed, if all MDP" and add "[7]" (Footnote 7) at the end of above change.

19. Page 190, add Footnote 7: "[7] The proportions of young chicken, mature chicken and turkey were assumed to be the same for hand-deboned further processed and MDP. Data were not available to distinguish proportions within the two categories of further processed poultry."

20. Page 191, change title to read: "Possible Ranges of Daily Per Capita Consumption of Cadmium, Calcium, Fluoride, Lead, and Cholesterol from Poultry, With and Without Mechanically Deboned Poultry"

21. Page 191, add to Item B: "Calculations assume that 'further processed' poultry contains either no MDP or all MDP. Although neither assumption is realistic, the range between the values gives an estimate of the limits within which per capita consumption of the specified components would fall under varying levels of production of MDP. Since the assumption that all 'further processed' poultry was MDP led to potential per capita consumption levels of these components that were not detrimental, no effort was made to determine actual per capita consumption levels of MDP."

22. Page 191, Items D, E, F, G, and H, change: "No MDP" to read "If no 'further processed' poultry is MDP"

23. Page 191, Items D, E, F, G, and H, change: "All 'further processed' is MDP" to read "If all 'further processed' poultry is MDP"

24. Page 192, add to Item B: "Calculations assume that 'further processed' poultry contains either no MDP or all MDP. Although neither assumption is realistic, the range between the values gives an estimate of the limits within which per capita consumption of the specified components would fall under varying levels of production of MDP. Since the assumption that all 'further processed' poultry was MDP led to potential per capita consumption levels of these components that were not detrimental, no effort was made to determine actual per capita consumption levels of MDP."

25. Page 192, Items C and D, change: "No MDP" to read "If no 'further processed' poultry is MDP"

26. Page 192, Items C and D, change: "All 'further processed' is MDP" to read "If all 'further processed' poultry is MDP"

27. Page 192, change title to read: "Possible Ranges of Daily Per Capita Consumption of Iron and Zinc from Poultry, With and Without Mechanically Deboned Poultry"

28. Page 192, add: "[4]" (Footnote 4) at the end of Heading I. *Weighted Contents of Mineral in Poultry:*

29. Page 192, add Footnote 4:

[4] Calculations were made using average values for iron and zinc contents of hand-deboned poultry and MDP.

[FR Doc. 79-25084 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-DM-M

Rural Electrification Administration

Brazos Electric Power Cooperative, Inc.; Draft Supplement to Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Draft Supplement to a previously published Environmental Impact Statement (EIS) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with a possible reclassification of guaranteed loan funds for Brazos Electric Power Cooperative, Inc. (Brazos), P.O. Box 6296, Waco, Texas 76706.

In August 1976, REA issued a Final EIS (76-7-F) related to the G&T Cooperative Project (San Miguel Project) Lignite Unit No. 1 and Associated Mine and Transmission Lines. One transmission line contemplated in that EIS was a 345 kV, single-tower, double-circuit line which was to extend some 254 miles from the San Miguel lignite-fired steam generating plant now under construction in Atascosa County, Texas, to the Lake Whitney area, northwest of Waco, Texas. On January 31, 1978, REA approved a loan guarantee commitment for constructing this line and associated terminal facilities. Brazos now proposes to reduce the total mileage of this transmission line by approximately 176 miles. Under the proposed plan, the transmission corridor would follow the previously financed corridor for approximately 56 miles from the San Miguel Plant to northern Wilson County, Texas. From that point, the line would follow a new corridor approximately 22 miles to a tie-in point with facilities owned by the Lower Colorado River Authority (LCRA) at the LCRA Marion Substation, located in Guadalupe County, Texas. From this point power would be transferred over LCRA facilities to a point of interconnection with Texas Power & Light Company (TP&L) for delivery to Brazos at existing and future Brazos-TP&L points of interconnection. The proposal would require construction by Brazos of a 345 kV switching facility at or near the LCRA Marion Substation, but would eliminate the need for the 345:138 kV transmission substation required at Whitney under the original plan.

Additional information may be obtained by request submitted to Mr. Joseph S. Zoller, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, or from Brazos at the above mailing address, or at their headquarters location, 2404 LaSalle Avenue, Waco, Texas, telephone (817) 752-2501.

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 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 of Environmental Quality Guidelines. The Draft Supplement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th and Independence Avenue, S.W., Washington, D.C., Room 2868 or at the headquarters of Brazos, given above. Limited supplies of this document are available for mailing upon request.

Comments concerning the environmental impact of the proposed construction should be addressed to Mr. Zoller at the address given above, with a copy to Brazos. Comments must be received on or before October 15, 1979, to be considered in connection with the proposed financing assistance.

Any change in the financing assistance previously provided by REA in connection with the proposed change in facilities will be subject to, and release of funds will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and final action will be taken only after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969, and by other environmentally related statutes, regulations, Executive Orders, and Secretary's Memoranda normally considered by REA.

Dated at Washington, D.C., this 7th day of August 1979.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-24877 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-15-M

Cooperative Power Association, Minneapolis, Minn.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $8,108,000 to Cooperative Power Association of Minneapolis, Minnesota. This loan will be used to finance a headquarters facility and reimbursement for a previously approved computer facility.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the economic feasibility study and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. T. V. Lennick, Manager, Cooperative Power Association, 3316 West 66th Street, Minneapolis, Minnesota 55435.

In order to be considered, proposals must be submitted (within 30 days from the date of **Federal Register** publication of this notice) to Mr. Lennick. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Cooperative Power Association and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 6 day of August 1979.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-24826 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-15-M

Sunflower Electric Cooperative, Inc., Hays, Kans.; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk

Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $23,400,000 to Sunflower Electric Cooperative, Inc., of Hays, Kansas, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $965,000 to this cooperative. These loan funds will be used to finance approximately 73 miles of 345 kV transmission line and related facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Arthur J. Schnose, Manager, Sunflower Electric Cooperative, Inc., P.O. Box 980, Hays, Kansas 67601.

In order to be considered, proposals must be submitted (within 30 days from the date of the Federal Register publication of this notice) to Mr. Schnose. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Sunflower Electric and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 6th day of August 1979.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-24827 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-55-M

United Power Association; Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with a proposed loan and-or loan guarantee commitment from the Rural Electrification Administration for United Power Association of Elk River, Minnesota, (UPA) to purchase from Minnesota Power and Light Company a segment of 500 kV transmission line between Denham and Forbes, Minnesota.

The Minnesota Environmental Quality Council has prepared a State environmental impact statement for the proposed construction. The environmental impact statement is in compliance with REA's environmental guidelines.

Our independent evaluation of the proposed project leads us to conclude that REA's financial assistance for this project would not represent a major Federal action that would significantly affect the quality of the human environment.

Based on REA's independent evaluation, our review of the State environmental impact statement and REA experience with installations of this type and the subsequent environmental effects, a negative determination was made under Section 5K of the REA Bulleting 20–21.

Additional information may be secured on request, submitted to Mr. Joe S. Zoller, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C.

Final REA action with respect to this matter may be taken after fifteen (15) days, from the date of the Federal Register publication of this note, but only after REA has reached satisfactory conclusion with respect to its environmental effects and compliance with the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 6th day of August 1979.

Susan T. Shepherd,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 79-24825 Filed 8-13-79; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket 36211; Order 79-8-38]

ALM Antillian Airlines; Proposed Normal Economy and Promotional Fare Increases; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of July, 1979.

By tariff revisions filed for effectiveness August 18, 1979, ALM Antillian Airlines (ALM) proposes San Juan-Caracas Normal economy and promotional fare increases of 12.2 and 7.5–7.6 percent, respectively, to compensate for increased fuel costs.[1]

We have decided to suspend ALM's proposed increases in both normal economy and promotional fares.

The Board recently suspended the more modest U.S.–South America normal economy and promotional fare increases proposed by Pan American World Airways, Inc. (Pan American).[2] As we stated then, South America is the one international area where we cannot rely on competition to set fares even at promotional fare levels. Opportunities for new carrier entry are restricted, and fares generally must still be approved by both governments. As a result, U.S.-South America fares are set at inordinately high levels.

Our reasons for suspending Pan American's increases are equally pertinent to ALM's proposal. ALM proposes to increase its fares beyond the already excessive prevailing levels in a market where direct service competition is virtually nonexistent. In the San Juan-Caracas market, scheduled capacity is controlled, new carrier entry is restricted and charter service opportunities are severely limited. Thus, we conclude that the competitive market forces we would like to rely on to establish prices are not nearly strong enough to protect the public interest.

Furthermore, ALM's proposed levels far exceed those the carrier now offers in other U.S.–Latin America markets of similar distances.[3] For example, the San Juan-Caracas fares per mile are currently substantially higher than those of the San Juan-Aruba/Curacao markets. If implemented, the increases would result in the San Juan-Caracas normal economy fare per mile being about 40 percent above those in the San Juan-Aruba/Curacao markets; the difference in promotional fares per mile would be of a similar magnitude. In these circumstances, we are unable to allow ALM's proposed increases.

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendix B [3A] 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

[1] The first-class fare would remain at its present level.

[2] Orders 79-7-30, June 26, 1979, and 79-5-218, May 17, 1979.

[3] See Appendix A filed as part of the original documents.

[3A] Appendix B filed as part of the original document.

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 Appendix B and defer their use from August 18, 1979, to and including August 17, 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 [4] and it shall become effective on August 18, 1979; and

4. We shall file copies of this order in the aforesaid tariffs and serve them on ALM Antillian Airlines.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-25039 Filed 8-13-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-8-49]

Order Granting Exemption Adopted by the Civil Aeronautics Board at its Office in Washington, D.C., on the 8th day of August 1979

Section 403(b)(1) of the Federal Aviation Act of 1958, as amended provides, *inter alia,* that "any air carrier or foreign carrier, under such terms and conditions as the Board may prescribe, may grant reduced-rate transportation on a space-available basis to any ministers of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person." We have concluded that the requirement that reduced-rate transportation for certain named categories of persons be on a space-available basis is anomalous in relation to other provisions of the Act (recently amended) dealing with passenger fare matters, and is basically inconsistent with the overall tenor of the Airline Deregulation Act of 1978 (ADA).[1] The thrust of the rate provisions of the ADA is a reliance on the marketplace as the determinant of prices and any attendant restrictions, allowing each carrier to determine (within a very broad range) those prices and terms which best suit its particular circumstances. In addition, the Act's revised declaration of policy states that we shall consider, among other things, a variety of pricing and service options to be in the public interest.

It follows, we believe, that is a decision on whether to make a particular fare available on an unrestricted basis, or on a space-available basis, or something between, is one which is best left to individual carriers. As it is now, section 403(b)(1) precludes the carriers from experimenting with an option which provdes a full or modified reservation for those categories of persons named in section 403(b)(1) traveling on reduced fares. Allowing reservations may in fact work to the overall benefit of all passengers, and certainly carriers have the incentive to administer the reservations so that regular fare-paying passengers are not preempted or otherwise burdened. Finally, we do not doubt that the inability to secure reservations more than one day in advance of travel is particularly troublesome to many senior citizens and may well inhibit travel at these fares.[2] For the foregoing reasons we find that it is consistent with the public interest to exempt carriers from section 403(b)(1) to the extent necessary to allow them to make reduced-rate travel available to ministers of religion, persons sixty years of age or older and retired, persons sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person on other than a space-available basis. We are not suggesting by this order that carriers should allow advance reservations for the types of fares discussed here if they do not believe such a change is desirable, but if they do wish to change, this exemption will enable them to do so.

We will also exempt all carriers from section 404(b) of the Act to the extent that section would preclude the carriers from offering the catergories of persons named above (*i.e.,* senior citizens, ministers, and the handicapped and their attendants) reduced-rate transportation on a reserved seat basis. We tentatively concluded in PSDR-58 our proposed rulemaking related to discrimination, prejudice, and preference notice of in pricing that permitting a very wide scope for the carriers' marketing judgments within zones of reasonableness and interfering only on a persuasive showing that interests worthy of protection are imperiled, is in the public interest.[3] While the PSDR-58, if finalized, would support the legality of the fares at issue here, this exemption, based on the above public interest findings, should moot any claim of unreasonable discrimination.[4]

Accordingly,

1. We exempt all U.S. air carriers and all foreign air carriers from that part of sections 403(b)(1) and 404(b) of the Federal Aviation Act of 1958, as amended, to the extent that they limit the provision of reduced-rate transportation for any ministers of religion, any person who is sixty years of age or older and retired, any person who is sixty-five years of age or older, and to any handicapped person and any attendant required by such handicapped person to a space-available basis; and

2. We shall serve this order on all U.S. certificated air carriers and all foreign air carriers holding permits under section 402 of the Act.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-25038 Filed 8-13-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 30938]

Pacific Common Fares Investigation

Notice to all parties: Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on September 5, 1979, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before August 23, 1979, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., August 8, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-25037 Filed 8-13-79; 8:45 am]

BILLING CODE 6320-01-M

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[4] We submitted this order to the President on July 26, 1979.

[1] The amendments to section 403(b)(1) regarding the carriage of the handicapped, senior citizens, etc. were made before the Airline Deregulation Act of 1978.

[2] We believe the same would be true with respect to travel by the handicapped.

[3] PADR-58, 44 FR 21816, April 12, 1979.

[4] Should the Board reach a different conclusion with respect to status fares than that advanced in PSDR-58, we will reexamine the exemption authority granted here.

[Dockets 34203 and 34666; Order 79-8-34]

USAir, Inc., and Ransome Air, Inc.; Order Setting Interim Rate of Compensation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of August, 1979.

Notice of intent of USAir, Inc. (formerly Allegheny Airlines, Inc.) to terminate service at Catskill/Sullivan County, New York and Ransome Air, Inc. d.b.a. Ransome Airlines to terminate service at Catskill/Sullivan County, New York.

On March 1, 1979, the Board adopted Order 79-3-16 in which we stated that we would make an interim determination of the essential air transportation requirements of Catskill/Sullivan County, New York, after receiving and considering the views of community and state officials. At the same time, we required USAir (formerly Allegheny Airlines) and Ransome Airlines to continue to provide the existing level of service to Catskill/Sullivan County for an additional 30-day period beyond March 9, 1979, the last day before each carrier's respective notice of suspension would have become effective had the Board not acted.[1]

On June 20, 1979, USAir filed an application requesting compensation pursuant to section 419 of the Federal Aviation Act of 1958, as amended, for its losses in underwriting Ramsome's replacement service at Catskill/Sullivan County. USAir submitted copies of billings received from Ransome for the period from March 10, 1979, through April 30, 1979, amounting to total losses of $27,996.46 for this 51-day period.

We have decided that the use of interim rates of compensation is appropriate in this case. The use of interim rates of compensation is advantageous to both the carrier and the Board by allowing payments to the carrier to begin while preserving our ability to make any adjustments necessary to arrive at a final determination of the total amount of compensation after operations have ceased at the point.[2]

At Ransome's request, the Board's auditors have recently reviewed the carrier's operations, looking closely at the costs associated with providing service to Catskill/Sullivan County. The audit revealed that Ransome's costing methodology appeared to be reasonable and generally representative of the results of its operations. Subsequently, discussions between the carrier and our staff led to a tentative agreement concerning the unit rates of various cost components which were then reflected in Ransome's billlings to USAir (then Allegheny), which are attached to this order as Appendix A.[2a]

We have reviewed the information contained in USAir's application and note that it is consistent with the findings of our auditors. Consequently, we will recognize USAir's net March and April losses, on an interim basis, and reimburse the carrier accordingly. Furthermore, we have adopted the carrier's net April losses as the basis of an interim rate for 30-day periods beginning May 1, 1979, because April's results reasonably appear to approximate a normal month of operations.[3] This interim rate will free the carrier from the need to file requests for compensation every 30 days.

Based on all of the foregoing, we find that the fair and reasonable interim rate of compensation to be paid USAir, Inc., for the provision of essential air transportation at Catskill/Sullivan County, New York, is $27,996 for the period from March 10, 1979, through April 30, 1979, and $15,958 for each 30-day period beginning May 1, 1979, continuing until the carrier is relieved of its certificate obligations at Catskill/Sullivan County; *provided*, that for any period of less than 30 days, the interim rate of compensation shall be $532 per day times the number of days that essential air transportation was provided.[4]

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(b) thereof, and the regulations promulgated in 14 CFR 302:

1. The fair and reasonable interim rate of compensation to be paid USAir, Inc., for the provision of essential air transportation at Catskill/Sullivan County, New York, shall be the amount stated in the text above, pending a final accounting of the carrier's costs in providing the required services and the fixing of a final rate of compensation in this proceeding;

2. The interim rate of compensation detailed in the preceding paragraph shall be effective on and after March 10, 1979;

3. This order shall become effective on the seventh day after its service, unless prior to that date exceptions, together with supporting reasons, have been filed with the Board by any party to this proceeding. If exceptions and supporting reasons are filed by any party within the prescribed time, the effective date of this order shall be stayed pending further action by the Board; and

4. This order will be served upon all parties to this proceeding.

This order will be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-25040 Filed 8-13-79; 8:45 am]

BILLING CODE 6320-01-M

[1] The requirement to continue service at Catskill/Sullivan County was extended for additional 30-day periods by Orders 79-4-49, 79-4-178, 79-6-44, and 79-7-1.

[2] See PR-209, adopted July 13, 1979, for a complete discussion of our rationale for using intermim rates of compensation.

[2a] Appendix A filed as part of the original document.

[3] However, we cannot accept the carrier's traffic statistics as the basis for a final rate until they have been verified by our auditors. Based on 1978 experience it appears that April traffic approximates the monthly levels during the busy spring and summer season in the Catskills. The Board may issue a new a order revising the rate of compensation if it appears that the 1978 pattern does not hold.

[4] Of course, the carrier will be free to request an adjustment to the interim rate of compensation if it believes changing circumstances require it.

COMMISSION ON CIVIL RIGHTS

Iowa 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 Iowa Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 2:30 p.m., on September 25, 1979, at the Iowa Memorial Union, University of Iowa, (corner of Madison and Jefferson), Michigan State Room, 3rd Floor, Iowa City, Iowa 52442.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to plan program activity for FY-81 and review current projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-24992 Filed 8-13-79; 8:45 am]

BILLING CODE 6335-01-M

Michigan 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 Michigan Advisory Committee (SAC) of the Commission will convene at 10:30 am and will end at 4:00 pm, on September 6, 1979, at the City Hall, Room 609, 300 Monroe, N.W., Grand Rapids, Michigan 49502.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to select projects for SAC activities for the fiscal year, review of the Consultation on Housing Equality and review of SAC plans for fiscal year 1978–79.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 8, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-24991 Filed 8-13-79; 8:45 am]

BILLING CODE 6335-01-M

Missouri 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 Missouri Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 2:30 pm, on September 7, 1979, at the Hilton Inn, Columbus II Room, 2200 1–70 Drive, S.W., Columbia, Missouri 65201.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to plan program activity for FY–81 and continue planning for FY–80 project on housing.

This meeting will be conducted pursuant to the provisions of the Rules And Regulations of the Commission.

Dated at Washington, D.C., August 7, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-24990 Filed 8-13-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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) Billfish Fishery Management Plan (FMP); (2) Election of officers; (3) Status of ongoing FMP activities; (4) Foreign fishing permits, if any; and (5) Other management business.

DATES: The meeting will convene on Tuesday, August 28, 1979, at 1 p.m. and will adjourn on Thursday, August 30, 1979, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at headquarters, 1 Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407. Telephone: (803) 571–4366.

Dated: August 9, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-24968 Filed 8-13-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Restraint Level for Certain Man-Made Fiber Apparel Products from Malaysia

August 9, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the subceiling for women's, girls' and infants' knit shirts and blouses of man-made fibers (Category 639) within the combined Category 638/639, produced or manufactured in Malaysia and exported to the United States during the agreement year which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).)

SUMMARY: Paragraph 7 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia provides for designated percentage increases for certain categories (swing) during the agreement year which began on January 1, 1979. Paragraph 8(A)(III) provides for an increase in the current year's ceiling by borrowing a specified amount from the succeeding year's ceiling (carryforward). At the request of the Government of Malaysia, the sublimit for Category 639 within the combined Category 638/639 is being increased for swing and carryforward from 56,800 dozen to 64,184 dozen during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Norman Duckworth, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the Federal Register (44 FR 930), which established the levels of restraint applicable to certain specific categories of cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia and exported to the United States during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption or withdrawal from warehouse for consumption of man-made fiber textile products in

Category 639 in excess of the amended twelve-month level of restraint.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 9, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: On December 27, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Malaysia and exported to the United States during the agreement year which began on January 1, 1979, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on Aug. 14, 1979, the level of restraint established for Category 638/639 in the directive of December 27, 1978, to the following:

Category	Amended 12-month level of restraint [2]
638/639	151,466 doz. of which not more than 64,184 doz. shall be in Category 639.

[2]The level of restraint has not been adjusted to reflect any imports after December 31, 1978.

The action taken with respect to the Government of Malaysia and with respect to imports of man-made fiber textile products from Malaysia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-25022 Filed 8-13-79; 8:45 am]

BILLING CODE 3510-25-M

[1]The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia which provide, in part, that: (1) Within the aggregate and group limits, specific levels of restraint, including their sublimits, may be exceeded by designated percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 79-2]

Spike-Tipped Umbrellas; Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition requesting it to issue a consumer product safety rule banning sharp or spike-tipped umbrellas. The Commission denies the petition because currently available information is insufficient to indicate that spike-tipped umbrellas present an unreasonable risk of injury.

ADDRESS: Copies of the petition and the Commission staff's briefing materials on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Robert E. Miller, Office of Program Management, Consumer Product Safety Commission , Washington, D.C. 20207 Tel: (301) 492-6755.

SUPPLEMENTARY INFORMATION:

1. The Petition

Section 10 of the CPSA provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the **Federal Register.**

On October 16, 1978, Dr. James W. Wilson, of the Kansas Department of Health and Environment, petitioned the Commission to ban the manufacture and sale of spike-tipped umbrellas. The petitioner included an article entitled "Orbitofacial Wounds and Cerebral Artery Injuries Caused by Umbrella Tips" and published in the Journal of the American Medical Association, March 20, 1978, which cites two cases where persons suffered brain damage (one of which was fatal) due to wounds which were sustained after being assaulted with umbrella tips. The author of the article, Dr. Andrew Carothers, has told Commission staff that he has reason to believe that one of the two cases involved an umbrella tip which had been sharpened to a fine point by the assailant.

The type of umbrella product to which the petitioner refers as "spike-tipped" and "sharp-tipped" was defined by the Commission's staff as having an end with a diameter of about three-eighths of an inch, several inches long with a moderate taper and ending in either a radius (rounded) or flattened tip.

2. Denial of Petition

In analyzing this petition, the Commission considered these major factors: (1) whether spike-tipped umbrellas present an unreasonable risk of injury; (2) whether a consumer product safety rule is reasonably necessary to eliminate or reduce that risk; (3) whether any feasible consumer product safety standard (instead of a product ban) would adequately protect the public from any unreasonable risk of injury associated with spike-tipped umbrellas. The Commission also considered the relative priority of the risk associated with spike-tipped umbrellas in the context of Commission resources available for all hazardous products. In addition, the Commission examined the material submitted by the petitioner and the Commission staff's investigation and analysis of injury data, engineering data, and economic data.

A search of the data available in the National Injury Information Clearinghouse (NIIC) and the National Electronic Injury Surveillance System (NEISS) revealed limited information relating to spike-tipped umbrellas.

Through NEISS, it is estimated that 1400 persons were treated in hospital emergency rooms in the United States during 1978 for all umbrella-related injuries. Specific information regarding injuries from spiked umbrella tips was not available from NEISS; however, one case was identified as involving an "umbrella tip". A review of the three in-depth investigation reports of umbrella-related injuries that the Commission has on file from 1972 through 1978 discloses that none of these injuries involved spiked umbrella tips. A review of the two umbrella tip-related death certificates on file in the NIIC for 1972 through 1978 indicates that both victims sustained fatal puncture wounds in the upper part of the head. However, from the information provided in the two death certificates, it cannot be determined whether the umbrellas involved had spiked tips. A review of the eight consumer complaints on file at the Commission for 1972 through 1978 concerning umbrellas reveal only two

complaints related to injuries involving umbrella tips. One case did not involve a spiked umbrella tip, and in the other case the type of umbrella tip was not identified.

Although umbrellas have been found to contribute to injuries, available injury data reveal relatively few injuries involving umbrella tips.

Investigation by the Commission's staff reveals that these few umbrella tip-related injuries are occurring in a national marketplace where 20–30 million umbrellas are annually available. Observations by Commission staff of the types of umbrellas currently offered for sale in the Washington, D.C. area indicate that most currently available umbrellas, including both the spike-tipped and double folding varieties, actually have blunt protrusions which would not be able to pierce the skin without the exertion of considerable force.

The Commission has carefully considered the matters raised in the petition and the injury and technical data submitted by the staff. The Commission has concluded that the injury data are insufficient to indicate that a consumer product safety rule is reasonably necessary to reduce any unreasonable risk of injury associated with spike-tipped umbrellas. Accordingly, the Commission has denied the petition.

Dated: August 6, 1979.

Sadye E. Dunn, Secretary,

Consumer Product Safety Commission.

[FR Doc. 79-25046 Filed 8-13-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board; Closed Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Ad hoc Subcommittee of the Armed Forces Epidemiological Board.
Date of Meeting: 30 August 1979.
Place: Conference Room 3092, Walter Reed Army Institute of Research, Walter Reed Army Medical Center, Washington, D.C.
Time: 0900–1630.
Purpose: The meeting will consist of discussions concerning the U.S. Air Force proposed protocol of an epidemiological study of possible effects in Air Force personnel and veterans exposed to Herbicide Orange in Vietnam.

2. The meeting will be closed to the public because predisclosure of the protocol and its questionnaire would tend to bias respondent replies and thus destroy the scientific validity of the study. The protocol will be released after complete review and finalization. The questionnaire will be released after it has been administered. Closure of the meeting to the public is in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (9)(B) thereof. For further information contact the Executive Secretary, DASG–AFEB, Room 1B472 Pentagon, Washington, D.C. 20310, (Telephone 695–9115).

Dated: 27 July 1979.

Charles W. Halverson,

CDR, MSC, USN, Executive Secretary.

[FR Doc. 79-24910 Filed 8-13-79; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Belridge Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: July 5, 1979. Comments by: September 13, 1979.

ADDRESS: Send comments to: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111; Phone (415) 556–7200.

SUPPLEMENTARY INFORMATION: On July 5, 1979, the Office of Enforcement of the ERA executed a Consent Order with Belridge Oil Company of Los Angeles, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. Consent Order

Belridge Oil Company, with its home office in Los Angeles, California, is a firm engaged in the processing and sale of natural gas liquids and is subject to the Mandatory Petroleum Price and Allocation Regulation at 10 CFR, Parts 210, 211, 212.

The Office of Enforcement of the Economic Regulatory Administration (ERA) and Belridge Oil Company entered into a Consent Order to resolve certain actions which could be brought by ERA as a result of its audit of the natural gas liquids products by Belridge Oil Company. This Consent Order only settles those matters relative to DOE's audit of Belridge Oil Company doing business as a natural gas liquids processor.

The significant terms of the Consent Order with Belridge Oil Company are as follows:

1. The period covered by the audit was August 19, 1973 through July 31, 1975.

2. DOE alleges that Belridge Oil Company charged prices for natural gas liquid products in excess of the maximum allowable to its customers in violation of the DOE regulations in 10 CFR 212.163 and predecessor regulations.

3a. Belridge Oil Company does not admit to any violation of the DOE regulations. Belridge Oil Company agrees to refund to the DOE the initial sum of $282,823.05, including interest. This amount, will be refunded on or before June 30, 1979.

3b. Belridge also agrees to refund to Belridge Farms an identified entitled party, a total of $12, 914.25, representing alleged overcharges and interest on sales of propane.

3c. Belridge also agrees to calculate overcharges for the period August 1, 1975 through July 31, 1979 using prices upon which this Consent Order is based. Any resulting overcharges shall be refunded by Belridge in accordance with the terms of this Consent Order.

4. The provision of 10 CFR 205.199J are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

1. Refunded overcharges as described in I. 3a. above will be in the form of a certificed check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable

manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

2. Refunded overcharges as determined in accordance with I. 3c. above will be distributed either: (a) In the manner described in II. 1. where DOE is unable to readily identify the persons entitled to the refund; or (b) by certified check directly to entitled parties readily identified by DOE.

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556–7200.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Belridge Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 13, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in San Francisco, California on the 17th day of July, 1979.

Jack L. Wood,

District Manager of Enforcement, Western District Office, Economic Regulatory Administration.

[FR Doc. 79-24916 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

McCulloch Oil and Gas Corp. And McCulloch Oil Corp. of Texas; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for coment on consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the consent Order.

DATES: Effective date: July 13, 1979. Comments by: September 13, 1979

ADDRESS: Send comments to: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, California 94111; Phone (415) 556–7200.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the Office of Enforcement of the ERA executed a Consent Order with McCulloch Oil and Gas Corporation and McCulloch Oil Corporation of Texas (collectively "McCulloch") of Los Angeles, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less then $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. Consent Order

McCulloch, with its home office in Los Angeles, California, is engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and McCulloch entered into a Consent Order to resolve certain actions which could be brought by ERA as a result of its audit of McCulloch's production and sale of crude oil, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through September 30, 1977.

2. DOE alleges that McCulloch charged prices for crude oil produced from certain properties in excess of the maximum allowable to its customers in violation of the ceiling prices prescribed by 6 CFR 150.353, 10 CFR 212.73 and 10 CFR 212.74.

3. McCulloch, without admitting to any violation of the DOE regulations, agrees to refund to the DOE $348,708.44 plus interest thereon. Interest through July 31, 1979 totals $90,694.79.

4. The refund shall be made by McCulloch in monthly installments, the first of which is due August 31, 1979. The amount of each installment will be based upon production from certan of McCulloch's properties. The total settlement amount will be refunded no later than July 1, 1981.

5. The provisions of 10 CFR 205.199J are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges in the total amount discussed in I.3 in the form of certified checks made payable to the United States Department of Energy will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with the applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order received appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to

subsequent purchasers or offset through devices such as Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556–7200.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on McCulloch Oil and Gas Corporation Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on September 13, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in San Francisco, California on the 17th day of July, 1979.

Jack L. Wood,

District Manager of Enforcement, Western District Office, Economic Regulatory Administration.

FR Doc. 79-24915 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-0-M

Energy Emergency Handbook; Current Status

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of current status on the development of the Energy Emergency Handbook.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) presents a status report on the development of the Energy Emergency Handbook (EEH), discusses the comments on the EEH and describes future action with respect to the EEH.

FOR FURTHER INFORMATION CONTACT:

Ronald Bedrick (Energy Liaison Office), Department of Energy, 2000 M Street, NW, Room 4126, Washington, DC 20461, 202–252–5155.

Grant Garrison (Office of General Counsel), Department of Energy, Federal Building, 1726 M Street, NW, Room 510, Washington, DC 20461, 202–634–5545.

SUPPLEMENTARY INFORMATION:

I. Background Statement.
II. Public Comments.
III. Current Status.
IV. Future Action.

I. Background Statement

Notice of the development of the EEH and the opportunity for public written comment appeared in the **Federal Register** on March 22, 1979 (44 FR 17551). The EEH is designed to be an information source for the DOE and the states in managing energy emergencies. It replaces the "Energy Emergency Planning Guide: Winter 1977–78", yet includes some of the emergency measures contained in that document. While it is recognized that each state and community has a unique set of authorities, responsibilities, and problems, it is intended that the EEH will provide all users with information which will assist them in preparing for and responding to emergencies caused by energy shortages.

II. Acknowledgement of Receipt

Twenty-one written comments representing state and local governments, manufacturers, industry and trade associations, pipelines, utilities, and a council of governments were received. The majority of the comments addressed the following:

1. *Intent of the Handbook and the process used by ERA in developing the Energy Emergency Handbook (EEH).* Approximately fifty percent of the respondents specifically stated their general support for the Handbook. Ten respondents requested the opportunity for providing additional comments when the draft text is completed.

2. *Comments directed to specific outlined chapters.* Respondents specifically oppose the closing of schools as a conservation measure, citing two studies which show the opposite effect to prevail. Some respondents support the relaxation of air pollution restrictions. Repsondents requested further opportunity to comment on the chapters when the final draft is completed.

3. *Format of EEH Presentation.* Respondents expressed the belief that the directory of state officials should be abbreviated in order to reduce the massive amount of information that ERA must collect, maintain and distribute as part of the Handbook.

4. *Institutional Relationships.* Respondents stated that the focus of the EEH on Federal-state involvement was appropriate, and called specifically for more direction concerning local government roles and alternative actions.

Based on these comments, ERA has decided to eliminate the conservation measure concerning school closings. However, ERA is still considering the remaining conservation measures for possible inclusion in the EEH. ERA has decided not to schedule a public hearing on the EEH since only two commenters requested a hearing.

III. Current Status

The measures originally proposed for incorporation in the EEH have been reviewed and updated in light of recent legislative actions and current energy policies. At the present time the EEH is in the final stages of development.

IV. Future Action

The completion date for the Handbook is the fall of 1979. A subsequent **Federal Register** Notice will inform the public of its availability. Public comments will be requested and a procedure for incorporating suggestions from EEH users into future revisions will be described.

Issued at Washington, D.C. on August 8, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

[FR Doc. 79-24914 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

Twin Montana, Inc.; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Twin Montana, Inc., Graham, Texas. This Proposed Remedial Order charges Twin Montana, Inc. with pricing violations in the amount of $1,044,192.86, connected with the sale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart D during the time September 1, 1973 through December 31, 1977, in the State of Texas.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7745. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Dallas, Texas, on the 6th day of August, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 79-25047 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER79-557]

Alabama Power Co.; Filing of Rate Schedule

August 8, 1979.

The filing Company submits the following:

Take notice that Alabama Power Company on July 31, 1979, tendered for the filing an Agreement with The City of Troy, intended as an initial rate schedule. This agreement provides for an increase in capacity from 20,000 KVA to 45,000 KVA at 115 KV. The City of Troy will be served at the Company's applicable revision to Rate Schedule MUN-1 incorporated in FERC Electric Tariff, Original Volume 1 of Alabama Power Company as allowed to become effective by Commission Order in FERC Docket 78-77.

Copies of the filing were served upon The City of Troy, Troy Alabama.

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 August 27, 1979. Protests will be considered by the Commission in determining the 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.

[FR Doc. 79-24924 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-553]

Arkansas Power & Light Co.; Proposed Changes In FERC Rate Schedules

August 8, 1979.

The filing company submits the following:

Take notice that on July 31, 1979, Arkansas Power & Light Company (Company) tendered for filing proposed changes in the Agreement for Electric Service with the Arkansas Electric Cooperative Corporation (AECC).

The Company states that the change in the Agreement for Electric Service provides for the addition of one point of delivery. The Company states that due to a difficulty in making accurate estimates on the billing effects of this change, no billing data was filed. The Company states that there will be no changes in rates or provisions in the Agreement other than that noted above.

A copy of the filing has been mailed to AECC, according to the Company.

Any person desiring to be heard or to protest this 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 §§ 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 August 27, 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.

[FR Doc. 79-24925 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-65]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 7, 1979.

Take notice that Columbia Gas Transmission Corporation (Columbia) on July 31, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows.

Fifty-fifth Revised Sheet No. 16.
Third Revised Sheet No. 16A.
Twenty-fifth Revised Sheet No. 64A.

These proposed changes to be effective September 1, 1979, reflect the following rate adjustments:

(1) A PGA rate adjustment, pursuant to Section 20.4(d) of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover increased cost of gas purchased of $414,557,716 annually.

(2) A Commodity Surcharge, pursuant to Section 20.2 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover the deferred purchased gas cost balance of $76,468,469 at June 30, 1979, as adjusted, over the six month period September 1, 1979, through February 29, 1980.

(3) A Lousiana First Use Tax Sales Adjustment of (0.92¢) together with a surcharge to flow through a negative deferred balance of $1,870,373 at June 30, 1979. Such sales adjustment and surcharge is being filed pursuant to Section 22 of Columbia's FERC Gas Tariff, Original Volume No. 1.

(4) A Transportation Adjustment and Surcharge filed pursuant to Article XI of the Stipulation and Agreement in Docket No. RP78-19, *et al.*, approved by Commission Order issued July 3, 1979. The transportation adjustment provides for the recovery of $6,081,797, while the surcharge provides for the recovery of the Deferred Transportation Cost Balance at May 31, 1979, of $13,675,851 over the six month period September 1, 1979, through February 29, 1980.

(5) An Advance Payment Adjustment, pursuant to Article IX of the Stipulation and Agreement in Docket No. RP76-94, *et al.*, approved by Commission Letter Order issued March 16, 1978. Such Advance Payment Adjustment provides for an annual reduction of $991,789.

Copies of the filing were served upon the Company's 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, Union Center Plaza Building, 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 August 20, 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.

[FR Doc. 79-24926 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-157]

Consolidated Gas Supply Corp.; Proposed Changes In FERC Gas Tariff

August 7, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on August 2, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 to be effective September 1, 1979.

Consolidated states that the revised tariff sheets reflect rate changes from pipeline suppliers and producer suppliers. Consolidated has also included, as part of its semi-annual adjustment, a rate change to reflect the elimination of amounts included in Account 191, Unrecovered Purchased Gas Cost, accumulated for the six-month period, December 1, 1978 through May 31, 1979, a RD&D adjustment and a Louisiana First Use Tax Adjustment.

Additionally, Consolidated has changed its PGA caclulation to reflect, separately, the demand and commodity changes from pipeline suppliers.

While Consolidated believes no waivers are necessary, Consolidated requests a waiver of any of the Commission's Rules and Regulations that may be deemed necessary in order to permit the revised tariff sheets to become effective as proposed.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any persons 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 Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 21, 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 inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24927 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-556]

Consumers Power Co.; Proposed Tariff Change

August 8, 1979.

The filing Company submits the following:

Take notice that Consumers Power Company on July 31, 1979, tendered for filing a Transmission Agreement Between Consumers Power Company and The Dow Chemical Company ("Agreement"). The Agreement is dated and effective May 25, 1979 and is effective for a limited term ending on the effective date of the Agreement for Electric Service between Consumers Power Company and the The Dow Chemical Company dated June 21, 1978 (presently projected to be March 1, 1982), or until December 31, 1982, whichever date is earlier. The Transmission Agreement can be extended for one year beyond December 31, 1982 by mutual written agreement of the parties.

Consumers Power Company states that the Agreement provides for transmission service for electric power and energy received by Consumers Power Company over existing interconnection facilities between the electric systems of Consumers Power Company and the The Detroit Edison Company, for delivery for use by Dow at its Midland, Michigan, facilities. The energy is generated by The Dow Chemical Company of Canada, Ltd., ("Dow Canada"), in Sarnia, Ontario.

Consumers Power Company states that the Agreement provides for transmission service for up to 70 Megawatts at a charge by Consumers Power Company of $0.19 (U.S. Funds) per kilowatt per week, based on the maximum scheduled one-hour kilowatt demand during each week determined at Consumers Power Company's point of interconnection with Detroit Edison.

Consumers Power Company states that Dow Canada has requested an Export License from the Canadian National Energy Board. A public hearing was held on May 29, 1979 and May 30, 1979. Issuance of an Export License is expected about mid-June, 1979. The two Dow Chemical companies wish to start the transfer of energy as soon as possible since the agreement has a limited term. Dow Canada testified in Ottawa on May 29, 1979 that it expects to export 255,000 MWh in 1979 and 438,000 MWh each in 1980, 1981 and 1982. It testified that such energy transfers will provide significant energy cost savings for the two Dow companies and yet will not reduce sales of either Consumers Power Company or Detroit Edison.

Any person desiring to be heard or to protest said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 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 by or before August 27, 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 said Agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24928 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-56]

El Paso Electric Co.; Application

August 8, 1979.

Take notice that on July 23, 1979, El Paso Electric Company (Applicant) filed a request with the Commission, pursuant to Section 204 of the Federal Power Act, requesting authority to

negotiate for the private placement of up to $25 million of First Mortgage Bonds. The Applicant is a Texas Corporation, with its principal office at El Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the First Mortgage Bonds will be used to finance Applicant's construction program.

Any person desiring to be heard or to make any protest with reference to the application should on or before August 29, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24929 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER79-416 and ER78-19, et al.]

Florida Power & Light Co.; Order Accepting for Filing and Suspending Rate Schedule, Providing for Hearing and Consolidating Proceedings

Issued: August 2, 1979.

On June 4, 1979, the Florida Power & Light Company (FP&L) tendered for filing, pursuant to 18 CFR § 35.13, an unexecuted "Amendment Number Three To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and City of Homestead."[1] According to FP&L, this filing amends the transmission service agreement between FP&L and the City of Homestead (Homestead) dated April 19, 1978 and filed with the Commission on April 20, 1978 in Docket No. ER78-325, which was consolidated with Florida Power & Light Company, Docket Nos. ER78-19, *et al.*, for investigation.[2]

In this filing, FP&L is proposing modifications to certain terms and conditions, not affecting rates, contained in the transmission service agreement. FP&L seeks an effective date for this amendment of no later than 60 days after the date of filing.

Public notice of FP&L's filing was issued on June 8, 1979, with protests and petitions to intervene to be filed on or before June 29, 1979. No petitions or protests have been received.

FP&L's proposed amendment number three to agreement to provide specified transmission service between FP&L and Homestead has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission shall suspend the proposed amendment to the transmission service agreement for one day, to become effective August 5, 1979, subject to refund, pending the outcome of a hearing and decision thereon.

FP&L has made previous filings for specified transmission service and the terms and conditions of this filing is identical to those filed in the previous submittals.[3] The prior filings were suspended for one day and consolidated with the ongoing proceeding in Docket Nos. ER78-19, *et al.* The Commission finds that since common issues of law and fact exist, it is appropriate to consolidate Docket No. ER79-416 with the ongoing proceeding in Docket Nos. ER78-19, *et al.*

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and pursuant to the Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by FP&L in the instant dockets.

(B) Pending a hearing and decision thereon, FP&L's proposed filing is hereby accepted for filing and suspended for one day, to become effective August 5, 1979, the rates thereunder to be subject to refund.

(C) Docket No. ER79-416 is hereby consolidated with the proceeding in Docket Nos. ER78-19, *et al.*, for the purpose of hearing and decision.

(D) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24930 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-554]

Florida Power & Light Co.; Filing

August 8, 1979

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on July 31, 1979, tendered for filing an Amendment, entitled "Amendment Number One To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and New Smyrna Beach Utilities Commission."

FPL states that under the Amendment FPL will transmit power and energy for New Smyrna Beach Utilities Commission (New Smyrna) as is required by New Smyrna in the implementation of its interchange agreement with the Florida Power Corporation. A letter from New Smyrna requesting that the Amendment be filed is attached to the filing.

FPL requests that the 60 day filing requirement be waived and that the Amendment take effect immediately. According to FPL, copies of the filing were served on New Smyrna's Director of Utilities.

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 Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 27, 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

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[1] Designated as: *Florida Power & Light Company* Supplement No. 4 to Rate Schedule No. 25.

[2] On April 20, 1978, in Docket No. ER78-325, FP&L submitted for filing a transmission service agreement between itself and Homestead. Under that agreement, FP&L transmits power and energy for Homestead as required to implement Homestead's interchange agreements with Orlando Utilities Commission, Tampa Electric Company, Florida Power Corporation, Ft. Pierce and the Utilities Commission of New Smyrna Beach, Florida. By order issued May 19, 1978, that docket was consolidated with Docket No. ER78-19, *et al.*, for a hearing and decision thereon. FP&L proposed to amend the original agreement in Docket No. ER78-527 to implement Homestead's interchange agreement with the Lake Worth Utilities Authority. That docket was also consolidated with Docket Nos. ER78-19, *et al.* In Docket No. ER79-162, FP&L proposed to amend the transmission service agreement between itself and Homestead to accommodate the amendment of the interchange agreement between Homestead and Ft. Pierce. Docket No. ER79-162 was consolidated with Docket Nos. ER78-19, *et al.*

[3] The specified transmission agreements are: (1) Tampa Electric Company, Docket No. ER78-508, ER78-567, ER79-44; (2) City of Vero Beach, Florida, ER78-566; (3) City of Lake Worth, Florida, ER78-478; (4) City of Fort Pierce, Florida, ER79-171, ER79-172, ER78-376; and (5) City of New Smyrna Beach, Florida, ER79-352. All of the above mentioned dockets have been consolidated with Docket Nos. ER78-19, et al.

with the Commision and are available for public inspections.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-29431 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-55]

Idaho Power Co.; Application

August 8, 1979.

Take notice that on July 27, 1979, Idaho Power Company (Applicant), a corporation organized under the laws of the State of Maine, and qualified to transact business in the States of Idaho, Oregon, Nevada and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order authorizing it to enter into a leveraged lease financing with respect to the Applicant's undivided 10 percent interest in the Coal Unloading and Handling Facilities (the "Equipment") at the Number One Boardman Station on Carty Reservoir. The Equipment is valued at approximately $39.5 million.

Applicant, Portland General Electric Company together with its wholly-owned subsidiary the Boardman Power Company, and Pacific Northwest Generating Company are owners of the No. 1 Boardman Station Carty Reservoir, currently under construction. Construction, ownership and operation of the Project is governed by the terms of the Agreement for Construction, Ownership and Operation of the No. 1 Boardman Station on Carty Reservoir dated as of October 15, 1976, among Portland, the Applicant and Pacific, as amended and supplemented.

Any person desiring to be heard or to make any protest with reference to said Application, should, on or before August 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24932 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP71-16]

Midwestern Gas Transmission Co.; Filing to Track Canadian Supplier Rate Increase

August 7, 1979.

Take notice that on July 25, 1979, Midwestern Gas Transmission Company (Midwestern) tendered for filing Ninth Revised Sheet No. 5A to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective August 11, 1979. Midwestern states that the purpose of the revised tariff sheet is to reflect in its Northern System rates an increase in the rates charged to Midwestern by its Canadian pipeline supplier.

Midwestern states that Ninth Revised Sheet No. 5A reflects a Current Purchased Gas Cost Rate Adjustment pursuant to Section 2 of Article XVIII which is based on an increase, effective August 11, 1979, to $2.80 (U.S.) per MMBtu in the price which Midwestern is required by action of the Canadian Government to pay for gas to its Northern System supplier, TransCanada Pipelines, Ltd.

Midwestern requests waiver of Section 1.3 of Article XVIII of the General Terms and Conditions in its FERC Gas Tariff and various Commission Regulations, to make such filing effective as proposed.

Midwestern 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, 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 August 20, 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24933 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP71-16 (PGA79-2) and RP74-29 (DCA79-2)]

Midwestern Gas Transmission Co.; Revision to Rate Filing Pursuant to Tariff Rate Adjustment Provisions

August 7, 1979.

Take notice that on July 25, 1979, Midwestern Gas Transmission Company (Midwestern) tendered for filing Substitute Twenty-Fifth Revised Sheet No. 5 to its FERC Gas Tariff, Third Revised Volume No. 1, to be effective July 1 1979.

Midwestern states that the purpose of the revised tariff sheets is to revise its May 31, 1979 filing in these dockets to reflect the change in the rates filed by the supplier of its Southern System, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. on July 25, 1979. Midwestern states that in all other respects the instant filing reflects the same rate adjustments as were reflected in its May 31, 1979 filing.

Midwestern 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, 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 August 20, 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24934 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2532]

Minnesota Power & Light Co.; Application for Amendment of License

August 2, 1979.

Take notice that on May 18, 1979, Minnesota Power and Light Company (Applicant) filed an application for amendment of its license for the Little Falls Dam Project, FERC Project No. 2532, located on the Mississippi River in Little Falls, Minnesota. Correspondence with the applicant should be directed to Kirk O. Kuwitzky, Minnesota Power and Light Company, 30 West Superior Street, Duluth, Minnesota 55802.

Under the proposed amendment, the Applicant would install and operate an additional generating unit at the Little Falls Dam Project. The Applicant would install the unit in the available pit of the existing powerhouse. The new unit would have an installed capacity of 1,250 kW and would generate 26,700,000 kWh annually.

The Applicant states that the additional generating unit would allow it to increase its capacity to meet projected increased loads without increasing its dependence on coal-fired units. Electric power generated at the project would be sold for domestic, commercial, industrial, and agricultural uses in the northern and eastern parts of Minnesota.

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 September 12, 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24935 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-149 (PGA79-5)]

Mississippi River Transmission Corp.; Proposed Change in Rates

August 8, 1979.

Take notice that Mississippi River Transmission Corporation ("Mississippi") has submitted for filing Seventy-Third Revised Sheet No. 3A to its Federal Energy Regulatory Commission ("FERC") Gas Tariff, first Revised Volume No. 1, which bears a proposed effective date of September 1, 1979.

Seventy-Third Revised Sheet No. 3A reflects Base Tariff Rates in effect subject to refund at Docket No. RP78-77.

Mississippi states that Seventy-Third Revised Sheet No. 3A is being filed pursuant to the purchased gas cost-adjustment clause (PGA) of its tariff to track (i) rate change filings by all three of Mississippi's pipeline suppliers; (ii) to track price changes of Mississippi's producer suppliers; and (iii) to recover gas costs which have accumulated in Mississippi's unrecovered purchased gas cost account. Such tariff sheet is also being filed to reflect a rate change associated with Mississippi's recovery of the Louisiana First Use Tax.

Mississippi has informed the Commission that copies of its filing, including computations in support thereof, have been served on its jurisdictional customers and the State Commissions of Arkansas, Illinois and Missouri.

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 August 27, 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.

[FR Doc. 79-24936 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-559]

Niagara Mohawk Power Corp.; Proposed Tariff Change

August 8, 1979.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on July 31, 1979, tendered for filing, as a rate schedule, an agreement between Niagara and the Power Authority of the State of New York (PASNY), dated February 12, 1979.

Niagara states that there is presently on file an agreement with PASNY dated February 10, 1961, and that this agreement is designated as Niagara's Rate Schedule FPC No. 19. Niagara further states that the new agreement is being submitted as a supplement to the existing schedule.

Niagara indicates that the supplement revises the wheeling rates contained in the original agreement and provides for an increase in rates of $2,422,108.

Niagara proposes an effective date of November 1, 1979.

According to Niagara, copies of this filing were served upon PASNY and the Public Service Commission of the State of New York.

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 August 27, 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 application are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24937 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-560]

Niagara Mohawk Power Corp.; Proposed Tariff Change

August 8, 1979.

The filing Company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara) on July 31, 1979, tendered for filing, as a rate schedule, an agreement between Niagara and the Power Authority of the State of New York (PASNY), dated February 12, 1979.

Niagara states that there is presently on file an agreement with PASNY dated March 1, 1957, and that this agreement is designated as Niagara's Rate Schedule FPC No. 18. Niagara further states that the new agreement is being submitted as a supplement to the existing schedule.

Niagara indicates that the supplement revises the wheeling rates contained in the original agreement and provides for an increase in rates of $1,076,457.

Niagara proposes an effective date of November 1, 1979.

According to Niagara, copies of this filing were served upon PASNY and the Public Service Commission of the State of New York.

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 August 27, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-24938 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. E-7777 (Phase II) and E-7796]

Pacific Gas & Electric Co.; Supplemental Notice of Compliance Filing

August 1, 1979.

In addition to the filing of the contracts listed on the notice issued in this docket on July 16,, 1979, Pacific Gas & Electric Company and San Diego Gas & Electric Company jointly listed the following contracts which are within the scope of the Commission's order but which have already been filed:

Contract and FERC Rate Schedule No.

(1) Letter Agreement dated August 25, 1966—Supplement No. 3 to PG&E Rate Schedule FPC No. 38

(2) Letter of Agreement to Supplement The California Companies Pacific Intertie Agreement For the Two-Year Period April 1, 1968 to March 31, 1970, dated August 25, 1966—Supplement No. 2 to PG&E Rate Schedule FPC No. 38

(3) Illustration of Costs and Revenues Allocation, dated August 25, 1966—Part of PG&E Rate Schedule FPC No. 38, relates to Section 5 of CCPIA and Exhibit C

(4) Amendment Number One To California Companies Pacific Intertie Agreement dated January 10, 1968—Supplement No. 1 to PG&E Rate Schedule FPC No. 38

(5) Agreement For Use of Transmission Capacity Pacific Power & Light Company, Pacific Gas & Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, dated August 1, 1967—PP&L Rate Schedule FPC No. 86

(6) United States Department of the Interior, Bureau of Reclamation, Central Valley Project, California: Contract with California Companies for Extra High Voltage Transmission and Exchange Service, dated July 31, 1967—PG&E Rate Schedule No. 35

(7) Contract Between California Companies and Sacramento Municipal Utility District for Extra High Voltage Transmission and Exchange Service, dated August 1, 1967—PG&E Rate Schedule FPC No. 37

(8) Contract Between State of California and California Companies for the Sale, Interchange and Extra High Voltage Transmission of Electric Capacity And Energy, dated August 1, 1967—PG&E Rate Schedule FPC No. 36

(9) Early Service Agreement, dated August 29, 1967—PG&E Rate Schedule FPC No. 39

(10) Assignment and Agreement Relating to Canadian Entitlement Exchange Agreement, dated March 10, 1966—Exhibit A to PG&E Rate Schedule FPC No. 40

(11) California Entities Canadian Entitlement Power Reassignment Agreement for Years 1968-1970, dated August 29, 1967—PG&E Rate Schedule FPC No. 40

(12) Power Sales Contract executed by the United States of America, Department of the Interior acting by and through the Bonneville Power Administrator and Pacific Gas and Electric Company, dated July 31, 1967—PG&E Rate Schedule FPC No. 32

(13) Power Sales Contract executed by the United States of America, Department of the Inteior acting by and through Bonneville Power Administrator and San Diego Gas & Electric Company, dated December 29, 1967—SCE Rate Schedule FPC No. 35

(14) Power Sales Contract executed by the United States of America, Department of the Interior acting by and through the Bonneville Power Administrator and Southern California Edison Company, dated July 31, 1967—SCE Rate Schedule FPC No. 33

(15) Exchange Agreement executed by the United States of America, Department of the Interior acting by and through the Bonneville Power Adminstrator and Pacific Gas and Electric Company, dated July 31, 1967—FPC Rate Schedule FPC No. 33

(16) Exchange Agreement executed by the United States of America, Department of the Interior acting by and through the Bonneville Power Administrator and San Diego Gas & Electric Company, dated December 29, 1967—SDG&E Rate Schedule FPC No. 16

(17) Exchange Agreement executed by the United States of America, Department of the Interior acting by and through the Bonneville Power Administrator and Southern California Edison Company, dated July 31, 1967—SCE Rate Schedule FPC No. 36

In addition to filing the contracts listed on the previous notice issued July 16, 1979, in this docket, Southern California Edison Company listed the following contracts which are within the scope of the Commission's order but which have already been filed.

1. Pacific Intertie Agreement, SCE FPC Rate Schedule No. 40.
2. Illustration of Costs and Revenues Allocation, dated 8/25/66. SCE FPC Rate Schedule No. 40.
3. Letter Agreement between the California Companies, dated 8/25/66 to Pacific Intertie Agreement. SCE FPC Rate Schedule No. 40.
4. Letter Agreement to Supplement the Californa Companies-Pacific Intertie Agreement, dated 8/25/66. SCE FPC Rate Schedule No. 40.
5. Amendment 1 to the Pacific Intertie Agreement. SCE FPC Rate Schedule No. 40.
6. Amendment 2 to the Pacific Intertie Agreement. Submitted herewith.
7. PP&L-Calif. Companies Tranmission Agreement. Submitted herewith.
8. USBR-California Companies EHV Transmission and Exchange Service. SCE FPC Rate Schedule No. 37.

9. SMUD-California Companies and EHV Transmission Exchange Service Contract. SCE FPC Rate Schedule No. 39.
10. State-California Companies Sale Interchange, and EHV Transmission Contract. SCE FPC Rate Schedule No. 38.
11. LADWP-Edison Pacific Intertie DC Transmission Facilities Agreement. Submitted herewith.
12. LADWP-SCE Sylmar Interconnections Agreement. Submitted herewith.
13. Assignment and Agreement Relating to Canadian Entitlement Exchange Agreement. SCE FPC Rate Schedule No. 42.
14. BPA-SCE Exchange Agreement BPA No. 14-03-54126. SCE FPC Rate Schedule No. 36.
15. BPA-SCE Power Sales Contract, BPA No. 14-03-54125. SCE FPC Rate Schedule No. 35.
16. Early Transmission Service Agreement with LADWP, dated 8/29/67, SCE Rate Schedule No. 41. Terminated March 31, 1970.
17. 1970 Service Agreement (Extension of Early Service Agreement with LADWP) dated 4/1/70. Terminated May 31, 1970.
18. Midway Interconnection agreement between PG&E and SCE Submitted herewith.
19. California Power Pool Board of Control Rulings 4 and 7. Submitted herewith.
20. California Companies Pacific Intertie Agreement Coordination Committee Rulings 1-41. Submitted herewith.
21. Settlement Agreement between Edison and the Cities of Anaheim, Banning and Riverside. See SCE FPC Rate Schedule No. 15.4 (Anaheim), 21.3 (Banning), and 17.4 (Riverside).
22. Settlement Agreement between Edison and the Anza Electric Cooperative, Inc. See SCE FPC Rate Schedule No. 19.2.
23. Settlement Agreement between Edison and the City of Colton. See SCE FPC Rate Schedule No. 31.5.
24. Settlement Agreement between Edison and the Southern California Water Company. See SCE FPC Rate Schedule No. 33.3.
25. Settlement Agreement between Edison and the city of Vernon. See SCE FPC Rate Schedule No. 13.5
26. Settlement Agreement between Edison and the City of Azusa. See SCE FPC Rate Schedule No. 16.4.
27. Integrated Operations Agreement between the City of Anaheim and Edison. See SCE FPC Rate Schedule No. 95.
28. Integrated Operations Agreement between the City of Riverside and Edison. See SCE FPC Rate Schedule No. 94.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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) Any such protests should be filed on or before August 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24918 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-68]

State of New Mexico, Section 108 NGPA Determination, Texas Pacific Oil Co., Inc., Glen Farmer No. 1, JD79-9458; Preliminary Finding

Issued: August 3, 1979.

On June 20, 1979, the State of New Mexico, Oil Conservation Division (New Mexico), submitted to the Commission a notice of determination that the Texas Pacific Oil Company, Inc., Glen Farmer No. 1 well qualifies as a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of New Mexico's determination in the Federal Register on July 16, 1979.

Section 108(b)(1) of the NGPA provides that in order to qualify as a stripper well, a well must, among other things, produce nonassociated natural gas at a rate which does not exceed an average of 60 Mcf per production day during a 90-day production period. The well also must have been producing at its maximum rate of flow during the same period. Section 271.804(d)(2) of our interim regulations provides that a well which has produced nonassociated gas at an average rate of 60 Mcf per day or less during the 90-day period is presumed to be producing at its maximum efficient rate of flow if, during the 12-month period ending concurrently with the 90-day period, the well produced nonassociated natural gas at an average rate of 60 Mcf per day or less.

The production records accompanying the notice of determination show that the average daily production of natural gas from the Glen Farmer No. 1 well during the 90-day period upon which the application is based was 57 Mcf per day. However, no current production capability test establishing a maximum efficient rate of flow was reported and production records for the 12-month period, ending on the last day of the 90-day qualifying period, show an average production of 94 Mcf of gas per day. Thus, it appears that the record does not contain substantial evidence to support New Mexico's determination that the well qualifies as a stripper well under section 108 of the NGPA.

Accordingly, the Commission hereby makes a preliminary finding, pursuant to 18 CFR § 275.202(a)(1)(i), that the determination submitted by the State of New Mexico, Oil Conservation Division that the Texas Pacific Oil Company, Inc., Glen Farmer No. 1 well qualifies as a stripper well under section 108 of the NGPA is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24919 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-3 (PGA79-2, DCA79-3)]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

August 7, 1979.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing fifteenth Revised Sheet No. 12 and fourteenth Revised Sheet No. 15 to Second Revised Volume No. 1, and Twenty-First Revised Sheet No. 121 to Original volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective september 1, 1979, reflect a net increase of 20.9¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S-2 rate schedules, an increase of 22.1¢ per dt in the commodity charge under the ACQ Rate Schedule, and a decrease of 1.8¢ per dt in the delivery charge of the X-20 rate schedule.

Transco states that these changes have been computed in accordance with the tracking provisions contained in the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The tracking rate change under the PGA clause (Section 22) amounts to an increase of 22.7¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S-2 and ACQ rate schedules. the tracking rate change to reflect curtailment credits (Section 20) is a decrease of 1.2¢ per dt in the commodity or delivery charge under Transco's CD, G, OG, E, PS, S-2 and X-20 rate schedules. The tracking rate change for Louisiana First Use Tax (Section 25) is a decrease of 0.6¢ per dt in the commodity or delivery charge of Transco's CD, G, OG, E, PS, S-2, ACQ and X-20 rate schedules.

The Company states that copies of the 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 August 21, 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.

[FR Doc. 79-24920 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2871]

Turlock Irrigation District; Application for Exemption of Conduit Hydroelectric Facility

August 2, 1979.

Take notice that Turlock Irrigation District filed an application, under Section 30 of the Federal Power Act (16 U.S.C. § 823(a)), for exemption from licensing of the proposed Drop No. 1 Power Plant (FERC Project No. 2871). The project would be located in Stanislaus County, California, on the Main Canal, adjacent to the existing outlet structure for Turlock Lake (a re-regulating reservoir in the Turlock Irrigation System). Water is diverted from the Tuolumne River into the Main Canal at the LaGrange Dam, LaGrange, California. Correspondence with the Applicant should be directed to Turlock Irrigation District, 333 East Canal Drive, Turlock, California 95380.

Project Description

The proposed project would include an above-ground powerhouse containing three fixed-blade propeller-type Leffel turbines connected to three 1,000-kW generators, providing a total installed capacity of 3,000-kW, and a substation adjacent to the powerhouse containing a 3-phase 4.16/12-kV transformer. The power plant would utilize an effective head of 29 feet, would be remotely monitored and controlled from the Applicant's control center in Turlock, and would produce approximately 11 million kilowatt-hours of energy per year.

Purpose of Project

Project energy would be used to meet present and anticipated loads within the Applicant's electric system. There would be no surplus energy for sale.

Estimated Cost

The cost of the project is estimated by the Applicant to be $2,876,000.

Agency Comments

The U.S. Fish and Wildlife Service and the California Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power Act, to submit appropriate terms and conditions to protect any fish and wildlife resources. Other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests and Petitions To Intervene

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, petition to intervene, or agency comments must be filed on or before September 14, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24921 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-67]

U.S. Geological Survey at Casper, Wyo., Section 102 NGPA Determination, Shell Oil Co., USA 33X-10-3 JD79-10025, USA 34X-31-1 JD79-9335, Mondak Field; Preliminary Finding

Issued: August 3, 1979.

On June 19, 1979[1] and June 21, 1979,[2] the United States Geological Survey at Casper, Wyoming (USGS) submitted to the Commission notices of determinations that the applicable Shell Oil Company wells met all the requirements of the new, onshore reservoir provision in Section 102(c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95-621. The Commission published notice of the determinations in the **Federal Register** on July 16, 1979 for JD79-10025, and on July 12, 1979, for JD79-9335.

According to Section 102(c)(1)(C)(ii) of the NGPA, a reservoir shall not qualify as a new, onshore reservoir if it was penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities, and natural gas could have been produced in commercial quantities from such reservoir through the old well before April 20, 1977.

The record shows that the Madison Reservoir was penetrated by three old wells (USA 33X-31-1 herein, Swigart 24X-8, and BN 22-17) and produced oil in commercial quantities prior to April 20, 1977. The casinghead gas produced in conjunction with the oil was flared and Shell attested that royalty payments were made to the USGS on the flared gas.

Since the reservoir was penetrated by old wells from which crude oil was produced in commercial quantities, and the reservoir demonstrated a capability to produce natural gas prior to April 20, 1977, the reservoir is subject to the behind-the-pipe exclusion in Section 102(c)(1)(C)(ii). Accordingly, the Commission hereby makes a preliminary finding (pursuant to section 275.202 (a)(1)(C)) that the determinations of the USGS were not supported by substantial evidence in the record on which the determination was made.

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[1] JD79-10025 USA 33X-10-3

[2] JD79-9335 USA 34X-31-1

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24922 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-72]

U.S. Geological Survey, Casper, Wyo.; Section 103 NGPA Determination, Pacific Transmission Supply Co., PTS 23-35 Federal Well JD79-9927; Preliminary Finding

Issued: August 3, 1979.

On June 21, 1979, the United States Geological Survey's Oil and Gas Supervisor for the Northern Rocky Mountain Area (USGS) submitted to the Commission a notice of determination that the Pacific Transmission Supply Company PTS 23-35 Federal well qualifies as a new, onshore production well under section 103 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published USGS's notice on July 6, 1979.

A well qualifies as a new, onshore production well under section 103 of the NGPA only if, among other requirements, the surface drilling for the well began on or after February 19, 1977.

The well completion report, accompanying USGS's determination, indicates that the subject well was spudded on February 16, 1977.

This evidence indicates that the surface drilling of the Pacific Transmission Supply Company PTS 23-35 well was not begun on or after February 19, 1977. Thus, it appears that the record does not contain substantial evidence to support USGS's determination that the well qualifies as a new, onshore production well under section 103 of the NGPA.

Accordingly, the Commission makes a preliminary finding (pursuant to 18 C.F.R. § 275.202(a)(1)(i)) that the determination submitted by the USGS is not supported by substantial evidence in the record on which the determination was based.

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-24923 Filed 8-13-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1295-51]

Coal Mining Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of Technical Reports.

SUMMARY: This notice announces the availability of two technical reports for public review and comment and fixes the time period allowed for public comment.

FOR FURTHER INFORMATION CONTACT: B. Matthew Jarrett, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 "M" Street, SW, Washington, D.C. 20460. (202) 426-4617.

SUPPLEMENTARY INFORMATION: On July 6, 1979, EPA suspended part of the catastrophic rainfall exemptions to BPT and NSPS requirements for the coal mining point source category (44 Fed. Reg. 39391). In its suspension notice, the agency stated that it was authorizing and would make available for public comment several studies addressed to this issue.

This notice is to inform the public that two reports have been completed and are available for public review and comment. The two studies are: (1) "Evaluation of Performance Capability of Surface Mine Sediment Basins," prepared by the firm of Skelly and Loy, and (2) "Evaluation of Sedimentation Pond Design Relative to Capacity and Effluent Discharge," prepared by D'Appolonia Consulting Engineers, Inc.

Both of these studies are available for public inspection at EPA's Effluent Guidelines Division, 401 "M" Street, SW, Room 945, East Tower, Washington, D.C., as well as at EPA's regional offices and various state agencies. In addition, the agency is mailing a copy of each of these reports to all agencies and members of the public included in its coal mining mailing list.

The Skelly and Loy report utilizes a computer modelling technique known as "DEPOSITS" (Deposition Performance of Sediment In Trap Structures). With its distribution of the Skelly and Loy report, the agency is including background material concerning the DEPOSITS model. A more voluminous and detailed discussion of the model is on file and available for public review at the office of EPA's Effluent Guidelines Division. The Skelly and Loy report discusses and summarizes the most pertinent raw data generated in the study. All raw data area also available for public inspection at the office of the Effluent Guidelines Division.

All comments concerning these reports should be addressed to B. Matthew Jarrett, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460. Comments must be postmarked no later than October 1, 1979; any comments postmarked after that date will not be considered by the agency.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

August 8, 1979.

[FR Doc. 79-25093 Filed 8-13-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1295-7]

National Energy Corp., Chicago, Ill.; Final Determination

In the matter of applicability of Title I, Part C of the Clean Air Act (Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to National Energy Corporation, Chicago, Illinois.

On July 27, 1978, National Energy Corporation submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a solid waste incinerator. Additional information was submitted by the company on September 26, 1978. The application was submitted pursuant to the regulations for PSD.

On October 13, 1978, National Energy Corporation was notified that its application was complete and preliminary approval was granted.

On November 2, 1978, U.S. EPA published notice of its decision to grant a preliminary approval to National Energy Corporation. No comments or request for a public hearing were received.

After review and analysis of all materials submitted by National Energy Corporation, the Company was notified on April 10, 1979 that U.S. EPA had determined that the proposed new construction in Chicago, Illinois would be utilizing the best available control technology and that emissions from the facility will not adversely impact air quality, as required by Section 165 of the Act.

This approval to construct does not relieve National Energy Corporation of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 Dearborn Street, Chicago, Illinois 60604. (312) 353–2090.

John McGuire,

Regional Administrator, Region V.

U.S. Environmental Protection Agency; Region V

In the Matter of National Energy Corporation, proceeding pursuant to the Clean Air Act, as amended; EPA–5–A–79–12

Authority

The approval to construct is issued to the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 for the Prevention of Significant Deterioration of Air Quality (PSD).

Findings

1. The National Energy Corporation (NEC) proposes to construct a solid waste incinerator with steam generating capacity, in Chicago, Illinois.

2. Chicago is within a Class II area as determined pursuant to the Act and has been designated a nonattainment area for particulate matter, by the State of Illinois pursuant to Section 107 of the Act.

3. The proposed waste incinerator and steam generator is subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act. The proposed source is not subject to the Interpretive Ruling (40 FR 55524, December 21, 1976) because its allowable emissions rate of particulate matter is less than 100 tons per year and will meet all applicable emission standards.

4. NEC submitted a PSD application on July 27, 1978. Additional information was submitted on September 26, 1978, and on October 13, 1978, the application was determined to be complete and preliminary approval was granted.

5. On November 2, 1978, the U.S. Environmental Protection Agency (U.S. EPA) published notice in the *Chicago Sun-Times* and *Chicago Tribune* seeking written comments from the public on NEC's application and U.S. EPA's preliminary approval. There were no public comments and no requests for a public hearing were received.

6. After review of all the materials submitted by NEC, U.S. EPA has determined that emissions from the operation of the waste incinerator plant will be limited by the application of the best available control technology.

Conditions

7. Particulate matter emissions from the baghouse stack at the waste incinerator-steam generator complex shall be controlled to 0.015 grains per dry standard cubic foot or less.

8. Incinerator exit gases shall be ducted to the boiler bypass stack only when necessary to protect the boiler and other downstream equipment.

9. The sulfur content of the fuel burned in the primary burners and afterburners shall not exceed 0.2 percent by weight.

10. There shall be no visible emissions from the main building except for two minutes in an hour and excepting steam.

11. Visible emissions from the ash handling system shall not be greater than 5 percent.

12. The trucks removing the ash to landfill shall be covered to minimize emissions.

The above conditions are necessary to ensure that best available control technology is applied pursuant to Section 165 of the Act.

13. NEC must construct and operate the waste incinerator plant and steam generator in accordance with the descriptions presented in their application for approval to construct. Any change in the plant might alter U.S. EPA's conclusions and therefore, any changes must receive the prior written authorization of U.S. EPA.

Approval

14. Approval to construct the waste incinerator plant and steam generator is hereby granted to NEC subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Corporation. Any departure from the conditions of this approval or the terms expressed in the application, must receive the prior written authorization of U.S. EPA.

15. This approval to construct does not relieve NEC of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State, and local requirements.

16. A copy of this approval has been forwarded to the Chicago Public Library, 1743 W. 47th Street, Chicago, Illinois for public inspection.

Dated April 10, 1979.

Valdas V. Adamkus,

Acting Regional Administrator.

[FR Doc. 79-25081 Filed 8-13-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-50]

Commission Invites Public's Views on Novel Methods for Choosing Between Mutually Exculsive Applicants for Construction Permits

On June 21, 1979, the Commission granted review of a decision by its Review Board (FCC 784–68, 69 FCC 2d 2134, released September 7, 1978) granting a construction permit for a new FM station on 100.3 MHz (channel 262), in Media, Pa., to Greater Media Radio Company and denying mutually exclusive application of Alexander S. Klein, Jr., and Roberts Broadcasting Corporation. The Commission decided to grant further review in part out of concern as to whether the record provided rational distinctions for choosing from among the applicants. The Commission has asked the parties to make a showing that the record does reveal distinctions consistent with current policy. If such a showing cannot be made, the Commission may adopt a novel approach for choosing from among these applicants. In this connection, the following question, among others, has been designated for review:

"Is the Commission authorized to take a novel approach, *e.g.*, a lottery, to decide between competing applicants when after applying the relevant criteria under the 1965 *Policy Statement.** It is unable to distinguish between the applicants from a public interest standpoint. If so, may it do so in this case?"

Because this question contemplates that the Commission may depart from the traditional approach to resolving contests between mutually exclusive applicants for a construction permit, this question has implications going beyond the immediate proceeding. For this reason, the Commission invites interested members of the public to submit their views to the Commission invites interested members of the public to submit their views to the Commission on this question in the form of an *amicus curiae* brief. Those wishing to submit *amicus* briefs should file an original and 19 copies within 30 days of release of this public notice in accordance with the Commission's rules. The Commission will serve copies of *amicus* briefs on the parties in this proceeding.

*Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 (1965).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-25041 Filed 8-13-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Proposed Report Requirement; Quarterly Report of Condition To Be Submitted by All U.S. Agencies and Branches of Foreign and Puerto Rican Banks

Summary

In connection with the implementation of the International Banking Act of 1978 and under Section 7(c)(2) of the Act (12 U.S.C. 3105(c)(2)), the Federal Financial Institutions Examination Council is submitting for public comment proposals for a quarterly report of condition that all U.S. agencies and branches of foreign banks and of Puerto Rican banks would be required to submit to the federal banking supervisory agencies. The proposed report would serve the needs of the three supervisory agencies—the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation—that, under the Act, share federal supervisory responsibilities for the U.S. agencies and branches of foreign banks.

Under the proposals, the Federal Reserve System would act as collecting and processing agent for the three federal supervisors; each agency and branch, regardless of status, would submit its return within 20 days after the end of each calendar quarter to the Federal Reserve within whose district it was located. It is proposed that the report of condition be required beginning with the report for December 31, 1979. A copy of the proposed report of condition is presented in Attachment A. Detailed definitions and instructions for filling out the report will be made available prior to the date of implementation.

All comments on this proposal should be submitted in writing to Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, Washington, D.C., 20219, to be received by September 10, 1979. For further information, contact Stanley J. Sigel, Assistant to the Board (202/452-2696), Board of Governors of the Federal Reserve System, Washington, D.C., 20551.

Supplementary Information

While the agencies and branches have been submitting condition statements to the federal supervisory agencies for some years, the passage of the International Banking Act has led to re-evaluation of the information needed for supervisory and monetary policy purposes. The Council concluded that revisions were required in the reports now submitted, particularly in order to bring them into closer conformance with the reports required of U.S.-chartered banks and to eliminate some duplicative reporting.

All the agencies and branches currently submit a monthly report of condition on the Federal Reserve report form FR 886a; the branches, but not the agencies, submit semi-annually to the FDIC the report of condition required quarterly of U.S. banks. The proposed quarterly report of condition would replace both of these current reports and would to a large extent constituted revised rather than new reporting requirements. The proposal represents, on balance, a reduction in reporting requirements resulting from reduction of frequency and, in some cases, elimination of duplicative reporting. U.S. branches of Puerto Rican banks would submit the proposed report rather than the standard U.S. bank report of condition that they currently submit. The branches of foreign banks in Puerto Rico and in U.S. territories and possessions would be asked to submit the proposed report on a voluntary basis.

In format, item content, definitions and instructions, the proposed report is patterned after relevant parts of the quarterly reports of condition required of U.S. chartered banks. The quarterly report of condition submitted by a U.S. bank with foreign offices has two main companies. One component is a fully consolidated statement for the entire bank, including both domestic offices and subsidiaries (including Edge Act subsidiaries) and all foreign offices and subsidiaries. The other component is a substatement covering only the bank's U.S. offices and subsidiaries (excluding Edge Act subsidiaries). Since the proposed report for the agencies and branches would cover only U.S. offices, it is analogous to the domestic substatement for U.S. banks with foreign offices. An analogue of the fully consolidated U.S. report, which would also cover the foreign offices of the foreign bank, is not being proposed.

The proposed report for agencies and branches differs from what is required for the domestic offices of U.S. banks in the U.S. bank report of condition only in the elimination or addition of specific items (and some rearrangement of format) reflecting organizational and portfolio differences between the U.S. banks and the agencies and branches of foreign banks. In particular, some items in the U.S. bank condition report that are of minor importance to the agencies and branches have been combined; there is more foreign/domestic customer identification than in the U.S. bank report; and a schedule providing information on claims on and liabilities to "related" institutions has been added. The addition of items on the proposed agency and branch report that do not appear on the comparable report for U.S. banks reflects mainly the relatively greater role that foreign transactions play in the operation of the agencies and branches and the importance of their transactions with their foreign head office or parent and its subsidiaries and affiliated offices. Most of these "added" items are currently being reported on the FR 886a and thus are not additions to the current reporting requirements of the agencies and branches.

In comparison with the current reporting on the FR 886a, the proposed report would differ significantly in tabular organization and format but the substance of the report contents would not be too dissimilar. There would be differences in frequency and timing—the proposed report would be quarterly rather than monthly, with a submission deadline of 20 days after the last day of the quarter rather than 8 days. There would also be some differences in detail and in definition of some items.

As is the case with the current reporting, the proposed report would be submitted by each U.S. agency and each U.S. branch of foreign and Puerto Rican banks, regardless of the sized of the agency or branch or of its head office or its consolidated "family". (The scope of the "family" is described later.) In general, no consolidation of statements for multiple agencies and branches of a given foreign bank would be required or permitted. However, multiple offices of a given foreign bank within a single city, or perhaps SMSA, could request permission to submit a consolidated report, provided that this did not combine (a) agencies and branches, (b) state-chartered and federally licensed offices, (c) federally insured and uninsured offices, (d) offices of different foreign banks even though part of the same "family", (e) offices in different states, or (f) offices in different Federal Reserve districts. This would be roughly consistent with the current practice on the FR 886a. Requests for permission to

file consolidated reports would be considered on a case-by-case basis and would not be granted automatically.

Supervisory needs for a consolidated report on a basis wider than the individual office (e.g., a state or a national basis for all offices, or for any subset of offices, of a given foreign bank or "family") would be met by consolidation of the submitted individual office reports rather than by requiring the additional submission of a consolidated report. The design of the proposed report is such as to permit the construction of a variety of consolidations from the individual office reports without requiring additional information.

The same form of the report would be submitted by all agencies and branches regardless of their size, their status with respect to licensing or charter, their insurance status, or their reserve requirement status. In the case of the report of condition of U.S. banks, banks of different size submit somewhat different report forms. If specialized information is required from certain of the agencies and branches because of their particular federal status, such data would be collected on separate supplementary report forms or schedules. For example, the Federal Reserve would collect additional deposit information needed in connection with reserve requirements on a separate deposit report; the FDIC would collect additional deposit information needed from insured institutions in connection with deposit assessments on a separate supplement to the report of condition.

It is proposed that there be no requirement either that the agencies and branches publish in the press the individual office reports they would submit to the supervisory agencies or that each foreign bank publish a consolidated statement for all its U.S. agencies and branches. The federal supervisory agencies would, however, make available to the public on request the agency and branch reports of condition in the form of computer printouts or tapes, as they now do for the U.S. bank reports. These would include all of the report except the supplementary schedule on intra-family relationships (Schedule M of Attachment A) which the supervisory agencies propose not to make available to the public.

It is proposed that the report of condition be required for agency and branch reporting beginning with the report for December 31, 1979. It is the intention of the Council that detailed information on the reporting requirements be supplied to respondents early enough to provide an adequate lead time for preparing for the revised reporting. Specifically, with a December implementation, it is currently anticipated that, after receipt and analysis of comments, announcement of final decisions in the major features of the report would be made by mid-October and final report formats and detailed instructions would be in the hands of respondents by mid-November. If the report is implemented for December 1979 reporting, the FR 886a report would continue to be submitted through November 1979 by all agencies and branches; for the branches, the U.S. bank condition report would no longer be submitted to the FDIC. Comments are particularly sought on the date of implementation and on the lead time to be provided.

Comments are sought not only on the general characteristics of the proposed report of condition, but also on the specific details and treatments. A draft of the specific report form is presented in Attachment A. Attention is also called to the following features of the proposed report.

Transactions with related institutions. In the proposed report, as in the current FR 886a, a distinction is made between related and unrelated institutions. For the purpose of the proposed report, the related institutions of a U.S. agency or branch of a given foreign bank would cover all of the following (the whole group being referred to as the "family"): the foreign bank; its holding company; other banks—whether in the U.S., in Puerto Rico and U.S. territories and possessions, or in foreign countries—owned by the bank or its holding company; other subsidiaries of any of the foregoing, wherever located, including New York (Title XII) Investment companies, and Edge and Agreement subsidiaries; and branches, agencies, and offices, wherever located, of any of the foregoing. As in the current FR 886a, transactions with related institutions would be treated differently from those with unrelated institutions. Each item of the report (except the items for "net due to" and "net due from" related institutions) would include only transactions with outside parties and would exclude transactions with other members of the respondent's family. All transactions with family members would be reflected in the "net due to/due from" items, which would be broken down by type of related institution, but not by the nature of the transaction, in the proposed supplementary Schedule M to the condition report. (See Attachment A.) This treatment would permit the federal supervisory agencies to produce statements at various levels of consolidation of related institutions in the U.S. by simple recombination of the submitted individual office reports without having to call for further reports or information from the respondents.

For purposes of this treatment, *nonbanking* subsidiaries of the family (except for those U.S. nonbanking subsidiaries of a "family"-owned U.S. bank that are consolidated in the U.S. bank's report of condition) would be treated as unrelated rather than as related institutions. (In the current FR 886a, nonbanking subsidiaries are treated as related.) While transactions with nonbanking subsidiaries would be treated as "outside party" transactions, banking subsidiaries of a nonbanking subsidiary would be included in the treatment for related institutions. While the nonbanking subsidiary transactions are treated as "outside party" transactions in the report, they are summarized in memoranda items in the intra-family supplementary schedule.

For purposes of this coverage, the term "subsidiary" would refer to majority-owned subsidiaries, including the majority-owned subsidiaries of majority-owned subsidiaries. This coverage is consistent with that in the report of condition for U.S. banks, but is broader than the coverage in the FR 886a, which related only to wholly-owned subsidiaries, and narrower than the coverage for bank holding company reporting.

Allowance for possible loan losses. Under the proposal, *each* branch and agency would be required to maintain an adequate allowance for possible loan losses appropriate to the risk characteristics of the loans on the books of that branch or agency. This appropriate allowance for possible loan losses would be reported on the proposed report of condition as a deduction entry under gross loans to arrive at a measure of net loans. Total assets would be net of the allowance and net due to head office would be correspondingly reduced. Comments are specifically solicited with respect to the appropriateness, feasibility and meaningfulness of such a loan loss allowance for each individual branch and agency.

Credit balances. In the proposed report, credit balances are included in major subtotals with deposit liabilities. This is consistent with the treatment in the FR 886a report currently submitted by the agencies and branches. Identification of the liabilities for credit balances would be called for in the deposit schedule of the proposed statement. (See column D of Schedule F

of Attachment A.) However, the exact form of that identification will depend upon the final regulatory decisions with respect to the reserve requirements treatment of credit balances under Regulation D.

Officers' checks. In the proposed report, the treatment of officers' checks would be the same as that required of U.S. banks. Agencies and branches would be required to include in their deposit liabilities (as part of officers' checks) checks (or equivalent instruments) drawn by them on themselves on behalf of foreign related institutions (practically always the head office) as soon as such checks (or equivalent instruments) were drawn. All officers' checks would be required to be reported gross and not netted against "due from banks" or any other asset account. Currently, some agencies and branches treat these items differently.

Capital and reserve accounts. The proposed report of condition would not contain any items labelled "capital" or "reserves" on the liability side of the statement. The agencies and branches are not separate corporate entities and do not properly have a capital account. Any "capital" contributions by the head office or any "related earnings" of the branch or agency office or any "contingency reserves" for the branch or agency office would be reflected in the item for "net due to head office" without segregation. This treatment is consistent with that in the domestic substatement for U.S. banks with foreign offices but differs from that in the currently submitted FR 886a.

The proposed report would identify the amounts of asset pledge requirements under state or federal statutes or regulation in a memorandum item labeled "statutory or regulatory capital requirement".

Daily averages. In addition to amounts outstanding of assets and liabilities as of the last day of each quarter, the proposed report of condition would call for the reporting of a number of daily averages—in some cases, averages of amounts for the last 30 days of the quarter; in other cases, averages of amounts for the full 90 days of the quarter. The 90-day averages would be required for various components of due to and due from related institutions—separately for related offices in the U.S. and for foreign related offices; and separately for nonbanking subsidiaries and for all other related offices.

Relation to Reporting Requirements of State Bank Supervisors

There are currently 10 states in which agencies and branches of foreign banks operate. In carrying out their responsibilities under state law, the state banking supervisors, for their own supervisory and informational purposes set reporting requirements on the state chartered agencies and branches. For these purposes, several of the state banking supervisors currently use the FR 886a (or some variant). Indeed, the FR 886a report form was originally designed in a joint project with some of the state banking supervisors. Some states use their own report form to obtain information from branches of foreign banks, and some states use the standard report of condition for U.S. banks. The proposed revision of the condition statement to be submitted to the federal supervisory agencies thus raises questions as to the relationship with the reporting requirements of the state banking supervisors.

To the extent that federal and state reporting requirements for these institutions can be the same or consistent, reporting burdens on them are, of course, reduced. Such consistency could be achieved, without restricting in any way the independence of each state supervisor in getting whatever information is deemed necessary for state purposes, if the federal report were such that a state supervisor found it feasible and desirable to utilize the federal report as a core report and to obtain any additional information needed by the state in a separate report. For states that can use the results of the federal report rather than collecting their own (i.e., other than special supplements), the federal regulatory agencies would commit themselves to provide the returns to the state authorities in a mutually satisfactory manner. Each state would, of course, decide for itself whether such an approach was consistent with its needs and, if the federal report were used as a core, what kinds of additional information it would seek from state licensed or chartered agencies and branches.

The 10 state bank supervisors have been asked whether the proposed condition report meets their needs and, where the proposed report did not meet their needs, whether they found the "core" approach feasible. Some of the entries in the supplementary schedule on intra-family transactions (Schedule M of Attachment A) are intended to accommodate expressed needs of some state bank supervisors. The federal supervisory agencies would appreciate comments both from the state supervisors and from the agencies and branches on the matter of federal and state reporting requirements.

Other Reports

In addition to the proposed report of condition for the agencies and branches that is presented here for comment, there will be other reporting proposals stemming from the International Banking Act that will affect the agencies and branches. For example, the introduction of an appropriate form of income reporting by the agencies and branches is now under active consideration. Any proposal to this effect would not call for income reporting to begin earlier than June 1980. From time to time, there will also be reports introduced for, or extended to, the agencies and branches in connection with federal deposit insurance, federal reserve requirements, access to the discount window, and other regulatory and monetary policy information needs. These would be analogous to information currently submitted by U.S. banks.

In addition to the agencies and branches, other foreign related institutions will be subject to changes in reporting. The monthly FR 886a is currently submitted by New York Investment companies owned by foreign banks, by U.S. banks that are majority owned by foreign banks or bank holding companies, and by Agreement corporations owned by foreign banks. Over the next few months, active consideration will be given to replacing that monthly reporting—for the N.Y. Investment companies, with a revised quarterly report of condition and a report of income; for the U.S. subsidiary banks, with a single schedule on their transactions with related institutions to be attached to their regular quarterly report of condition as a U.S.-chartered bank; and for the Agreement subsidiaries (and any future Edge subsidiaries) of foreign banks, with a single schedule on their transactions with related institutions, to be attached to the quarterly report of condition required of all Edge and Agreement corporations. Until such changes are implemented, it is expected that all these institutions will continue their current pattern of reporting on the monthly FR 886a.

Federal Financial Institutions Examination Council, August 7, 1979.

Robert J. Lawrence,

Executive Secretary.

BILLING CODE 6210-01-M

ATTACHMENT A

Proposed Report of Assets and Liabilities

of U.S. Branches and Agencies

of Foreign Banks

Report of _____
(Legal Title of Branch or Agency)

_____ at close of business on _____, 19__

ASSETS

1. Cash and due from depositary institutions (From Schedule C, item 8).....
2. U.S. Treasury securities.....
3. Obligations of other U.S. Government agencies and corporations.....
4. Obligations of States and political subdivisions in the United States....
5. Other bonds, notes, debentures and corporate stock.....
6. Federal funds sold and securities purchased under agreements to resell (From Schedule N, item 3).....
7. a. Loans, Total (excluding unearned income) From Schedule A, item 8)
   b. Less: allowance for possible loan losses
   c. Loans, Net
8. Lease financing receivables.....
9. Customers' liability to this branch or agency on acceptances outstanding:
   (1) U.S. addressees (domicile).....
   (2) Non-U.S. addressees (domicile).....
10. Other assets (claims on nonrelated parties) (From Schedule G, item 3)....
11. Net due from head office and other related institutions in the U.S. and in foreign countries (From Schedule M, Column C, item 7).....
12. TOTAL ASSETS (sum of items 1 thru 11).....

LIABILITIES

13. Total deposits and credit balances (From Schedule F).....
14. Federal funds purchased and securities sold under agreements to repurchase (From Schedule O, item 3).....
15. Other liabilities for borrowed money (From Schedule L, Column A, item 3).
16. Branch or agency liability on acceptances executed and outstanding.....
17. Other liabilities to non-related parties (From Schedule H, item 3).....
18. Net due to head office and other related institutions in the U.S. and in foreign countries (From Schedule M, Column C, item 7).....
19. TOTAL LIABILITIES (sum of items 13 thru 18).....

MEMORANDA

1. Amounts outstanding as of report date:

a(1) Standby letters of credit, total.....
(a) To U.S. addressees (domicile).....
(b) To non-U.S. addressees (domicile).....

a(2) Amount of standby letters of credit in Memo item 1a(1) conveyed to others through participations.....

b. Time certificates of deposit in denominations of $100,000 or more.....

c. Other time deposits in amounts of $100,000 or more.....

d. Commercial letters of credit.....

e. Amount of acceptances reported in item 16 that have been reaccepted or confirmed by another bank in the U.S. .....

f. Contracts to buy foreign exchange and bullion.....

g. Contracts to sell foreign exchange and bullion.....

h. Statutory or regulatory capital requirement.....

2. Average for 30 calendar days (or calendar month) ending with report date:

a. Cash and due from depositary institutions (corresponds to item 1 above).....

b. Federal funds sold and securities purchased under agreements to resell (corresponds to item 6 above).....

c. Total loans (corresponds to item 7 above).....

d. Time certificates of deposits in denominations of $100,000 or more (corresponds to Memoranda item 1b above).....

e. Total deposits and credit balances (corresponds to item 13 above).....

f. Federal funds purchased and securities sold under agreements to repurchase (corresponds to item 14 above).....

g. Other liabilities for borrowed money (corresponds to item 15 above).....

h. Total assets (corresponds to item 12 above).....

SCHEDULE A - Loans (including rediscounts and overdrafts)

1. Real estate loans (including only loans secured primarily by real estate).....
2. Loans to financial institutions:
   a. To commercial banks in the U.S.:
      (1) To U.S. branches and agencies of U.S. banks.....
      (2) To other commercial banks in the U.S.....
   b. To banks in foreign countries:
      (1) To foreign branches of other U.S. banks.....
      (2) To other banks in foreign countries.....
   c. To other financial institutions.....
3. Loans for purchasing or carrying securities (secured and unsecured).....
4. Commercial and industrial loans (except those secured primarily by real estate):
   a. To U.S. addressees (domicile).....
   b. To non-U.S. addressees (domicile).....
5. Loans to individuals for household, family, and other personal expenditures (include purchased paper).....
   a. To U.S. addressees (domicile).....
   b. To non-U.S. addressees (domicile).....
6. Loans to foreign governments and official institutions.....
7. All other loans.....
8. TOTAL LOANS (excluding unearned income) (must equal Assets, item 7).....

MEMORANDA

1. Holdings of commercial paper included in Schedule A.....
2. Holdings of acceptances included in item 4 of Schedule A:
   a(1) Holdings of own acceptances.....
   a(2) Holdings of acceptances accepted or confirmed by other banks in the U.S.....
   b(1) Holdings of U.S. acceptances (U.S.-domiciled borrowers).....
   b(2) Holdings of non-U.S. acceptances (non-U.S.-domiciled borrowers).....
3. Loans to banks in foreign countries--average for 30 calendar days (or calendar month ending with report date) (corresponds to sum of items 2b(1) and 2b(2) of Schedule A).....
4. Commercial and industrial loans with remaining maturity of one year or less:
   a. With predetermined interest rates.....
   b. With floating interest rates.....
5. Commercial and industrial loans with remaining maturity of more than one year:
   a. With predetermined interest rates.....
   b. With floating interest rates.....

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SCHEDULE C - Cash and Due from Depositary Institutions

1. Cash items in process of collection and unposted debits.....
2. Demand balances with commercial banks in the U.S.[1/].....
3. Time and savings balances with commercial banks in the U.S. [1/].....
4. Balances with other depositary institutions in the U.S.....
5. Balances with banks in foreign countries:
   a. With foreign branches of U.S. banks.....
   b. With other banks in foreign countries.....
6. Balances with central banks:
   a. Balances with Federal Reserve Banks.....
   b. Balances with other central banks.....
7. Currency and coin (U.S. and foreign).....
8. TOTAL (must equal Assets, item 1).....

1/ Items 2 and 3 will include credit balances with U.S. agencies of foreign banks consistent with their treatment under Regulation D.

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SCHEDULE F - Deposit Liabilities and Credit Balances [1/]

	A. Demand	B. Savings	C. Time	D. Credit Balances
1. Deposits and credit balances of individuals, partnerships, and corporations:				
a. of U.S. addressees (domicile).....				
b. of non-U.S. addressees (domicile).....				
2. Deposits and credit balances of United States Government and of States and political subdivisions in the U.S.....				
3. Deposits and credit balances of foreign governments and official institutions.....				
4. Deposits and credit balances of commercial banks in the United States:				
a. U.S. branches and agencies of other foreign banks.....				
b. Other commercial banks in the United States.....				
5. Deposits and credit balances of banks in foreign countries:				
a. Foreign branches of U.S. banks.....				
b. Other banks in foreign countries.....				
6. Certified and officers' checks, travelers' checks, letters of credit sold for cash.....				
7. TOTAL DEPOSITS AND CREDIT BALANCES (Columns A, B, C & D must equal Liabilities, item 13).....				
MEMORANDA				
1. Savings deposits authorized for automatic transfer and NOW accounts included in item 1, Column B above.....				
2. Money market time deposits in denominations of $10,000 but less than $100,000 with original maturities of 26 weeks included in item 7, Column C above.....				
3. Time certificates of deposit in denominations of $100,000 or more with remaining maturity of more than 12 months included in item 7, Column C above.....				

1/ The treatment of credit balances in Schedule F will depend on their treatment under Regulation D.

SCHEDULE G - Other Assets

1. Income earned or accrued on loans but not collected.....
2. All other (list items over 10% of item 3 below, unless less than $100,000)

_____

_____

_____

3. TOTAL (must equal Assets, item 10).....

SCHEDULE H - Other Liabilities

1. Expenses accrued and unpaid.....
2. All other (list items over 10% of item 3 below, unless less than $100,000)

_____

_____

_____

3. TOTAL (must equal Liabilities, item 17).....

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SCHEDULE L - Other Liabilities for Borrowed Money

	A. Total	B. To U.S. Addressees	C. To Non-U.S. Addressees
1. Owed to Banks			
2. Owed to others			
3. Total (Column A must equal Liabilities, item 15)			

MEMORANDUM

1. Immediately available funds with a maturity greater than one day included in other liabilities for borrowed money	

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SCHEDULE M - Due to/Due from head office and other related institutions in the U.S. and in foreign countries

PART 1. Transactions with related institutions reflected in net due to/net due from items (items 11 and 18) of face of report.

	(A) Gross due to	(B) Gross due from	(C)=A - B Net due to (+) or due from (-)
Amounts outstanding as of report date:			
1. Related branches and agencies in the U.S.			
(a) In same state as reporting office....			
(b) In other states.....			
2. U.S. offices of related N.Y. investment companies 1/			
3. U.S. offices of related Edge and Agreement Corporations 2/			
4. U.S. offices of related (majority-owned) U.S. banks 3/			
5. Head office and its non-U.S. branches and agencies. 4/			
6. Other non-U.S. related companies and offices, excluding non-banking subsidiaries. 5/			
7. TOTAL (column C must equal Liabilities item 18 if positive or Assets item 11 if negative.....			
8. MEMO: Amount of item 7 for wholly-owned subsidiaries in items 2, 3, 4 and 6. 6/			
Averages of daily amounts for the preceding quarter:			
9. Related offices in the U.S. (corresponds to the sum of items 1-4 above).....			
10. Related offices in foreign countries and in Puerto Rico and U.S. territories and possessions (corresponds to sum of items 5 and 6 above).....			

SCHEDULE M (continued)

PART 2. Transactions with related institutions not reflected in net due to/net due from items (items 11 and 18) of face of report.

	(A) Gross due to	(B) Gross due from	(C)=A - B Net due to (+) or due from (-)
Amounts outstanding as of report date:			
11. Nonbanking majority-owned subsidiaries in the U.S.			
12. Nonbanking majority-owned subsidiaries in foreign countries and in Puerto Rico and U.S. territories and possessions			
13. MEMO: Amount of items 11 and 12 for wholly-owned subsidiaries. 6/			
Averages of daily amounts for the preceding quarter:			
14. Nonbanking majority-owned subsidiaries in the U.S. (corresponds to item 11 above)			
15. Nonbanking majority-owned subsidiaries in foreign countries and in Puerto Rico and U.S. territories and possessions (corresponds to item 12 above)			

Footnotes to SCHEDULE M:

1/ Foreign offices of these companies are reflected in line 5.
2/ Includes transactions with Edge and Agreement subsidiaries of U.S. related (majority-owned) banks. Foreign branches and subsidiaries of the Edges are reflected in item 5.
3/ Foreign and Puerto Rican and territorial branches and subsidiaries of these banks are reflected in item 5.
4/ Includes transactions with parent bank's branches in Puerto Rico and U.S. territories and possessions.
5/ Includes transactions with offices of related institutions in foreign countries and in Puerto Rico and U.S. territories and possessions. Includes transactions with foreign branches and subsidiaries of related N.Y. investment companies, of related Edge corporations, and of related U.S. (majority-owned) banks.
6/ Wholly-owned other than directors' qualifying shares.

SCHEDULE N - Federal Funds Sold and Securities Purchased Under Agreement to Resell

1. Loans of immediately available funds with one-day maturity or continuing contract:
   a. Securities purchased under agreements to resell.....
   b. Other.....
2. Other securities purchased under agreements to resell.....
3. Total -- Items 1a + 1b + 2; also equals sum of items a, b, and c below (Must equal Assets, item 6).....
   a. With commercial banks in the U.S.....
   b. With brokers and dealers in securities.....
   c. With others.....

SCHEDULE O - Federal Funds Purchased and Securities Sold Under Agreements to Repurchase

1. Borrowings of immediately available funds with one-day maturity or continuing contract:
   a. Securities sold under agreements to repurchase.....
   b. Other.....
2. Other securities sold under agreements to repurchase.....
3. Total -- Items 1a + 1b + 2; also equals sum of items a through f below (Must equal Liabilities, item 14).....
   a. With commercial banks in the U.S.....
   b. With savings and loan associations and mutual savings banks.....
   c. With nonfinancial businesses in the U.S.....
   d. With state and local governments in the U.S.....
   e. With U.S. government agencies and corporations, banks in foreign countries, and foreign official institutions.....
   f. With other.....

[FR Doc. 79-24966 Filed 8-13-79; 8:45 am]
BILLING CODE 6210-01-C

FEDERAL MARITIME COMMISSION

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Ideal Cargo Services, Inc., 7289 N.W. 12th Street, Miami, FL 33126, Officers: Jorge A. Pedreza, President, Maria C. Pedreza, Treasurer, Maria E. Cruz, Secretary.

Emmett I. Sindik, Customs Broker (Emmett I. Sindik, dba), 926 International Trade Mart, New Orleans, LA 70130.

Scolari-Lopez, Inc., 660 East San Ysidro Blvd., San Ysidro, CA 92073, Officers: Arthur Scolari, President, J. Socorro Lopez M., Vice President/Treasurer, R. Neal Richards, Secretary.

By the Federal Maritime Commission.
Dated: August 9, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-24973 Filed 8-13-79; 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 § 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 late than September 4, 1979.

A. *Federal Reserve Bank of Boston,* 30 Pearl Street, Boston, Massachusetts 02106:

First National Boston Corporation, Boston, Massachusetts (trust company activities; South Carolina) to engage, through its subsidiary Old Colony Trust Company of South Carolina, in activities that may be carried on by a trust company, including providing corporate, pension and personal trust related services to corporations, partnerships and individuals. These activities would be conducted from an office in Hilton Head, South Carolina, serving South Carolina.

B. *Federal Reserve Bank of Kansas City,* 925 Grand Avenue, Kansas City, Missouri 64198:

Del State, Inc., Del City, Oklahoma (mortage banking activities; Oklahoma): to engage, through its subsidiary, Metro Mortgage Corporation, in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages on residential, apartment, commercial and industrial properties for institutional investors. These activities will be conducted from offices located in Oklahoma City and Del City, Oklahoma, and the geographic area to be served includes a 200-mile radius from Oklahoma City.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 3, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24951 Filed 8-13-79; 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 § 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 September 6, 1979.

A. *Federal Reserve Bank of New York,* 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (financing and insurance activities; Florida): to engage, through its subsidiary Citicorp Person-to-Person Financial Center of Florida, Inc., in making consumer installment personal loans; making loans to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than personal, family or household usage; and selling as agent credit-related life and accident and health insurance or decreasing or level (in the case of single payment loans) term life insurance. These activities would be conducted from previously approved offices in Panama City, Pensacola, Jacksonville, Miami, Tampa, Fort Lauderdale, West Palm Beach, Sarasota, Tallahassee, and Orlando, Florida. These offices will serve, respectively, Bay County and contiguous portions of Gulf County; Escambia and Santa Rosa Counties and contiguous

portions of Okaloosa and Walton Counties; Duval County and contiguous portions of Baker; Nassau, Clay and St. Johns Counties; Dade, Broward and Palm Beach Counties; Hillsborough County and contiguous portions of Pinellas, Polk and Pasco Counties; Broward County and contiguous portions of Palm Beach County, Palm Beach County and contiguous portions of Broward County; Sarasota County and contiguous portions of Manatee County; Leon County and portions of Gadsden, Taylor and Wakulla Counties; Orange County and contiguous portions of Osceola, Lake, Volusia and Seminole Counties; and Duval County and contiguous portions of Baker, Nassau, Clay and St. Johns Counties.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24952 Filed 8-13-79; 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 § 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 writting and received by the appropriate Federal Reserve Bank not later than September 6, 1979.

A. *Federal Reserve Bank of New York,* 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York., (financing and insurance activities; Kansas, Missouri): to engage, through its subsidiaries Citicorp Person-to-person Financial Center, Inc. and Nation wide Financial Corporation of Missouri, in operating a finance company, including the extension of direct loans for consumer and other purposes; purchasing and servicing for its own account consumer installment sales finance contracts; making loans for the accounts of others, such as one-to-four family unit mortgage loans; making loans to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than personal, family or household usage; and acting as agent for the sale of life, accident, and health and casualty insurance directly related to its extensions of credit. The service area of the Overland Park, Kansas, office would be expanded to include Kansas, Iowa, Nebraska, South Dakota, Minnesota and the Western half of Missouri. With respect to the mobile home/land package financing activity, the service area will be expanded to include Minnesota. The service area of the Kansas City, Missouri, office will be expanded to include an area with a radius of 175 miles in each direction.

B. *Federal Reserve Bank of Richmond,* 701 East Byrd Street, Richmond, Virginia 23261:

Union Trust Bancorp, Baltimore, Maryland (financing and insurance activities; Florida): to engage, through its subsidiary, Landmark Financial Services, Inc., in making installment loans to individuals and purchasing sales finance contracts executed in connection with consumer purchases and acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit. These activities would be conducted from an office in Jacksonville, Fla., serving Jacksonville, Fla.

C. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angeles, California (financing and credit-related insurance activities; Florida): to engage, through its subsidiaries American Finance Corporation of Florida and American Consumer Finance Corporation, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from offices located in Orange Park, Florida, serving the State of Florida, and would constitute a relocation of existing offices of American Finance Corporation of Florida and American Consumer Finance Corporation which are currently located in Jacksonville, Fla.

2. Security Pacific Corporation, Los Angeles, California (escrow activities; California): to engage, through its subsidiary, S.P.M.C. Escrow, Inc., in acting as escrow agent for the purchase and sale of real property and the execution of all documents and disbursal of funds relating to loans transactions and all other activities engaged in by an escrow company. These activities will be conducted from offices of S.P.M.C. Escrow, Inc., Ontario, California, serving California.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24953 filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

First Banc Group of Ohio, Inc. Proposed De Novo Bank Management Consulting Activities; Correction

This notice corrects a previous Federal Register document (FR Doc. 79-22728) appearing at page 43347 of the issue for Tuesday, July 24, 1979.

First Banc Group of Ohio, Inc., Columbus, Ohio, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* through its wholly owned subsidiary, First Banc Group Financial Services Corporation, Columbus, Ohio, in providing bank management consulting advice to

nonaffiliated banks concerning the following areas of bank activities: bank operations, systems and procedures; computer operations and mechanization; implementations of electronic funds transfer systems; site planning and evaluation; bank mergers and the establishment of new branches; cost analysis, capital adequacy and planning; product development, including specialized lending provisions; and marketing operations, including research, market development and advertising programs. These activities would be performed from the offices of Applicant's subsidiary located at 100 East Broad Street, Columbus, Ohio, and the geographic area to be served is nationwide. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 6, 1979.

Board of Governors of the Federal Reserve System, August 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24954 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

NB Corporation and Southern Bankshares, Inc.; Acquisition of Bank

NB Corporation, Charlottesville, Virginia, and Southern Bankshares, Inc., Richmond, Virginia, have applied for the Board's approval under § 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a) (5)) to consolidate into Jefferson Bankshares, Inc., Charlottesville, Virginia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

NB Corporation, Charlottesville, Virginia, also engages in the following nonbank activities: financial bookkeeping and related data processing services through its subsidiary, NB Service Corporation, Charlottesville, Virginia, Southern Bankshares, Inc., Richmond, Virginia, also engages in the following nonbank activities: the sale of credit-related life and health and accident insurance through its subsidiary, Charter Insurance Managers, Inc., Richmond, Virginia. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24955 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

First Chicago Corp.; Proposed Acquisition of First Chicago Cheque Corporation

First Chicago Corporation, Chicago, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of First Chicago Cheque Corporation, Chicago, Illinois a *de novo* corporation.

Applicant states that the proposed subsidiary would engage in the activities of issuing and selling travelers checks. The issuance and sale of the travelers checks would be on a worldwide basis, with sales conducted by offices of financial and non-financial selling agents. The activity of issuing travelers checks has not been specified by the Board in section 225.4(a) of Regulation Y as permissable for bank holding companies. Applicant believes, however, that this activity is closely related to banking and a proper incident thereto, and this opinion is based in part upon the fact that the Board has approved the activity by Order, most recently on July 20, 1979 (*Citicorp*, 65 Federal Reserve Bulletin, August 1979).

The activity of selling travelers checks has been specified by the Board in § 225.4(a) of Regulation Y as permissable for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 6, 1979.

Board of Governors of the Federal Reserve System, August 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24956 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

Union Illinois Co.; Proposed Acquisition of Bank-Aide, Inc.

Union Illinois Company, East St. Louis, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Bank-Aide, Inc., St. Louis, Missouri.

Applicant states that the proposed subsidiary would engage *de novo* in the activity of providing management consulting advice on an explicit fee and non-continuous basis to nonaffiliated banks. These activities would be performed from offices of Applicant's subsidiary in St. Louis, Missouri, and the geographic areas to be served are the northwestern quarter and southern half of Illinois and the entire State of Missouri. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 4, 1979.

Board of Governors of the Federal Reserve System, August 3, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24957 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

Onarga Bancorp, Inc.; Formation of Bank Holding Company

Onarga Bancorp, Inc., Onarga, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82.57 per cent of the voting shares of Onarga State Bank, Onarga, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 1, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24958 Filed 8-13-79; 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 § 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, except as noted, received by the appropriate Federal Reserve Bank not later than September 4, 1979.

A. *Federal Reserve Bank of Minneapolis,* 250 Marquette Avenue, Minneapolis, Minnesota 55480:

Northwest Bancorporation, Minneapolis, Minnesota (computerized audit software services. Colorado, Iowa, Michigan, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming): to engage, through its subsidiary, Banco Incorporated, in providing computerized audit software services to nonaffiliated banks. The services would consist of periodic generation of audit extract reports; and of one-time front end education and training on standardized processing systems, and on the utilization of the audit extract reports. These activities would be conducted from offices in Minnespolis, Minnesota, serving the 10 states listed in the caption to this notice.

B. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

First Hawaiian, Inc., Honolulu, Hawaii (industrial banking; Hawaii): to engage, through its subsidiary, Hawaii Thrift and Loan, Incorporated, in operating as an industrial loan company as authorized by Hawaii law, including the lending of money upon individual credit or the pledge or mortgage of real or personal property; issuing and selling certificates for the payment of money at any time; and selling life, accident and health, and property and casualty insurance directly related to its extensions of credit. These activities would be conducted from an office in Kaneohe, Hawaii, serving the northern part of the Windwood side of the island of Oahu. Comments on this application must be received by August 30, 1979.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 2, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24959 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

Banco Occidental, S.A. et al.; Formation of Bank Holding Companies

Banco Occidental, S.A., TBK-Inversiones, S.A., Union de Inversion Mobiliaria, S.A., all of Madrid, Spain, and Compagnie de Gestion Belgo-Luxembourgeoise, S.A., Luxembourg, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring 65 percent or more of the voting shares of Banco Comercial de Mayaguez, Mayaguez, Puerto Rico. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 7, 1979. Any comment on the applications that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 8, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24946 Filed 8-13-79; 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 § 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, except as noted, received by the appropriate Federal Reserve Bank not later than September 10, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

STATE STREET BOSTON CORPORATION, Boston, Masachusetts (mortgage banking activities; Tennessee): to engage, through its subsidiary Kentucky Mortgage Company, Incorporated, Lexington, Kentucky in making, acquiring, and servicing loans secured by real estate mortgages and the sale of credit life, accident and health insurance to mortgagors on loans service by Kentucky Mortgage Company, Incorporated. The activities would be conducted at a new office located in Knoxville, Tennessee and serving Knox and the surrounding counties in a 100-mile radius of Knoxville. Comments on this application should be received by September 6, 1979.

B. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

SOUTH CAROLINA NATIONAL CORPORATION, Columbia, South Carolina (financing and insurance activities; North Carolina): to engage, through its subsidiary, Provident Finance Company of North Carolina, Inc., in making or acquiring loans and other extensions of credit for its own account such as would be made by a consumer finance company; servicing loans and other extensions of credit for the account of others; and offering life, accident and health and property insurance directly related to its extensions of credit. These activities would be conducted from an office in Forest City, North Carolina. This office will serve Polk and Rutherford counties, North Carolina.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 8, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24945 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

Bank of Virginia Co.; Acquisition of Bank

Bank of Virginia Company, Richmond, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of Virginia—Central Valley, Verona, Virginia, into which would be merged Community Bank and Trust Company of Augusta County, Verona, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24943 Filed 8-13-79; 8:45 am]

BILLING CODE 6201-01-M

Fidelity Union Bancorporation; Acquisition of Bank

Fidelity Union Bancorporation, Newark, New Jersey, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Garden State National Bank, Paramus, New Jersey. The factors that are considered in acting on the application are set forth in

section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24948 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

First Bancshares, Inc.; Formation of Bank Holding Company

First Bancshares, Inc., Highland, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First Bank of Whiting, Whiting, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24940 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

First United Bancorporation, Inc.; Acquisition of Bank

First United Bancorporation, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of First United Bank-Richland, N.A., North Richland Hills, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 8, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24947 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

Guaranty Development Co.; Acquisition of Bank

Guaranty Development Company, Livingston, Montana, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 53.8 percent or more of the voting shares of First Security Bank of Big Timber, Big Timber, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Borad of Governors of the Federal Reserve System, August 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24941 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

Greenbelt Bancshares, Inc.; Formation of Bank Holding Company

Greenbelt Bancshares, Inc., Quanah, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Security National Bank of Quanah, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24942 Filed 8-13-79; 8:45 am]

BILLING CODE 62100-01-M

Kerens Bancshares, Inc.; Formation of Bank Holding Company

Kerens Bancshares, Inc., Kerens, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First State Bank of Kerens, Kerens, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the

application should submit views in writing to the Reserve Bank, to be received not later than September 6, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24944 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

Powder River Resource Bancorporation; Formation of Bank Holding Company

Powder River Resource Bancorporation, Gillette, Wyoming, has applied for the Board's approval under section (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares, less directors' qualifying shares, of Stockman's Bank and Trust Company, Gillette, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 184(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24950 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

Sun Banks of Florida, Inc.; Acquisition of Bank

Sun Banks of Florida, Inc., Orlando, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire at least 80 per cent of the voting shares of Cape Coral Bank & Trust, Cape Coral, Florida. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 7, 1979. Any comment on an applications that requests a hearing must include a ststement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 7, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-24949 Filed 8-13-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Weyerhaeuser Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Bodcaw Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Weyerhaeuser Company. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the **Federal Register.**

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 79-25085 Filed 8-13-79; 8:45 am]

BILLING CODE 6750-01-M

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: International Paper Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Bodcaw Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by International Paper Company. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202–523–3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Jame A. Tobin,

Acting Secretary.

[FR Doc. 79-25086 Filed 8-13-79; 8:45 am]

BILLING CODE 6750-01-M

Transmittal Rules; Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Mobil Oil Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Bodcaw Company from Weyerhaeuser Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Weyerhaeuser Company. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and require that notice of this action be published in the Federal Register.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 79-25087 Filed 8-13-79; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 97; Case No. 2672]

Southwestern Bell Telephone Co., Public Utilities Commission of Texas; Proposed Intervention in Telephone Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Public Utilities Commission of Texas concerning the application of the Southwestern Bell Telephone Company for an increase in annual telephone rates. GSA represents the interests of the executive agencies of the U.S. Government as users of telecommunications services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, on or before September 13, 1979, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: July 17, 1979.

Walter V. Kallaur,

Acting Administrator of General Services.

[FR Doc. 79-24911 Filed 8-13-79; 8:45 am]

BILLING CODE 6820-25-M

[GSA Bulletin FPMR G-143]

Transportation and Motor Vehicles; Use of Leaded Gasoline

To: Heads of Federal agencies

Subject: Use of leaded gasoline

1. *Purpose.* This bulletin announces a temporary waiver from the provisions of section 101-25.303 of the Federal Property Management Regulations (FPMR) concerning the use of unleaded gasoline in Government-operated motor vehicles.

2. *Expiration date.* This bulletin expires October 31, 1979. However, the temporary waiver announced by this bulletin expires October 2, 1979.

3. *Background.* In 1974, the General Services Administration issued an FPMR amendment requiring the use of unleaded or low-leaded gasoline in all 1975 and later model year Government-operated vehicles that are designed to use this type of fuel. The FPMR amendment also required the use of unleaded or low-lead fuel for 1974 and earlier model year Government-operated vehicles unless it was impractical or unfeasible to do so.

4. *Discussion.* In response to a request from the Department of Energy, the Defense Fuel Supply Center sent a telegram to Federal agencies asking individual agencies to encourage their vehicle operators to use leaded gasoline in older automobiles and light trucks because of the current shortage of unleaded fuel. The Administrator of General Services has granted a 90 day waiver, effective July 5, 1979, from the provisions of FPMR 101-25.303. If the present shortage of unleaded gasoline continues, efforts will be made to extend the waiver.

5. *Recommended action.* Agencies should inform their vehicle operators of the content of this bulletin and should encourage the safe, fuel-efficient operation of motor vehicles within their jurisdiction.

Dated: August 1, 1979.

F. B. Bunke,

Acting Commissioner, Transportation and Public Utilities Service.

[FR Doc. 79-24912 Filed 8-13-79; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

Self-Contained Breathing Apparatus (SCBA) Course Curriculum; Open Meeting, Correction

Notice of the open meeting on Self-Contained Breathing Apparatus (SCBA) Course Curriculum, to be convened by the National Institute for Occupational Safety and Health of the Center for Disease Control, was published at 44 FR 46316 on Tuesday, August 7, 1979.

The meeting date is corrected to read August *24*, 1979, rather than August 22, 1979.

The meeting will be open to the public for observation and participation, limited only by the space available. All other aspects of the notice published on August 7, 1979, remain the same.

Dated: August 8, 1979.

Johannes Stuart,

Acting Director, Center for Disease Control.

[FR Doc. 79-24917 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-87-M

Food and Drug Administration

[Docket No. 79N-0228; DESI 11673]

Phendimetrazine Tartrate Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice amends a previous notice for phendimetrazine tartrate to now include phendimetrazine tartrate 105-milligram controlled-release capsules and announces the conditions for marketing these products. The drug products are used as adjuncts in the management of exogenous obesity.

DATE: Supplements to approved new drug applications due on or before October 15, 1979.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 11673, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications or supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for labeling guidelines: Division of Neuropharmacological Drug Products (HFD-120), Rm 10B-34, Bureau of Drugs.

Requests for guidelines or information on conducting bioavailability tests: Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT: Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 11673) published in the Federal Register of February 12, 1973 (38 FR 4280), the Food and Drug Administration announced its conclusion about the following drug product: NDA 12-248; Plegine Tablets containing 35 milligrams phendimetrazine tartrate; Ayerst Laboratories, 685 Third Ave., New York, NY 10017. The notice stated that phendimetrazine tartrate conventional oral dosage forms are effective in the management of exogenous obesity as a short-term adjunct (a few weeks) in a regimen of weight reduction based on caloric restriction. The notice allowed for the submission of abbreviated new drug applications containing full manufacturing information.

On September 6, 1977, The Vitarine Co., Inc., 227-15 North Conduit Ave., Springfield Gardens, NY 11413, submitted a new drug application (NDA 18-074) for Phendimetrazine Tartrate, 105 milligram Timed Release Capsule. The new drug application provided bioequivalence data demonstrating that the controlled-release product is bioequivalent to the immediate-release product (Plegine Tablets) that was the subject of the DESI notice. On April 16, 1979, FDA approved the new drug application.

Other drugs included in the February 12, 1973 notice are not affected by this notice.

Based on available data and information, the Director of the Bureau of Drugs finds that abbreviated new drug applications are appropriate for phendimetrazine tartrate in controlled-release capsule dosage form.

Accordingly, the February 12, 1973 notice is amended to also include the controlled-release capsule dosage form of phendimetrazine tartrate.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer of distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effective classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products containing phendimetrazine tartrate are effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Phendimetrazine tartrate is in conventional tablet or controlled-release capsule dosage form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. A labeling guideline for the drug is available from the Food and Drug Administration (address given above). The Indication is as follows:

For use in the management of exogenous obesity as a short-term adjunct (a few weeks) in a regimen of weight reduction based on caloric restriction.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before October 15, 1979, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide full updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form (FD-356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f) containing full manufacturing information with respect to items 6 (components), 7 (composition), 8 (methods, facilities, and controls) of new drug application form FD-356H must be obtained before marketing such product. Pursuant to 21 CFR 320.21 the application must include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement, unless such evidence is already waived under section 320.22(c). Marketing before approval of a new drug application will subject such products, and those

persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended 21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: August 1, 1979.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 79-24906 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

Preparation of an Environmental Impact Statement; Intent

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) intends to prepare an environmental impact statement for a proposed facility for laboratories, laboratory support, animal testing and related offices to be built in Beltsville, Maryland.

ADDRESS: Written comments should be sent to John Snell (HFA–246) at the address below.

FOR FURTHER INFORMATION CONTACT: John Snell, Engineering Planning Section (HFA–246), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4440.

SUPPLEMENTARY INFORMATION: FDA in accordance with the National Environmental Policy Act (NEPA) of 1969 and Council on Environmental Quality, NEPA—Regulation, 40 CFR Parts 1500 through 1508, intends to prepare an environmental impact statement (EIS) for a proposed facility for laboratories, laboratory support, animal testing and related offices to be located in Beltsville, Maryland. The facility is planned in five modules, to be constructed in stages over several years beginning approximately 1981. The facility is proposed to be located on federally owned property near the intersection of Muirkirk Road and Odell Road in Prince Georges County. Alternatives to the proposed action that are expected to be considered are: (1) not constructing the proposed facility; (2) constructing the proposed facility on other sites on the federally owned property; (3) modernization, alterations, and renovations in Federal Office Building 8, 200 C St. SW., Washington, DC; and (4) no action.

In order to provide an early and open procedure for determining the scope of the issues to be addressed in the EIS and for identifying the significant environmental issues related to the proposed facility, a scoping process will be initiated. Interested parties may submit information or suggestions regarding the scope of the environmental impact statement. The public and interested Federal, State, and local government and organization representatives are invited to attend and participate in a meeting which will be held September 12, 1979, at 8 p.m., at Beltsville Agricultural Center Auditorium, Building 003, West Side, Baltimore Boulevard, Beltsville, Maryland. Notice of the meeting is published elsewhere in this issue in the Federal Register. The purpose of this public meeting is to assist FDA in determining the scope of issues related to the proposed action.

The planned new facilities will house all laboratories for three of FDA's bureaus (Bureau of Foods, Bureau of Veterinary Medicine, and Bureau of Drugs). Existing laboratories for these three bureaus are located in antiquated facilities, primarily in the Washington metropolitan area. The laboratories will conduct experiments that relate to the safety and effectiveness of human drugs, veterinary drugs, and food and cosmetics; some experiments will involve the use of experimental laboratory animals and a very limited number of experimental farm animals. Office space for the Bureau of Foods and the Bureau of Veterinary Medicine will also be provided in the later development stages of the planned facility.

Dated: August 8, 1979.

William R. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24905 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

Preparation of an Environmental Impact Statement; Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) will hold a public meeting to assist FDA in determining the scope of issues to be included in an environmental impact statement (EIS) for a proposed facility for laboratories, laboratory support, animal testing and related offices to be built on federally owned property located near the intersection of Muirkirk Road and Odell Road in Beltsville, Maryland.

DATE: The meeting will be held at 8 p.m., September 12, 1979.

ADDRESS: The meeting will be held at Beltsville Agriculture Center Auditorium, Building 003, West Side, Baltimore Blvd., Beltsville, Maryland.

FOR FURTHER INFORMATION CONTACT: John Snell, Engineering Planning Section (HFA–246), Food and Drug Administration, Department of Health, Education and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4440.

SUPPLEMENTARY INFORMATION: At the meeting FDA will describe the proposed project and elicit views from attendees concerning topics they wish to see addressed in the EIS for the proposed project. Written comments will be accepted for incorporation into the record of the meeting for 10 calendar days following the meeting. Written comments should be sent to Mr. John Snell, HFA–246, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Elsewhere in this issue of the Federal Register FDA is publishing its notice of intent to prepare an EIS.

Dated August 8, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24904 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION; Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Rudolf Apodaca, Acting District Director, CIN–DO, Cincinnati, OH.

DATE: The meeting will be held at 1 p.m., Thursday, September 13, 1979.

ADDRESS: The meeting will be held at the Anthony Celebrezze Federal Building, Rm. 1455, 1240 E. 9th St., Cleveland, OH.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, (216) 552–4844.

SUPPLEMENTAL INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Cleveland District

Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24908 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Loren Y. Johnson, District Director, Philadelphia, PA.

DATE: The meeting will be held from 9 a.m. to 12 p.m., Wednesday, September 12, 1979.

ADDRESS: The meeting will be held in the Federal Building, Rm. 6310, 600 Arch St., Philadelphia, PA.

FOR FURTHER INFORMATION CONTACT: Bob Lockett, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse Rm. 900, Second and Chestnut Sts., Philadelphia, PA 19106, 215-597-0837.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Philadelphia District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: August 7, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-24909 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76F-0392]

Cyclamate (Cyclamic Acid, Calcium Cyclamate, and Sodium Cyclamate); Interlocutory Decision Following a Formal Evidentiary Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is publishing an interlocutory decision following a formal evidentiary public hearing in a rulemaking proceeding about the artificial sweetener cyclamate. The Commissioner of Food and Drugs is remanding the case to the Administrative Law Judge to develop the evidence further on certain issues relating to the safety of cyclamate.

EFFECTIVE DATE: The effective date of the interlocutory decision is June 26, 1979.

ADDRESS: The transcript of the hearing, evidence submitted, and all other documents cited in this decision are in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ted Herman, Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: The purpose of this rulemaking proceeding is to decide whether cyclamate has been shown to be safe under section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348).

I. Background

Sodium cyclamate was approved as a new drug in 1959. In 1961, the Food and Drug Administration (FDA) advised Abbott Laboratories, Inc. ("Abbott"), the manufacturer of cyclamate and the petitioner in this proceeding, that sodium cyclamate was no longer considered to be a drug, and was considered to be generally recognized as safe (GRAS) under section 201(s) of the act (21 U.S.C. 321(s)) for use in food. At Abbott's request, a study was begun by Dr. Bernard L. Oser in 1967 to determine the chronic toxicity of a 10:1 mixture of 10 parts sodium cyclamate and 1 part sodium saccharin. In this study, 8 of the 60 rats fed the cyclamate/saccharin mixture for 2 years developed bladder tumors (A-384, A-720).

On October 17, 1969, the then Commissioner of Food and Drugs, Herbert L. Ley, determined that calcium cyclamate, magnesium cyclamate, potassium cyclamate, and sodium cyclamate were no longer generally recognized as safe, and therefore were unapproved food additives within the meaning of section 409 of the act. Dr. Ley limited the marketing of those cyclamate compounds to therapeutic uses as drugs (34 FR 17063, October 21, 1969). In the **Federal Register** of August 27, 1970 (35 FR 13644), the then Commissioner, Charles C. Edwards, issued an order prohibiting the use of any cyclamate compound as a drug. This order was based on the advice of a Medical Advisory Group established by the Assistant Secretary for Health and Scientific Affairs, Department of Health, Education, and Welfare, to consider the benefit-to-risk ratio of the cyclamate compounds as drugs. The Medical Advisory Group concluded that there is no substantial evidence of effectiveness of cyclamate compounds at any level for the treatment of obese persons and diabetics. Marketing of any cyclamate compound for any purpose in the United States thereafter ended.

On November 15, 1973, Abbott filed a food additive petition (FAP 4A 2975) seeking approval for the use of cyclamic acid, calcium cyclamate, and sodium cyclamate (cyclamate) as sweetening agents in food and for technological purposes in food. In the **Federal Register** of February 8, 1974 (39 FR 4935), a notice of filing of Abbott's food additive petition was published. After reviewing the petition, the then Commissioner, Alexander M. Schmidt, concluded that the supporting data did not establish that cyclamate is safe for its intended uses. The food additive petition was therefore denied by order published in the **Federal Register** of October 4, 1976 (41 FR 43754).

Abbott and the Calorie Control Council, an industry trade group, filed objections to, and a request for hearing on, the October 4, 1976 order. Only Abbott, however, made particularized objections. In the **Federal Register** of March 4, 1977 (42 FR 12515), the then Acting Commissioner, Sherwin Gardner, granted Abbott's request for a hearing.

The formal evidentiary hearing began with a prehearing conference held on April 20, 1977. The participants in the hearing were FDA's Bureau of Foods (the Bureau), Abbott, and Dr. Michael Sveda, the discoverer of cyclamate, who appeared as a nonparty participant and whose appearance was later stricken for failure to participate. Cross-examination of witnesses was completed and briefs were submitted to the Administrative Law Judge by January 23, 1978.

On August 4, 1978, the Administrative Law Judge issued an Initial Decision in which he found that cyclamate had not been shown to be safe. Abbott and the Bureau filed exceptions to the Initial Decision and appealed it to the Commissioner.

In reviewing the Initial Decision, the Commissioner has all the powers the Administrative Law Judge would have in making the Initial Decision (21 CFR 12.130). The Initial Decision and the Final Decision are required to be based upon "a fair evaluation of the entire record," under section 409(f) of the act (21 U.S.C. 348(f)), and are required also to comply with the provisions of 21 CFR 12.120 through 12.130. After reviewing

the record, I have decided that the matter should be remanded to the Administrative Law Judge for further proceedings consistent with the discussion of the issues below.

II. Remand Instructions

The issues considered in this proceeding as set forth at the prehearing conference are:

(1) Whether the evidentiary record established to a reasonable certainty that cyclamate does not induce cancer when ingested by man or animal.

(2) Whether the evidentiary record establishes to a reasonable certainty that cyclimate does not cause genetic damage and is not mutagenic.

(3) Apart from the issued in numbers 1 and 2 above, what does the evidentiary record show as an acceptable daily intake level for cyclamate?

(4) Whether apart from the issues in numbers 1 and 2 above, because of the probable consumption patterns, safe conditions of use of cyclamate can be prescribed.

I have carefully reviewed the evidence submitted by the parties relating to the above issues. In the course of this review, I have found data in the record that may bear on the ultimate outcome of this proceeding, but that were not fully analyzed or addressed by the parties. For example, the Kroes study (G–76 A–734) contained data on sarcomas of the lymphoid tissue (lymphosarcomas, lymphoblast sarcomas and reticulum cell sarcomas), mammary adenocarcinomas and other effects that may be significant but were not discussed in detail by the parties. It does not appear from the record that these data, and the data described below, were analyzed by the parties or that they were the subject of adversarial comment.

The requirement that my decision in this proceeding be based on a "fair evaluation" of the entire record, section 409(f)(21 U.S.C. 348(f)), mandates my consideration of all pertinent record evidence, regardless of the extent to which the parties addressed the specific material. Moreover, as the agency's final decisionmaker, I am responsible for applying my expertise to the evidence of record in this case. Thus, I may not only review the data analyzed and discussed by the parties and the Administrative Law Judge, but I may also evaluate data that have been included in the record but that do not appear to have been specifically analyzed or otherwise discussed by the parties.

I have considered issuing a final decision based upon data such as those in the Kroes study without providing the parties an opportunity to analyze and comment on the data. This course would, however, arguably be unfair to the parties, and could also result in an erroneous finding that cyclamate has or has not been shown to be safe. Moreover, another alternative, to simply ignore data that could be important in determining the safety of cyclamate, would not be a proper exercise of my responsibility and could similarly result in an erroneous conclusion as to the safety of cyclamate.

Although it is possible that the parties considered the data in question and dismissed them as inconseqential, the record does not clearly reflect such consideration. I have therefore concluded that the most prudent course to follow is to remand the matter for consideration of these data by the parties and for the taking of testimony and the submission of whatever additional evidence the Administrative Law Judge finds is appropriate and relevant to the issued discussed below. In addition, I have decided that certain issues, such as the criteria for the evaluation of carcinogencity data, should be further developed to allow for more informed decisionmaking.

I strongly emphasize that I have not yet reached any conclusions regarding the safety of cyclamate. The results of the analyses in this order and in the attached appendices and other information discussed below do not represent conclusions by the agency, are not now being relied on by the agency, and are not evidence in the hearing. I am remanding the case in order for the parties to consider the relevance and significance of certain lines of inquiry, described below. The remand is intended to allow the parties to comment on the information discussed below. That information may, evidentiary rules permitting, be introduced into evidence or rejected in whole or in part. I do, however, direct the Administrative Law Judge to consider the lines of inquiry described below and to make such modified and/or additional findings of fact and conclusions of law as he determines to be appropriate.

A. Additional Analyses

The data from most of the carcinogenicity studies on cyclamate were analyzed to determine the incidence of bladder tumors. Other effects, however, such as lung, liver, lymphoid tissue and mammary tumors, in certain instances, do not appear to have been explored by the parties. The results of analyses of those data submitted in evidence but apparently not analyzed by the parties are summarized in the tables in Appendix A.[1] At this time, these analyses are not evidence, nor do I rely on them for any purpose. I ask the parties to review Appendix A, adopt, modify, or reject the data contained therein, decide whether to offer those data into evidence, and make clear on the record their positions with respect to those data. I further ask the parties to submit any other evidence and arguments relating to those data.

In particular, the parties should consider the matter of evaluation of significance. The terms "negative study" and "positive study" are used by both parties throughout their briefs. Abbott contends that to be positive, i.e., to raise an inference that cyclamate is unsafe within the meaning of 21 U.S.C. 348, the results of a study must be "statistically significant" the term "statistically significant" does not, however, appear to have been discussed in sufficient detail for me to reach a fully informed decision on this issue.

The term "statistically significant" is generally understood to refer to a conclusion that there is a small probability of an event occurring due to chance alone. In other words, if an event happens frequently enough in a suitable test conducted under controlled circumstances, scientists will conclude that the event is not an accidental or random occurrence, but rather is caused by one or more controlled circumstances. With respect to evidence on the carcinogenicity of cyclamate, studies are examined to determine whether cancer found in cyclamate-treated animals is due to cyclamate or is, instead, a spontaneous event. This procedure involves comparing the incidence of cancer in those animals treated with cyclamate to the incidence of cancer in those animals that are not treated with cyclamate.

A statistical test is employed to determine the probability that incidence of cancer found in the cyclamate-treated group is caused by cyclamate. No matter what the result of the study, one can never be absolutely certain that the results seen are not due solely to chance. The greater the difference between the incidence of cancer in the cyclamate-treated group and the control group, the greater the likelihood that the cancers in the cyclamate group are caused by cyclamate. It is the degree of certainty that should be required before attributing carcinogenic results to cyclamate over which Abbott and the Bureau disagree.

[1] Filed with the Hearing Clerk, Food and Drug Administration, as part of the original document.

Abbott appears to argue that the agency should be at least 95 percent certain, i.e., the probability (P) that the observed results are due to chance alone should be equal to or less than .05. Abbott's "Exceptions to Initial Decision" at 8–9. The Bureau, on the other hand, appears to argue that something less than 95 percent certainty is sufficient to lend support to the conclusion that cyclamate has not been shown to be safe. See, e.g., Bureau's Brief at 15, 19; Friedman Study (A–388).

The use of "statistical significance" in the scientific community has not had the degree of inflexibility that the parties in these proceedings have assumed it has. Although the ".05" confidence level has often been used in the scientific literature to determine whether a result is positive, there is no fixed convention on the matter, and in fact it is more usual for scientists simply to give a result and supply the level of statistical significance, leaving judgments about biological significance to others.

This practice underscores the independence of the two kinds of significance. On the one hand, a result that is highly significant statistically owing to large sample size may lack biological significance if the parameter measured contributes trivially to the total variance. On the other hand, a result that is only at the 90 percent confidence level could have great biological significance. Thus, a conclusion of biological significance may be drawn by collective consideration of several related biological results, each of which may have a different level of statistical significance.

There is always a temptation to adopt the highest possible confidence level, particularly in the scientific community where a very high value is given to the avoidance of a false positive result. Especially high reliance is placed on reports of positive results because they are used to construct new hypotheses and theories and will be incorporated into the body of assumed scientific knowledge. But no particular value of significance constitutes a law of nature; it is a matter of scientific custom, reflecting human value judgments about the purposes of the scientific enterprise. And in some contexts we are especially troubled by the prospect of mistakenly declaring that the results of a study are negative, i.e., of mistakenly concluding that a study demonstrates safety. Such a decision, if incorrect, could result in the widespread in the widespread marketing of a carcinogen. A regulatory agency may therefore have less reason than scientists do to insist on a very high degree of certainty before concluding that a study is positive. Similarly, there may be reason for a regulatory agency to require greater stringency than other scientists require before concluding that a study is negative. I am not now expressing any final view on this matter. Moreover, resolution of this issue may not be necessary to a final decision in this case. It is also possible, however, that resolution of this issue will be important once the record has been completed on remand. I find that this issue has not been sufficiently developed by the parties and, therefore, I seek further comment and evidence elaborating in detail upon each party's position on it.

Another issue that needs further development by the parties concerns the criteria for determining proof of safety. This determination involves an assessment of the quality of a study, which in turn involves two main considerations: the minimum difference that a study can detect between effects on control animals and effects on treated animals, and the frequency with which this difference can be detected. Abbott appears to argue that any study not significant at the ".05" confidence level is negative and should be considered as proof of safety regardless of the sensitivity of the test or the frequency with which the study would detect a specified difference. Abbott's Brief at 21–28. The Bureau appears to argue that any study that will not detect a difference between treatment and control of 1 percent at some unspecified frequency is insufficiently sensitive and should be considered inconclusive. Bureau's Brief at 21. Both positions appear to be extreme. I ask the parties to elaborate on their respective positions and on what they consider to be the criteria for determining that a study is negative.

I further request that the parties examine the minimum detectable difference between cyclamate treatment and control for each carcinogenic effect of interest and the frequency with which this difference can be detected. I ask the parties to comment on whether this difference is sufficient to support a conclusion that the results of the study show to a reasonable certainty that cyclamate is safe. Finally, I ask the parties to clarify their positions on whether negative results in one species or strain are relevant in determining carcinogenicity of a substance in a different species or strain.

B. Other Observations

The following observations were not discussed by the parties but may be important in the evaluation of the studies in question:

(1) Altoff (G–41 at 19): My review of the record relating to this study did not reveal any data. I ask that these data be supplied. Submission of data into evidence is not a condition of admissibility of a report of a study, but does affect the weight that will be given to the report.

(2) Bar (A–131): The only report of this study cited by the parties (A–131) is written in German. There does not appear to be a translation provided. I ask that a translation of the report to this study be supplied.

(3) Carson (A–274 G–4): The results of this study were not reported separately for sex or time of tumer incidence. I invite comments and the submission of evidence on what, if any, effect this reporting procedure should have on interpretation of the results of the study.

(4) Fitzhugh (A–192): My review of the record relating to this study did not reveal any data on tumor incidence or site. I ask that these data be supplied.

(5) Friedman (A–195): There was an increase of overall mortality in this study due to sodium cyclamate and calcium cyclamate. Moreover, in a footnote to Table 3 of the study the authors state "The small number of rats unaccounted for in this table were accidentally killed, used for other experimental procedures, or in a few cases lost." In invite comments and evidence on what, if any, effect these factors should have on the interpretation of the results of this study.

(6) Roe (A–286): It appears that the oldest, and therefore heaviest, mice were included in the control groups (groups 1 and 2) while the lightest and youngest mice were allocated to the test groups (groups 3–8). I invite comments and evidence on what, if any, effect this allocation of animals may have on the reliability of the results of this study.

(7) Rudali (G–43 A–412): It appears that in this study ten times (1 of 20 for control vs. 10 of 20 for cyclamate) as many cyclamate-treated C3H mice as controls died of causes other than cancer before the first turmor was observed (300 days). I invite comments and evidence on what, if any, effect this fact should have on the interpretation of the results of the study with repect to C3H mice.

(8) Schmaehl (A–555): It appears that the results of this study were not reported separately by sex. I invite comments and evidence on what, if any, effect this reporting procedure should have on the interpretation of the results of this study.

(9) Majumdar amd Friedman (G–24): In order to evaluate this study more fully it would be helpful to have some additional details on the mating structure used to conduct the recessive lethal tests, particularly the numbers of parent and F_1 males tested per treatment group. Information concerning the distribution of positive findings per parent and F_1 male, particularly with respect to the 5 percent cyclamate group, would also be helpful.

(10) Stith, et al. (A–305): In order to evaluate this study more fully it would be helpful to have the basic data on the numbers of parent and F_1 males tested, (i.e., the numerator and denominator associated with the reported 5.3 percent mutation rate associated with cyclamate-treated larvae) and some additional details concerning the basis for the reported .075 percent spontaneous mutation rate for the laboratory in which the study was conducted.

Legator, et al (G–9): In order to evaluate this study more fully it would be helpful to have the basic data on the distribution of the number of cells, both spermatogonial and bone marrow, sampled per animal. Information on the distribution of positive findings per animal per dose and the numerators and denominators for the mean percentages reported in the paper for chromosome breakage for spermatogonial and bone marrow cells would also be helpful.

C. Other Matters

On November 29, 1978, the Bureau filed a "Motion to Permit Late Filing of Brief." The Bureau asserts that its "Brief in Respone to Petitioner's Exceptions" was filed late because counsel for the Bureau had not noticed the footnote in the Initial Decision that reduced the time period for filing replies to exceptions to 20 days. On December 21, 1978, Abbott filed a "Motion to Strike Bureau's Brief in Response to Petitioner's Exception." Abbott contends that Bureau's response to their exceptions should be stricken because its was due to be filed on November 20, 1978, but was not filed until November 28, 1978. Abbott further contends that the Commissioner lacks the authority to grant a request for late filing that is filed after the pertinent deadline has passed and that, even if the Commissioner has such authority, the Bureau has not shown good cause for the late filing of its brief.

FDA regulations allow up to thirty days following the filing of exceptions for the filing of replies. 21 CFR 12.125. Although the Bureau's replies were filed within 30 days of the date exceptions were due to be filed, the Administration Law Judge had reduced the time period for filing replies to exceptions to 20 days in a footnote to the Initial Decision. FDA regulations futher provide, however, "[t]he Commissioner may extend the time for filing * * * replies to exceptions for good cause shown." 21 CFR 12.125(d). The regulations is not specifically nor implicitly limited to requests for extensions of time that are filed prior to the expiration of the original deadline for filing replies. Moreover, such an interpretation would not be a reasonable one. I therefore conclude that 21 CFR 12.125(d) permits the consideration of requests for extensions of time, such as the Bureau's that are filed subsequent to the expiration of the original deadline for filing of exceptions or replies. I further conclude that Bureau counsel's failure to notice the footnote in the Initial Decisions that limited the time period for filing replies is excusable neglect. It is the public interest that in a proceeding as important as this one all parties' positions be fully submitted and considered. Accordingly, the Bureau has shown good cause to extend the deadline for filing its replies. The Bureau's motion to permit late filing is granted, and Abbott's motion to strike is denied.

III. Conclusion

I hereby remand this matter to the Administrative Law Judge for the conduct of further proceedings consistent with the remand instructions above. I ask the parties to refrain from rearguing or submitting evidence on points outside the scope of this remand order. I ask the Administrative Law Judge to make every effort and to take whatever steps are necessary to expedite these proceedings.

Dated: June 26, 1979

Donald Kennedy,

Commissioner of Food and Drugs.

[FR Doc. 79–24907 Filed 8–13–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Community Planning and Development

[Docket No. N–79–941]

General Statement of Policy: Implementation of Executive Orders 11988 and 11990

AGENCY: Department of Housing and Urban Development/Assistant Secretary for Community Planning and Development.

ACTION: General Statement of Policy: Implementation of Executive Orders 11988 and 11990.

SUMMARY: The Secretary gives notice that HUD is implementing on a case-by-case basis the requirements of Executive Orders 11988 and 11990, governing the administration of Federal and Federal-assisted programs in Floodplain and Wetland areas.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Prybyla, Office of Environmental Quality, (202) 755–3409.

SUPPLEMENTARY INFORMATION: On May 24, 1977, the President issued Executive Orders 11988 and 11990 relating respectively to Floodplain Management and Protection of Wetlands. These Orders are not self-implementing; they require that each agency take regulatory measures to effect compliance, and, with respect to Executive Order 11988 the Agency must do so within one year. HUD has presently in effect various procedures governing environmental protection under its programs, and these procedures bear upon HUD assistance in Floodplain and Wetlands areas. In addition, HUD will soon be instituting a rulemaking proceeding that will propose for public comment specific regulations to implement Executive Orders 11988 and 11990.

Pending the adoption of these regulations, it is HUD policy that its Minimum Property Standards, environmental review procedures, Handbooks on land planning principles and the Secretary's Order No. 25 (1967) serve as a basis for implementing Executive Orders 11988 and 11990. These issuances are available in HUD Regional and Area Offices.

However, the Executive Orders call for procedural requirements for public notice which go beyond HUD's present requirements. Accordingly, HUD will implement the Executive Orders on a case-by-case basis. Primary responsibility rests with HUD program staff for the respective programs and field units, and these officials will, to the fullest degree possible, comply with the procedural requirements of Executive Orders 11988 and 11990 for all project and subdivision proposals or applications. To the extent that existing subdivision and project standards, procedures, instructions, handbooks or regulations are inconsistent with these Executive Orders, the terms of the Executive Orders control. Since Executive Orders 11988 and 11990 have been effective since October 1, 1977 and

May 24, 1978, respectively, to the extent that any HUD official continues to have authority to withhold approval of any project or application, compliance with the provisions of the Executive Orders shall be accomplished. Requests to determine whether or not a HUD official has authority to withhold approval for a specific program should be directed to the field office having jurisdiction.

This statement is issued pursuant to authority of Executive Orders 11988 and 11990, and 24 C.F.R. 10.6.

Issued at Washington, D.C., August 2, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79-24375 Filed 8-13-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

District Advisory Councils; Call for Nominations

The Bureau of Land Management of the U.S. Department of the Interior intends to form District Advisory Councils in each of the Bureau's administrative districts in the Western States.

This action is in accordance with the Federal Land Policy and Management Act of 1976, as amended, and the Federal Advisory Committee Act.

The purpose of this notice is to call for nominations from the public for membership on the respective District Advisory Councils.

Each Council will be comprised of 10 members. To provide a total membership that is balanced in terms of points of view represented and functions to be performed, there shall be one or more representatives for each of the following categories of interest:

Renewable Resources (Livestock, Forestry, Agriculture)
Non-Renewable Resources (Mining, Oil and Gas, Extractive Industries)
Elected General Purpose Government
Recreation
Environmental Preservation
Transportation/Rights-of-Way
Wildlife
Public-At-Large

Term of service will be two years. At the discretion of the Secretary or his designee, members may be appointed to additional terms not to exceed a total of six years. All Council members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

Each Council normally will meet four times annually, but in no case less than once. Additional meetings may be called by the District Manager or his designee in connection with special needs for advice.

Persons wishing to nominate individuals to serve on a District Advisory Council should send the nominee's name, address, profession and other biographic data to the appropriate District Manager of the Bureau of Land Management. All nominations should be received no later than October 5, 1979. The mailing address of each Bureau District Manager is as follows:

Alaska

Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507.
Fairbanks District Office, N. Post of Fort Wainwright, P.O. Box 1150, Fairbanks, Alaska 99707.

Arizona

Arizona Strip District Office, 196 E. Tabernacle, P. O. Box 250, St. George, Utah 84770.
Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017.
Safford District Office, 1707 W. Thatcher Boulevard, Safford, Arizona 85546.
Yuma District Office, 2450 Fourth Avenue, P.O. Box 5680, Yuma, Arizona 85364.

California

Bakersfield District Office, U.S. Federal Bldg., Room 311 800 Truxtun Avenue, Bakersfield, California 93301.
Folsom District Office, 63 Natoma Street, Folsom, California 95630.
Redding District Office, 2460 Athens Avenue, Redding, California 96001.
Riverside District Office, 1695 Spruce Street, Riverside, California 92507.
Susanville District Office, 705 Hall Street, P.O. Box 1090, Susanville, California 96130.
Ukiah District Office, P. O. Box 940, 555 Leslie Street, Ukiah, California 95482.

Colorado

Canon City District Office, 3080 East Main Street, Canon City, Colorado 81212.
Craig District Office, P.O. Box 248, 455 Emerson Street, Craig, Colorado, 81625.
Grand Junction District Office, 764 Horizon Dr., Grand Junction, Colorado 81502.
Montrose District Office, Highway 550 South, P.O. Box 1269, Montrose, Colorado 81401.

Idaho

Boise District Office, 230 Collins Road, Boise, Idaho 83702.
Burley District Office, Route 3, Box 1, Burley, Idaho 83318.
Coeur d'Alene District Office, 1808 North Third Street, Coeur d'Alene, Idaho 83814.
Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401.
Salmon District Office, P.O. Box 430, Salmon, Idaho 83467.
Shoshone District Office, 400 West F Street, P.O. Box 2B, Shoshone, Idaho 83352.

Montana

Butte District Office, 220 North Alaska, P.O. Box 308, Butte, Montana 59701.
Miles City District Office, West of Miles City, P.O. Box 940, Miles City, Montana 59301.
Dickinson District Office, Pulver Hall, P.O. Box 1229, Dickinson, North Dakota 58601.
Lewistown District Office, Bank Electric Building, Drawer 1160, Lewistown, Montana 59457.

Nevada

Battle Mountain District Office, P.O. Box 194, Battle Mountain, Nevada 89820.
Carson City District Office, 1050 East Williams Street, Carson City, Nevada 89701.
Elko District Office, 2002 Idaho Street, Elko, Nevada 89801.
Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301.
Las Vegas District Office, P.O. Box 5400, 4765 Vegas Drive, Las Vegas, Nevada 89102.
Winnemucca District Office, 705 East 4th Street, Winnemucca, Nevada 89445.

New Mexico

Albuquerque District Office, 3550 Pan American Freeway, NE., P.O. Box 6770, Albuquerque, New Mexico 87107.
Las Cruces District Office, 1705 N. Valley Drive, P.O. Box 1420, Las Cruces, New Mexico 88001.
Roswell District Office, 1717 West Second Street, Featherstone Farms Building, P.O. Box 1397, Roswell, New Mexico 88201.
Socorro District Office, P.O. Box 1217, Socorro, New Mexico 87801.

Oregon

Baker District Office, Federal Building, P.O. Box 987, Baker, Oregon 97814.
Burns District Office, 74 S. Alvord Street, Burns, Oregon 97814.
Coos Bay District Office, 333 South 4th Street, Coos Bay, Oregon 97420.
Eugene District Office, 1255 Pearl Street, P.O. Box 10226, Eugene, Oregon 97401.
Lakeview District Office, 357 North L Street, P.O. Box 151, Lakeview, Oregon 97630.
Medford District Office, 310 West 6th Street, Medford, Oregon 97501.
Prineville District Office, 185 East 4th Street, P.O. Box 350, Prineville, Oregon 97754.
Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, Oregon, 97470.
Salem District Office, 3550 Liberty Road South, P.O. Box 3227, Salem, Oregon 97302.
Spokane District Office, West 920 Riverside, Spokane, Washington 99201.
Vale District Office, 365 A Street West, P.O. Box 700, Vale, Oregon 97918.

Utah

Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119.
Cedar City District Office, 1579 N. Main Street, P.O. Box 729, Cedar City, Utah 84720.
Richfield District Office, 150 E. 900 N., P.O. Box 768, Richfield, Utah 84701.
Moab District Office, P.O. Box 970, Moab, Utah 84532.

Vernal District Office, P.O. Box F, Vernal, Utah 84078.

Wyoming

Casper District Office, 951 Union Boulevard, Casper, Wyoming 82601.
Rawlins District Office, P.O. Box 670, 1300 3rd Street, Rawlins, Wyoming 82301.
Rock Springs District Office, P.O. Box 1869, Highway 187 North, Rock Springs, Wyoming 82901.
Worland District Office, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyoming 82401.

Further information may be obtained from the respective District Managers.

Dated: June 21, 1979.

Frank Gregg,

Director.

[FR Doc. 79-25030 Filed 8-13-79; 8:45 am]

BILLING CODE 4310-84-M

Susanville District Grazing Advisory Board; Meeting

August 6, 1979.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Susanville District Grazing Advisory Board will be held on September 12, 1979.

The meeting will begin at 9:00 a.m. in the conference room of the Bureau of Land Management Office at 705 Hall St., Susanville, California.

The agenda for the meeting will include: (1) Approval of minutes from previous meeting; (2) Surprise/Warner Stewardship Program; (3) Tuledad/Home Camp AMP implementation; (4) Cowhead/Massacre ES as it relates to AMP's; (5) Cal-Neva inventory as it relates to AMP's; (6) Willow Creek inventory as it relates to AMP's; (7) Pit River inventory as it relates to AMP's; (8) Wild Horse Program as it relates to AMP's; (9) Wilderness as it relates to AMP's; (10) 1979 Fiscal Year Range Improvement Project Accomplishments; (11) 1980 Fiscal Year Range Improvement Project Schedule; (12) Advisory Board Funds; (13) Scheduling for next meeting and agenda topics.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. or file a written statement for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, California 96130, by September 5, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 79-25023 Filed 8-13-79; 8:45 am]

BILLING CODE 4310-84-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before August 3, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by August 24, 1979.

Charles A. Herrington,

Acting Keeper of the National Register.

ALABAMA

Dallas County

Selma, *First Colored Baptist Church,* 709 Martin Luther King, Jr. St.
Selma vicinity, *Riverdale,* NE of Selma on River Rd.

Montgomery County

Montgomery, *Stay House,* 631 S. Hull St.

CALIFORNIA

Los Angeles County

Pasadena, *House at 530 South Marengo Avenue,* 530 S. Marengo Ave.

Mendocino County

Ukiah, *Palace Hotel,* 272 N. State St.

Sacramento County

Hood vicinity, *Rosebud Ranch,* 1.5 mi. N of Hood.

San Diego County

San Diego, *Grant, U.S., Hotel,* 326 Broadway St.

San Francisco County

San Francisco, *Fleishhacker, Delia, Memorial Building,* San Francisco Zoological Gardens.
San Francisco, *Lewis Ark,* Hyde Street Pier
San Francisco, *Tubbs Cordage Company Office Building,* Hyde Street Pier.

Solano County

Benicia, *Carr House,* 165 E. D St.

COLORADO

Chaffee County

Buena Vista, *Chaffee County Courthouse and Jail Buildings,* 501 E. Main St.

El Paso County

Colorado Springs, *Atchison, Topeka and Santa Fe Passenger Depot,* 555 E. Pikes Peak Ave.

DELAWARE

Sussex County

Frankford, *Chandler, Capt. Ebe, House,* Main and Reed Sts.

GEORGIA

Clarke County

Athens, *Athens Factory,* Baldwin and Williams Sts.

DeKalb County

Atlanta vicinity, *Druid Hills Historic District,* U.S. 29/78.

Hall County

Gainesville vicinity, *Tanner's Mill,* S of Gainesville on SR 3.

Sumter County

Americus, *Americus Historic District,* irregular pattern along Lee St. with extensions to Dudley St., RR tracks, Reese Park, Oak Grove Cemetery and Glessner St. (boundary increase).

HAWAII

Kauai County

Hanalei, *Hanalei Pier,* Hanalei Bay.

KENTUCKY

Jefferson County

Louisville, *House of Weller,* 121 W. Main St.

MARYLAND

Prince Georges County

Laurel, *Avondale Mill,* 21 Avondale St.

Worcester County

Snow Hill vicinity, *Nun's Green,* S of Snow Hill on Cherrix Rd.

MASSACHUSETTS

Bristol County

New Bedford, *North Bedford Historic District,* roughly bounded by Summer, Park, Pleasant and Kempton Sts.

Essex County

Lynn, *High Rock Tower, High Rock Cottage and Daisy Cottage,* High Rock Park and environs.

Suffolk County

Boston, *International Trust Company Building,* 39-47 Milk St.

Worcester County

Lancaster, *Atherton Bridge,* Bolton Rd.
Lancaster vicinity, *Ponakin Bridge,* N of Lancaster on Ponakin Rd.

MISSISSIPPI

Adams County

Natchez, *Natchez On-Top-of-the-Hill Historic District*, U.S. 6., U.S. 84 and U.S. 98.

MONTANA

Custer County

Miles City, *Huffman, L.A., and Gilman, Edward R., Building*, 717–719½ Main St.

Yellowstone County

Billings, *Yegen, Christian, House*, 208 S. 35th St.

Billings, *Yegen, Peter, House*, 209 S. 35th St.

NEW YORK

MOVIE PALACES OF THE TRI-CITIES THEMATIC RESOURCES. Reference—see individual listings under Albany, Rensselaer, and Schenectady counties.

Albany County

Albany, *Albany Civic Auditorium (Palace Theatre) (Movie Palaces of the Tri-Cities Thematic Resources)* 19 Clinton Ave.

Loudonville, New York State Route 9, Town of Colonie Multiple Resource Area (Partial Inventory). This area includes: *Loudon Road Historic District*, U.S. 9; *Bryan's Store*, 435 Loudon *Gorham House*, 347 Loudon Rd.; *Hughson Mansion* 374 Loudon Rd.; *Moore, D. D. T., Farmhouse*, 352 Loudon Rd.; *Springwood Manor*, 498 Loudon Rd.; *Wheeler House*, 485 Loudon Rd.; *Whitney Mansion*, 489 Loudon Rd.

Niagara County

Niagara Falls, *Holley-Rankine House*, 525 Riverside Dr.

Rensselaer County

Troy, *Proctor's Theatre (Movie Palaces of the Tri-Cities Thematic Resources)* 82 4th St.

Schenectady County

Schenectady, *Proctor's Theatre and Arcade (Movie Palaces of the Tri-Cities Thematic Resources)* 432 State St.

OKLAHOMA

Atoka County

Atoka, *Indian Citizen Building*, 115 N. Ohio Ave.

Atoka, *Old Atoka County Courthouse*, Pennsylvania and Court Sts.

Daisy vicinity, *Billy, Isaac, Homestead*, NE of Daisy.

Canadian County

El Reno vicinity, *Mennoville Mennonite Church*, N of El Reno on U.S. 81.

Choctaw County

Hugo, *Hugo Frisco Railroad Depot*, N. A and Jackson Sts.

Hugo vicinity, *Rose Hill Plantation Site*, SE of Hugo.

Soper vicinity, *Spencer Academy Site*, SE of Soper.

Creek County

Bristow, *Bristow Presbyterian Church*, 6th and Elm Sts.

Garvin County

Wynnewood, *Eskridge Hotel*, 114 E. Robert S. Kerr St.

Kay County

Kaw City vicinity, *Kaw City Depot*, W of Kaw City on Washungah Dr.

Le Flore County

Muse vicinity, *Pine Valley Company Town and Lumber Mill*, S of Muse.

Logan County

Langston and vicinity, *Langston University*, OK 33.

McCurtain County

Garvin, *Garvin Rock Church*, Love and Williams Sts.

Noble County

Morrison vicinity, *Morrison Suspension Bridge*, E of Morrison off U.S. 64.

Oklahoma County

Oklahoma City, *Bourne Dairy*, 5801 Eastern St.

Oklahoma City, *Magnolia Petroleum Building*, 722 N. Broadway St.

Ottawa County

Miami vicinity, *Modoc Mission Church and Cemetery*, SE of Miami.

Payne County

Cushing, *Anthony, C. R., Store*, 118 E. Broadway St.

Pittsburg County

Adamson, *Adamson Coal Mine No. 1*.

Canadian, *Canadian Jail and Livery Stable*, off OK 113.

Indianola, *Choate Cabin*, 2nd and Walnut Sts.

Krebs, *Hokey's Drugstore*, Main and Washington Sts.

Krebs, *Pete's Place*, 8th and Monroe Sts.

Krebs, *St. Joseph's Catholic Church*, off OK 31.

McAlester, *Busby Office Building*, 113 E. Carl Albert Pkwy.

McAlester, *Busby Theatre*, Washington Ave. and 2nd St.

McAlester, *McAlester DX*, 5th St. and Carl Albert Pkwy.

McAlester, *Southern Ice and Cold Storage Company*, 338 E. Choctaw Ave.

Pushmataha County

Antlers, *Arnote House*, 202 SW. G St.

Antlers, *Nash, Dr. J. H., House*, 420 W. Main St.

Antlers, *Old Nelson Chapel Site*, off OK 3½.

Antlers vicinity, *Kosoma General Store*, N of Antlers on OK 144.

Roger Mills County

Hammon, *Dorroh-Trent House*, 11th and Conley Sts.

PENNSYLVANIA

Delaware County

Clifton Heights, *Lower Swedish Cabin*, Creek Rd.

RHODE ISLAND

Providence County

Providence, *Dexter, Jeremiah, House*, 957 N. Main St. (boundary increase).

SOUTH DAKOTA

Clay County

Vermillion, *Forest Avenue Historic District*, Forest Ave. and Lewis Sts.

TENNESSEE

Knox County

Knoxville, *Holston National Bank*, 531 S. Gay St.

Moore County

Lynchburg, *Moore County Courthouse and Jail*, Court Sq.

TEXAS

Brazoria County

Jones Creek vicinity, *Durazno Plantation*, S of Jones Creek off TX 36.

Coryell County

Copperas Cove vicinity, *Copperas Cove Stagestop and Post Office*, 1.6 mi. SW of Coppears Cove off U.S. 190.

Jackson County

Edna, *Texana Presbyterian Church*, Apollo Dr. and County Club Lane.

Palo Pinto County

Palo Pinto, *Palo Pinto County Jail*, Elm St. and 5th Ave.

Victoria County

Victoria, *Callender House*, 404 W. Guadelupe St.

WASHINGTON

Clark County

Heisson, *Heisen, Henry, House*, 27904 NE. 174th Ave.

Ridgefield, *Shobert, William Henry, House*, 621 Shobert Lane.

Ridgefield vicinity, *Arndt Prune Dryer*, SE of Ridgefield at 2109 NW. 219th St.

King County

Seattle, *Summit School*, E. Union St. and Summit Ave.

Stevens County

Northport, *Northport School*, South and 7th Sts.

WISCONSIN

Ashland County

Mellen, *Mellen City Hall*, Bennett and Main Sts.

[FR Doc. 79-24586 Filed 8-13-79; 8:45 am]

BILLING CODE 4310-03-M

Office of the Secretary

[516 DM 1-6]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised procedures for the Bureau of Reclamation.

SUMMARY: This notice proposes a Bureau appendix to the Department's NEPA procedures for the Bureau of Reclamation. The proposed Departmental procedures were published in the Federal Register on July 10, 1979 (44 FR 40436).

DATE: Comments due September 10, 1979.

ADDRESS: Comments to: Larry E. Meierotto, Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-3891. For Bureau of Reclamation, contact Al Jonez, Telephone (202) 343-4991.

SUPPLEMENTARY INFORMATION: This proposed appendix to the Departmental Manual (516 DM 6) provides more specific NEPA compliance gudiance to the Bureau of Reclamation (Appendix 9). In particular it provides information about Bureau organizational responsibilities for NEPA compliance, advice to applicants, actions normally requiring the preparation of an environmental statement, and categorical exclusions. The appendix should be taken in conjunction with the proposed Departmental procedures (516 DM 1-6) which were published in the Federal Register on July 10, 1979 (44 FR 40436). In addition, the bureau will prepare a handbook(s) or other technical guidance on how to apply these procedures to its principal programs.

Other bureau appendices will be published as notices during the next few weeks for 30-day public comment.

Comments on this proposed appendix (516 DM 6, Appendix 9) are invited. To be considered in the preparation of the final appendix, comments must be received by September 10, 1979.

Dated: August 10, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

Bureau of Reclamation

9.1 *NEPA Responsibility and Contacts*

A. *Responsibility*

(1) *Commissioner* is responsible for NEPA compliance for Bureau of Reclamation activities (516 DM 1.3D, 516 DM6.3.A).

(2) *Assistant Commissioners* (a) Are responsible to the Commissioner for supervising and coordinating NEPA activities in their assigned areas of responsibility.

(b) Are responsible, in assigned area of responsibility for the Washington level review of EISs prepared in the regions or E&R Center for adequacy and compliance with program area policy guidance.

(c) Provides supervision and coordination in assigned areas of responsibility, to insure that environmental concerns are identified in the planning stages and to see that Regional Directors follow through with environmental commitments outlined in the environmental commitment checklist during the construction and operation and maintenance stages.

(3) *Regional Directors* (a) Are fully responsible to the Commissioner for integrating the NEPA process into all regional activities and for the NEPA compliance activities in their regional area.

(b) Will designate a staff position to be responsible to the Regional Director for providing information, guidance, training, advice, consistency, quality, adequacy, oversight and coordination on NEPA documents or matters.

(4) *Divisions and Office Chiefs in E&R Center* (a) Are responsible for integrating NEPA process into their activities.

(b) Will designate a staff position to be responsible to the division or office chief for providing guidance, advice, consistency, quality, adequacy, oversight, and coordination on NEPA documents or matters.

(5) *Director, Office of Environmental Affairs* is the position designated by the Commissioner to be responsible for overall policy review of Bureau of Reclamation NEPA compliance as required by section 1507.2 of the CEQ Regulations and DM 501.6.2 of the Department of the Interior Manual Instructions.

B. *NEPA Contacts*

Information needed by the public about the status of an EIS or other element of the NEPA process can be obtained by contacting the Director, Office of Environmental Affairs, Room 7624, Bureau of Reclamation, 18th and C Streets, NW., Washington, D.C. 20240, telephone number 202-343-4991 or, the Regional Environmental Affairs Officer can be contacted in one of the regional offices listed below:

Region	Address	Telephone, FTS/commercial
Pacific Northwest	Federal Building, U.S. Court House, 550 West Fort Street, P.O. Box 043, Boise, ID 83724.	8-554-1207, (208) 384-1207
Mid-Pacific	2800 Cottage Way, Sacramento, CA 94825	8-468-4792, (916) 484-4792
Lower Colorado	P.O. Box 427, Nevada Highway and Park Street, Boulder City, NV 89005.	8-598-7560, (702) 293-8560
Upper Colorado	P.O. Box 11568, 125 South State Street, Salt Lake City, UT 84147.	8-588-5580, (801) 524-5580
Southwest	P.O. Box 1690, Herring Plaza, 317 East Third Street, Amarillo, TX 79105.	8-734-2404, (806) 376-2404
Upper Missouri	P.O. Box 2553, Federal Office Building, 316 North 26th Street, Billings, MT 59103.	8-585-6558, (406) 657-6558
Lower Missouri	Building 20, Denver Federal Center, Denver, CO 80225	8-234-3779, (303) 234-3779

9.2 *Guidance to Applicants.*

A. *Types of Applicants:* (1) Actions that are initiated by private or non-Federal entities through applications, include the following: repayment contracts, water service contracts, Small Reclamation Projects Loans, Emergency Loans, Rehabilitation and Betterment Loans, Distribution System Loans, land use permits, licenses, easements, crossing agreements, permits for removal of sand and gravel, renewal of grazing, recreation management, or cabin site leases.

(2) Applicants will be provided information by the regional office on what environmental reports, analysis, or information is needed when they initiate their application. The environmental information requested may, of necessity, be related to impacts on private lands or other lands not under the jurisdiction of the Bureau to allow the Bureau of Reclamation to meet its environmental responsibility.

B. *Prepared Program Guidance for Applicants:* (a) Loans under the Small Reclamation Projects Act of 1956. U.S. Dept. of the Interior, Bureau of Reclamation, March 1976 (35 pages).

(b) Guidelines for Preparing Applications for Loans and Grants Under the Small Reclamation Projects Act—Public Law 84-984. U.S. Dept. of the Interior, Bureau of Reclamation, December 1973 (121 pages).

(c) The Rehabilitation and Betterment Program. U.S. Department of the Interior, Bureau of Reclamation, September 1978 (14 pages).

(d) Guidelines for Preparation of Reports to Support Proposed Rehabilitation and Betterment Programs. U.S. Department of the Interior, Bureau of Reclamation, September 1978, (8 pages).

9.3 *Major Decision Points Normally Requiring an EIS*

Approval of the following major Bureau of Reclamation actions may ultimately cause

significant impacts, therefore, and EIS will normally be prepared. An environmental assessment will be prepared on any action in this listing where the EIS is not thought necessary.

(a) Feasibility Reports on water resource projects.

(b) Definite Plan Reports (DPR) on water resource projects if not covered by an EIS at feasibility report stage or if there have been major changes in the project plan which obviously will cause significantly different or additional new impacts.

(c) Other Bureau of Reclamation reports or plans that recommend a major Federal action.

(d) Repayment contracts and water-service contracts or amendments thereof or supplements thereto, for irrigation, municipal, domestic, or industrial water where NEPA compliance has not already been accomplished.

(e) Proposed modifications to existing projects or proposed changes in the programed operation of an existing project that cause a significant new impact.

(f) Initiation of construction of a project or major unit thereof, if not already covered by an EIS.

(g) Major research projects where there are obvious significant impacts which may result from experimentation or other such research activities.

9.4 *Categorical Exclusions*

In addition to the actions listed in the Departmental Categorical Exclusions outlined in Appendix 1 of 516 DM 2, many of whch the Bureau also performs, the following Bureau of Reclamation actions are designated categorical exclusions when they meet the provisions of 516 DM 2.3A:

A. Renewal of existing grazing, recreation management, or cabin site leases.

B. Permits, licenses, easements, and crossing agreements which provide right-of-way crossings over Reclamation lands where the action does not involve other Federal agencies' lands.

C. Disposal or sale of withdrawn or acquired lands where no change in usage is anticipated.

D. Routine planning investigation activities such as land classification survey, topographic surveys, archeological surveys, wildlife studies, economic studies, social studies, and other study activities.

E. Improved appearance and soil and moisture conservation programs.

F. Transfer of the operation and maintenance activities of Federal facilities to water districts, recreation agencies, fish and wildlife agencies, or other entities where the anticipated operation and maintenance activities are agreed to in a contract, follow approved Bureau of Reclamation policy, and no major change in operations or maintenance is anticipated.

G. Temporary or interim water service contracts where the intended use will provide a temporary water supply or interim water supply for entities.

H. Permits for removal of gravel or sand by an established process from existing quarries.

I. Programs of demonstration, education, and technical assistance to water user organizations for improvement of project and on farm irrigation water use and management.

J. Regulations or policy directives where the impacts are obviously limited to economic and/or social effects.

K. Minor construction or rehabilitation activities.

L. Appraisal, status, special, or concluding reports, if they do not contain recommendations for action, but may or may not recommend further study.

M. Research activities, such as data collection and analysis, monitoring, modeling, laboratory testing, field studies calibration, and testing of instruments or procedures and analytical studies.

N. Changes in pumping power and water rates charged irrigation districts by the Bureau of Reclamation for project resources.

O. Land certification.

P. Training of enrollees assigned to the various youth programs. Such training may include construction activities for other entities.

[FR Doc. 79-25094 Filed 8-13-79; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF JUSTICE

United States and State of New Hampshire v. Brown Co.; Consent Judgment in Clean Air Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States and State of New Hampshire v. Brown Company* has been lodged with the United States District Court for the District of New Hampshire. The decree requires that Brown undertake modifications to its Berlin, New Hampshire pulp and paper manufacturing facility that will reduce air pollutant emissions. Brown has also agreed to pay a civil penalty and make other payments totalling sixty-six thousand and six hundred dollars.

The Department of Justice will receive on or before September 13, 1979, written comments relating to the proposed consent judgment. Comments should be addressed to the Assistant Attorney General, Department of Justice, Washington, D.C. 20530, and should refer to *United States, et al.* v. *Brown Company*, D.J. Ref. 90-5-2-1-239.

The consent decree may be examined at the office of the United States Attorney, United States Post Office and Courthouse, Pleasant Street, Concord, New Hampshire, 03301, at the United States Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, and at Room 2625, Pollution Control Section, Land and Natural Resources Division, Department of Justice, 9th and Pennsylvania Avenue NW. Washington, D.C. 20530. A copy of the proposed judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Anthony C. Liotta,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 79-25024 Filed 8-13-79; 8:45 am]

BILLING CODE 4410-01-M

Law Enforcement Assistance Administration National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice of Public Hearings by the National Minority Advisory Council on Criminal Justice (NMACCJ), LEAA.

The National Minority Advisory Council will hold public hearings on August 31 and September 1, 1979. The hearings will be held at the Social Security Building, 2001—12th Avenue, N.W., Birmingham, Alabama. The hearings are scheduled to run from 9:00 a.m.–5:00 p.m. on the 31st of August and 9:00 a.m.–5:00 p.m. on the 1st of September. These hearings will focus on the resurgence of collective violence and harrassment as they impact on the minority community with a view toward the development of appropriate recommendations and responses that will assist criminal justice agencies as they attempt to deal with these problems. The hearings are open to the public.

Anyone wishing additional information should contact Ms. Peggy Triplett, Project Monitor, 633 Indiana Ave., N.W., Washington, D.C. 20531. Telephone number (202) 724-5937.

Peggy E. Triplett,

Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 79-25025 filed 8-13-79; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-5282 and 5283]

Bethlehem Steel Corp., Baltimore Yards (Key Highway and Fort McHenry Yards) Baltimore, Md.; Negative Determination Regarding Application for Reconsideration

By an application dated July 4, 1979, the petitioning union 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 repairing ships at the Key Highway and Fort McHenry Yards of the Baltimore Yards of the Bethlehem Steel Corporation in Baltimore, Maryland. The determination was published in the Federal Register on June 29, 1979 (44 FR 38011).

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

In applying for reconsideration, the petitioners claim that since the Department certified the workers of the Sparrows Point Shipyard (TA–W–4747), workers engaged in the repair and maintenance of ships at the Key Highway and Fort McHenry Yards must also be certified. The argument, in essence, is based on an identity of interests and functions among the two worker groups. The critical difference, however, is that in the case of the Sparrows Point Shipyard, the Department determined that the functions performed by the workers constituted the production of an "article" within the meaning of Section 222(3) of the Trade Act of 1974. In this case, the investigation has revealed that the nature of the repair services performed by the workers do not constitute production of an article.

Because workers at the Key Highway and Fort McHenry Yards do not produce an article within the meaning of Section 222(3) of the Trade Act, they may be certified only if their separation from employment was importantly caused by a reduced demand for their services from their parent firm (Bethlehem Steel Corporation), a subdivision thereof, or another firm related to the yards by ownership or control. In addition, the reduction in demand for repair and maintenance services must be found to have originated at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly relate to the product adversely impacted by imports.

Upon further inquiry, the Department has found that the services provided by the Key Highway and Fort McHenry Yards are the cleaning, scraping, and painting of hulls, refurbishing of living quarters, installing new armament on U.S. Navy vessels, installing new motors and props, and repairing hull damage above and below the water line. Of the total services performed at the yards in 1978, only a small percentage was provided to Bethlehem Steel, over one-third was provided to the U.S. Government, and the remainder was performed for a variety of customers, none of which were related to the yards by ownership or control.

Since there is no identity or ownership or control between the repair yards and any of their cusomers, other than Bethlehem Steel, and since the reduction in demand for the services of the yards was unrelated to the production of ships at Sparrows Point or the production of an article at any other subdivision of Bethlehem Steel, the workers at the Key Highway and Fort McHenry repair and maintenance yards cannot be certified as eligible to apply for worker adjustment assistance. It is not relevant within the context of the adjustment assistance program that workers laid off from the repair yards might have lost employment opportunities at the shipyard because the shipyard was adversely impacted by imports. Any adverse effect on the repair yard workers by foreign shipbuilding is not directly related to the repair and maintenance services performed, and service workers, *per se*, cannot be certified.

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 6th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-24839 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5632]

BFJ Sales Co., Inc., Sanford, Fla.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979 in response to a worker petition received on June 18, 1979 which was filed on behalf of workers and former workers acting as wholesale distributors of electronic equipment at BFJ Sales Company, Sanford, Florida.

BFJ Sales Company, Incorporated was engaged in providing the service of distributing CB radios and accessories. Thus, workers of BFJ Sales Company, Incorporated did not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to BFJ Sales Company, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

BFJ Sales Company and its suppliers had no controlling interest in one another. The subject firm was not corporately affiliated with any other company.

All workers engaged in distributing CB radios and accessories at BFJ Sales Company, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by BFJ Sales. All employee benefits are provided and maintained by BFJ Sales. Workers are not, at any time, under employment or supervision by suppliers or customers of BFJ Sales. Thus, BFJ Sales Company, Incorporated, and not any of its customers, must be considered to be the "workers' firm."

Conclusion

After careful review, I determine that all workers of BFJ Sales Company, Incorporated, Sanford, Florida 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 2nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24841 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5087]

Buffalo Mining Co. Lorado, W. Va.; Negative Determination Regarding Application for Reconsideration

By an application dated June 28, 1979, the United Mine Workers of America (UMWA) 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 mining coal at the Buffalo Mining Company, Lorado, West Virginia. The determination was published in the **Federal Register** on June 1, 1979 (44 FR 31739).

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 union claims that the Department erred by indicating in its denial notice that decreases in sales or production at Buffalo Mining Company were the result of the UMWA strike. The union asks how could layoffs occuring in November 1978 and March 1979 been caused by a contract strike that ended in March 1978.

The Department's review revealed that workers at Buffalo Mining were denied certification because production Buffalo Mining increased during the April through November period of 1978 compared to the same period in 1977 and in the first quarter of 1979 compared to the fourth quarter of 1978. These periods discount the period of the strike which lasted from December 6, 1977, through March 27, 1978, when all mining was halted. Sales are equal to production.

The Department's further review revealed that virtually all of Buffalo Mining's production at Lorado, West Virginia, was metallurgical coal and the major share of this was for the export market. Consequently, increased imports of metallurgical coal or coke could not have contributed importantly to decreased sales and production at Buffalo Mining. The only other product mined at Buffalo Mining was steam coal; however, U.S. imports of steam coal are negligible.

The Department does not agree with the union's claim that the Department made an error. The original denial notice indicated that the only decreases in sales or production at Buffalo Mining were the result of the UMWA strike. The notice did not attribute all layoffs to the strike. According to company officials at the Pittston Coal Company which owns and markets all of Buffalo Mining's coal, the recent layoffs in November 1978 and in March 1979 were the result of declining sales in the export market mainly in Japan and Europe.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation ofthe law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 2nd day of August 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-24840 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5477]

Chrysler Corp., Missouri Truck Assembly Plant, Fenton, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 29, 1979 in response to a worker petition received on May 22, 1979 which was filed by the United Automobile Workers Union on behalf of workers and former workers producing vans and wagons at Chrysler Corporation's Missouri Truck Assembly Plant, Fenton, Missouri. In the following determination, 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 only significant decline in employment at Chrysler's Missouri Truck Assembly Plant occurred in the second quarter of 1979 as a result of a sharp drop in company sales of vans and wagons due to the rising price of gasoline and uncertainty regarding its availability.

Chrysler's imports of vans and wagons from Canada decreased in the first half of 1979 compared to the first half of 1978. Most of the decrease occurred in the second quarter when Chrysler's Canadian production was also being cut back in response to the decrease in van and wagon sales. Imports of vans and wagons from Canada by other American automobile manufacturers have remained relatively stable in proportion to the total van and wagon market. There is no evidence of a significant shift of van and wagon production to Canadian plants by any of the Big Three automobile manufacturers. Imports of wagons from abroad have remained constant.

Because vans and wagons get relatively poor gas mileage, domestic sales of these vehicles decreased sharply in the second quarter of 1979 in response to rapidly increasing gasoline prices and uncertainty regarding the future availability of fuel. The collapse of the domestic van and wagon market in the second quarter of 1979 was the dominant cause of cutbacks in production and employment at the Missouri Truck Assembly Plant.

Conclusion

After careful review, I determine that all workers of Chrysler Corporation's Missouri Truck Assembly Plant, Fenton, Missouri 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 2nd day of August 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-24842 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5663]

Chrysler Corp. Lyons Trim Plant, Lyons, Mich.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 27, 1979 in response to a worker petition received on May 31, 1979 which was filed on behalf of workers formerly producing interior trim for Chrysler automobiles at Chrysler Corporation's Lyons Trim Plant, Lyons, Michigan. The investigation revealed that the plant produced seat cushion and back covers, door and quarter trim panels, and vinyl roofs. With respect to workers producing vinyl roofs, 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.

Since Model Year 1975, the Lyons Trim Plant has supplied all of Chrysler's vinyl roof production. With the recent closing of the Lyons Trim Plant in July, 1979, in Model Year 1980 all vinyl roof production will be supplied from Chrysler's Detroit Trim Plant. No vinyl roofs have been or will be imported by Chrysler for use in the domestic production of Chrysler automobiles.

With respect to workers producing seat cushion and back covers, and door and quarter trim panels, all of the requirements have been met.

With the recent closing of the Lyons Trim Plant in July, 1979, all of the Lyons Plant's door and quarter trim panel production has been moved to Chrysler's Canadian trim plant. A substantial portion of the Lyons plant's seat cushion and back cover production has also been moved to Chrysler's Canadian trim plant. Chrysler is increasing its imports of these products for use in the domestic production of Chrysler automobiles. These imports are replacing the production of seat cushion and back covers and door and quarter trim panels at the Lyons Trim Plant.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with seat cushion and back covers, and door and quarter trim panels produced at Chrysler Corporation's Lyons Trim Plant, Lyons, Michigan contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of Chrysler Corporation's Lyons Trim Plant, Lyons, Michigan, engaged in employment related to the production of seat cushion and back covers, and door and quarter trim panels, who became totally or partially separated from employment on or after February 1, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

I further determine that workers engaged in employment related to the production of vinyl roofs at Chrysler Corporation's Lyons Trim Plant, Lyons, Michigan are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 3rd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24843 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5501-2]

Eastern Associated Coal Corp., Keystone No. 4 Mine, Keystone No. 4 Preparation Plant Sophia, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 4, 1979 in response to a worker petition received on May 29, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at Keystone #4 Mine (TA-W-5501) and Keystone #4 Preparation Plant (TA-W-5502), Sophia, West Virginia, of Eastern Associated Coal Corporation. In the following determination, 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 of Labor conducted a survey of the customers of Eastern Associated Coal Corporation. The customers surveyed purchased no imported metallurgical coal and decreased purchases of imported coke in the January-May period of 1979, compared with the same period in 1978.

In a previous determination issued on March 9, 1979, workers at the Keystone #4 Mine and Preparation Plant of Eastern (TA-W-4589, 4589a) were denied eligibility to apply for adjustment assistance on the basis that sales or production at those facilities did not decrease.

Conclusion

After careful review, I determine that all workers of Eastern Associated Coal Corporation, Keystone #4 Mine and Keystone #4 Preparation Plant, Sophia, West Virginia 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 3rd day of August 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-24844 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5504]

Georgia Pacific Corp., Woodland Division Pulp and Paper Mill, Woodland, Maine; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 4, 1979 in response to a worker petition received on May 29, 1979 which was filed by the United Paperworkers International Union on behalf of workers and former workers producing high grade pulp and quality specialty paper at Georgia Pacific Corporation, Woodland Division pulp and paper mill, Woodland, Maine. The investigation revealed that the mill also produced newsprint paper prior to June 1979.

With respect to workers producing newsprint paper, all of the group eligibility requirements of section 222 of the Act have been met. U.S. imports of newsprint increased from 1977 the 1978, and increased during the first four months of 1979 compared with the same period in 1978. Imports account for nearly 70 percent of the domestic newsprint market. The Department conducted a survey of the Georgia Pacific Woodland Division's newsprint customers. The survey revealed that, in 1978 and 1979 most customers that decreased purchases of newsprint from Woodland also increased purchases of imported newsprint.

With respect to workers producing wood pulp, in the following determination, 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.

Wood pulp sales increased in quantity from 1976 to 1977, and again in 1978. The quantity of sales during the first five months of 1979 was higher than in the comparable period in 1978. Production of wood pulp increased from 1977 to 1978, and increased during the first five months in 1979 as compared with the same period in 1978.

With respect to workers producing freesheet paper, in the following determination, 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 decline in the sales and production of freesheet paper was caused by the shutdown of an old inefficient paper machine. The company converted a newer paper machine from newsprint production to freesheet production, and by May 1979, freesheet production had resumed its 1978 level.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with newsprint paper produced at Georgia Pacific Corporation, Woodland Divsion pulp and paper mill Woodland, Maine, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm engaged in employment related to the production of newsprint paper. In accordance with the provisions of the Act, I make the following certification:

"All workers of Georgia Pacific Corporation, Woodland Division pulp and paper mill, Woodland, Maine engaged in employment related to the production of newsprint paper who became totally or partially separated from employment on or after December 24, 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 7th day of August 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-24845 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5505, 5506, and 5507]

Glen Allen Manufacturing Co., Inc., Glen Allen, Ala., McAllen Industries, Inc., Glen Allen, Ala., McIndustries, Inc., Brilliant, Ala.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 4, 1979 in response to worker petitions received on May 29, 1979 which were filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and boys' pants and trousers at Glen Allen Manufacturing Company, Incorporated, Glen Allen, Alabama; McAllen Industries, Incorporated, Glen Allen, Alabama; and McIndustries, Incorporated, Brilliant, Alabama. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' dress and sport trousers increased absolutely and relative to domestic production during 1978 compared to 1977.

A survey of customers of the three firms was conducted by the Department. Survey results revealed that major customers reduced purchases from McIndustries, Inc., Glen Allen Manufacturing Company, Inc. and McAllen Industries, Inc. while increasing purchases of men's and boys' pants from foreign sources during 1978 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 and boys' pants produced at Glen Allen Industries, Incorporated, Glen Allen, Alabama, McAllen Manufacturing Company, Incorporated, Glen Allen, Alabama, and McIndustries, Incorporated, Brilliant, Alabama 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 Glen Allen Manufacturing Company, Incorporated, Glen Allen, Alabama; McAllen Industries, Incorporated, Glen Allen, Alabama; and McIndustries, Incorporated, Brilliant, Alabama who became totally or partially separated from employment on or after June 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 2nd day of August 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-24846 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5517]

Hatco Chemical Corp. Fords, N.J., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the

results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 7, 1979 in response to a worker petition received on May 29, 1979 which was filed on behalf of workers and former workers producing plasticizers and synthetic lubricants at Hatco Chemical Corporation, Fords, New Jersey. Hatco Chemical Corporation is a subsidiary of Fuss Corporation.

With respect to workers producing plasticizers, in the following determination 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.

Plasticizer imports are negligible, i.e., less than two percent of domestic production. HATCO chemical's sales and production of plasticizers declined in 1979 because of a shortage of 2-ethylhexyl, a necessary raw material.

With respect to workers producing synthetic lubricants, in the following determination, without regard to whehter 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.

Hatco Chemical's sales and production of synthetic lubricants increased from 1976 to 1977, and from 1977 to 1978. Sales and production also increased in the first five months of 1979 as compared with the same period in 1978.

Conclusion

After careful review, I determine that all workers of Hatco Chemical Corporation, Fords, New Jersey 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 2nd day of August 1979.

James F. Taylor,

Director, Office of Administration and Planning.

[FR Doc. 79-24854 Filed 8-13-79; 8:45 am]

BILLING CODE 4516-28-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 August 24, 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 August 24, 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 7th day of August 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
Al-Mae Company (company)	Croydon, Pa	8/3/79	7/26/79	TA-W-5,819	Dresses and sportswear.
Apache Mining Company, Inc. (workers)	West Logan, W. Va	8/6/79	7/30/79	TA-W-5,820	Mining of coal.
Curlee Clothing Company (workers)	Lexington, Ky	8/3/79	7/31/79	TA-W-5,821	Men's suits, slacks, and sportscoats.
Fred Engelman Company (workers)	New York, N.Y	8/6/79	7/16/79	TA-W-5,822	Novelty tops and blouses.
Grayslake Gelatin Company (workers)	Grayslake, Ill	8/3/79	7/27/79	TA-W-5,823	Pure edible gelatin from fresh or frozen porkskin.
Juma Fashions, Inc. (ILGWU)	New York, N.Y	8/6/79	7/23/79	TA-W-5,824	Dresses, sportswear, scarves, hats, novelty hats and jackets.
Miller Shoes Div. of Melville Corp. (workers)	Brunswick, Maine	8/6/79	7/27/79	TA-W-5,825	Cutting and stitching of shoes and boots.
Newark Textile Printing, Inc. (ACTWU)	East Newark, N.J	8/6/79	7/27/79	TA-W-5,826	Printing on textile fabrics.
The Panettier Shirt Co., Inc. (ACTWU)	Bridgport, Conn	8/6/79	7/27/79	TA-W-5,827	Ladies' man-tailored blouses and shirts.

[FR Doc. 79-24836 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5637]

Kayser-Roth Hosiery, Inc., Independence, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 22, 1979 in response to a worker petition received on June 18, 1979 which was filed on behalf of workers and former workers knitting and sewing hosiery at Independence Industries of Kayser-Roth. The investigation revealed that the petition was filed on behalf of workers and former workers producing ladies' hosiery at the Independence, Virginia plant of Kayser-Roth Hosiery, Incorporated. In the following determination, 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.

Average employment of production workers at the Independence, Virginia plant of Kayser-Roth increased each quarter, compared to the preceding quarter, from the first quarter of 1978 through the first quarter of 1979 before declining in the second quarter 1979. Employment declines in the second quarter of 1979 were due to the company's decision to eliminate the manual sewing operation at the Independence plant.

Prior to June 14, 1979, workers at the Independence plant of Kayser-Roth performed two of the six operations involved in the firm's production of hosiery. These operations consisted of knitting hosiery legs and manually closing the toe. Kayser-Roth recently acquired new automatic toe-closing machines to be used in its Concord, North Carolina plant. On June 14, 1979, toe-closing operations formerly performed at the Independence plant were transferred to the Concord plant.

Company sales of ladies' hosiery increased from 1977 to 1978 and during the first five months of 1979 compared to the first five months of 1978.

Conclusion

After careful review, I determine that all workers of the Independence, Virginia plant of Kayser-Roth Hosiery, 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 2nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24855 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5394]

Kellwood Co., Little Rock Division, Little Rock, Ark.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on May 15, 1979 in response to a worker petition received on May 14, 1979 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing women's shirts at Kellwood Company, Little Rock, Arkansas. The investigation revealed that women's robes, dresses, and dress suits are also produced at the company. In the following determinations, without regard to whether any of the other criteria have been met for workers producing women's dress and dress suits the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Employment in the dress division increased from 1977 to 1978 and increased in the first half of 1979 compared to the same period of 1978.

Without regard to whether any of the other criteria have been met for workers producing women's robes, 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 women's, misses' and children's robes, dressing gowns and housecoats decreased absolutely in the first quarter of 1979 compared to the same period of 1978.

A survey of the major customer of Kellwood's robes division revealed that the customer purchased an insignificant amount of imported women's robes in 1978 and purchased no imported robes in the first six months of 1979.

For workers producing women's shirts and blouses, all of the criteria have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely from 1977 to 1978. The ratio of imports to domestic production is high.

A survey of the major customer of Kellwood Company's Little Rock Division revealed that the customer increased its purchases of imported women's shirts in 1977 and 1978 while decreasing its purchases of women's shirts from Kellwood.

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 shirts and blouses produced at Kellwood Company, Little Rock Division, Little Rock, Arkansas 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 Kellwood Company, Little Rock Division, Little Rock, Arkansas who became totally or partially separated from employment on or after June 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 7th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-24853 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5612]

Peaker Run Coal Co., Bolair, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed on behalf of workers and former workers mining coal at the Peaker Run Coal Company, Bolair, West Virginia. In the following determination, 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.

Customers which decreased purchases of bituminous coal from the Peaker Run Coal Company do not purchase imported coal or coke. The customers which purchase coal from the Peaker Run Coal Company use it for electrical power generation or sell it for export. In addition, U.S. imports of bituminous coal are negligible, being less than one percent of domestic production.

Conclusion

After careful review, I determine that all workers of the Peaker Run Coal Company, Bolair, West Virginia 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 7th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-24856 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5666]

Rockwell International, Draper Division, Hopedale, Mass.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 27, 1979 in response to a worker petition received on April 27, 1979 which was filed by the United Steelworkers of America, Local No. 6830 and 6686, and the International Molders' and Allied Workers Union, Local No. 406 on behalf of workers and former workers producing draper looms and repair parts at the Hopedale, Massachusetts plant of Rockwell International, Draper Division. It is concluded that all of the requirements have been met.

Imports of all power looms increased both absolutely and relative to domestic production in 1978 as compared to 1977. The ratio of imports to domestic production in 1978 was 419.9.

Results of a U.S. Department of Labor survey indicated that a number of customers of Rockwell International Draper Division totally discontinued purchases of looms from the subject firm in 1978 and during the first half of 1979 while increasing their purchases of imported looms during both periods.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with draper looms and repair parts produced at the Hopedale, Massachusetts plant of Rockwell International, Draper Division, 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 Hopedale, Massachusetts plant of Rockwell International, Draper Division who became totally or partially separated from employment on or after August 19, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 2nd day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-24858 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5572]

Smith of Galeton Gloves, Galeton, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979 in response to a worker petition received on June 11, 1979 which was filed on behalf of workers and former workers producing leather gloves at Smith of Galeton Gloves, Galeton, Pennsylvania. It is concluded that all of the requirements have been met.

Imports of dress gloves and mittens increased both absolutely and relative to domestic production and consumption from 1977 to 1978 and continued to increase absolutely during the first quarter of 1979 compared to the first quarter of 1978.

Some of the customers of Smith of Galeton Gloves who were surveyed reduced purchases of leather gloves from Smith of Galeton while increasing purchases of leather gloves from foreign sources.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with leather gloves produced at Smith of Galeton Gloves, Galeton, Pennsylvania 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 Smith of Galeton Gloves, Galeton, Pennsylvania who became totally or partially separated from employment on or after September 2, 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 2nd day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-24847 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5621]

Wildman Jacquard Division, Hayes-Albion Corp., Norristown, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on June 19, 1979 in response to a worker petition received on June 12, 1979 which was filed by the United Electrical, Radio and Machine Workers of America on behalf of workers and former workers producing knitting machinery and parts at the Wildman Jacquard Division of Hayes-Albion Corporation, Norristown, Pennsylvania. In the following determination, 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 decline in the Wildman Jacquard Division's sales is attributable primarily to a decline in the company's exports rather than to the impact of imported knitting machines and parts on the domestic market.

A Departmental investigation revealed that Wildman Jacquard sold circular knitting machines and parts both domestically and abroad, with exports accounting for the vast majority of the sales. Even though total sales of knitting machines and parts declined from 1976 to 1977 and from 1977 to 1978, only an insignificant portion of the total decline can be traced to a decline in domestic sales.

Although Wildman Jacquard's domestic sales declined slightly from 1977 to 1978, the sales increased in the January through May period of 1979 when compared to the same period in 1978. This increase in 1979 was a result of Wildman Jacquard's sizable sales to its successor firm who used the purchases to build up its inventory in order to facilitate the transfer of production from the Norristown plant of Wildman Jacquard to the successor firm's new manufacturing plant in South Carolina.

To determine the effect of imports of circular knitting machines and parts on the decline in domestic sales from 1977 to 1978, the Department surveyed domestic customers of Wildman Jacquard. The survey results showed that the majority of customers who purchased circular knitting machines and parts in the past year have purchased domestically-produced goods. The survey also revealed that the majority of customers who anticipate purchasing machines and parts in the next year intend to purchase from domestic sources.

In summary, the evidence indicates that the dominant cause of Wildman Jacquard's total sales decline was the decline in export sales and that imported circular knitting machines and parts did not exert an important influence on the decline in domestic sales from 1977 to 1978.

Conclusion

After careful review, I determine that all workers of the Wildman Jacquard Division of Hayes-Albion Corporation, Norristown, Pennsylvania 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 2nd day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-24857 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

Act III, Inc., Division of Jonathan Logan, Inc., et al.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of (TA-W-5527) Act III Distribution Center, Spartanburg, S.C., (TA-W-5528) Andrew Knit, Tuscaloosa, Ala., (TA-W-5531) Columbus Fashions, Columbus, Ga., (TA-W-5532) Debra Knit, Northport, Ala., (TA-W-5533) Eufaula Fashions, Eufaula, Ala., (TA-W-5537) Livingston Fashions, Livingston, Ala., (TA-W-5538) Lynn Fashions, Brent, Ala., (TA-W-5539) Margaret Fashions, Panama City, Fla., (TA-W-5540) Michael Fashions, Miami, Fla., (TA-W-5543) Oxford Fashions, Oxford, Ala., (TA-W-5545) Roanoke Fashions, Roanoke, Ala., and (TA-W-5548) Stevens Fashions, Carrollton, Ala.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 8, 1979 in response to worker petitions received on June 4, 1979 which were filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's skirts, jackets, blouses, pants, vests, dresses, and fabric at the following locations of Act III, Incorporated, Division of Jonathan Logan, Incorporated: Act III Distribution Center, Spartanburg, South Carolina; Andrew Knit, Tuscaloosa, Alabama; Columbus Fashions, Columbus, Georgia; Debra Knit, Northport, Alabama; Eufaula Fashions, Eufaula, Alabama; Livingston Fashions, Livingston, Alabama; Lynn Fashions, Brent, Alabama; Margaret Fashions, Panama City, Florida; Michael Fashions, Miami, Florida; Oxford Fashions, Oxford, Alabama; Roanoke Fashions, Roanoke, Alabama; Stevens Fashions, Carrollton, Alabama. The investigation revealed that Act III, Incorporated does not produce fabric but purchases its fabric from Butte Knitting Mills, a plant of Butte Knitting Mills, Incorporated, Division of Jonathan Logan, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' and children's suits (including pantsuits and jumpsuits) increased absolutely from 1977 to 1978.

U.S. imports of women's and misses' dresses increased absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's and misses' and children's blouses and shirts increased absolutely in each year from 1974 through 1978.

A Departmental survey of customers of Act III, Incorporated revealed that several customers increased their purchases of imported ladies' suits and dresses and decreased purchases from Act III, Incorporated in 1978 as compared to 1977 and in the first six months of 1979 as compared to the same period of 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 ladies' suits and dresses produced at Act III, Incorporated, a division of Jonathan Logan, Incorporated, contributed importantly to the decline in sales or production and to the total or partial separation of workers of the manufacturing plants of Act III, Incorporated and of the Act III Distribution Center. In accordance with the provisions of the Act, I make the following certification:

All workers of the following facilities of Act III, Incorporated who became totally or partially separated from employment on or after the indicated impact date are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Plant and Impact Date

TA-W-5527 Act III Distribution Center, Spartanburg, S.C., May 23, 1978.
TA-W-5528 Andrew Knit, Tuscaloosa, Ala., May 23, 1978.
TA-W-5531 Columbus Fashions, Columbus, Ga., May 23, 1978.
TA-W-5532 Debra Knit, Northport, Ala., May 23, 1978.
TA-W-5533 Eufaula Fashions, Eufaula, Ala., May 23, 1978.
TA-W-5537 Livingston Fashions, Livingston, Ala., May 23, 1978.
TA-W-5538 Lynn Fashions, Brent, Ala., May 23, 1978.
TA-W-5539 Margaret Fashions, Panama City, Fla., May 23, 1978.
TA-W-5540 Michael Fashions, Miami, Fla., May 29, 1978.
TA-W-5543 Oxford Fashions, Oxford, Ala., May 23, 1978.
TA-W-5545 Roanoke Fashions, Roanoke, Ala., May 23, 1978.
TA-W-5548 Stevens Fashions, Carrollton, Ala., May 23, 1978.

Signed at Washington, D.C. this 7th day of August, 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-25048 Filed 8-13-79; 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 August 24, 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 August 24, 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 8th day of August 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
Aparee Corp. (ILGWU)	Camden, N.J	8/6/79	7/26/79	TA-W-5,828	Women's and girl's cocktail dresses and evening dresses.
Bonnell Dress Company (ILGWU)	Morrestown, N.J	8/6/79	7/26/79	TA-W-5,829	Women's dresses.
Burlington Dress Company (ILGWU)	Burlington, N.J	8/6/79	7/26/79	TA-W-5,830	Women's dresses.
Elmer Manufacturing Co., Inc. (ILGWU)	Elmer, N.J	8/6/79	7/26/79	TA-W-5,831	Contractor of women's sportswear.
Fall River Knitting Mills, Inc. (workers)	Fall River, Mass	8/6/79	8/1/79	TA-W-5,832	Men's, women's and children's sweaters.
John Kiss & Sons Knitting Mills (Company)	North Bergen, N.J	8/6/79	7/31/79	TA-W-5,833	Knitted sweaters.
Olis Knitting Mills (ILGWU)	Brooklyn, N.Y	8/6/79	8/2/79	TA-W-5,834	Men's, women's and children's sweaters.
Pat-Jo Blouse Company (ILGWU)	Franklinville, N.J	8/6/79	7/26/79	TA-W-5,835	Contractor of women's sportswear.
The National Sugar Refining Company (company).	Philadelphia, Pa	8/1/70	7/25/79	TA-W-5,836	Cane sugar.
Victor Wraps, Inc. (ILGWU)	Camden, N.J	8/6/79	7/26/79	TA-W-5,837	Women's outerwear.
YCN Sportswear (ILGWU)	Middletown, Conn	8/6/79	8/1/79	TA-W-5,838	Women's sportswear.

[FR Doc. 79-25049 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5510-A-G, 5511, 5512]

Bethlehem Mines Corp., Kayford-Boone-Nicholas Division, Charleston, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 7, 1979 in response to a worker petition received on May 21, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the Kayford Division (TA-W-5510), the Boone Division (TA-W-5511) and the Nicholas Division (TA-W-5512) of the Bethlehem Mines Corporation, Charleston, West Virginia. The investigation revealed that the

petitioning mines are in the Kayford-Boone-Nicholas Division of the Bethlehem Mines Corporations and that they mine metallurgical coal. In the following determination, without regard to whether any of the 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 Kayford-Boone-Nicholas Division mines metallurgical coal for use in Bethlehem Steel Corporation steel production operations. Division-wide metallurgical coal production increased from 1976 to 1977 and increased from 1977 to 1978. Partial year comparisons made to discount the impact of a four-month industry-wide strike from December 1977 to March 1978 and a wildcat strike in August 1977 also revealed a sharp increase in division-wide production.

Declines in coal production at individual mines are attributable to depletion of the coal in the respective mines.

Conclusion

After careful review, I determine that all workers at mines in the Kayford-Boone-Nicholas Division of the Bethlehem Mines Corporation, Charleston, West Virginia listed in the appendix 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 6th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

Appendix

Petition Number and Mine

TA-W-5510-A, #111 (Kayford County).
TA-W-5510-B, #113 (Kayford County).
TA-W-5510-C, #114 (Kayford County).
TA-W-5510-D, #115 (Kayford County).
TA-W-5510-E, #116 (Kayford County).
TA-W-5510-F, #118 (Kayford County).
TA-W-5510-G, #119 (Kayford County).
TA-W-5511, #131 (Boone County).
TA-W-5512, #81 (Nicholas County).

[FR Doc. 79-25050 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5498]

Brownsville Manufacturing Co., Brownsville, Ky.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 4, 1979, in response to a worker petition received on May 29, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' sportswear (blouses, skirts, vests, slacks, and jackets) at Brownsville Manufacturing Company, Brownsville, Kentucky. The investigation revealed that the plant produces primarily knitted ladies' sportswear. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's knit coats and jackets increased absolutely and relative to domestic production in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977.

U.S. imports of women's misses' and children's knit slacks and shorts including coulotts increased absolutely to domestic production in 1978 compared to 1977.

U.S. imports of women's misses' and children's knit skirts increased absolutely to domestic production in 1978 compared to 1977 and further increased absolutely the first three months of 1979 compared to the same period in 1978.

U.S. imports of women's misses' and children's knit blouses and shirts increased absolutely to domestic production in 1968 compared to 1975 and increased absolutely in 1978 compared 1977.

U.S. imports of women's misses' and children's sweaters which included vests increased absolutely and relative to domestic production in 1976 compared to 1975. The average ratio of imports to domestic production from 1975 through 1977 exceeded 150 percent.

A Departmental survey of the manufacturers customers indicated an increasing reliance on imported jackets, blazers and bottoms which includes (pants, skirts, shorts and coulotts) by respondents in 1978 compared to 1977 and in the first six months of 1979 compared to like period in 1978. This finding is consistent with industry trends, which shows increasing import penetration for these products in 1978 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 ladies' sportswear (blouses, skirts, vest, slacks and jackets) produces at Brownsville Manufacturing Company, Brownsville, Kentucky 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 Brownsville Manufacturing Company, Brownsville, Kentucky who became totally or partially separated from employment on or after November 30, 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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25051 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

Butte Knitting Mills, Inc., Division of Jonathan Logan, Inc., et al.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of (TA-W-5530) Butte Knitting Mills, Spartanburg, South Carolina, (TA-W-5530A) David Knit, Northumberland, Pennsylvania, (TA-W-5534) Greene Manufacturing Company, Greeneville, Tennessee, (TA-W-5535) Jonathan Logan Transportation, Spartanburg, South Carolina, (TA-W-5536) Kim Fashions, Hialeah, Florida, (TA-W-5542) Nancy Fashions, Spartanburg, South Carolina, (TA-W-5544) Plaza Manufacturing Company, Spartanburg, South Carolina, (TA-W-5547) Sandra Fashions, Sanford, Florida, (TA-W-5549) Terence Fashions, Miami, Florida, (TA-W-5689) York Dress Company, York, Pennsylvania, (TA-W-5715) Tracey Fashions, Chambersburg, Pennsylvania, (TA-W-5717)

Westminster Knit Corporation, Westminster, Maryland.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigations were initiated on June 8, 1979 (for TA-W-5530, 5534, 5535, 5536, 5542, 5544, 5547, & 5549), on July 2, 1979 (for TA-W-5689), and on July 5, 1979 (for TA-W-5715 and 5717) in response to worker petitions received on June 4, 1979 and June 29, 1979 which were filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' skirts, jackets, blouses, pants, vests, dresses, and fabric at the following plants and facilities of Butte Knitting Mills, Incorporated, a division of Jonathan Logan, Incorporated: Butte Knitting Mills, Spartanburg, South Carolina; Greene Manufacturing Company, Greeneville, Tennessee; Jonathan Logan Transportation, Spartanburg, South Carolina; Kim Fashions, Hialeah, Florida; Nancy Fashions, Spartanburg, South Carolina; Plaza Manufacturing Company, Spartanburg, South Carolina; Sandra Fashions, Sanford, Florida; Terence Fashions, Miami, Florida; York Dress Company, York, Pennsylvania; Tracey Fashions, Chambersburg, Pennsylvania; Westminster Knit Corporation, Westminster, Maryland. The investigation was expanded to include David Knit, Northumberland, Pennsylvania. The investigation revealed that Plaza Manufacturing Company produces only belts, buttons, trimmings and other accessories for Butte Knitting Mills, Incorporated. Further, only the Butte Knitting Mills plant produces finished fabric; this plant also produces the finished apparel.

Jonathan Logan Transportation handles the shipping of finished goods for the Division. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's suits (including pantsuits and jumpsuits) increased absolutely from 1977 to 1978.

U.S. imports of women's and misses' dresses increased absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's, misses' and children's blouses and skirts increased absolutely in each year from 1974 through 1978.

U.S. imports of finished fabric increased absolutely from 1977 to 1978.

U.S. imports of buttons, belts, and buckles increased in 1978 as compared to 1977.

A Departmental survey of customers of Butte Knitting Mills, Incorporated revealed that several customers increased their purchases of imported ladies' suits and dresses and decreased purchases from Butte Knitting Mills, Incorporated in 1978 as compared to 1977 and in the first six months of 1979 as compared to the same period of 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 ladies' suits and dresses produced at Butte Knitting Mills, Incorporated, a division of Jonathan Logan, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of the manufacturing plants of the Butte Knitting Mills Division and of Jonathan Logan Transportation. In accordance with the provisions of the Act, I make the following certification:

All workers of the following facilities of Butte Knitting Mills, Incorporated who became totally or partially separated from employment on or after the indicated impact date are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

TA-W-	Plant	Impact date
5530	Butte Knitting Mills, Spartanburg, S.C	May 23, 1978.
5530A	David Knit, Northumberland, Pa	May 23, 1978.
5534	Greene Manufacturing Company, Greeneville, Tenn	May 23, 1978.
5535	Jonathan Logan Transportation, Spartanburg, S.C	May 23, 1978.
5536	Kim Fashions, Hialeah, Fla	May 29, 1978.
5542	Nancy Fashions, Spartanburg, S.C	May 23, 1978.
5544	Plaza Manufacturing Company, Spartanburg, S.C	May 23, 1978.
5547	Sandra Fashions, Sanford, Fla	May 23, 1978.
5549	Terence Fashions, Miami, Fla	May 29, 1978.
5689	York Dress Company, York, Pa	June 25, 1978.
5715	Tracey Fashions, Chambersburg, Pa	June 25, 1978.
5717	Westminster Knit Corporation, Westminster, Md	June 25, 1978.

Signed at Washington, D.C., this 7th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-25052 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5669]

Coats & Clark, Inc., Fair Lawn, N.J.; Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 28, 1979 in response to a worker petition received in June 3, 1979 which was filed on behalf of workers and former workers distributing thread, yarn, hand knitting, and sewing notions at the Fair Lawn, New Jersey facility of Coats and Clark, Incorporated. 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 Fair Lawn, New Jersey facility of Coats and Clark, Inc., distributed threads, zippers, tapes, yarn, and crochet threads.

Workers of the Fair Lawn, New Jersey do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Coats and Clark, Inc. by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production

facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

On November 7, 1978 the U.S. Department of Labor certified the workers of the Jamesville, North Carolina and the Newport News, Virginia plant of the Zipper Division of Coats and Clark, Inc. as eligible to apply for worker adjustment assistance (TA-W-3553, TA-W-3554). These plants are engaged in the production of zippers.

The distribution of zippers by the Fair Lawn facility did not account for a significant portion of total shipments by that facility.

Conclusion

After careful review, I determine that all workers of the Fair Lawn, New Jersey facility of Coats and Clark, 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 8th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-25053 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5580]

Cosmic Fashions, Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 15, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' garments at Cosmic Fashions, Hoboken, New Jersey. The investigation revealed that the company produces ladies' coats. In the following determination, without regard to whether any of the 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.

Cosmic fashions is engaged in contract work for one manufacturer. A Department survey revealed that this manufacturer does not employ foreign contractors or import any finished ladies' coats. The manufacturer reported increasing sales during the period under investigation.

Conclusion

After careful review, I determine that all workers of Cosmic Fashions, Hoboken, New Jersey 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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25054 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5705]

Crystal Springs Textile, Inc., Chickamauga, Ga.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibililty to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 2, 1979 which was filed by the Machine Printers & Engravers Association on behalf of workers and former workers producing textile products for Crystal Springs Textile, Inc. The investigation revealed that the plant primarily prints and finishes finished fabric. In the following determination, 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 revelaed that impending lay-offs are attributable to capital improvements in the production process. Since 1977 Crystal Springs Textile, Inc. has installed three roller screen printing machines which will replace two roller printing machines currently employed. As a result, five individuals will be separated from employment with the firm.

Conclusion

After careful review, I determine that all workers of Crystal Springs Textile, Inc., Chickamauga, Georgia 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 8th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25055 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5619 and 5619A]

Form-O-Uth, Inc., Pampa and McLean, Tex.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 19, 1979, in response to a worker petition received on June 12, 1979, which was filed on behalf of workers and former workers producing ladies' foundation garments and some swimsuits at Form-O-Uth/Marie Foundations, Pampa, Texas. The investigation revealed that the correct company name is Form-O-Uth, Incorporated, and that the company produces primarily brassieres and girdles. The investigation was expanded to include workers at the McLean, Texas plant of Form-O-Uth, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes and bandeaux increased absolutely in

1978 compared to 1977 but declined in the first quarter of 1979 compared to the first quarter of 1978. U.S. imports of corsets and girdles declined absolutely in 1978 compared to 1977 but increased in the first quarter of 1979 compared to the first quarter of 1978.

Company imports of brassieres and girdles increased absolutely in 1978 compared to 1977, and increased relative to total company production in the first quarter of 1979 compared to the first quarter of 1978. The Pampa and McLean plants will be shut down in July 1979, and the company will remain in business by operating only its foreign production facilities.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres and girdles produced at the Pampa and McLean, Texas plants of Form-O-Uth, Incorporated 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 Form-O-Uth, Incorporated, Pampa, Texas who became totally or partially separated from employment on or after June 6, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers of Form-O-Uth, Incorporated, McLean, Texas who became totally or partially separated from employment on or after March 3, 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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25056 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5726]

Hemco Coal Management Corp., Charleston, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 10, 1979, in response to a worker petition received on July 2, 1979, which was filed on behalf of workers and former workers engaged in coal mining at Hemco Coal Management Corporation, Charleston, West Virginia. The investigation revealed that workers of Hemco Coal Management Corporation perform management, supervisory, and engineering work for the coal mining industry, but do not mine coal.

Hemco Coal Management Corporation is engaged in providing coal mining managerial, supervisory, and engineering services.

Thus, workers of Hemco Coal Management Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to Hemco Coal Management Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Hemco Coal Management Corporation and its customers have no controlling interest in one another. The parent firm does not produce a product.

All workers of Hemco Coal Management Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by Hemco Coal Management Corporation. All employee benefits are provided and maintained by Hemco Coal Management Corporation. Workers are not, at any time, under employment or supervision by customers of Hemco Coal Management Corporation. Thus, Hemco Coal Management Corporation, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Hemco Coal Management Corporation, Charleston, West Virginia 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 8th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25057 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5456, 5518 and 5519]

Island Creek Coal Co., Mine No. 1 and 1A, Amherstdale, W. Va., and Mine No. 4 and 7, Stowe, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibililty to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The original investigation was initiated on May 24, 1979 in response to a worker petition received on May 21, 1979 which was filed on behalf of workers and former workers mining coal at Mines No. 1 and 1A of the Island Creek Coal Company, Amherstdale, West Virginia.

A second investigation was initiated on June 7, 1979 in response to a worker petition received on May 29, 1979 which was filed on behalf of workers and former workers mining coal at Mines No. 4 and 7 of the Island Creek Coal Company, Paintsville, Kentucky. The investigation revealed that the mines are located in Stowe, West Virginia, and that Paintsville, Kentucky is the location of the division headquarters. In the following determination, 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.

Both bituminous (steam) coal and metallurgical coal were mined.

U.S. imports of bituminous coal have had a negligible impact on the domestic industry. Although imports of bituminous coal have increased both absolutely and relative to domestic production in 1978 compared to 1977, and increased absolutely in January–March 1979 compared to the same

period in 1978, the ratio of imports to domestic production has been less than .5 percent during the entire period of 1974 through the first quarter of 1979.

The metallurgical coal mined at Mines No. 1, 1A, 4 and 7 was sold to foreign users. Therefore, imports of metallurgical coal or coke had a negligible effect on the sales and/or production and employment at the mines.

Conclusion

After careful review, I determine that all workers of the Island Creek Coal Company's Mines No. 1 and 1A, Amherstdale, West Virginia and Mines No. 4 and 7 Stowe, West Virginia 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 6th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-25059 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5583]

Italian Fashions, Hoboken, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 15, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Italian Fashions, Hoboken, New Jersey. The investigation revealed that Italian Fashions sews ladies' jackets as well as ladies' coats. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production in 1977 compared with 1976 and in 1978 compared with 1977.

A Department survey revealed that a manufacturer for which Italian Fashions sews ladies' coats and jackets decreased contract work with Italian Fashions in the first half of 1979 compared with the like period in 1978. The manufacturer increased imports of ladies' coats during the period January–March 1979 compared with January–March 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 ladies' coats and jackets produced at Italian Fashions, Hoboken, New Jersey 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 Italian Fashions, Hoboken, New Jersey 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 8th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25060 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5710, 5710A]

Jane Andres Manufacturing Co. and S & D Manufacturing Co., San Francisco, Calif.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on July 5, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses at the Jane Andres Manufacturing Company, San Francisco, California. The investigation was expanded to include workers and former workers producing ladies' dresses at S & D Manufacturing Company, San Francisco, California. Production is integrated between the two firms which share common ownership. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' dresses increased from 671 thousand dozen in 1977 to 782 thousand dozen in 1978. The ratio of imports to domestic production increased from 4.5 percent in 1977 to 4.9 percent in 1978.

Jane Andres Manufacturing Company and S & D Manufacturing Company began importing finished ladies' dresses in the first half of 1977 and increased purchases of imports throughout 1978. Company imports continued to represent a substantial proportion of total company sales through the first half of 1979.

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' dresses produced at the Jane Andres Manufacturing Company and S & D Manufacturing Company, 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 the Jane Andres Manufacturing Company and S & D Manufacturing Company, San Francisco, California who became totally or partially separated from employment on or after June 14, 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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25061 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5584]

Jersey Made Fashions, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the

results of an investigation regarding certification of eligibililty to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 15, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Jersey Made, Hoboken, New Jersey. The investigation revealed that the company's full name is Jersey Made Fashions, Incorporated. In the following determination, without regard to whether any of the other criteria have not 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.

Jersey Made Fashions, Incorporated began sewing ladies' coats as a contractor in May 1976. Shipments of coats by Jersey Made to coat manufacturers increased in value in 1978 compared with 1977 and from January through June 1979 compared with the liked period in the previous year.

All quarter to quarter declines in production and employment at Jersey Made Fashions were the result of seasonal fluctations. The ladies' and children's coat industry is typically a seasonal operation. Production for the winter season normally begins in the second quarter of each year. Winter coats represent the larger volume of production. Production for the spring season normally begins in the first quarter of each year. The length of the spring production season and the subsequent start-up of winter production are influenced by when the Easter holiday occurs each year. In most years, contractors suffer a period of negligible orders during the first and second quarters, before winter coats production begins.

Conclusion

After careful review, I determine that all workers of Jersey Made Fashions, Incorporated, Hoboken, New Jersey 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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25062 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5652, 5653, 5655]

Junior Gallery, Ltd., Junior Portrait, Miss Gallery, Ltd., Secaucus, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibililty to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 26, 1979 in response to a worker petition received on May 18, 1979 which was filed on behalf of workers and former workers producing women's coats at Junior Gallery, Ltd., Junior Portrait, and Miss Gallery, Ltd., Secaucus, New Jersey. It is concluded that all of the requirements have been met.

Imports of women's, misses' and children's coats and jackets increased absolutely and relative to domestic production in 1978 compared to 1977.

Imports of coats by Junior Gallery, Junior Portrait and Miss Gallery increased in 1978 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 women's coats produced at Junior Gallery, Ltd., Junior Portrait, and Miss Gallery, Ltd., Secaucus, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

"All workers of Junior Gallery, Ltd., Junior Portrait, and Miss Gallery, Ltd., Secaucus, New Jersey who became totally or partially separated from employment on or after October 27, 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 8th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25063 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5766]

Logan Oak Industries, Inc., Wilkinson, W. Va.; Termination of Investigation

Pursuant to Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), an investigation was initiated on July 20, 1979 in response to a worker petition received on July 15, 1979 which was filed on behalf of workers and former workers of Logan Oak Industries, Incorporated, Wilkinson, West Virginia, engaged in hauling coal. The investigation revealed that the subject firm did not haul coal but rather mined coal on a contract basis.

Evidence developed during the course of the investigation revealed that workers employed at Logan Oak Industries, Incorporated would not meet the qualifying requirements of Section 231(2) of the Act.

Logan Oak Industries, Incorporated began operations in November 1978, mining coal on a contract basis. All production ceased in February 1979 when the company permanently ceased operations. No workers were employed by the company after February 1979.

In view of the above facts, further investigation would serve no purpose. Therefore, that investigation is terminated.

Signed at Washington, D.C. this 8th day of August 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-25064 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5587]

MCR Fashions, Inc., Hoboken, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility

requirements of Section 222 of the Act must be met.

The investigation was initiated on June 15, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at MCR, Hoboken, New Jersey. The investigation revealed that the company's full name is MCR Fashions, Incorporated. In the following determination, 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.

MCR Fashions is engaged in contract work for a single manufacturer. A Department survey revealed that this manufacturer increased sales of ladies' coats in 1978 compared with 1977 and in the first half of 1979 compared with the like period in 1978. The manufacturer increased contract work with MCR Fashions in the period January-June 1979 compared with January-June 1978. The survey also indicated that the coat manufacturer did not employ any foreign contractors or import any ladies' coats during the period under investigation.

Conclusion

After careful review, I determine that all workers of MCR Fashions, Incorporated, Hoboken, New Jersey 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 8th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25065 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5623]

Muncy Coal Co., Muncy Truck Mine, Coalwood, W. Va; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 19, 1979 in response to a worker petition received on May 28, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at Muncy Coal Company, Muncy Truck Mine, Coalwood, West Virginia. In the following determination, 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.

Declines in shipments by Muncy Coal Company in 1978 occurred as a result of the United Mine Workers of America strike and the Norfolk and Western Railroad strike.

Production of coal by Muncy Coal Company, excluding the periods of the strike by the United Mine Workers of America from December 5, 1977 through March 27, 1978, and the strike at the Norfolk and Western Railroad from July 7 through October 10, 1978, increased in 1978 compared to 1977. Employment of production workers also increased in the non-strike months of 1978 compared with the same months of 1977. There were no declines in employment at Muncy Coal Company during April–June 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of Muncy Coal Company, Muncy Truck Mine, Coalwood, West Virginia 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 8th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25066 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5521]

New Balance Athletic Shoes, Inc., Lawrence, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on June 7, 1979 in response to a worker petition received on May 29, 1979 which was filed on behalf of workers and former workers producing athletic shoes for men, women and children at Lawrence, Massachusetts plant of New Balance Athletic Shoes, Incorporated. In the following determination, without regard to whether any of the criterion have been met, the following criteria 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 indicated that comparision of year to year and year to date data shows increases in company sales, production, and employment during the certifiable period. Any quarter to quarter declines in production were due to projected sales increases that did not occur.

Sales and production of athletic shoes at New Balance (including both the Lawrence and Allston, Massachusetts, plants) increased from 1977 to 1978 and in the first half of 1979 compared to the same period in 1978.

Employment at New Balance increased from 1977 to 1978 and in the first half of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of New Balance Athletic Shoes Incorporated, Lawrence, Massachusetts, 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 6th day of August 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-25067 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5445]

Novelty Sportswear Manufacturing Co., St. Louis, Mo.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on May 23, 1979, in response to a worker petition received on May 14, 1979, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing leather outerwear at Novelty Sportswear Company, St. Louis, Missouri. The investigation revealed that the correct name of the company is Novelty Sportswear Manufacturing Company, and that the company also produced men's cloth outer coats. It is concluded that all of the requirements have been met.

U.S. imports of leather coats and jackets increased absolutely and relative to domestic production in 1978 compared to 1977 and increased absolutely in the first quarter of 1979 compared to the first quarter of 1978. U.S. imports of men's and boys' outer coats and jackets decreased absolutely and relative to domestic production in 1978 compared to 1977 and decreased absolutely in the first quarter of 1979 compared to the first quarter of 1978.

A survey of some of Novelty Sportswear's customers revealed that several of the respondents purchase imported leather and cloth coats. Several of these customers reduced purchases from Novelty Sportswear 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 men's leather coats produced at Novelty Sportswear Manufacturing Company, St. Louis, Missouri 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 Novelty Sportswear Manufacturing Company, St. Louis, Missouri who became totally or partially separated from employment on or after May 9, 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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25068 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5687]

Paul Terri Sportswear, Inc., Long Branch, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of elibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 2, 1979 in response to a worker petition received on June 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' suits, coats and raincoats at Paul Terri Sportswear, Inc., Long Branch, New Jersey. In the following determination, 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.

Company sales and production increased in 1978 compared to 1977 and increased in the first six months of 1979 compared to the first six months of 1978. Paul Terri Sportswear, Inc. produces on order and therefore sales and production are equal.

Conclusion

After careful review, I determine that all workers of Paul Terri Sportswear, Inc., Long Branch, New Jersey 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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25069 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5522-5524]

Pharmaseal Corp., Pharmaseal Laboratory, Inc., Pharmaseal, Inc., Toa Alta, P.R.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 7, 1979 in response to a worker petition received on May 29, 1979 which was filed on behalf of workers and former workers producing disposable plastic medical products at Pharmaseal Corporation (TA-W-5522), Pharmaseal Laboratory, Incorporated (TA-W-5523) and Pharmaseal, Incorporated (TA-W-5524), all of Toa Alta, Puerto Rico. The investigation revealed that Pharmaseal Corporation produces latex rubber urological catheters; Pharmaseal Laboratory, Incorporated produces molded plastic stopcocks and connectors; and Pharmaseal, Incorporated produces medical grade plastic tubing.

Pharmaseal Corp. (TA-W-5522)

In the following determination, 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.

Pharmaseal Corporation produces latex rubber urological catheters. Company sales and production of catheters increased in 1978 compared to 1977 and in the period January through

May, 1979 compared to the same period in 1978.

Pharmaseal Laboratory, Inc. (TA-W-5523), Pharmaseal, Inc. (TA-W-5524)

In the following determinations, 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 subdivisions have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Pharmaseal Laboratory produces molded plastic connectors and stopcocks. Pharmaseal, Incorporated produces medical grade plastic tubing. Industry sources indicate that imports of these products are negligible.

Conclusion

After careful review, I determine that all workers of Pharmaseal Corporation (TA-W-5522), Pharmaseal Laboratory, Incorporated (TA-W-5523) and Pharmaseal, Incorporated (TA-W-5524), all of Toa Alta, Puerto Rico 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 6th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25070 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5570]

Playskool, Inc., Touhy Avenue Division, Chicago, Ill.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 14, 1979 in response to a worker petition received on June 12, 1979 which was filed on behalf of workers and former workers producting plastic toys at the Touhy Avenue Division of Playskool, Inc., Chicago, Illinois.

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 Touhy Avenue Division of Playskool, Inc., Chicago, Illinois produced parts for plastic toys. The parts were sent to a facility on Augusta Boulevard in Chicago for assembling into the finished product. Separations occurred at Touhy Avenue in May 1979 when the firm consolidated all manufacturing operations into the Augusta Boulevard facility. Employment and production at Augusta Boulevard have increased with the transfer of operations from the Touhy Avenue Division.

Conclusion

After careful review, I determine that all workers of the Touhy Avenue Division of Playskool, Inc., Chicago, Illinois are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25071 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5049]

Sylvania Shoe Manufacturing Corp., Kennebunk, Maine; Negative Determination Regarding Application for Reconsideration

By letter of June 27, 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 Sylvania Shoe Manufacturing Corporation, Kennebunk, Maine. The determination was published in the **Federal Register** on June 1, 1979 (44 FR 31749).

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 generally increasing imports of shoes and exports of leather hides as important factors contributing to the declines in production and employment at the Kennebunk facility.

The Department's review of the investigative file revealed that workers at the subject firm were denied eligibility because they did not meet the final group eligibility requirement as set forth in Section 222 of the Trade Act of 1974 (i.e., increases of imports of articles like or directly competitive with articles produced by the firm contributed importantly to the separation of workers and to the decline in sales or production).

Since the Kennebunk facility was formed in March 1978, there had been only twelve months of operation at the time the petitioners filed for assistance. As was noted in the initial denial it is not possible to discern any trends in production or to statistically measure the impact of imports on the worker group over such a narrow time frame. Therefore, the Department must conclude that the final group eligibility requirement has not been met.

The petitioner's contention that increased exports of leather hides recently have been an important factor in the losses in production and employment cannot be considered relevant. Under the Trade Act of 1974, workers who believe their employment has been adversely affected by increased import competition may apply for relief. However, it is not the intent of the Act to provide relief for workers because their industry has suffered from rising production costs such as those incurred from increasing competition for component goods in export markets.

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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25072 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5648]

Wear-Well Trouser Co., Worcester, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 22, 1979 in response to a worker petition received on June 18, 1979 which was filed on behalf of workers and former workers producing men's dress trousers and women's slacks and skirts at the Wear-Well Trouser Company, Worcester, Massachusetts. In the following determination, 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 Wear-Well Trouser Company manufactured and sold men's dress trousers and women's slacks and skirts primarily to small specialty shops in the New England area. A Department survey revealed that most of the surveyed customers of Wear-Well Trouser Company did not import men's trousers or women's slacks and skirts during 1977 and 1978. Surveyed customers who reduced purchases from Wear-Well Trouser Company did not increase purchases of imports in January-May 1979 compared to the like period in 1978.

Conclusion

After careful review, I determine that all workers of Wear-Well Trouser Company, Worcester, Massachusetts 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 8th day of August 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-25073 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5718]

West Virginia Birmingham Bolt Co., Nitro, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibililty to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 5, 1979 in response to a worker petition received on June 29, 1979 which was filed on behalf of workers and former workers producing mine roofs bolts at West Virginia Birmingham Bolt Company, Nitro, West Virginia. In the following determination, 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 mine roof bolts were negligible during the period 1976 to date. In addition to the fact that imports are negligible, imports declined from 1977 to 1978. There are no other products which would be considered competitive with mine roof bolts.

Conclusion

After careful review, I determine that all workers of West Virginia Birmingham Bolt Company, Nitro, West Virginia 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 8th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25074 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5616]

Winter Scene Fashions, Inc., Hoboken, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 18, 1979 in response to a worker petition received on June 12, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Winter Scene, Hoboken, New Jersey. The investigation revealed that the company's full name is Winter Scene Fashions, Incorporated and that it produces ladies' coats only. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production in 1977 compared with 1976 and in 1978 compared with 1977.

A Department Survey revealed that the coat manufacturer for which Winter Scene Fashions sews coats decreased contract work with Winter Scene in the first half of 1979 compared with the like period in 1978. This manufacturer increased imports of women's coats during the period January–March 1979 compared with the like period in 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 ladies' coats produced at Winter Scene Fashions, Incorporated, Hoboken, New Jersey 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 Winter Scene Fashions, Incorporated, Hoboken, New Jersey who became totally or partially separated from enployment 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 6th day of August 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-25075 Filed 8-13-79; 8:45 am]

BILLING CODE 4510-28-M

State of Alabama Department of Industrial Relations, et al.; Hearing

In the matter of State of Alabama Department of Industrial Relations, State of Michigan Employment Security Commission, State of Nevada Employment Security Department, State of Tennessee Department of Employment Security, State of Texas Employment Commission, State of Washington Employment Security Department.

This notice announces an opportunity for a hearing for the State unemployment compensation agencies listed above (hereafter referred as the State agencies) pursuant to the last sentence of Section 3304(c) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(c)) to be held at ten o'clock in the morning on September 5, 1979, in Room 540, 2120 L Street, N.W., Washington, D.C.

The hearing will be on the following issue:

Issue. Whether, for the 12-month period ending on October 31, 1979, the unemployment compensation laws of the States of Alabama, Michigan, Nevada, Tennessee, Texas, and Washington, respectively provide or are interpreted as containing provisions for, coverage of service performed in the employ of all elementary and secondary school establishments, including church-related schools, with the exception of the exemptions from coverage provided for by 26 U.S.C. 3309(b), and/or whether the respective States are in substantial compliance with the Federal law provisions relating to such coverage.

Basis for Issue. The provisions of 26 U.S.C. 3304(a)(6)(A) and 3309(a)(1) are interpreted by the Secretary of Labor as requiring, for certification, coverage of all services performed in the employ of all church-related elementary and secondary school establishments, with certain exceptions of service as provided for by 26 U.S.C. 3309(b). The unemployment compensation laws of the respective States contain provisions which exclude, or are interpreted as excluding, from coverage under such laws services performed in the employ of certain catergories of church-related elementary and secondary school establishments or certain categories of services performed in the employ of such establishments which exceed the exemptions from coverage authorized by 26 U.S.C. 3309(b).

The respective State laws, therefore, appear not to be in conformity with the provisions of the cited Federal law provisions. Additionally, insofar as the administration of their law is concerned, the respective States do not appear to be in substantial compliance with the requirements of the cited Federal law provisions.

The decision following the hearing will have a bearing on whether the respective States are certifiable on October 31, 1979, with respect to normal and additional tax credits allowable to the respective States' employers pursuant to subsections (a) and (b) of Section 3302 of the Internal Revenue Code of 1954 (26 U.S.C. 3302) for taxable year 1979, and also on certification of payment to the respective States of granted funds pursuant to Section 302(a) of the Social Security Act (42 U.S.C. 502(a)) and Section 5(b) of the Wagner-Peyser Act (29 U.S.C. 49d(b)).

The proceedings in this matter shall be in accordance with the Rules of Procedure set out below.

Signed at Washington, D.C., on August 10, 1979.

Ray Marshall,

Secretary of Labor.

Rules of Procedure

1. An Administrative Law Judge will be designated by the Chief Administrative Law Judge, United States Department of Labor, to preside over the hearing and perform the functions required by these rules.

2. The parties of record shall be the State agencies (as defined in 26 U.S.C. 3306(e)) named in the Notice of Hearing and the U.S. Department of Labor.

3. Any other State agency, individual worker, or employer, or any organization or association of workers, employers, or the public, having an interest in these proceedings, may be permitted by the presiding Administrative Law Judge to participate in these proceedings. Participation by any such interested person shall be limited to the presentation of oral argument as provided in Paragraph 12 below and to the submittal of a brief as provided in Paragraph 13(a) below. Any such State agency, person, organization, or association described above, may apply for permission to participate in these proceedings as an interested person, by filing in the office of the Chief Administrative Law Judge, U.S. Department of Labor, Room 720, Vanguard Building, 1111 20th Street, N.W., Washington, D.C. 20036, not later than 1 week prior to the date of the hearing, a written request setting forth the applicant's name and address and the name, address and the title or position of any person who will represent the applicant. The presiding Administrative Law Judge shall rule on all applications and inform the applicants and the parties of the rulings.

4. The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings and may, at the request of any party, or *sua sponte*, grant extensions of time regarding the submission of breifs and other papers, and may reschedule the hearing for another time or date, on good cause shown. In light of the statutory time constraints for the making of the decision herein, the granting of extensions of time (inclusive of continuances, etc.) shall be limited to the extent necessary to ensure that the recommended decision is certified to the Secretary not later than October 17, 1979.

5. The parties of record shall have the opportunity to present oral and documentary evidence, and cross-examine witnesses, except as hereinafter provided in this paragraph.

(a) In the event that one or more of the State agencies named in the Notice of Hearing wishes to raise any constitutional issue other than the precise issues identified in the Notice of Hearing and/or offer evidence regarding such issue as a part of this proceeding, it must first file with the presiding Administrative Law Judge a written Statement which contains:

(1) A Statement of each such constitutional issue which it proposes to raise; and

(2) A summary of the evidence to be offered with respect to each such constitutional issue; this summary must specify with particularity the substance and form of the evidence to be offered. More particularly: (i) If oral testimony is to be offered regarding such constitutional issue(s), the Statement must specify the name of each such witness (and qualifications, if an expert witness) and provide a summary of the testimony to be offered; and (ii) If any documentary evidence is to be offered

at the hearing the Statement must list each such document by title, summarize the relevant portion or portions thereof, and attach a copy of each such document (unless such document was previously furnished to the presiding Administrative Law Judge and the other parties of record).

(b) The Statement referred to in Paragraph 5(a), above, must be filed not later than 14 days prior to the date set for the hearing.

(c) In the event that a Statement is filed which meets the requirements of Paragraphs 5(a) and (b), and the U.S. Department of Labor wishes to offer countervailing evidence regarding any issue identified in that Statement, it must file a Reply Statement which meets the requirements of Paragraph 5(a)(2).

(d) This Reply Statement must be filed not later than 5 days prior to the date set for the hearing or within 7 days of its receipt of the Statement, whichever occurs later; in no event shall the Reply Statement be filed later than 1 days prior to the hearing.

6. Upon the commencement of the hearing, the representative of the U.S. Department of Labor will make an opening statement as to the nature of the hearing and the matters in issue. The representative of each State agency which is a party to this proceeding will then be offered an opportunity to make an opening statement.

7. The order of the presentation of evidence will be as follows:

(a) The U.S. Department of Labor will proceed first by presenting any evidence it may wish to offer which is relevant to the issue(s) specified in the Notice of Hearing.

(b) Each State agency which is a party will proceed next to offer any evidence it may wish to present which is relevant to the issues referred to in paragraph 7(a), above. Upon the conclusion of its presentation, each such State agency may present evidence relevant to any issue which it has specified in, and as to which it has provided a summary of the evidence to be offered in, a Statement filed in accordance with Paragraphs 5 (a) and (b) of these rules.

(c) Finally, the U.S. Department of Labor may present relevant countervailing evidence as to which it has provided a summary of the countervailing evidence to be offered in a Reply Statement filed in accordance with Paragraphs 5 (c) and (d) of these rules.

(d) Evidence may be presented only by the parties of record, and only upon issues identified in the Notice of Hearing or in a Statement or Reply Statement filed in accordance with Paragraph 5 of these rules.

8. Technical rules of evidence shall not apply to this proceeding. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and receive all relevant evidence. He may exclude irrelevant, immaterial, unduly repetitious or any other evidence excludable under these rules, and may examine witnesses. All writings, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a satisfactory showing of their authenticity, relevancy, materiality, and admissibility under these rules, be received in evidence.

9. During the hearing the Administrative Law Judge may require the production and introduction of further evidence upon any relevant matter. After the hearing is closed, no further evidence shall be taken except at the direction of the Secretary of Labor, unless provision has been made at the hearing for the later receipt of such evidence for the record.

If the Secretary of Labor directs that further evidence be taken, due and reasonable notice of the time and place of the reopened hearing shall be given to the parties of record and any interested person permitted to participate in the proceedings.

10. The proceedings at the hearing shall be recorded verbatim. Copies of the transcript of the record of the hearing shall be furnished to the presiding Administrative Law Judge and the parties of record, and may be obtained at cost by any interested person permitted to participate in the proceedings.

11. When any document is received in evidence, one additional copy thereof shall be furnished to the presiding Administrative Law Judge and a copy shall be furnished to each party of record.

12.(a) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral argument presented by the parties of record and interested persons permitted to participate in the proceedings, except that oral argument shall not be heard with respect to the constitutionality of any Federal statute or interpretation thereof.

(b) Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; opening argument for each of the State agencies, unless waived; argument of each of the interested persons who wish to present oral argument, in such order as the presiding Administrative Law Judge shall determine; closing argument for each of the State agencies, unless waived; and closing argument for the U.S. Department of Labor, unless waived. Oral argument by an interested person shall not be longer than 15 minutes. All oral arguments shall be transcribed and made a part of the record.

13.(a) The parties of record and any interested person permitted to participate in these proceedings shall be permitted to file a brief and/or proposed findings of fact and conclusions of law on the matters in issue. All such briefs and other papers shall be filed with the presiding Administrative Law Judge not later than 14 days after the transcript of the hearing is available.

(b) The transcript of the hearing shall be deemed to be available as of the date it is received by the Office of Administrative Law Judges. Upon receipt of the transcript, the presiding Administrative Law Judge will notify the parties and all interested persons as to the date of receipt.

14.(a) Within 14 days after the time has expired for the filing of briefs, the presiding Administrative Law Judge shall prepare a recommended decision containing his findings of fact and conclusions of law.

(b) In the event that evidence is offered and admitted into evidence which is relevant to any constitutional issue properly raised under these rules, findings of fact with respect to such evidence shall be made. No conclusions of law regarding the constitutionality of any Federal statute or interpretation thereof shall be made. The presiding Administrative Law Judge shall promptly certify to the Secretary of Labor his recommended decision and the entire record of the proceedings, and forward a copy of his certification and recommended decision to each party of record and to each interested person permitted to participate in the proceedings.

15. Within 10 days after the certification and recommended decision are mailed to them, the parties of record may file with the presiding Administrative Law Judge a Statement of Exceptions in writing setting forth any exceptions they may have to the recommeded decision. Upon receipt of any timely filed Statement of Exceptions, the presiding Administrative Law Judge shall promptly forward such Statement of Exceptions to the Secretary of Labor.

16. Following the certification to him in accordance with Paragraph 14 above and consideration of any timely filed Statement of Exceptions, the Secretary

of Labor shall render his decision in the matter, in writing, and shall cause the parties of record and the interested persons permitted to participate in the proceedings to be notified thereof.

17. (a) Any briefs, Statements, and other papers filed with the presiding Administrative Law Judge in this proceeding shall be mailed to the address specified in Paragraph 3 of these rules. Such documents shall be deemed to be filed on the date they are postmarked if they are transmitted by the U.S. Postal Service, and shall be deemed to be filed on the date they are received in the office of the presiding Administrative Law Judge if they are transmitted by other means.

(b) If the last day of a time limit prescribed by these rules falls on a Saturday, Sunday, or a Federal holiday, the time limit shall be extended to the next official business day; those time limits may be extended by the presiding Administrative Law Judge for good cause shown, subject to the limitations set out in Paragraph 4 above.

(c) Briefs, Statements and all other papers filed with the presiding Administrative Law Judge shall be promptly served upon the parties.

(d) Briefs, Statements and all other papers filed with the presiding Administrative Law Judge shall be submitted in duplicate and shall be accepted subject to timely filing and sufficient proof of service upon the parties.

[FR Doc. 79-25240 Filed 8-13-79; 9:39 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefit Programs

[Application No. D-784]

Proposed Class Exemption for Certain Transactions Involving Bank Collective Investment Funds

Correction

In FR Doc. 79-22992 appearing on page 44290 in the issue for Friday, July 27, 1979, on page 44294, third column, paragraph (iv) should read as follows:

"(iv) variable amount notes of borrowers of prime credit having a stated maturity date of one year or less or having a maturity date of one year or less from the date of purchase by such specialized fund."

BILLING CODE 1505-01-M

LEGAL SERVICES CORPORATION

Grants and Contracts

August 8, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-29961, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Montana Legal Services Association in Helena, Montana to serve migrant farmworkers in Montana.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Washington 98104.

Dan J. Bradley,
President.

[FR Doc. 79-24887 Filed 8-13-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice No. 79-70]

Guidelines Regarding Joint Endeavors With U.S. Domestic Concerns In Materials Processing In Space

Background

NASA, by virtue of the National Aeronautics and Space Act of 1958, is directed to conduct its activities so as to contribute to the preservation of the role of the United States as a leader in aeronautical and space science and technology, and their applications. In furtherance of these objectives, the Administrator of NASA on June 25, 1979, promulgated a statement of *NASA Guidelines Regarding Early Usage of Space for Industrial Purposes.* These guidelines recognized that "since substantial portions of the U.S. technological base and motivation reside in the U.S. private sector, NASA will enter into transactions and take necessary and proper actions to achieve the objective of national technological superiority through joint action with United States domestic concerns."

Materials Processing in Space (MPS) is an emerging technology which can potentially provide public benefits through applications in the private sector. However, in the foreseeable future, normal market incentives appear to be inadequate to bring about technological innovation in the private sector based on this technology. Therefore, in accordance with the above referenced Guidelines, NASA contemplates entering into joint endeavors with U.S. industrial concerns. Through these joint endeavors, NASA seeks, within the context of the MPS program objectives, to broaden the base of understanding of MPS technology, particularly with regard to its usefulness in the private sector where economic benefits may result. Present MPS program objective are: a) to understand the pervasive role of gravity in materials processing; b) to develop and demonstrate enhanced control of materials processes in weightless environment; c) to explore the unique nature of space vacuum for materials processing; and, d) to foster commercial applications of MPS technology.

Nature of the Joint Endeavor

Joint endeavors in MPS will generally be for the purpose of: 1) engaging in research programs directed to the development and/or enhancement of U.S. commercial leadership in the field of materials processing in space, and 2) encouraging commercial applications of MPS technology. Joint endeavors may cover ground-based research to create a sound scientific basis for investigations in space; the investigation of materials properties or phenomena and process technology in the unique environment of space; the making in space of exemplary materials to serve as a point of reference for ground-based materials and processes; and the application investigations and feasibility demonstrations of space-made or space-derived materials and processes.

In joint endeavors, NASA and the industrial concern share in the cost and risks of the endeavor. Terms and conditions, including the business arrangements, are negotiable within the limits of prevailing statutes and regulations and will be commensurate with the risks, involvement and investment of all the parties. NASA's intent is to offer as much latitude as practical in joint endeavor arrangements. Due to the experimental nature of the program, both technically and institutionally, each endeavor will be negotiated on a case-by-case basis. Endeavors are expected to vary in size, complexity, and arrangements to

achieve diversity in the program. The number and/or size of the joint endeavors undertaken will depend upon the nature of the proposals received and resource availability. All joint endeavors will be subject to availability of appropriated funds, as well as NASA procedures regarding flight safety and verification.

NASA Provided Incentives

NASA incentives for these purposes may include in addition to making available the results of NASA research: (1) providing flight time on the space transportation system on appropriate terms and conditions as determined by the Administrator; (2) providing technical advice, consultation, data, equipment and facilities to participating organizations; and (3) entering into joint research and demonstration programs where each party funds its own participation.

Facts to be Considered in Establishing Endeavors

To qualify for joint sponsorship, the offeror must be engaged in business in the U.S. in such a manner that any promising results from the endeavor will contribute principally to the U.S. technological position; the proposed joint endeavor must comport with one or more of the MPS program objectives as stated above; and the technical uncertainties and risk involved must be significant enough to warrant the government's participation.

The factors to be considered by NASA prior to providing incentives may include, but not be limited to, some or all of the following considerations: (1) the public or social need for the expected technology development; (2) the contribution to be made to the maintenance of U.S. technological superiority; (3) possible benefits accruing to the public or the U.S. Government from sharing in results; (4) the enhanced economic exploitation of NASA capabilities such as the space transportation system; (5) the desirability of private sector involvement in NASA programs; (6) the merit of the research, development or application proposed; (7) the degree of risk and financial participation by the commercial concern; (8) the amount of proprietary data or background information to be furnished by the concern; (9) the rights in data to be granted the concern in consideration of its contribution; (10) the ability of the concern to project a potential market; (11) the willingness and ability of the concern to market and sell any resulting new or enhanced products on a reasonable basis; (12) the impact of NASA sponsorship on a given industry; (13) provision for a form of process exclusivity in special cases when needed to promote innovation; (14) recoupment of the NASA contribution under appropriate circumstances; and, (15) support of socioeconomic objectives of the Government.

Administration

The Associate Administrator, Space and Terrestrial Applications, is delegated the authority to enter into negotiations and to approve MPS joint endeavors on behalf of the Agency. Before proceeding into comprehensive evaluation of a joint endeavor, a preliminary assessment will be made of the merits of the offer. (Joint endeavor offers which are too sketchy or ill-defined to establish that the basic idea contained in the offer has merit, is in accord with MPS program objectives, or that the organization is willing to make significant contribution to the endeavor, will not be evaluated in depth and will be handled as correspondence or advertising.) This preliminary assessment will be reviewed by the Associate Administrator, Space and Terrestrial Applications, or his designee, to determine if the proposed endeavor warrants further consideration from NASA's standpoint. If this determination is positive, further evaluation will be made. After such evaluation and discussions with the offeror, if the parties mutually agree to proceed with a joint endeavor, designated representatives of NASA will enter into detailed discussions and negotiations with the offeror regarding the technical and business aspects of the offer in an effort to consummate a mutually satisfactory joint endeavor agreement. Management of the MPS joint endeavor program will be carried out by the Division of Materials Processing in Space of the Office of Space and Terrestrial Applications.

Due to resource limitations and necessity for diversity in the program, normally only one offer will be accepted to apply a particular materials process in a given technical area. If substantially similar offers are received within any 45-day period, they will be evaluated/negotiated together. The one which provides the best total consideration for the Government will be accepted. Special consideration shall be given to small and minority businesses, as appropriate.

August 3, 1979.

Robert A. Frosch,

Administrator.

[FR Doc. 79-24896 Filed 8-13-79; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-348]

Alabama Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 13 to Facility Operating License No. NPF-2 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plant, Unit No. 1 (the facility) located in Houston County, Alabama. The amendment is effective as of the date of issuance.

The amendment approves the permanent overpressure mitigating system and associated changes to the Technical Specifications. The system will further minimize the potential for water-solid overpressurization of the reactor coolant system pressure boundary.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this section, see (1) the application for amendment dated September 6, 1978 (superseding application of March 17, 1977), supplemented by letters dated November 3, 9, and 17, 1978, and January 4, March 21, and April 17, 1979,

(2) Amendment No. 13 to License No. NPF–2, 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 George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. 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 31st day of July, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79–24994 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–155]

Consumers Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR–6, issued to Consumers Power Company (the licensee), which revised Technical Specifications for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The amendment is effective as of its date of issuance.

The amendment (1) implements an NRC fire protection position related to Shutdown Cooling system isolation, (2) revises requirements on use and testing of the fire suppression water system, and (3) deletes outdated Technical Specifications pertaining to Emergency Core Cooling Systems for core spray nozzles.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this section, see (1) the application for amendment dated March 26, 1979, (2) Amendment No. 28 to License No. DPR–6, 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 Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

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 26th day of July, 1979.

For the Nuclear Regulatory Commission.

Dennis L. Ziemann,

Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79–24995 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–255]

Consumers Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Provisional Operating License No. DPR–20, issued to Consumers Power Company (the licensee), which revised the Technical Specifications for operation of the Palisades Plant (the facility), located in Covert Township, Van Buren County, Michigan. The amendment is effective as of its date of issuance.

The amendment allows use of a new in-core detector system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 6, 1979, as supplemented by letter dated May 17, 1979, (2) Amendment No. 50 to License No. DPR–20, 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 Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. 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 27th day of July, 1979.

For the Nuclear Regulatory Commission.

Richard D. Silver,

Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 79–24996 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–70 and 70–754; Operating License No. TR–1, Special Nuclear Material License No. SNM–960]

General Electric Co.; Reconstitution of Board

Edward Luton, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because he has transferred to another Federal Agency where he is serving as an Administrative Law Judge, Mr. Luton is unable to continue his service on this Board.

Accordingly, Herbert Grossman, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 7th day of August, 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79–24998 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-321]

Georgia Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 69 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, (the facility) located in Appling County, Georgia. The amendment is effective as of the date of issuance.

The amendment consists of changes to the Technical Specifications to (1) permit operation of the facility during Cycle 4 with 164 reload fuel assemblies of the GE 8X8 retrofit design, and (20) permit modification of the APRM trip system by incorporting a Thermal Power Monitor.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and the pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 22, 1979, amended May 11, and 16, 1979, (2) Amendment No. 69 to License No. DPR-57, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Appling County Library, Parker Street, Baxley, Georgia, 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of August 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-24999 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-466 CP]

Houston Lighting & Power Co. (Allens Creek Nuclear Generating Station, Unit 1); Order Scheduling Special Prehearing Conference [1]

Pursuant to 10 CFR 2.751a, on October 15, 1979, and continuing through October 19, 1979, if necessary, a Special Prehearing Conference will be held at a time of day and place to be announced at a later time in order to:

a. Permit identification of the key issues in the proceeding;

b. Take any steps necessary for further identification of the issues;

c. Consider all intervention petitions to allow the presiding officer to make such preliminary or final determinations as to the parties to the proceeding, as may be appropriate;

d. Discuss discovery schedule. (In an Order soon to be issued, we will rule upon certain contentions previously submitted by Mr. and Mrs. Robert Framson, by Mr. F. H. Potthoff, by Dr. David Marrack, by Mr. John F. Doherty, and by Texas Public Interest Research Group); and

e. Establish a schedule for further actions in the proceeding.

Further, pursuant to 10 CFR 2.714(b) and 2.711(a) [2] as amended, by September 14, 1979, any person who filed a petition for leave to intervene pursuant to the Supplementary Notice of Intervention Procedures (published in the Federal Register on June 18, 1979, 44 FR 35062) shall file a supplement to his petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in this proceeding and the bases for each contention set forth with reasonable specificity. Staff and Applicant may file responses which should be in the Board's possession by October 9, 1979.

Limited appearance statements [3] will not be received at the above-mentioned conference, but will be received at any subsequent prehearing conference and/or at the beginning of the hearing.

It is so ordered.

Dated at Bethesda, Maryland this 6th day of August, 1979.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman.

[FR Doc. 79-25000 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana & Michigan Electric Co. and Indiana & Michigan Power Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-58 and Amendment No. 12 to Facility Operating License No. DPR-74, issued to Indiana and Michigan Electric Company and Indiana & Michigan Power Company which revised the licenses for operation of the Donald C. Cook Nuclear Plant Units 1 and 2 (the facilities) located in Berrin County, Michigan. The amendment will become effective twenty (20) days after its issuance, unless a hearing has been requested.

The amendments add a license condition relating to the completion of facility modifications for fire protection.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

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[1] Applicant's Motion To Schedule Special Prehearing Conference filed on July 30, 1979 has been mooted by the instant Order and accordingly is denied.

[2] There have been numerous filings of what appear to be petitions for leave to intervene. We are giving ample time both for the petitioners to prepare contentions and for the Staff and Applicant to prepare responses.

[3] 10 CFR 2.715(a) provides:

A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making oral or written statement of his position on the issues at any session of the hearing or any prehearing conference within such limits and on such conditions as may be fixed by the presiding officer, but he may not otherwise participate in the proceeding.

Some of the submissions by various individuals clearly indicate that they only desire to make oral or written statements and do not seek to become parties. As the Appeal Board noted in *Iowa Electric Light and Power Co., et. al.* (Duane Arnold Energy Center), ALAB-108, 6 AEC 195, 196 n. 4 (1973):

* * * A limited appearance statement is not evidence. Its impact upon the decision-making process is much less direct—it serves to alert the Board and the parties to areas in which evidence may need to be adduced. It can be taken into account only to that extent.

By contrast, those individuals who seek leave to intervene pursuant to 10 CFR 2.714, if admitted *as parties* in this case, are expected to participate in the prehearing procedures and in the actual hearing, and to file proposed findings of fact, conclusions of law and briefs after the record has been formally closed.

Prior public notice of these amendments was not required since the amendments do not involve a significant hazard consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration, or environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the licensee's submittals dated January 31, 1977 and March 31, 1977, (2) Amendment No. 31 to License No. DPR-58, (3) Amendment No. 12 to License No. DPR-74, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan. 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 31st day of July, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-25001 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

Iowa Electric Light & Power Co. (Duane Arnold Energy Center); Director's Denial of Request To Suspend Technical Amendment No. 9 to License No. DPR-49

By petition dated March 20, 1979, the Citizens United for Responsible Energy (CURE) of Des Moines, Iowa, Requested the Commission pursuant to 10 CFR 2.206 to institute a proceeding to suspend Technical Amendment No. 9 to License No. DPR-49 which authorizes Iowa Electric Light and Power Company to handle special nuclear material at the Duane Arnold Energy Center. CURE alleged that suspension of Technical Amendment No. 9 and the subsequent removal of special nuclear material which was authorized to be handled under the amendment will prevent unlawful diversion of the special nuclear material by the licensee's employees. This petition was noticed in the **Federal Register** on April 23, 1979, (44 FR 23953).

After consideration of the allegations made by CURE, it was determined that physical security procedures and the inaccessibility of the material at the Duane Arnold Energy Center provides assurance against unlawful diversion of special nuclear material. In addition, the presence of this material is necessary in measuring instruments to assure safe operation of the reactor. Consequently, this request to suspend Technical Amendment No. 9 is denied.

A copy of this determination will be placed in the Commission's Public Document Room at 1717 H Street, NW, Washington, DC 20555, and at the local public document room for the Duane Arnold Energy Center located at the Cedar Rapids Library, 426 Third Avenue, SE, Cedar Rapids, Iowa 52401.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 7th day of August 1979.

Roger J. Mattson,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-25002 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light & Power Co., et al.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications, for operation of the Duane Arnold Energy Center, Located in Linn County, Iowa. The amendment is effective as of the date of its issuance.

The amendment will: (1) Allow continuous chlorination of the DAEC circulating water systems, and (2) permit and control the amount of discharge of a number of proprietary water treatment chemicals for the circulating water systems.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated March, 1973.

For further details with respect to this action, see (1) the application for amendment dated March 29, 1978, (2) Amendment No. 53 to License No. DPR-49, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Cedar Rapids Public Library, 426 Third Avenue, SE, Cedar Rapids, Iowa 52401. 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 7th day of August 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-25003 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No DPR-42, and Amendment No. 31 to Facility Operating License No. DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments change the surveillance frequencies of the nuclear instrumentation system low power level reactor trip function.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate

findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments 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 these amendments.

For futher details with respect to this action, see (1) the application for amendments dated January 10, 1978, supplemented March 15, 1979, (2) Amendment Nos. 37 and 31 to License Nos. DPR–42 and DPR–60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of August, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79–25004 Filed 8–13–79; 8:45 am]—

BILLING CODE 7590–01–M

[Docket Nos. 50–282 and 50–306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 38 and 32 to Facility Operating License Nos. DPR–42 and DPR–60, issued to the Northern States Power Company (the licensee), which revised Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of their date of issuance.

These amendments incorporate new definitions, limiting conditions for operation and surveillance requirements associated with the reactor cooling system overpressure system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments 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 these amendments.

For further details with respect to this section, see (1) the application for amendments dated August 4, 1978, (2) Amendments Nos. 38 and 32 to License Nos. DPR–42 and DPR–60, respectively and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 3rd day of August, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79–25005 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. P–564–A]

Pacific Gas and Electric Co.; (Stanislaus Nuclear Project, Unit No. 1); Reconstitution of Board

Edward Luton, Esq., was a member of the Atomic Safety and Licensing Board for the above proceeding. Because he transferred to another Federal Agency, where he is serving as an Administrative Law Judge, Mr. Luton is unable to continue his service on this Board.

Accordingly, Sheldon J. Wolfe, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, is appointed a member of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 7th day of August, 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79–25006 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.145, "Atmospheric Dispersion Models for Potential Accident Consequence Assessments at Nuclear Power Plants," describes methods for assessing the consequences of postulated accidental releases of radioactive materials into the atmosphere. These procedures include consideration of plume meander, directional dependence of dispersion conditions, and wind frequencies for various locations around nuclear power plants.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.145 will, however, be particularly useful in evaluating the need for an early revision if received by October 12, 1979.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single

copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 6th day of August 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-25012 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas & Electric Corp. (R. E. Ginna Nuclear Power Plant, Unit No. 1); Reconstitution of Board

Edward Luton, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Because he has transferred to another federal agency where he is serving as an Administrative Law Judge, he is unable to continue his service on this Board.

Dr. Franklin C. Daiber, who was a technical member of the Board, has resigned from the Atomic Safety and Licensing Board Panel and is unable to continue his service on this Board.

Accordingly, Herbert Grossman, Esq., is appointed Chairman of this Board and Dr. Richard F. Cole is appointed as a technical member of this Board. Their address is as follows:

Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Maryland, this 8th day of August 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-25007 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-553 and STN 50-554]

Tennessee Valley Authority; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 1 to Construction Permits Nos. CPPR-162 and CPPR-163 issued to Tennessee Valley Authority for construction of the Phipps Bend Nuclear Plant, Unit Nos. 1 and 2, located at the permittee's site in Hawkins County, Tennessee.

The amendments modify the construction permits to the extent they modify certain commitments made during the course of the environmental review.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendments dated January 3, 1979; and (2) Amendments No. 1 to Construction Permit Nos. CPPR-162 and CPPR-163. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and in the Kingsport Public Library, Broad and New Streets, Kingsport, Tennessee. A copy of items (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 6th day of August 1979.

For the Nuclear Regulatory Commission.

Donald E. Sells,

Acting Branch Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-25008 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission has issued Amendment No. 19 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment allows an increase in spent fuel storage capability from 260 to a maximum of 735 fuel assemblies in the spent fuel pool through the use of high capacity spent fuel racks.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on March 15, 1978 (43 FR 10750). no request for a hearing or petition for leave to intervene was filed following notice of the proposed actions.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated October 1975.

For further details with respect to this action, see (1) the application for

amendment dated December 19, 1977, as supplemented April 4, 1978, June 22, 1978, and May 4, 1979, (2) Amendment No. 19 to License No. NPF–3, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 1st day of August 1979.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79–25009 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–280 and 50–281]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 51 and 50 to Facility Operating License Nos. DPR–32 and DPR–37 issued to Virginia Electric and Power Company, which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2 (the facilities) located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications limits concerning the reduction in F_H due to fuel rod bowing for Surry Units 1 and 2. The Technical Specification changes eliminate the rod bowing penalty.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

The Commission has determined that the issuance of these amendments 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 these amendments.

For further details with respect to this action, see (1) the application for amendment dated February 21, 1978, (2) Amendment Nos. 51 and 50 to License Nos. DPR–32 and DPR–37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 27th day of July 1979.

For the Nuclear Regulatory Commission.

Marshall Grotenhuis,

Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79–25010 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–338SP, 50–339SP]

Virginia Electric & Power Co. (VEPCO) (North Anna Power Station Units 1 and 2); Proposed Amendment to Operating License NPF–4

Board Decisions

The Board hereby grants VEPCO's motion for summary disposition, denies Intervenors' motion to amend petition to intervene and cancels the prehearing conference and hearing scheduled pursuant to the Board's order of June 29, 1979. The reasons supporting these decisions will be forthcoming in a Board order shortly. VEPCO's motion for interim relief is denied as having become moot.

Done this 6th day of August 1979 at Washington, D.C.

Atomic Safety and Licensing Board.

Valentine B. Deale,

Chairman.

[FR Doc. 79–25011 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.41, "Public Notice of Receipt of an Application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW, Washington, DC.

Dated this day August 8, 1979, at Bethesda, Md.

For the Nuclear Regulatory Commission.

James R. Shea,

Director, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., 07/17/79, 07/17/79, XSNMO1543	93.3% Enriched Uranium	15.0	13.995	Fuel for ORPHEE Reactor	France.
Transnuclear, Inc., 07/17/79, 07/17/79, XSNMO1544	93.3% Enriched Uranium	60.0	55.98	Fuel for Rapsodie Reactor	France.
Transnuclear, Inc., 07/17/79, 07/17/79, XSNMO1545	93.3% Enriched Uranium	26.0	24.258	Fuel for Siloe Reactor	France.
Transnuclear, Inc., 07/17/79, 07/17/79, XSNMO1546	8.18% Enriched Uranium	900.0	73.620	Fuel for Osiris Reactor	France.
Transnuclear, Inc., 07/19/79, 07/20/79, XUO8466	Natural Uranium	100,000		To be used for conversion purposes for ultimate use for Unterweser in the FRG.	United Kingdom.

[FR Doc. 79–25013 Filed 8–13–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–334]

Duquesne Light Co. et al.; Facility Operating Licenses

Order

I.

The Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensee) are the holders of Facility Operating License No. DPR–66, which authorizes operation of the Beaver Valley Power Station, Unit No. 1 (the facility) at power levels up to 2652 megawatts thermal (rated power). The facility, which is located at the licensee's site in Beaver County, Pennsylvania, is a pressurized water reactor used for the commercial generation of electricity.

II.

Because certain safety-related piping systems at the facility had been designed and analyzed with a computer code which summed earthquake loads algebraically, the potential existed for compromising the basic defense-in-

depth provided by redundant safety systems in the event of an earthquake. This is due to the fact that the technique of algebraic summation can be non-conservative. The safety implications of algebraic summation resulted from the possibility that an earthquake, of the type for which plants must be designed, could cause a reactor coolant system pipe rupture as well as degrade the emergency core cooling system and other systems designed to mitigate such an accident. Therefore, by Order of the Director of Nuclear Reactor Regulation (the Director) for the Nuclear Regulatory Commission (NRC), dated March 13, 1979 (44 FR 16511, March 19, 1979), the licensee was ordered to show cause:

1. Why the licensee should not reanalyze the facility piping systems for seismic loads on all potentially affected safety systems using an appropirate piping analysis computer code which does not combine loads algebraically;

2. Why the licensee should not make any modifications to the facility piping systems indicated by such reanalysis to be necessary; and

3. Why facility operation should not be suspended pending such reanalysis and completion of any required modifications.

In view of the importance to safety of this matter, the Order was made immediately effective and the facility was required to be placed in the cold shutdown condition and remain in that mode until further Order of the Commission.

III.

The facility is currently in the cold shutdown condition. Pursuant to the March 13, 1979 Order, the licensee filed a written answer to the Order by letter dated March 31, 1979. In that response the licensee stated that it was reanalyzing all potentially affected safety systems for seismic loads using an appropriate method which does not sum loads algebraically.

By letter dated June 19, 1979, the licensee submitted a document entitled, "Report on the Reanalysis of Safety-Related Piping Systems for Beaver Valley No. 1 Unit," dated June 15, 1979. Revisions to this report were submitted by letters dated July 11, 18, and 27, 1979. In their letters, the licensee requested that the Commission's March 13, 1979 Order, which requires the plant to remain in a shutdown condition, be modified to permit operation of the unit for a period of six to seven weeks at which time the plant would be shut down for refueling. This request is based on the licensee's finding acceptable results of the reanalysis of the safety-related piping and supports (except as described below) for the Design Basis Earthquake (DBE) loading condition and on their commitment to: (1) shut down the facility if a seismic event occurs which results in accelerations greater than an acceleration level of 0.01 g, the setpoint of the facility accelerometers, and (2) inspect those piping systems and supports which have not been shown to be fully acceptable for the Operating Basis Earthquake (OBE) case (ground acceleration of 0.06 g). This commitment is required only until such time that the reanalysis of the OBE loading condition, and any necessary modifications, is completed.

The exceptions to the completion of safety-related systems reanalysis involves the Fuel Pool Cooling and Purification System (FPCPS), the River Water System (RWS) and the OBE conditions. The FPCPS is defined in the FSAR as a safety-related system. However, since the facility has not completed its first nuclear fuel cycle there is no spent fuel in the fuel pool and the FPCPS is not required to be operational. The failure of this system, in the unlikely event of an earthquake, will have no effect on the public health and safety, plant operation, or plant integrity. For the purposes of the March 13, 1979 Show Cause Order, this system is not included in the reanalysis required for facility startup. The licensee has committed to complete the reanalysis of the FPCPS using acceptable analysis techniques and complete any necessary modifications to supports before spent fuel is placed in the pool.

The River Water System has an overstress condition in two branch connections located on the discharge line in the turbine building. Failure of these branch connections in this location will not deprive any component of necessary cooling water and will not affect the functioning and structural integrity of any safety-related systems or components. The RWS at this point is downstream from the coolant supply to vital safety components and since the RWS is an once-through system, failure of this portion caused by a seismic event is clearly not a safety concern. A portion of the discharge line of the Raw Water Pumps that supplies cooling water to the turbine plant has not been reanalyzed. Although this portion of the piping was originally seismically analyzed using algebraic summation, this portion of the line does not perform a safety-related function and since it is located in the forebay of the intake structure its failure will not affect the functioning of any safety-related systems or components. The licensee has committed to complete the reanalysis of the RWS and make any necessary modifications prior to startup following the refueling outage.

The licensee has committed to reanalyze the safety-related piping to the OBE conditions and until that reanalysis is completed, to shut down and inspect the facility if a seismic event occurs which results in accelerations greater than an acceleration level of 0.01 g. Shutdown is the response required by 10 CFR Part 100 for the OBE (0.06 g). This commitment essentially resets the OBE for the plant at ⅙ its previous valve and assures that no degradation of piping, supports, or nozzles will occur which might affect their capability to withstand the DBE. The accelerometer alarm is annunciated in the control room. The staff finds the 0.01 g for shutdown and inspection to be an acceptably conservative level for resumption of operation and until the OBE reanalysis is completed.

By letter dated July 23, 1979, the licensee requested the March 13, 1979 Show Cause Order be terminated in its entirety based on the stated commitments and criteria in that letter and in Chapter Seven of the licensee's June 15, 1979 report. This was based on the fact that the licensee has completed the reanalyses for the DBE loading condition, including required modifications, of all safety-related systems with the exception of the Fuel Pool Cooling and Purification System and the River Water System. The commitments by the licensee in their July 23, 1979 letter would provide a consistent and more detailed "calculations-of-record" of all piping systems and supports where computer analyses for pipe stress are required. Although this additional effort is not intended to privide an increase in the safety of the plant and is not required by the NRC for facility startup, the effort will establish a record by which the licensee can expedite facility modification in the future.

The licensee has stated its intent to complete the calculation-of-record effort

before startup following the first refueling outage.

Based on the above, the licensee concludes that the analyses and modifications completed to date and commitments made in the July 15, 1979 (as revised) Report and in the July 23, 1979 letter demonstrate that, good cause has been shown: (1) Why the suspension of facility operation should not be continued and the facility be permitted to operate and (2) the March 13, 1979 Show Cause Order should be terminated in its entirety.

The licensee's analyses for operation are being performed using the SHOCK 3 and NUPIPE–SW computer codes, which combine earthquake responses in a manner acceptable to the NRC staff. The reanalyses have resulted in some stresses calculated above allowable. In such cases, the licensee has recalculated the stresses using soil structure interaction (SSI) methodology with a 20 percent increase in the seismic acceleration between the fundamental periods of 0.4 to 0.55 sec. The staff required this 20 percent increase to be applied to each pipe run after computer calculation of stress and support loads in order to ensure an added factor of conservatism. This methodolgy, with the 20 percent increase, was approved by the NRC staff in its letter to the licensee dated May 25, 1979.

The means by which piping responses are combined in the codes that are currently a basis for the facility design are summarized below:

PStress/Shock 3

This code combines the intramodal responses by the absolute value of response due to the vertical earthquake excitation to the (SRSS [1]) combination of the responses due to the two horizontal earthquake components. The intermodal components are calculated by the SRSS method.

NUPIPE–SW

This code combines intramodal [2] responses by the SRSS method and combines intermodal responses by SRSS or absolute sum for closely spaced modes. (NUPIPE–SW and SSI methodology will be the basis for the calculation-of-record effort).

The NRC staff has determined that an algebraic summation of responses was not incorporated into any of the above listed codes. The NRC staff has further concluded that these codes are acceptable for analyzing the facility piping.

Based on the NRC staff's Safety Evaluation, Attachment A, the staff finds that all safety-related piping systems including the reactor coolant system, engineered safety features, emergency core cooling systems, and all piping systems required to achieve and maintain safe shutdown or required for accident mitigation have been reanalyzed and required modifications implemented.

The licensee to date has completed all of the actions identified in paragraphs 1 and 2 of the Order to Show Cause dated March 13, 1979, except for (1) the Fuel Pool Cooling and Purification System, (2) the River Water System, and (3) the OBE conditions. In addition, the licensee has provided (1) justification for plant operation without the FPCPS in service and with overstressed areas in the RWS, (2) commitments for reanalyses of the FPCPS before spent fuel is placed in the fuel pool, (3) commitments to reanalyze and modify the RWS prior to startup following the refueling outage and (4) commitments to shut down the facility and inspect all affected systems if seismic accelerations at the site accelerometers exceed 0.01 g.

The licensee has, pursuant to paragraph 3 of the Order, shown cause why operation of the facility should not remain suspended. In the July 23, 1979 letter, the licensee has also requested the March 13, 1979 Order be terminated.

The licensee's answer to the Order did not request a hearing. On April 2, 1979, the Pennsylvania Public Utility Commission (PUC) filed a request for a hearing and petition for leave to intevene. On April 9, 1979, the PUC amended the April 2, 1979 petition to state that it was requesting a hearing only if one or more of the following conditions exists:

1. Any other party is granted hearing.

2. It is determined by the staff of the Nuclear Regulatory Commission that an extended period of cold shutdown for Beaver Valley Unit No. 1 shall be necessary in order to make safety related modifications.

3. The Nuclear Regulatory Commission staff determination vis-a-vis the shutdown at Beaver Valley Unit No. 1 is not forthcoming within a reasonable period of time.

With respect to these Conditions:

1. No other party has requested a hearing.

2. Since this Order provides for operation, it does not mandate an extended shutdown to make modifications required as a result of this Order.

3. The NRC staff has not received any objection from the PUC regarding the reasonableness of the time within which this action was taken.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, it is determined that: The public health, interest or safety does not require the continued shutdown of the facility, and it is hereby ordered that: effective this date, the proceeding initiated by the March 13, 1979 Order is terminated and the following commitments of the licensee are confirmed and required:

1. The spent fuel storage pool shall not be used to store spent fuel until an acceptable analysis and any necessary modification have been made to the Fuel Pool Cooling and Purificaton System.

2. The reanalysis of and modifications to the River Water System shall be completed prior to startup following the first refueling outage.

3. The Beaver Valley Unit No. 1 shall be shut down if the site accelerometers exceed 0.01 g and the licensee will inspect all safety-related piping systems which have not been reanalyzed and shown to be acceptable at the 0.06 g level of the OBE. Prior to resuming operations the licensee will demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public.

Dated at Bethesda, Maryland this 8th day of August 1979.

For the Nuclear Regulatory Commission.

Roger J. Mattson,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-24997 Filed 8-13-79; 8:45 am]

BILLING CODE 7590-01-M

[1] SRSS—Square Root of the Sum of the Squares.

[2] Modes are defined as dynamic piping deflections at a given frequency. Intramodal responses are the components of force, moment and deflection within a mode. Intermodal responses are the components of force, moment and deflection of all modes.

OFFICE OF THE FEDERAL REGISTER

Availability of U.S. Senate Procurement Regulations

Editorial Note

The United States Senate Committee on Rules and Administration adopted procurement regulations for the United States Senate on July 26, 1979, which apply to all procurements of personal property and non-personal services with some exceptions. For a copy of these regulations write to:

The Chairman, United States Senate,
Committee on Rules and Administration,
Room 305, Russell Senate Office Building,
Washington, D.C. 20510.

BILLING CODE 0000-00

OFFICE OF PERSONNEL MANAGEMENT

Regional Offices; Name Changes

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Personnel Management has changed the names of its regions.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: William C. Duffy, Acting Chief, Management Support Division, Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415 (202–632–4596).

SUPPLEMENTARY INFORMATION: This change affects the titles of the regions, only. The Office of Personnel Management regions continue to conform to the standard Federal regions, in terms of the area each covers. To determine the coverage of standard Federal regions, see the *U.S. Government Manual* (Revised May 1, 1979) (for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, price $7.50, stock number 022–003–00982–5), appendix D.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Name Change for Regional Offices

I. New England Region, John W. McCormack Post Office and Courthouse Building, Boston, MA 02109 (formerly Boston Region).

II. Eastern Region, New Federal Building, 26 Federal Plaza, New York, NY 10007 (formerly New York Region).

III. Mid-Atlantic Region, William J. Green, Jr., Federal Building, 600 Arch Street, Philadelphia, PA 19106 (formerly Philadelphia Region).

IV. Southeast Region, Richard B. Russell Federal Building, 75 Spring St., S.W., Atlanta, GA 30303 (formerly Atlanta Region).

V. Great Lakes Region, John C. Kluczynski Federal Building, 29th Floor, 230 South Dearborn Street, Chicago, IL 60604 (formerly Chicago Region).

VI. Southwest Region, 1100 Commerce Street, Dallas, TX 75242 (formerly Dallas Region).

VII. Mid-Continent Region, 1256 Federal Building, 1520 Market Street, St. Louis, MO 63103 (formerly St. Louis Region).

VIII. Rocky Mountain Region, Building 20, Denver Federal Center, Denver, CO 80225 (formerly Denver Region).

IX. Western Region, 525 Market Street 23rd Floor, San Francisco, CA 94105 (formerly San Franciso Region).

X. Northwest Region, Federal Building, 26th Floor, 915 Second Avenue, Seattle, WA 98174 (formerly Seattle Region).

[FR Doc. 79–24970 Filed 8–13–79; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21174; 70–6027]

Columbia Gas System, Inc., et al.; Home Insulation Program

August 6, 1979.

In the Matter of The Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas of Ohio, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylviania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., 99 North Front Street, Columbus, Ohio 43215; proposed extension of program to finance home insulation installation by consumers.

Notice is hereby given that Columbia Gas of Ohio, Inc., ("Columbia of Ohio"), a wholly owned subsidiary of The Columbia Gas System, Inc., a registered holding company, has filed a post-effective amendment to an application previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act and Rule 40 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order dated June 20, 1978 (HCAR No. 20595) in this matter the Commission authorized Columbia of Ohio to make loans to its home heating customers pursuant to a program to finance the installation of home insulation by its home heating customers ("Columbia of Ohio Program") for the year 1978 and reserved jurisdication over loans to be made under the Columbia of Ohio Program in the years 1979 and 1980. Jurisdiction was also reserved with respect to similar programs to be initiated by the applicants other than Columbia of Ohio pending completion of the record with respect to those transactions.

Columbia of Ohio has now filed a post-effective amendment to its application proposing to make loans pursuant to the Colunbia of Ohio Program of up to $200,000 for each of the years 1979 and 1980.

It is stated that no special or separate fees, commissions or expenses will be incurred in connection with the proposed transaction. It is further stated that no federal or state commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than August 30, 1979, request in writing that a hearing be held on such matter, stating the nature of this interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the application as amended or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing to advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79–24963 Filed 8–13–79; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21179; 70–6236]

Eastern Edison Co. and Montaup Electric Co.; Proposed Increase in Short-Term Borrowing Authorizations

August 8, 1979.

Notice is hereby given that Eastern Edison Company ("Eastern") 36 Main Street, Brockton, Massachusetts 02403, and Montaup Electric Company ("Montaup") P.O. Box 391, Fall River,

Massachusetts 02722, both electric utility subsidiaries of Eastern Utilities Associates ("EUA"), a registered holding company, have filed with this Commission post-effective amendments to the declaration previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a)(1), 7 and 12(c) of the Act and Rules 42(b)(2) and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, as amended by said post-effective amendments, which is summarized below, for a complete statement of the proposed transactions.

By order dated February 23, 1979 (in File No. 54–257, Adm. Proc. File No. 3–5309, HCAR No. 20931), Fall River Electric Light Company ("Fall River") was authorized to merge into Brockton Edison Company (both said entities formerly being electric utility subsidiaries of EUA). Effective August 1, 1979, the corporate name of the merged entity was changed to Eastern Edison Company. By order in this proceeding dated December 28, 1978 (HCAR No. 20853), Fall River and Montaup were authorized to incur short-term borrowings for the period ending December 24, 1979, in maximum amounts to be outstanding at any one time of $5,800,000 and $26,700,000, respectively. With the merger and name change, Fall River's short-term borrowing authorization became that of Eastern.

By post-effective amendments Eastern and Montaup seek authorization to increase their short-term borrowing limits for the period ending December 24, 1979, to $10,500,000 and $47,900,000, respectively. The borrowings are to be from designated banks and are to be evidenced by promissory notes dated the respective dates of issues and maturing October 1, 1979 (for all notes issued on or after July 2, 1979, and prior to October 1, 1979), and December 24, 1979 (for all notes issued on or after October 1, 1979, and prior to December 24, 1979). With respect to notes issued to banks requiring compensating balances of 20%, such notes will bear interest at a rate not in excess of the prime or base rate in effect on the date of issuance or from time to time. With respect to notes issued to banks requiring no compensating balances, such notes will bear interest at a rate not in excess of an effective rate derived from the prime or base rate in effect on the date of issuance or from time to time, together with assumed compensating balances of 20%. All notes will provide for prepayment in whole or in part without penalty. Assuming a prime rate of 11.75%, the effective interest cost of borrowings would be 14.7% with respect to borrowings as to which 20% compensating balances are required and with respect to borrowings as to which no compensating balances are required but having an effective rate which takes into account assumed compensating balances of 20%.

The proceeds from the borrowings will be used for construction expenditures, for meeting compensating balance requirements and to pay short-term debt at or prior to maturity.

There are no additional fees or expenses to be incurred in connection with the proposed transactions. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 4, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended by said post-effective amendments, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended by said post-effective amendments or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such Rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 24961 Filed 8-13-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10818; 812-4504]

IDS Cash Management Fund, Inc.; Filing of an Application

Notice is hereby given that IDS Cash Management Fund, Inc. ("Applicant"), 1000 Roanoke Building, Minneapolis, Minnesota 55402, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 11, 1979, and an amendment thereto on July 20, 1979, for an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purpose of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects, its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("Release No. 9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that it is a "money market" fund whose investment policy is to provide maximum current income consistent with liquidity and conservation of capital. According to the application, its portfolio presently may be invested in marketable debt securities issued or guaranteed as to principal and interest by the United States Government or its agencies or instrumentalities, bank certificates of deposit, banker's acceptances, documented discount notes (letter of credit), and high grade commercial paper. Applicant further states that in actual practice and in keeping with its investment policy since its inception in 1975, Applicant's portfolio has been invested largely in commercial paper of major United States corporations, United States Government obligations and the certificates of deposit of banks which are among the largest commercial banks in the United States and Canada. Applicant further asserts that it has not

purchased any securities with maturities in excess of one year from acquisition.

Applicant represents that since August 1, 1977, it has normally valued its securities at amortized cost. Applicant futher states, however, that those securities maturing over 60 days from the date of valuation are valued at either the readily available market price, or at approximate market value based on current interest rates. Securities originally purchased with maturities of more than 60 days but which currently mature in 60 days or less are valued by Applicant using an amortized cost based upon the market value or approximate market value on the 61st day before maturity. All other securities, including those for which market values are not readily available, are valued at fair value as determined in good faith by Applicant's Board of Directors, who in making such determination, may employ outside organizations some of which utilize a matrix or formula method which takes into consideration market indices, matrices, yield curves, and other specific adjustments. According to the application, this may result in the securities being valued at a price different from the price that would have been determined had the matrix or formula method not been used. Applicant further asserts that all cash and receivables and current payables are carried at their face value while other assets are valued at fair value as determined in good faith by its Board of Directors.

Applicant further states that its net income, which is determined and declared as a dividend each day, presently includes all accrued interest, straight-line accretion of original issue discount and premium amortization. Applicant's net asset value includes realized and unrealized gains and losses on Applicant's portfolio assets. Applicant currently attempts to maintain a net asset value per share of $5 per share. Applicant further states, however, that because realized and unrealized gains and losses on such assets are included in the calculation of its daily net asset value, fluctuations in the value of Applicant's assets cause the daily net asset value to fluctuate. Accordingly, Applicant proposes to: (1) reduce its net asset value per share to $1.00 by means of a 5 for 1 split of its shares; and (2) effect sales, repurchases and redemptions of its shares at prices calculated to the nearest one cent on a share having a $1.00 nominal value.

In support of the relief requested, Applicant states that its Board of Directors believes this proposal will benefit Applicant and its shareholders. Applicant further believes that the type of investors it seeks to attract prefers that the daily income dividends declared by Applicant reflect income as earned, and that its sales and redemption price remain fixed. According to Applicant, its directors have concluded that stability of capital and a steady, relatively consistent flow of investment income would benefit existing shareholders. Moreover, Applicant asserts that, with a relatively fixed price per share, investors will have the convenience of being able to determine the value of their holdings, simply by knowing the number of shares they own. Applicant further states that under its proposal the task of maintaining an investment record would also be made easier for Applicant's shareholders. Applicant also states that this proposal is expected to avoid the periodic $.001 changes in Applicant's net asset value per share as a result of which investors have realized nominal, unwanted capital gains and losses upon redemption of their shares.

Rule 22c–1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In Release No. 9786 the Commission issued an interpretation of Rule 2a–4 expressing its view that (1) it is inconsistent with the provisions of Rule 2a–4 for money market funds to value their assets on an amortized cost basis except with respect to portfolio securities with remaining maturities of 60 days or less and provided that such valuation method is determined to be appropriate by each respective fund's board of directors, and (2) it is inconsistent with the provisions of Rule 2a–4 for money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00 because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" such funds' proper portfolio valuation as required by Rule 2a–4. On the basis of the foregoing, Applicant filed an application for exemption from the provisions of Rules 2a–4 and 22c–1 under the Act to permit Applicant to determine its net asset value in the manner set forth above.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act because it will enable Applicant to maintain, under ordinary circumstances, a constant net asset value of $1.00 per share as well as the steady flow of investment income which investors want in a money market fund investment. Applicant has agreed, in order to attempt to assure the stability of its price per share, that the order it seeks may be conditioned upon its adherence to the following conditions:

1. Applicant's board of directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to the shareholders of Applicant—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for purposes of effecting sales, redemptions and repurchases, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security with a remaining maturity of greater than one year, nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will limit its purchases of portfolio instruments to the following:

A. Obligations issued or guaranteed by the United States Government or its agencies or instrumentalities.

B. Bank certificates of deposit, bankers' acceptances and documented discount notes (letters of credit) (hereinafter collectively referred to as "bank instruments") of U.S. banks and their branches located outside of the U.S. and of U.S. branches of foreign banks provided that the issuing bank has capital, surplus and undivided profits (as of the date of its most recently published annual financial statements) in excess of $100 million (or the equivalent in the instance of a foreign branch of a U.S. bank) at the date of investment. Additionally, with regard to the aforementioned documented discount notes, Applicant agrees to limit its investment to notes rated A1 or A2 by Standard & Poor's Corporation or Prime 1 or Prime 2 by Moody's Investors Service, Inc.

C. Repurchase agreements (agreements under which the seller agrees at the time of sale of a security to repurchase the security at an agreed time and price) for any security (but regardless of its maturity) in which Applicant is permitted to invest; provided that such agreements are limited to transactions with financial institutions believed by Applicant's investment adviser to present minimum credit risk.

D. Commercial paper of domestic issuers, rated A1 or A2 by Standard & Poor's Corporation or Prime 1 or Prime 2 by Moody's Investors Service, Inc. at the date of purchase.

Notice is further given that any interested person may, not later than August 23, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the commission, by the Division of Investment Management, pursuant to delegated authority.

Sirley E. Hollis,

Assistant Secretary.

[FR Doc. 79–24964 Filed 8–13–79; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–6462]

Teradyne, Inc.; Application To Withdraw From Listing and Registration

August 7, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Teradyne, Inc. (the "Company") has been listed for trading on the Amex since October 19, 1970. On May 15, 1979, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, the stock was suspended from trading on the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal of the Company's common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before September 7, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79–24960 Filed 8–13–79; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 10819; 812–4444]

Third Generation Tax Exempt Bond Trust, Series 1 (and Subsequent Series) and First Albany Municipals, a Division of First Albany Corp.; Filing of Application

August 7, 1979.

Notice is hereby given that Third Generation Tax Exempt Bond Trust, Series 1 (and Subsequent Series) (the "Fund"), 41 State Street, Albany, New York 12207, a unit investment trust registered under the Investment Company Act of 1940 (the "Act") and its sponsor, First Albany Municipals, a Division of First Albany Corporation ("First Albany" or the 'Sponsor") (hereinafter the Sponsor and the Fund are collectively referred to as "Applicants"), filed an application on May 4, 1979, and amendments thereto on May 11, 1979, and May 17, 1979 pursuant to Section 6(c) of the Act for an order of the Commission exempting the Applicants from the provisions of Section 26(a)(2) of the Act to the extent necessary to permit the series of the Fund to bear the costs of their organizational expenses directly. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Series 1 of the Fund is a unit investment trust, and is the first of a series of similar but separate trusts that the Sponsor intends to form (hereinafter Series 1 and all such Subsequent Series are collectively referred to as the "series"). The series will be created under the laws of the Commonwealth of Massachusetts. The Applicants filed a Notification of Registration on Form N–8A on May 4, 1979, and will file a Form N–8B2 Registration Statement within three months of said date as required by Rule 8b–5 under the Act.

Each series of the Fund will be governed by the provisions of a trust

agreement (the "Agreement") to be entered into by the Sponsor and a banking corporation organized and doing business under the laws of the United States or any State, that is authorized to exercise coporate trust powers under the laws of the Commonwealth of Massachusetts. It is contemplated that New England Merchants National Bank will serve as Trustee for Series 1. Standard & Poor's Corporation will serve as Evaluator for Series 1. It is planned that a separate Agreement will be entered into each time a series is created and activated and the debt obligations that comprise its portfolio (or contracts and funds for the purchase of such debt obligations) are deposited with the Trustee. Each Agreement will contain standard terms and conditions of trust common to the series.

When a series of the Fund is created, the Sponsor and the Trustee will enter into an Agreement and the debt obligations to constitute such series of the Fund (or contracts and funds for the purchase of such debt obligations) will be delivered to and deposited with the Trustee by the Sponsor. Simultaneously with the deposit of the debt obligations that will comprise that series' portfolio, the Trustee will deliver to the Sponsor for sale to the public registered certificates for Units of fractional undivided interest in the Fund (the "Units"). These Units will then be offered for sale to the public at the public offering price set forth in the prospectus for the Fund, after the 1933 Securities Act registration statement has become effective.

The Applicants state that the debt obligations will not be pledged or be in any other way subjected to any debt at any time after they are deposited with the Trustee. The assets of a series may consist of debt obligations initially deposited, such debt obligations as may continue to be held from time to time in exchange for or substitution of any of the debt obligations, accrued and undistributed interest and undistributed cash. Certain of the debt obligations may from time to time be sold under certain circumstances set forth in the Agreement, or may be redeemed or will mature in accordance with their terms. Where the Sponsor believes that the retention of certain debt obligations in a series may be detrimental to it, such as when there is a default in the payment of principal or interest, the Sponsor may direct the Trustee to dispose of such debt obligations. In such cases, the proceeds from such dispostions will be distributed to Unitholders and will not be reinvested.

Each Unit of a series will represent a fractional undivided interest in that series. Units are redeemable, and in the event that Units are redeemed, the fractional undivided interest represented by each Unit will increase accordingly. Units will remain outstanding until redeemed or until termination of the Agreement. The Agreement may be terminated by 66⅔% consent of the Unitholders or, by the Trustee or Sponsor in the event that the value of the debt obligations in the portfolio of the series falls below 10% of the aggregate principal amount of the debt obligations originally deposited in that series. In addition, if redemptions by the Sponsor of unsold Units results in a series having less than 40 percent of the principal amount of debt obligations initially deposited in such series, the series will be terminated. The Agreement will also terminate on the earlier of the date of redemption, sale or other disposition of the last debt obligation held thereunder, or on a date twenty years after the death of the last of six persons named in the Agreement.

Units of a series will be sold to the public either as whole Units or in fractional Units rounded to the nearest .001 of a whole Unit, or $.01 of the value of a whole unit. Each whole Unit will represent 1/100th or $10 of each $1,000 principal amount of the debt obligations in the portfolio of a series. Certificates for whole Units will not be issued unless the Sponsor receives a written request from the Unitholder to have a Certificate issued. Certificates for fractional Units will not be issued in any case. The Applicants state that the Sponsor proposes to charge a low sales load which will reduce to no load upon meeting the volume discount requirements. The proposed sales load will be 2% on purchases of 500 to 999 Units, 1% on purchases of 1,000 to 4,999 Units and no load on purchases of 5,000 or more Units.

The Sponsor intends, but will not be obligated, to maintain a limited secondary market during the initial registration period for each series, which is expected to expire sixteen months after the date the series is organized. The Sponsor intends to reoffer Units tendered to the Trustee for redemption during the initial registration period of a series only if a current order for the purchase of Units in the secondary market is received by the Sponsor. The secondary market reoffer price will be the aggregate bid side evaluation of the underlying debt obligations per Unit plus a 2% sales charge. An evaluation will be ordered ech time a Unit is tendered for redemption or offered by the Sponsor in the secondary market. After termination of the limited secondary market, Unitholders will be able to dispose of thier Units only by means of redemption. Redemptions of Units due to the limited secondary market will have the effect of reducing the size and duration of a series, since the Trustee will be compelled to sell debt obligations from the portfolio of that series in order to meet redemptions.

Applicants state that the Fund proposes to amortize the organizational expenses of each series of the Fund over the entire life of that series based upon the maturity date of the last debt obligation in that series and an adjustment for an estimated Unit redemption rate of 5% per year. The Fund will calculate the initial rate of amortization of organizational expenses pre Unit as of the date of deposit of the underlying debt obligations with the Trustee. This initial rate per unit of amortizable expenses will be utilized by the Applicants as a fixed amortization rate per unit which will be applied to the number of series units remaining outstanding to effect the scheduled amortization of that series' organizational expenses. The Trustee will recompute the total amount of amortizable expenses at the beginning of each calendar year with a factor for an estimated 5% reduction in the number of Units outstanding through redemption. Applicants further state that in the event that a 5% reduction in the number of Units of a series occurs prior to the end of the calendar year following such Calculation Date because of excess redemption of outstanding Units, the total amount of amortizable expenses will be recalculated by the Fund. The method to be utilized by the Fund to calculate the amount of amortizable expenses for each Calculation Date uses a standard amortization formula based on the sum total of Units to be amortized over the life of each series. The amortizable portion of the organizational expenses attirbutable to a Unitholder will be added to the expenses charged against the interest account of the Unitholder with respect to each monthly or semi-annual distribution made to Unitholders of a series.

Applicants state the entire $60,000 of organizational expenses will be charged to each series and paid by the Trustee at or shortly after the time that series is organized from moneys in the interest account of the series which are normally available to the Trustee for ordinary banking purposes until they are paid to the Unitholder.

Applicants further state that in the event that the interest income is insufficient to meet the organizational expenses, the Trustee will advance the necessary moneys at no interest to pay the organizational expenses. The Applicants state that the Trustee will be reimbursed from the interest income account of the series for any advances so made. The Applicants have represented that because each series' organizational expenses will be paid solely out of such "float", the principal amount of the debt obligations deposited in the series will not be affected. The Applicants have further represented that the income distributions to Unitholders during the first year of each Fund series will only be reduced by the Unitholders' pro rata share of the series' normal expenses and amortized organizational expenses, even though the entire amount of that series' organizational expenses will have been paid out of moneys from the interest account. To make certain this will be the case the Applicants have represented, in the event the interest income account of each Fund series is insufficient to pay the scheduled income distributions to the Unitholders, the Trustee will advance the necessary funds to pay the income distributions on a noninterest bearing basis. The Trustee will reimburse itself for any such advances from income payments made by issuers of bonds contained in the series' underlying bond portfolio.

Applicants state that the Agreement for each series of the Fund will provide that the following organizational expenses will be charged to that series and amortized over its life: (1) legal and audit fees incurred in connection with the organization of the series; (2) registration and compliance filing fees including blue sky requirements; (3) the initial evaluation fee; (4) the preparation and printing of Unit certificates; and (5) typesetting, printing and preparation and filing of registration statements for federal and blue sky registrations. The Applicants have represented that the Agreement for each series will specifically provide that all distribution, sales or promotional expenses will be borne by the Sponsor and not by the Fund.

Section 26(a)(2) of the Act requires that an indenture for a registered unit investment trust provide:

> * * * in substance, (A) that during the life of the trust the trustee or custodian, if not otherwise remunerated, may charge against and collect from the income of the trust, and from the corpus thereof if no income if available, such fees for its services and such reimbursement for its expenses as are provided for in such instrument; (B) that no such charge or collection shall be made except for services theretofore performed or expenses theretofore incurred; (C) that no payment to the depositor of or a principal underwriter for such trust, or to any affiliated person or agent of such depositor or underwriter, shall be allowed the trustee or custodian as an expense (except that provision may be made for the payment to any such person of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally performed by the trustee or custodian itself); and (D) that the trustee or custodian shall have possession of all securities and other property in which the funds of the trust are invested, all funds held for such investment, all equalization, redemption and other special funds of the trust, and all income upon, accretions to, and proceeds of such property and funds, and shall segregate and hold the same in trust (subject only to the charges and collections allowed under clauses (A), (B), and (C) until distribution thereof to the security holders of the trust * * *

The Applicants assert that the purpose of Section 26(a)(2) of the Act is to preserve the assets of registered unit investment trusts and to prevent securityholders thereof from being subjected to purported "custodian" charges which, instead of compensating the custodian for custodianship services actually rendered, in fact provide additional remuneration to the promoters. The Applicants state that the organizational expenses which will be charged to the Fund will be for services actually performed and will not be disguised fees to the promoters. Applicants represent that no part of the payments out of series assets for organizational expenses will be made to or otherwise inure to the benefit of the Sponsor.

In support of granting their requested exemption, Applicants maintain that significant economic benefits and savings will inure to the Unitholders by amortizing the organizational expenses over the life of a series. Applicants state that the initial cost to an investor of purchasing Units of the Fund will be significantly lower due to the reduced or no sales load. Furthermore, Applicants state that because of the reduced or no sales load an investor will be able to retain the use and benefit of his money that otherwise would be paid by him to the Fund in the form of a high sales load.

In addition, Applicants state the savings from the reduced or no sales load could be used by investors to purchase additional Units thus producing an additional return on their investment. Applicants also state that as a result of the reduced or no sales load proposed to be charged by the Fund, investors will be able to enjoy a greater rate of return by investing in the Fund rather than other conventional unit investment trusts. Applicants maintain that an investment in the Fund, whether held for a long or short period of time, will produce a higher rate of return than an identical investment in a conventional unit investment trust.

In addition, due to the low or no sales load proposed to be charged by the Fund, Applicants argue that investors will suffer a smaller loss of capital. Applicants state that a sales load represents a permanent loss of capital which is not recovered by the investor whether his Units are held to maturity, redeemed or repurchased by the Sponsor in the secondary market. Finally, Applicants maintain that amortizing the organizational expenses of each series over the life of that series is fairer than paying such expenses by means of a high initial sales load since the expenses will be allocated to investors based on the quantity of Units they purchase and the length of time their Units are held.

The Applicants therefore request an exemption from the provisions of Section 26(a)(2) of the Act for Series 1 and all subsequently created series to the extent necessary to permit the Fund and its Sponsor to operate in the manner proposed.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 4, 1979, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address

stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79–24962 Filed 8–13–79; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice CM–8/211]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on September 11, 1979, at the NASA/Goddard Space Flight Center, Greenbelt Road, Building 12, Room N13, Greenbelt, Maryland. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting will be to review proposed contributions to the 1980 international meeting of Study Group 7.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520 (telephone (202) 632–2592).

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

August 6, 1979.

[FR Doc. 79–24913 Filed 8–13–79; 8:45 am]

BILLING CODE 4710–01–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Issue of U.S. Securities Bearing Facsimile Signatures of Former Secretaries of the Treasury

Pursuant to the provisions of 5 U.S.C. 301, in the issue of United States securities under the Second Liberty Bond Act, as amended, codified in Title 31, Chapter 12, United States Code, I hereby authorize the use of all stocks on hand, or on order, bearing the signature of any former Secretary of the Treasury, where (1) such securities are issued as an additional issue or under a continuing offer, or (2) such securities are to be issued pursuant to a new offer heretofore or hereafter made, and stocks therefor bearing my signature are not available for timely delivery.

This authorization shall be effective immediately.

Dated: August 8, 1979.

G. William Miller,

Secretary of the Treasury.

[FR Doc. 79–25035 Filed 8–13–79; 8:45 am]

BILLING CODE 4810–40–M

INTERSTATE COMMERCE COMMISSION

[Notice No. 120]

Assignment of Hearings

August 8, 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 Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 102 (Sub-8F), Missouri-Kansas-Texas Railroad Company Abandonment at Burkburnett, TX and Altus, OK In Wichita County, TX and Cotton, Tillman, And Jackson Counties, OK, now assigned for continued hearing on September 6, 1979 (2 days), at Wichita Falls, TX, in hearing room to be later designated.

MC 134182 (Sub-35F), Allied Transportation Services, Inc., now assigned for hearing on September 10, 1979 at Philadelphia, Pa, is postponed to November 5, 1979 (1 week), at New York, NY, in a hearing room to be later designated.

MC 133841 (Sub-7F), Dan Barclay, Inc., now assigned for hearing on September 17, 1979 at New York, NY, and will be held in Room E–2222, Federal Building, 26 Federal Plaza.

MC 139482 (Sub-95F), New Ulm Freight Lines, Inc., now assigned for hearing on September 18, 1979 at New York, NY, and will be held in Room E–2222, Federal Building, 26 Federal Plaza.

MC 119767 (Sub-349F), Beaver Transport Co., a Corp., now being assigned for Prehearing Conference on September 10, 1979 (1 day), at Chicago, IL, in a hearing room to be designated later.

MC 139482 (Sub-73F), New Ulm Freight Lines, Inc., now assigned for hearing on September 10, 1979 at New York, NY, will be held at the Federal Building, Room F–2220, 26 Federal Plaza, New York, NY.

MC 107583 (Sub-60F), Salem Transportation Co., Inc., now assigned for hearing on September 12, 1979 at New York, NY, will be held at the Federal Building, Room F–2220, 26 Federal Plaza, New York, NY.

MC 119632 (Sub-83F), Reed Lines, Inc., now assigned for hearing on September 24, 1979 at New York, NY. will be held at the Federal Building, Room F–2220, 26 Federal Plaza, New York, NY.

MC 146119 F, Winston Coach Corp., now assigned for hearing on September 26, 1979 at New York, NY. will be held at the Federal Building. Room F–2220, 26 Federal Plaza, New York, NY.

MC 145683 F, Roger Stockwell, d.b.a. Immediate Delivery Service Co., now assigned for hearing on September 11, 1979 at Boston, MA, will be held in Room 501, 150 Causeway, Boston, MA.

MC 112963 (Sub-82F), Roy Bros., Inc., now assigned for hearing on September 12, 1979 at Boston MA. will be held in Room 501, 150 Causeway, Boston, MA.

MC 34485 (Sub-3F), Clark & Reid Company, Inc., now assigned for hearing on September 17, 1979 at Boston, MA. will be held in Room 501, 150 Causeway, Boston, MA.

MC–F–13629, Shoemaker Trucking Company—Purchase (Portion)—Herrett Trucking Co., MC–F–13627, Shoemaker Trucking Company—Purchase (Portion)—Herrett Trucking Co., Inc., and MC 138875 (Sub-93F), Shoemaker Trucking Company, now assigned for hearing on September 12, 1979, at Portland, Oregon will be held in Room 103, Pioneer Court House, 555 Yamhill Street.

MC 141911 (Sub-3F), Arthur Dennis DeMontigny d.b.a., now assigned for hearing on September 19, 1979 at Portland, Oregon will be held in Room 103, Pioneer Court House, 555 Yamhill Street.

MC 140033 (Sub-26), Cox Refrigerated Express, Inc., application dismissed.

MC 44735 (Sub-39), Kissick Truck Lines, Inc., application dismissed.

MC 145660 (Sub-2F), Callister & Sons Trucking, now assigned for hearing on September 17, 1979, at Portland, Oregon will be held in Room 103, Pioneer Court House, 555 Yamhill Street.

MC 110563 (Sub-251F), Coldway Food Express, Inc., now assigned for hearing on September 19, 1979 at New York, NY, and

will be held in Room E-2222, Federal Building, 26 Federal Plaza.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24983 Filed 8-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-2 (Sub-20F)]

Lousiville and Nashville Railroad Company Abandonment between Belfast and Lewisburg in Marshall County, TN; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided June 4, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line Railroad Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Louisville and Nashville Railroad Company of a line of railroad known as the Belfast Branch of Birmingham Division, extending from railroad milepost 61.0 at Belfast in a westerly direction to railroad milepost 64.3 at Lewisburg, a distance of 3.3 miles in Marshall County, TN. A certificate of abandonment will be issued to the Louisville and Nashville Railroad Company based on the above-described finding of abandonment, September 13, 1979 unless within 30 days from the date of publication (September 13, 1979), the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24985 Filed 8-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 129]

Permanent Authority Decision-Notice

Decided: July 3, 1979

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, 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, within 30 days, 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 protest 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.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

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.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

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.

Findings: 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 interests 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 within 30 days of publication of this decision-notice (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 3, Members Parker, Fortier and Hill. Member Fortier not participating.

Agatha L. Mergenovich,

Secretary.

MC 60014 (Sub-101F), filed February 14, 1979, previously published in the **Federal Register** of May 31, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel joists,* and *accessories* for steel joists, from the facilities of Socar, Inc., at or near Florence, SC, to points in AL, CT, DE, GA, FL, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, WV, WI, and DC. (Hearing site: Washington, DC.)

Note.—This republication indicates NJ as a destination State.

MC 109294 (Sub-26F), filed January 23, 1979, previously noticed in the **Federal Register** of May 31, 1979. Applicant: COMMERCIAL TRUCK CO., LTD., 90 Leeder Ave., Coquitlam, British Columbia, Canada V3J6Z9. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101.To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heavy machinery, building materials, and iron and steel articles,* between ports of entry on the international boundary line between the United States and Canada in WA, ID, and MT, on the one hand, and, on the other, points in WA and OR. (Hearing site: Seattle, WA.)

Note.—This republication indicates that ports of entry in MT are involved, and not MI.

MC 133095 (Sub-24OF), filed February 16, 1979, previously noticed in the **Federal Register** of May 31, 1979 as Sub 2400F. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Mark C. Ellison, 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 *printed matter,* and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of printed matter (except commodities in bulk), between the facilities of Rand McNally & Company, at Chicago, Downers Grove, Naperville, and Skokie, IL, Versailles and Lexington, KY, Taunton, MA, Ossinging, NY, Hammond and Indianapolis, IN, and Nashville, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

Note.—This republication indicates the correct Sub-no., and includes Hammond and Indianapolis, IN in the territorial description.

MC 142864 (Sub-9F), filed February 16, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *ice cream confections, ice confections, and dairy products,* and (2) *materials and supplies* used in the production and distribution of the commodities in (1) above, (a) between Canton, OH, Pittsburgh, PA, Fort Wayne, IN, Baltimore, MD, Detroit, MI, Milford, DE, and Plymouth, WI, on the one hand, and, on the other, points in OH, PA, IN, IL, MI, WI, MO, IA, WV, KY, VA, NJ, NY, CT, MA, RI, NH, VT, and ME, restricted to the transportation of traffic originating at or destined to the facilities of Borden, Inc., and (2) between Canton, OH and Allentown, PA, restricted to the transportation of traffic originating at or destined to the facilities of Superior Dairy, Inc. (Hearing site: Columbus, OH, or Washington, DC.)

MC 143214 (Sub-3F), filed February 8, 1979, and previously noticed in the **Federal Register,** May 30, 1979. Applicant: MATUSZKO FARMS TRUCKING, INC., 19 Ball Lane, North Amherst, MA 01059. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *juices, fruit and berry products,* (2) *materials and supplies* used in the manufacture, sale, and distribution of juices, fruit and berry products, (except commodities in bulk), and (3) *fruit and berries,* otherwise exempt from economic regulation under Section 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act), when moving in mixed loads with (1) above, between the facilities of The New England Apple Products Co., Inc., at or near Littleton, MA, and Ohio City, OH, on the one hand, and, on the other, points in the United States (except HI), under continuing contract(s) with The New England Apple Products Co., Inc., of Littleton, MA. (Hearing site: Boston, MA, or Albany, NY.)

Note.—This republication is to add Ohio City, OH.

[FR Doc. 79-24979 Filed 8-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 129]

Permanent Authority Decision-Notice

Decided: July 10, 1979.

The following applications, filed on or after March 1, 1979, 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 petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date of notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks

authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene 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.

Section 247(f) provides, in part, that an applicant which does not intend to timely 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.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

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 administrative 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.

Findings

With the exception 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 present and future 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 petitioner, 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 terms, conditions or limitations 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 petitions for intervention, filed within 30 days of publication of this decision-notice (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 the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only 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 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

MC 1824 (Sub-88F), filed March 26, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MA 21655. Representative: Charles S. Perry (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, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Metamora, OH, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 2245 (Sub-11F), filed March 23, 1979. Applicant: THE O. K. TRUCKING COMPANY, a Corporation, 3000 E. Crescentville Rd., Cincinnati, OH 45241. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. 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 Owingsville and Ashland, KY, from Owingsville over KY Hwy 36 and U.S.Hwy 60 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction U.S. Hwy 60 and U.S. Hwy 23, then over U.S. Hwys 60 and 23 to Ashland, KY, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, and (2) between Charleston and Weston, WV, from Charleston over Interstate Hwy 79 to junction U.S. 119, then over U.S. Hwy 119 to Weston, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Cincinnati, OH.)

MC 4405 (Sub-594F), filed March 19, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *trailers* (except those designed to be drawn by passenger

automobiles), in initial movements, in truckaway service, from points in Garfield County, OK, to points in the United States (except AK and HI). (Hearing site: Oklahoma City, OK.)

MC 4405 (Sub-595F), filed March 22, 1979. Applicant: DEALERS TRANSIT, INC., a corporation, P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *lift trucks, platforms, hydraulic working lifts*, and (2) *parts* for the commodities in (1) above, from the facilities of the Calavar Corporation, at or near Santa Fe Springs, CA, to points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 4405 (Sub-598F), filed March 22, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *trailers* and *trailer chassis*, except those designed to be drawn by passenger automobiles, in initial movements, from Edgerton, WI, to points in the United States (except AK and HI). (Hearing site: Madison, WI.)

MC 17615 (Sub-4F), filed March 23, 1979. Applicant: RONALD E. WATSON, P.O. Box 217, Ross, OH 45061. Representative: Paul F. Berry, 275 East State St., Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper articles (except commodities in bulk), between St. Louis, MO, and points in IL, IN, MI, OH, WI, and IA, under continuing contract(s) with Champion International Corporation, of Hamilton, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 18535 (Sub-68F), filed March 26, 1979. Applicant: HICKLIN MOTOR LINE, INC., P.O. Box 337, St. Matthews, SC 29135. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. 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, and household goods as defined by the Commission), between Savannah, GA, on the one hand, and, on the other, points in SC west of U.S. Hwy 1. (Hearing site: Columbia, SC, or Atlanta, GA.)

MC 53965 (Sub-149F), filed March 26, 1979. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, KS 67401. Representative: Larry E. Gregg, 641 Harrison St., Topeka, KS 66603. 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 John Morrell & Co., at (a) Estherville, IA and (b) Sioux Falls, SD, to points in AZ, AR, CO, KS, MO, NM, OK, and TX, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL, or Kansas City, MO.)

MC 58035 (Sub-18F), filed March 19, 1979. Applicant: TRANS-WESTERN EXPRESS, LTD., a corporation, 48 East 56th Ave., Denver, CO 80216. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *flexible rubber and plastic membrane linings*, (2) *materials, equipment, and supplies* used in the installation of the commodities in (1) above, from the facilities of The Watersaver Co. and Watersaver International, Inc., at Denver, CO, to points in the United States (except AK and HI), and (3) *materials and supplies* used in the manufacture of the commodities in (1) and (2) above, (except in bulk), in the reverse direction. (Hearing site: Denver, CO.)

MC 60014 (Sub-106F), filed March 19, 1979. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 43215. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery and equipment*, (2) *parts*, for the commodities in (1) above, and (3) *pipe and pipe fittings*, from Mobile, AL, to those points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 61445 (Sub-11F), filed March 21, 1979. Applicant: CONTRACTORS TRANSPORT CORP., a corporation, 5800 Farrington Ave., Alexandria, VA 22304. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *contractors' materials, equipment, and supplies* (except commodities in bulk), between points DE, MD, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 78725 (Sub-6F), filed March 23, 1979. Applicant: R. GUENTHER TRUCKING, 3905 Kraus Lane, Ross, OH 45061. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper articles (except commodities in bulk), between St. Louis, MO, and points in IL, IN, MI, OH, WI, and IA, under continuing contract(s) with Champion International, of Hamilton, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 80265 (Sub-4F), filed March 23, 1979. Applicant: FRED L. YORK, 4888 Hamilton-Trenton Rd., Hamilton, OH 45011. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), between St. Louis, MO, and points in IL, IN, MI, OH, WI, and IA, under a continuing contract(s) with Champion International Corporation, at Hamilton, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 106074 (Sub-95F), filed March 22, 1979. Applicant: B AND P MOTOR LINES, INC., Oakland Rd. and U.S. Hwy 221 South, Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *saw blades*, from Toccoa, GA, to Lincolnton, NC, and (2) *hand tools and saw blades*, from Lincolnton, NC, to points in AR, AZ, CA, CO, KS, MO, NM, NV, OK, TX, and UT. (Hearing site: Charlotte, NC, or Washington, DC.)

Note.—Dual operations may be involved.

MC 106074 (Sub-96F), filed March 19, 1979. Applicant: B & P MOTOR LINES, INC., Oakland Rd. and U.S. Hwy 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic pellets, chips, fiber, staple, yarn and non-woven fabrics*, (1) from the facilities of Phillips Fiber Corporation at or near Spartanburg and Seneca, SC, to points in IL, IN, MI, OH, WI, and those points in the United States in and west of MN, IA, MO, AR, and LA (except CA), and (2) from the facilities of Hoechst Fibers Industries at or near Spartanburg, SC, to points in IL, IN, MI, OH, WI, and those points in the United States in and west of MN, IA, MO, AR, and LA (except CA). (Hearing site: Greenville, SC, or Washington, DC.)

Note.—Dual operations may be involved.

MC 106674 (Sub-380F), filed March 23, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, and *equipment, materials*, and *supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), (a) from Philadelphia, PA, to points in OH, IN, IL, and WI, (b) from Mobile, AL, to points in PA, OH, IN, IL, and WI, (c) from Oconto Falls, Green Bay, Marinette, and Fond du Lac, WI, to points in IL, OH, IN, and AL, (d) from Fort Edward and Albany, NY, to points in OH, IN, IL, and WI, (e) from Rodgers, AR, to points in IN, OH, IL, and WI, and (f) from Landisville, NJ, to points in OH, IN, and IL. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107295 (Sub-909F), filed March 23, 1979. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Houston, TX, and Muskogee, OK, to points in the United States (excluding AK and HI). (Hearing site: Dallas, TX or Kansas, KS.)

MC 107295 (Sub-911F), filed March 22, 1979. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prefabricated metal building panels, metal building sections, metal structural components and accessories*, from Kansas City, MO, and Birmingham, AL, to points in the United States. (Hearing site: Dallas, TX.)

MC 113475 (Sub-32F), filed March 22, 1979. Applicant: RAWLINGS TRUCK LINE, INC., P.O. Box 831, Emporia, VA 23847. Representative: Harry J. Jordan, 1000 16th St., N.W., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber mill products and forest products*, from Athens, NY, Hainsport, NJ, Fruitland, MD, and Portsmouth, VA, to points in VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, and ME. (Hearing site: Washington, DC, or Richmond, VA.)

MC 114045 (Sub-534F), filed March 19, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *acids, chemicals and solvents* (except in bulk), and (2) *materials, equipment, and supplies* (except in bulk) used in the manufacture and distribution of acids, chemicals and solvents, from points in CA, to points in NJ and PA. (Hearing site: Philadelphia, PA, or Dallas, TX.)

MC 116175 (Sub-13F), filed March 26, 1979. Applicant: WILLIAM E. (BILLY) ONEY, d.b.a. WILLIAM E. ONEY, Route 7 Box 37, Kingsport, TN 37660. Representative: William E. Oney (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alumina, borax boric acid, calcium carbonate, and zircon sand*, from the facilities of AluChem, Inc., at or near Reading, OH, to points in WI, IL, IN, MI, OH, NY, KY, PA, VA, and MO, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Knoxville, or Kingsport, TN.)

MC 118535 (Sub-133F), filed March 26, 1979. Applicant TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO. Representative: Wilburn L. Williamson, The Oil Center, Suite 615E, 2601 N.W. Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed phosphates*, (a) from Horn, MO, to points in AR, CO, KS, LA, MS, MN, OK, TN, and TX, and (b) from Houston, TX, to points in AR, CO, KS, LA, MO, MS, NM, OK, and TN. (Hearing site: Kansas City, MO.)

MC 123255 (Sub-203F), filed March 21, 1979. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Rd., 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 the manufacturers of paper and paper products (except commodities in bulk), between the facilities of Scott Paper Company in ME, on the one hand, and, on the other points in NY. (Hearing site: Columbus, OH.)

MC 123314 (Sub-27F), filed March 26, 1979. Applicant: JOHN F. WALTER, INC., P.O. Box 175, Newville, PA 17241. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such merchandise* as is dealt in by grocery and feed business houses, and (2) *materials, ingredients, and supplies* used in the manufacture, and distribution, of the products in (1) above, between the facilities used by Ralston Purina Company, at or near Hampden Township, Cumberland County, PA, on the one hand, and, on the other, the facilities used by Ralston Purina Company, at or near Dunkirk and Buffalo, NY, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 126844 (Sub-76F), filed March 23, 1979. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Rd., Vineland, NJ 08360. Representative: Kenneth F. Dudley, 611 Church St., 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 (1) *refractory products*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of refractory products (except commodities in bulk), from Baltimore and Leslie, MD, and Cape May, NJ, to points in AR, CO, IL, IN, IA, KS, MI, MO, NE, OH, OK, and WI. (Hearing site: Washington, DC.)

MC 127705 (Sub-75F), filed March 26, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City,

IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *corrugated boxes*, from Highland, IL, (2) *non-corrugated boxes*, from Pacific, MO, and Godfrey, IL, (3) *waste paper* and *non-corrugated boxes*, from St. Louis, MO, and (4) *non-corrugated pulpboard*, from Alton and Federal, IL, to points in IN, OH, MI, PA, NY, and NJ. (Hearing site: none specified.)

MC 134134 (Sub-43F), filed March 26, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Ave., Omaha, NE 68106. Representative: Lavern R. Holdeman, 521 South 14th St., P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pipe fittings and rough iron castings*, from the facilities of J. P. Ward Foundries, Inc., at or near Blossburg, PA, to points in CO, IL, IN, IA, KS, KS, KY, MI, MO, NE, OH, WV, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Blossburg, PA, or Omaha, NE.)

MC 134574 (Sub-28F), filed March 23, 1979. Applicant: FIGOL DISTRIBUTORS LIMITED, P.O. Box 6298, Station "C", Edmonton, AB T5B 4K6 Canada. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. To operate as a common carrier, by motor vehicle, in foreign commerce only, over irregular routes, transporting *beer and malt liquor*, in containers, from points in WA to ports of entry on the international boundary line between the United States and Canada in WA, ID, and MT. (Hearing site: Great Falls, MT.)

MC 136315 (Sub-62F), filed March 23, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, fittings*, and (2) *accessories* for the commodities in (1) above, from the facilities of ACT Steel, Inc., at Huston, TX, Wilmington, NC, and Tampa, FL, to points in AL, AR, FL, GA, KS, LA, MS, NC, SC, OK, TN, VA, and WV. (Hearing site: Houston, TX, or Jackson, MS.)

Note.—Dual operations may be involved.

MC 136605 (Sub-96F), filed March 23, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel tubing*, from the facilities of Dial Tube Company, at of near Chicago, IL, to points in CA, OR, and WA, and to the ports of Entry on the international boundary line between the United States and Canada in ID and MT. (Hearing site: Chicago, IL.)

MC 138704 (Sub-5F), filed March 23, 1979. Applicant: GARY L. DUNPHY, Embden, ME 04958. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printing paper*, other than newsprint or carbonized print, from the facilities of Madison Paper Corporation, at or near Madison, ME, to points in MA, RI, NY, NJ, PA, MD, WV, VA, OH, IN, IL, WI, IA, NE, UT, TX, LA, MS, KY, TN, AL, GA, FL, NC, and SC, under continuing contract(s) with Madison Paper Corporation, of Madison, ME. (Hearing site: Washington, DC.)

MC 138875 (Sub-159F), filed March 22, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., 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 *chemicals* (except in bulk), from points in KS, to points in ID, OR, and WA. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 141764 (Sub-15F), filed March 13, 1979. Applicant: BLACKHAWK ENTERPRISES, a corporation, 3149 Depot Rd., Hayward, CA 94545. Representative: William D. Taylor, 100 Pine St. Suite 2550. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *film and sheeting*, (2) *chemicals*, in mixed loads with (1) above, and (3) *paper cores and tubes*, between points in the United States (except AK and HI), under continuing contract(s) with Xidex Corporation, of Sunnyvale, CA. (Hearing site: San Francisco, CA.)

MC 141804 (Sub-197F), filed March 23, 1979. 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 *such commodities* as are dealt in or used by manufacturers of batteries and electric storage batteries, between Florence, MS, Columbus, GA, Raleigh, NC, Tampa, FL, and Beaverton, OR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-198F), filed March 23, 1979. 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 meats, meat products and meat byproducts, dairy products, articles distributed by meat-packing houses, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, foodstuffs, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Terre Haute, IN, on the one hand, and, on the other, Los Angeles, CA, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8) [formerly section 402(a)(5) of the Interstate Commerce Act]. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142364 (Sub-10F), filed March 26, 1979. Applicant: KENNETH SAGELY, d.b.a SAGELY PRODUCE, 2802 Kibler Rd., Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rough castings*, (2) *finished wheels, finished brake drums*, and *finished hubs*, and (3) *assemblies* for the commodities in (1) and (2) above, from Lebanon, IN, and Chattanooga, TN, to Siloam Spring, AR. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 142485 (Sub-4F), filed March 22, 1979. Applicant: KENDRICK MOVING AND STORAGE, INC., P.O. Box 209, Lebanon, OH 45036. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *restaurant equipment, materials, supplies, and furnishings*, from the facilities of Ken Hedge, Inc., in Clear Creek Township, Warren County, and Moraine, OH, to points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

MC 145294 (Sub-1F), filed March 19, 1979. Applicant: JAMES T. BARTLETT AND CHARLES C. BROWN, d.b.a. CHASE AND THOMAS TRUCKING CO., P.O. Drawer 610, Bridgeport, WV 26330. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *silica sand*, in bulk, from points in Frederick County, VA, to points in MD, PA, and WV, and (2) *dolamite*, in bulk, from Carey and Woodville, OH, to Clarksburg and Jerry Run, WV. (Hearing site: Charleston, WV.)

MC 145454 (Sub-4F), filed March 22, 1979. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 2154 Green Valley Drive, Crown Point, IN 46307. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lard, shortening, margarine, and cooking oils*, from Bradley, IL, to points in WI. (Hearing site: Chicago, IL.)

MC 145944 (Sub-2F), filed March 22, 1979. Applicant: H&N TRANSPORT, INC., MAIN ST., P.O. Box 148, Cottage Grove, WI 53527. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer*, from points in IA, IL, and MN, to points in WI, under continuing contract(s) with (1) Hartung Bros., Inc. of Cottage Grove, WI, (2) Bergman Bros. Inc. of Loganville, WI, (3) Bernard Rock & Sons, Inc. of Dodgeville, WI, and (4) James Burns & Sons Farms, Inc. of Almond, WI. (Hearing site: Madison, WI.)

MC 146155 (Sub-2F), filed March 21, 1979. Applicant: LOUIS C. NULL TRUCKING, INC., 427 N. Railroad St., Argos, IN 46501. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *trailers* (except those designed to be drawn by passenger vehicles), from the facilities of Copco Steel and Engineering Co., at South Bend, IN, to points in IL, MI, and OH, under continuing contract(s) with Copo Steel and Engineering Co., of South Bend, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 146265 (Sub-3F), filed March 23, 1979. Applicant: JAMES L. ENGLAND, d.b.a. JIM ENGLAND TRUCKING, 3905 Shamrock Dr., Huntsville, AL 35810. Representative: J. Michael May, Suite 508, 1447 Peachtree St. NE., Atlanta, GA 30309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel acetylene cylinders* and *parts* for cylinders, from Huntsville, AL, to points in the United States in and east of TX, OK, KS, NE, IA, and MN, under continuing contract(s) with Coyne Cylinder Co., Huntsville, AL. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 146265 (Sub-4F), filed March 23, 1979. Applicant: JAMES L. ENGLAND d.b.a. JIM ENGLAND TRUCKING, 3905 Shamrock Dr., Huntsville, AL 35810. Representative: J. Michael May, Suite 508, 1447 Peachtree St., NE., Atlanta, GA 30309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wooden dowels and wooden blanks*, from Huntsville, AL, to points in the United States in and east of TX, OK, KS, NE, IA, and MN, under a continuing contract(s) with Textile Hardwood Mfg. Co., Inc., of Huntsville, AL. (Hearing site: Birmingham, AL, or Atlanta, GA.)

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[Volume No. 27]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate

August 2, 1979.

Petitions for Modification, Interpretation, or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 Fed. Reg. 50908, as modified at 43 Fed. Reg. 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 44605 (Sub-39F) (M1 F) (notice of filing of petition to remove a restriction), filed February 7, 1979. Petitioner: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104. Representative: Ann M. Pougiales, 100 Bush St., San Francisco, CA 94104. Petitioner holds *common carrier* authority in MC 44605 Sub 39, filed December 16, 1975. MC 44605 Sub 39 authorizes the transportation over regular routes, of *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 Salt Lake City, UT and San Francisco, CA, (2) between Fallon, NV and junction Alternate U.S. Hwy 95 and combined

Interstate Hwy 80 and U.S. Hwy 40 near Fernley, NV, (3) between San Francisco, CA, and San Jose, CA, (4) between Vallejo, CA, and San Jose, CA, (5) between Oakland, CA, and San Jose, CA, (6) between Richmond, CA, and Stockton, CA, (7) between Sacramento, CA, and junction CA Hwys 4 and 160 near Antioch, CA, (8) between Lodi, CA, and junction Interstate Hwy 80 and CA Hwy 12 near Suisun City, CA, and (9) between Oakland, CA and Walnut Creek, CA, in (1) through (9) above, over specified routes, serving all intermediate points, and restricted against the transportation of shipments either (a) originating at Carson City, NV, or at points in Washoe County, NV, and destined to points in AZ or CA, or (b) originating at points in AZ or CA, and destined to Carson City, NV, or to points in Washoe County, NV.

By the instant petition, petitioner seeks to modify the certificate by completely deleting the said restriction.

MC 58287 (Sub-2 and 4) (MIF) (notice of filing of petition to modify certification), filed November 6, 1978. Petitioner: ALL ISLAND DELIVERY SERVICE, INC., 174 Cabot Street, West Babylon, NY 11704. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield, NJ 07006. Petitioner holds motor *common carrier* certificates in (1) MC 58287 Sub 2 issued May 4, 1974, authorizing the transportation over irregular routes of *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 points in Suffolk and Nassau Counties, NY, on the one hand, and, on the other, New York, NY, and points in Passaic, Bergen, Hudson, Essex, Middlesex, and Union Counties, NY, and those in the Philadelphia, PA, commerical zone, and (2) MC–58287 Sub 4 issued September 1, 1976, authorizing the transportation over irregular routes of *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), (a) between New York, NY, on the one hand, and, on the other, points in Hudson, Bergen, Passaic, Essex, Middlesex, Union, Somerset, and Morris Counties, NJ, and (b) between points in Nassau and Suffolk Counties, NJ, on the one hand, and, on the other, points in Somerset and Morris Counties, NJ.

By the instant petition, petitioner seeks to modify the territorial description in (1) to include on the other hand, points in Burlington, Hunterdon, Mercer, Monmouth, Morris, Ocean, and Warren Counties, NJ, and Rockland and Westchester Counties, NY, and in part (2)(a) to include points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, NJ, on the one hand, and on the other, points in Burlington, Hunterdon, Mercer, Monmouth, Ocean, Sussex, and Warren, Counties, NJ, and Rockland and Westchester Counties, NY, and the Philadelphia, PA, commercial zone.

MC 72997 (Sub-8) (MIF) (notice of filing of petition to modify certificate), filed December 1, 1978. Petitioner: LIBERTY TRUCKING COMPANY, a corporation, 5000 W. 39th Street, Chicago, IL 60650. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Petitioner holds motor *common carrier* certificate in MC 72997 Sub 8 issued March 17, 1952, authorizing the transportation over regular routes of *general commodities* (except those of unusual value, livestock, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), over alternate regular routes for operating convenience only in connection with carrier's presently authorized operations; (1) between Fort Atkinson and Madison, WI, over U.S. Hwy 12, (2) between junction U.S. Hwy 14 WI Hwy 13, and junction WI Hwys 13 and 11; from junction U.S. Hwy 14 and WI Hwy 13 over WI Hwy 13 to junction WI Hwy 11, service is not authorized to or from intermediate points, return over these routes.

By the instant petition, petitioner seeks to modify the the territorial description by deleting (a) over alternate regular routes for operating convenience only in connection with carrier's presently authorized operations, and (b) service is not authorized to or from intermediate points. Also petitioner seeks to change WI Hwy 13 to WI Hwy 213.

MC 136285 (Sub-3) (M2F), (notice of filing of petition to modify the certificate), filed February 15, 1979. Petitioner: SOUTHERN INTERMODAL LOGISTICS, INC., P.O. Box 1375, Thomasville, GA 31792. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Petitioner holds *common carrier* authority in MC 136285 Sub 3, served September 30, 1977. MC 136285 Sub 3 authorizes the transportation over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and motor vehicles), in containers or in trailers, having an immediately prior or subsequent movement by water, between Charleston, SC, Jacksonville, FL, and Savannah, GA, on the one hand, and, on the other, points in AL, FL, GA, NC, SC, and TN; and *empty containers, trailers, and trailer chassis*, between points in AL, FL, GA, NC, SC, and TN. By the instant petition, petitioner seeks to modify MC 136285 Sub 3 by: (1) remove from the general commodities exceptions "commodities in bulk", and (2) changing the territorial description to read "between points in AL, FL, GA, NC, SC, and TN, on the one hand, and, on the other, all port cities in AL, FL, GA, NC, SC, and TN.

MC 141947 (Sub-2) (M2F), (notice of filing of petition to modify a permit filed July 22, 1979. Petitioner: GEORGE HALL, doing business as GEORGE HALL TRUCKING CO., 8240 Berry Avenue, Sacramento, CA 95828. Representative: Eldon M. Johnson, The Hartford Building, 650 California Street, Suite 2808, San Francisco, CA 84108. Petitioner holds motor *contract carrier* Permit No. MC 141947 Sub 2, issued May 19, 1978, authorizing transportation over irregular routes, of (1) *carbonated beverages*, in containers, from Sacramento, CA, to Reno, NV; (2) *empty glass bottles and knocked-down cartons*, from Oakland, and Tracy, CA, to Reno, NV; (3) *empty plastic bottles*, from San Jose, CA, to Reno, NV, under continuing contract(s) in (1), (2), and (3) above with Shoshone Coca-Cola Bottling Company, of Reno, NV, (4) *empty glass bottles*, from Oakland and Tracy, CA, to Reno, NV, (5) *carbonated beverages*, in containers, from Sacramento, CA, to Reno, NV, under continuing contract(s) in (4) and (5) above with Seven-Up Bottling Company, of Reno, NV; (6) *empty glass bottles*, from Oakland and Tracy, CA, to Reno, NV, under continuing contract(s) with Belfast Bottling Company of Reno, doing business as Pepsi-Cola Bottling Company, of Reno, NV; (7) *empty glass bottles and knocked-down cartons*, from Oakland and Tracy, CA, to Reno, NV, (8) *empty plastic bottles*, from San Jose, CA, to Reno, NV, under continuing contract(s) in (7) and (8) above with Owens-Illinois, Inc., of San Mateo, CA, and (9) *carbonated beverages*, in containers, from Sacramento, CA, to Reno, NV, under continuing contract(s)

with Tonkin Corp., of California, doing business as Seven-Up Bottling Co., and Capitol Beverage Packers, of Sacramento, CA. By the instant petition, petitioner seeks to modify the above authority by adding as an extension of (4) and (5) the following: "empty beverage cans and can ends, from points in Alameda, Contra Costa, Los Angeles, Sacramento and Santa Clara Counties, CA, to Reno, NV, under continuing contract(s) with Seven- Up Bottling Company, of Reno, NV."

MC 142429 (M1F) (notice of petition to modify permit to add a shipper), filed January 14, 1979. Petitioner: HORACE G. STROUD, dba STROUND TRUCK SERVICE, 11030 Weaver St., South El Monte, CA 91733. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Petitioner holds a motor *contract carrier* permit in MC-142429, issued December 19, 1978, authorizing transportation over irregular routes of: *Cheese*, in mechanically refrigerated equipment, from points in MN, WI and Franklin and St. Lawrence Cos. NY, to points in CA; and from points in WI, to points in Cache Co., UT. RESTRICTION: The authority granted is limited to a transportation service to be performed, under a continuing contract(s) with F. L. Bolzern Company, Inc., of Los Angeles, CA and Lake Dairy Cooperative, of Kiel, WI. By the instant Petition, petitioner seeks to add Daisy Provisions Co. of Los Angeles, CA as a contracting shipper.

Republications of Grants of Operating Rights Authority Prior to Certification—Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 130138 (M1F) (2nd republication of notice of filing of petition to modify license), filed June 20, 1978, published in the FR issues of September 29, 1978, and November 16, 1978, and republished this issue. Petitioner: CHI-AM TOURS, INC., 9 Elizabeth Street, New York, NY 10013. Representative: Robert Goldstein, 8 West 40th Street, New York, NY 10018. A Decision of the Commission, Review Board Number 2, decided May 29, 1979, and served June 22, 1979, finds that the present and future public convenience and necessity require modification of Certificate No. MC 130138 (M1F), issued March 12, 1973, authorizing transportation over irregular routes, of *Passengers and their baggage*, in round trip sightseeing and pleasure tours, in special and charter operations, (1) beginning and ending in that part of New York, NY in the Borough of Manhattan south of 14th Street, and extending in that part of the United States on and east of a line beginning at the mouth of the MS River and extending along the MS River to its junction with the western boundary of Itasca County, MN, then along the western boundaries of Itasca and Koochiching Counties, MN, to the International Boundary line between the United States and Canada; and (2) beginning and ending at Los Angeles and San Francisco, CA, and extending to points in the United States (except CA, AR, and HI). Petitioner is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

Motor Carrier Operating Rights Applications

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the Application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 Fed. Reg. 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 144901 (Sub-1F), filed January 18, 1979. Applicant: INTERMODAL SYSTEMS, INC., 1850 North Southern Road, P.O. Box 4952, Kansas City, MO 64120. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and agricultural commodities* as defined by Section 203(b)(6) of the Interstate Commerce Act (except commodities in bulk), when moving with foodstuffs in temperature controlled equipment in substituted TOFC service for a portion of the through motor carrier movement between points in AZ, CA, OR, IL, IN, IA, KS, MI, MN, MO, NE, WI and WA, restricted to shipments originating at or destined to points in AZ, CA, OR and WA. Note: Common control may be involved. (Hearing Site: Kansas City, MO)

Broker, Water Carrier and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General 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 of notice of filing of the application is published in the **Federal Register.** Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 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 (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issued of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

MC 130195 (Sub-3F), filed June 25, 1979. Applicant: HOOSIER MOTOR CLUB, d/b/a HOOSIER MOTOR COACH TOURS, 40 West 40th St., Indianapolis, IN 46220. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To engage in operations, in interstate or foreign commerce, as a broker, at Indianapolis, IN, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in special and charter operations, between points in the United States (including AK and HI). (Hearing site: Indianapolis, IN.)

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, N.Y.,* 54 M.C.C. 291 (1952).

Broker

MC 130375 (Sub-1F), filed May 31, 1979. Applicant: MAXINE WILLIER d.b.a. MID-MISSOURI TRAVEL AGENCY, P.O. Box 455, Lancaster, Missouri 65548. Representative: W. R. England, III, P.O. Box 456, Jefferson City, Missouri 65102. To engage in operations, in interstate or foreign commerce, as a broker, at Lancaster, MO, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* in round-trip special and charter operations, beginning and ending at points in Henry, Jefferson, Wapello, Monroe, Lucas, Clark, Decatur, Wayne, Appanoose, Davis, Van Buren, Lee, and Des Moines Counties, IA, and extending to points in the United States (including AK and HI). (Hearing site: Des Moines or Burlington, IA.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the New York, NY, 54 M.C.C. 291 (1952).

Broker

MC 130565F, filed April 2, 1979. Applicant: KINCANNON TOURS, INC., 813 Lake Air, Suite 200, P.O. Box 8824, Waco, TX 76710. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. To engage in operations, in interstate or foreign commerce, as a *broker,* at Waco, TX, in arranging for the transportation by motor vehicle, of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in TX, and extending to points in the United States (excluding AK and HI). (Hearing site: Waco or Dallas, TX.)

Permanent Authority Decisions

Decided: August 1, 1979.

The following broker, freight forwarder or water carrier 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 within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall 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 specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it 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 this 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 protest shall be filed with the Commission. 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, the 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.

Findings: 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 applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) 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 the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (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 2, Members Boyle, Eaton, and Liberman. Eaton not participating.

MC 130570F, filed May 1, 1979. Applicant: SOUTH USA, INC., Suite 1612, Cain Tower, 229 Peachtree St., N.W., Atlanta, GA 30303. Representative: Glen A. Reed, 2200 First National Bank Tower, Two Peachtree St., N.W., Atlanta, GA 30303. To Engage in operations, in interstate or foreign commerce, as a *broker*, at Atlanta, GA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in the United States (including AK and HI), and extending to points in AL, AR, FL, GA, KY, LA, MO, MS, NC, SC, TN, TX, and VA. (Hearing site: Atlanta, GA.)

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, N.Y.*, 54 M.C.C. 291 (1952).

MC 130571F, filed April 2, 1979. Applicant: GRAY LINE OF ALBUQUERQUE, INC., P.O. Box 693, Albuquerque, NM 87103. Representative: Rex Borough (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Albuquerque, NM, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, WA, and HI. Condition: Cancellation at applicant's president's written request of license held by him in No. MC-130295. (Hearing site: Albuquerque, NM, or Washington, DC.)

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, N.Y.*, 54 M.C.C. 291 (1952).

Broker

MC 130574F, filed May 9, 1979. Applicant: SKI & TRAVEL ASSOCIATES, INC., 4711 Grandway Rd., Richmond, VA 23226. Representative: Maxwell A. Howell, 1100 Investment Bldg., Washington, DC 20005. To engage in operations, in interstate or foreign commerce, as a *broker*, at Richmond, VA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the United States (including AK, but excluding HI). (Hearing site: Richmond, VA.)

MC 130575, filed May 21, 1979. Applicant: KENTUCKY LAKE TOURS, INC., Route 1, Benton, KY 42025. Representative: Geo. Edward Overbey, Jr., 291 Main St., Murray, KY 42071. To engage in operations, in interstate or foreign commerce, as a *broker*, at Benton, KY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at Benton, KY, and extending to points in the United States (including HI and Fairbanks and Anchorage, AK, but excluding the remainder of AK). (Hearing site: Paducah or Murray, KY.)

Permanent Ex-Water Authority Decisions; Decision-Notice

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 F.R. 7965, as corrected at 44 F.R. 37230.

The sole issue upon which these applications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission within 30 days of the **Federal Register** publication. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

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.

Findings: With the exception 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 present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly 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 terms, conditions or limitations 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 within 30 days of publication of this decision-notice (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 the decision-notice. To the extent that the authority sought below may duplicate any applicant's other authority, such duplication shall be construed as conferring only 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 2, Members Boyle, Eaton, and Liberman. Eaton not participating.

Ex-Water

MC 142564 (Sub-1F), filed July 2, 1979. Applicant: HOLMES MOTOR FREIGHT SERVICE INC., 82 So. Massachusetts St.,

Seattle, WA 98134. Representative: Stanley S. Holmes, Jr., 82 So. Massachusetts St., Seattle, WA 98134. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), (1) between points in the Seattle, WA commercial zone, and (2) between points in the Tacoma, WA commercial zone, restricted in (1) and (2) above to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Seattle or Tacoma, WA.)

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 13, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

No. MC 11220 (Deviation No. 47) GORDONS TRANSPORT, INC., 185 West McLemore Ave., Memphis, TN 38101, filed July 23, 1979. Carriers proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Birmingham, AL, over Interstate Hwy. 59 to junction Interstate Hwy. 24, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Birmingham, AL, over U.S. Hwy. 31 to junction alternate U.S. Hwy. 72 at Decatur, AL, then over alternate U.S. Hwy. 72 to junction U.S. Hwy. 72 at Huntsville, Al, then over U.S. Hwy. 72 to junction Interstate Hwy. 24, then over Interstate Hwy. 24 to Chattanooga, TN, and return over the same route. Restriction: the authority granted above is restricted to the transportation of traffic moving from, to, or through Chattanooga, TN.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before September 13, 1979.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC–1515 (Deviation No. 744), GREYHOUND LINES, INC., Greyhound Tower, Phoeniz, AZ 85077, filed July 23, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passenger, over a deviation route as follows: from the WY–NE State line, west of Kimball, NE, over Interstate Hwy. 80 to North Platte, NE, and return over the same route for operating convenience only. The notice indicates the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: from the WY–NE State line, west of Kimball, NE, over U.S. Hwy. 30 to North Platte, NE, and return over the same route.

Permanent Authority Decisions; Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: August 1, 1979.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (46 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave or discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before September 13, 1979.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the applicant's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene 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.

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.

Findings: With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. 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 petitioner, 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 terms, conditions or limitations 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 petitions for intervention, filed within 30 days of publication of this decision-notice (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 the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only 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 2, Members Boyle, Eaton, and Liberman. Eaton not participating.

Single-Line for Joint-Line

MC-128544 Sub 4F, filed April 5, 1979. Applicant: IOWA STEEL EXPRESS, INC., 2519 16th Ave., S.W., P.O. Box 1304, Cedar Rapids, IA 52406. Representative: Richard P. Moore, 2720 First Ave., N.E., P.O. Box 1943, Cedar Rapids, IA 52406. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Chicago, IL, to points in NE, and points in Jefferson, Hardin, Franklin, Dallas, Polk, Wapello, Washington, Monroe, Marshall, Linn, Howard, Guthrie, Butler, Clinton, Delaware, Fayette, Chickasaw, Johnson, Cass, Iowa, Jones, Story, Greene, Carroll, Muscatine, Lee, Crawford, Davis, Benton, Marion, Buchanan, Des Moines, Jasper, Grundy, Dubuque, Mahaska, Poweshiek, Boone, Warren, Jackson, Cedar, Black Hawk, Van Buren, Scott, Winneshiek, Hamilton, Bremer, Wayne, Fairfield, Tama, Harrison, Cerro Gordo, Adair, Appanoose, Lucas, Floyd, Clayton, Louisa, Henry, Pottawattamine, Keokuk, Allamakee, O'Brien, and Buena Vista Counties, IA. NOTE: The purpose of this application is to substitute single-line for joint-line operations. (Hearing site: Chicago, IL.)

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before August 24, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 4405 (Sub-E-23) (correction), filed June 4, 1974, published in the **Federal Register**, October 28, 1975. Applicant: Dealers Transit, Inc., 522 S. Boston Ave., Tulsa, OK 74103. Representative: Roger D. Smith (same as above). *Such commodities* as require special equipment or handling by reason of their unusual weight, bulk, or length, and *self-propelled articles* each weighing 15,000 pounds or more and *related machinery, tools, parts, and supplies* moving in connection therewith, between, points in Michigan and East-St. Louis, IL, on the one hand, and, on the other, points in Colorado (except between points in Iran, Baraga, Keweenaw, Haughton, Geagebic, and Ontonagan Counties, MI, on the one hand, and, on the other, points in Washington, Yuma, Phillips, Logan and Sedgivick Counties, CO). (Gateway eliminated: East-St. Louis, MO). Purpose of republication: clarify territory.

MC 4405 (Sub-E-36) (correction), filed June 4, 1974, published in the **Federal Register**, October 28, 1975. Applicant: Dealer,s Transit, Inc., 522 S. Boston Ave., Tulsa, OK 74103. Representative: Roger D. Smith (same as above). *Such commodities* as require special equipment and handling by length, and *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Michigan on the one hand, and, on the other, points in Nevada (except between the Upper Peninsula of Michigan on the one hand, and, on the other, points in Nevada beginning at the Nevada-Arizona State line extending along U.S. Hwy 93 to junction Nevada Hwy 25, then along Nevada Hwy 25 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the Nevada-California State line). (Gateways eliminated: East-St. Louis, IL, and points in Oklahoma, Texas, and New Mexico). Purpose of republication: clarify restriction.

MC 107403 (Sub-E747), filed March 23, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Dry chemicals* (except fly ash), in bulk, in tank vehicles, from points in OH within 150 miles of Monongahela, PA, to points in NV, UT, NM, CO, IN, MT, WA, and CA. (Gateway eliminated: Charleston, WV.)

MC 107403 (Sub-E748), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, from the facilities of Stepan Chemical Co., at Millsdale, IL, or the facilities of Baird Chemicals Industries at Mapleton, IL, to points in AZ, CA, IN, NV, OR, and WA. (Gateway eliminated: St. Louis, MO.)

MC 107403 (Sub-E749), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, from Robertson County, TN, to points in AZ, CA, IN, NV, OR, WA (St. Louis, MO*), Wyoming, and Billings and Sheridan, MT, Pocatello and Burley, ID, and Salt Lake City, UT (Chicago, IL*). (Gateways eliminated: asterisked.)

MC 107403 (Sub-E750), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals*, in bulk, in tank vehicles, from Calvert City, KY, and points in Marshall County within 5 miles of Calvert City, to points in Wyoming and Billings and Sheridan, MT, Pocatello, ID, and Salt Lake City,

UT, (Chicago, IL*) and points in AZ, CA, IN, NV, OR, and WA (St. Louis, MO*). (Gateways eliminated: Asterisked.)

MC 107403 (Sub-E715), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as above). *Liquid chemicals,* in bulk, in tank vehicles, from points in MD to points in WY. (Gateways eliminated: Natrium, WV, and Chicago, IL.)

MC 111170 (Sub-E2), filed May 13, 1974. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Tom E. Moore (same as above). *Petroleum* and *petroleum products* (except liquefied petroleum gases, liquid petroleum wax, anhydrous ammonia, methanol, alcohol and alcohol products), in bulk, in tank vehicles, (a) from points in LA on and north of U.S. Hwy 84 to points in MI on and north of U.S. Hwy 82; (b) from Baton Rouge, LA (except from the facilities of the Allied Chemical Corporation in Baton Rouge) to points in MO and IL. (Gateways eliminated: Chicat County, AR in (a) and Union County, AR in (b) above.)

MC 114019 (Sub-E471), filed December 29, 1976. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Poloshi Road, Chicago, Illinois 60629. Representative: Arthur J. Sibik, 7000 South Poloshi Road, Chicago, Illinois 60629. *Wire, wire fencing, and other iron and steel articles,* (1) from Sparrows Point and Baltimore, MD, New York, NY, and points within 30 miles of New York, NY, points in that part of New Jersey, Delaware and Maryland, which are located within 30 miles of Philadelphia, PA, points in that part of New York, on and west of a line beginning at Windsor Beach, NY, and extending to Rochester, NY, thence along U.S. Hwy 15 to Wayland, NY, then along New York Hwy 245 to Densville, NY, then along New York Hwy 36 to junction New York Hwy 21, then along New York Hwy 21 to Andover, NY, and then along New York Hwy 17 to the New York-Pennsylvania State line, points in Pennsylvania and those in West Virginia, in, north and east of Wetzel, Harrison, Upshur, Randolph and Pocahontas Counties, and Chicago, Illinois, to those points in Wisconsin within the area bounded on the east by U.S. Hwy 45, on the north by Wisconsin Hwy 60, on the west by U.S. Hwy 12 and Wisconsin Hwy 69, and on the south by the Wisconsin-Illinois State line. *Roofing and siding, roof and siding materials and equipment,* and *insulating material,* (2) from the above described origin territory in (1) to those points in Wisconsin on and bounded by a line beginning at the Illinois-Wisconsin State line and extending along U.S. Hwy 45 to junction Wisconsin Hwy 100, then along Wisconsin Hwy 100 to junction Wisconsin Hwy 32, then along Wisconsin Hwy 32 to junction Wisconsin Hwy 60, then along Wisconsin Hwy 60 to junction U.S. Hwy 12, then along U.S. Hwy 12 to Madison, WI, then along Wisconsin Hwy 69 to the Wisconsin-Illinois State line, and then along the Wisconsin-Illinois State line to point of beginning. *Structural, architectural and ornamental iron, steel and metal work,* (3) from the above described origin territory in (1) to points in Iowa. *Iron and steel wire products, and fencing materials and supplies,* (4) from the above described origin territory in (1) above to points in North Dakota, South Dakota, Minnesota, Iowa, and Nebraska. (Gateways to be eliminated: Akron, OH, Chicago and Wankegan, IL, or Akron, OH, Chicago, IL and Milwaukee, WI.)

MC 115826 (Sub-E72) (correction), filed December 15, 1977, published in the **Federal Register** July 24, 1979. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Germina, Denver, CO 80217. Representative: William H. Shawn, Suite 501—1730 M St. NW., Washington, DC 20036. *Fresh, frozen and cured meats, and frozen meat products,* from points in CA on, north and west of a line beginning at Monterey extending along CA Hwy 68 to Salinas, then along U.S. Hwy 101 to junction CA Hwy 152, then along CA Hwy 152 to junction CA Hwy 59, then along CA Hwy 59 to Merced, then along CA Hwy 99 to junction CA Hwy 36, then along CA Hwy 36 to junction I Hwy 5, then along I Hwy 5 to junction CA Hwy 299, then along CA Hwy 299 to junction U.S. Hwy 395, then along U.S. Hwy 395 to the OR–CA State line, to points in CO on, east and north of a line beginning at the CO–WY State line extending along I Hwy 25 to junction CO Hwy 14, then along CO Hwy 14 to Fort Collins, then along U.S. Hwy 287 to junction CO Hwy 119, then along CO Hwy 119 to Boulder, then along CO Hwy 93 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 85, then along U.S. Hwy 85 to Colorado Springs, then along U.S. Hwy 24 to the CO–KS State line. (Gateway eliminated: Roberts, ID, and Boulder, CO, and points within 50 miles of Boulder). Purpose of republication—correct Hwy description.

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a Pack-and crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC–115, 131 M.C.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before September 10, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the **Federal Register**, subject to its tariff publication effective date.

HG–17–79 (special certificate—used household goods), filed July 5, 1979. Applicant: BAY MOVING AND STORAGE, INC., 1717 Gray St., Tampa, FL 33606. Representative: Cecil Harrell, President (address same as applicant). Authority sought: Between points within the State of Florida, serving MacDill Air Force Base, Tampa, FL.

HG–18–79 (special certificate—used household goods), filed July 20, 1979. Applicant: RUDOLPH TRANSFER & STORAGE CO., INC., P.O. Box 905, 520 S. Spring St., Clarksville, TN 37040. Representative: William B. Rudolph, President (address same as applicant). Authority sought: Between points in Benton, Bedford, Carroll, Cannon, Coffee, Davidson, Decatur, Dekalb, Dickson, Henry, Hickman, Houston, Lake, Macon, Montgomery, Moore, Obion, Perry, Robertson, Rutherford, Smith, Stewart, Sumner, Trousdale, Weakley, Williamson, and Wilson Counties, TN, and Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, Muhlenberg, McCracken, McLean, Todd, Triff, Union and Webster Counties, KY, serving the

military installation of Fort Campbell, Ky.

HG–19–79 (special certificate—used household goods), filed July 24, 1979. Applicant: ALLISON TRANSFER COMPANY, 703 East Ashley St., P.O. Box 3937 Station F, Jacksonville, FL 32206. Representative: R. D. Allison, Manager (address same as applicant). Authority Sought: Between points in Alachua, Dixie, Gilchrist, Levy, Flagler, Marion, Putnam, Baker, Bradford, Clay, Duval, Nassau, Columbia, St. Johns, and Union Counties, FL, and Charlton and Camden Counties, GA, in the city of New Brunswick, GA, including all surface, air, and water terminals therein, particularly under contract with issuing office, Naval Supply Center, Charleston, SC, serving U.S. Naval Air Station, Jacksonville, FL, U.S. Naval Station Mayport, FL, and the 7th U.S. Coast Guard District, Miami, FL.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–24981 Filed 8–13–79; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-15)]

Seaboard Coast Line Railroad Co. Abandonment Between Nurney, Va., and Tunis, N.C.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided May 8, 1979, a finding, which is administratively final, was made by the Commission, Division 1, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB–36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979); provided, however, that applicant shall not sell, lease or otherwise dispose of the right-of-way underlying the track between mileposts AB–185.7 and AB–210.0, including all bridges and culverts, for a period of 180 days following issuance of the certificate to permit any State or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a 24.3 mile portion of its line of railroad extending from milepost AB–185.7 near Tunis, NC, to milepost AB–210.0 near Nurney, VA, all located in Hertford and Gates Counties, NC, and in the City of Suffolk, VA. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, September 13, 1979 unless within 30 days from the date of publication (September 13, 1979), the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–24988 Filed 8–13–79; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–7 (Sub-37)]

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul, and Pacific Railroad Co., Debtor-Abandonment-Near Sparta and Viroqua, in Monroe and Vernon Counties, Wis.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided November 7, 1978, and the decision of the Commission, Division 1, acting as an Appellate Division, as modified, adopted the decision of the Administrative Law Judge which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB–36 (Sub-No. 2), Oregon Short Line Railroad Co.-Abandonment Goshen, 360 I.C.C. 91 (1979), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company of its line of railroad beginning at milepost 0.0 near Sparta in a southerly direction to the end of the line at milepost 34.7 near Viroqua, a distance of 34.7 miles, in Monroe and Vernon Counties, WI. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, September 13, 1979, unless within 30 days from the date of publication (September 13, 1979), the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in

the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24984 Filed 8-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-7 (Sub-61F)]

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul, and Pacific Railroad Co., Debtor Abandonment Near Jackson to Egan, In Jackson, Nobles, Murray, and Pipestone Counties, Minn. and Moody County, S. Dak.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided June 7, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), Oregon Short Line Railroad Co.-Abandonment Goshen, 360 I.C.C. 91 (1979), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Stanley E. G. Hillman, Trustee, of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company of its line of railroad known as the Jackson to Madison line, extending from railroad milepost 210.0 near Jackson to railroad milepost 308.0 near Egan, a distance of 98 miles, in Jackson, Nobles, Murray and Pipestone Counties, MN, and Moody County, SD. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, September 13, 1979, unless within 30 days from the date of publication (September 13, 1979), the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24986 Filed 8-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-7 (Sub-61F)]

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul, and Pacific Railroad Co., Debtor Abandonment Near Jackson to Egan, in Jackson, Nobles, Murray, and Pipestone Counties, Minn., and Moody County, S. Dak., Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided June 7, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), Oregon Short Line Railroad Co.—Abandonment Goshen, 360 I.C.C. 91 (1979), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by Stanley E. G. Hillman, Trustee, of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company of its line of railroad known as the Jackson to Madison line, extending from railroad mile post 210.0 near Jackson to railroad milepost 308.0 near Egan, a distance of 98 miles, in Jackson, Nobles, Murray and Pipestone Counties, MN, and Moody County, SD. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, September 13, 1979, unless within 30 days from the date of publication (September 13, 1979), the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the Federal Register on March 31, 1976, at FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-24987 Filed 8-13-79; 8:45 am]

BILLING CODE 7035-01-M

[No. MC 143456 (Sub-3F)]

Theodore Rossi Trucking Co., Inc.; Contract Carrier Application (Barre, Vt.)

Decided: August 1, 1979.

Applicant seeks a permit authorizing operations substantially as described in the appendix. The evidence has been considered under the modified procedure. The application is opposed by Aime Bellavance & Sons, Inc., Williams Motor Transfer, Inc., DuBois Trucking, Inc., and Robert W. Bellville (Robert W. Bellville, Jr., Administrator), and Freda H. Bellville (Jose M. Monte and Dorthy Lavin, Executors), a partnership doing business as New York and Vermont Motor Express (NY–VT Motor Express), all motor common carriers. Applicant filed rebuttal materials.

Preliminary Matter

By letter dated June 27, 1979, the four protestants indicate that they would withdraw their protests conditioned upon applicant's amending its application and Commission acceptance of these amendments. We have not received from applicant any communication proposing to amend its application. Therefore, we will treat protestants' interests as continuing and will consider their evidence.

Pertinent Facts

The Rock of Ages Corporation, of Barre, VT, is a quarrier and manufacturer of granite. It operates granite quarries at Graniteville and Bethel, VT, and a manufacturing facility at Barre. Rock of Ages ships 100,000 tons of freight annually. In August 1978, Rock of Ages purchased a New Hampshire company, now called the Rock of Ages Building Granite Corporation. This subsidiary corporation maintains a facility at Concord, NH, primarily for the manufacturing of building stone. Inter-facility shipments of rough granite, semi-finished stone, and materials, equipment, and supplies, and machinery used in stone working are made between Rock of Ages' Vermont and New Hampshire facilities. Building stone is shipped from the Concord and Barre facilities to construction jobsites throughout the eastern United States. In addition, shipper receives inbound shipments of stone working materials from suppliers in these States, and inbound shipments of rough granite raw materials from various unnamed locations in the United States. General locations of jobsites have been provided, along with an estimate of overall monthly outbound shipments. No examples of sources of the inbound manufacturing materials or rough granite shipments are cited.

Shipper's finished building stone products consist of delicate slabs from two to four inches thick. The stone must be properly loaded and braced on flatbeds, and must remain so until reaching the destination. Deliveries must be timed to meet construction schedules. Rock of Ages states that the service it requires is for new traffic. It has been served satisfactorily by applicant since August 1978 under grants of temporary authority to operate between Barre and Concord. Between August 7, 1978, and April 15, 1979, applicant transported 43 shipments between Barre and Concord. This service constituted new business generated by the establishment of shipper's Concord subsidiary. Shipper states that no carriers hold the authority necessary to meet its new transportation requirements.

Protestant Bellavance is a common carrier authorized to transport (1) granite between Barre, on the one hand, and, on the other, points in New York, Pennsylvania, and portions of Connecticut, New Hampshire, Massachusetts, and New Jersey, (2) granite between Rutland and Washington Counties, VT, on the one hand, and, on the other, points in certain portions of New York, Pennsylvania, and portions of Connecticut, Massachusetts, New Hampshire, and New Jersey, and (3) abrasives from two named cities in New York to points in four Vermont counties. Bellavance also asserts an ability to provide interline service with protestant Williams. Protestant's fleet of vehicles includes a specially-designed lowbed trailer jointly owned by Bellavance, Williams, and applicant. Protestant does not specify any traffic handled for Rock of Ages, but it asserts that 25 percent of its annual hauling, or $250,000 in revenue, is done for shipper. It fears diversion of this traffic. Bellavance notes that if the application is treated as one for common carriage, 100 percent of its traffic would be subject to diversion. Protestant notes that no criticism of its service is cited by Rock of Ages. It questions applicant's ability to provide true contract carrier service to shipper, and notes that shipper is supporting a similar application for common carrier authority. Furthermore, it disputes shipper's claim that the proposed transportation is a new service. Bellavance acknowledges the Barre-Concord traffic previously transported by applicant under temporary authority, but it notes that the record contains no evidence concerning shipments to the 29 pertinent States.

Protestant Williams hold authority to transport (1) granite from points in central Vermont to Concord, and to points in Maryland, Virginia, Ohio, a portion of Pennsylvania, and the District of Columbia, (2) granite from points in Maine, New York, Pennsylvania, and portions of Rhode Island, Massachusetts, and Connecticut, to Concord, (3) quarrying and stone finishing equipment from Cleveland, OH, to Concord, and (4) marble from points in central Vermont to Concord and points in a portion of Pennsylvania. Williams also asserts an ability to interline with protestants Bellavance and NY–VT Motor Express. In January 1979, Williams lost much of its operating equipment in a fire, and since has rebuilt to full strength by acquiring another carrier. Williams asserts that 15 to 20 percent of its annual hauling would be diverted by a grant of contract carrier authority to applicant, and that 100 percent of its revenues would be subject to diversion if this application were treated as one for common carrier authority. Such diversion would harm its continuing recovery from the losses incurred in the fire. Protestant contends that the lack of evidence of volumes to be transported and origins and destinations of the shipments indicates there is no need for the proposed service. Williams contends that, even if the proposed service involves new traffic, existing carriers should be able to handle it. It also questions the feasibility of the proposed operations.

Protestant DuBois holds authority to transport ground, crushed, and broken limestone and marble, in bulk, in dump vehicles, from Shelburne, Swanton, and Winooski, VT to points in 12 of the destination States and the District of Columbia. DuBois fears diversion of three percent of its gross revenue if contract carrier authority is granted, and 57 percent of its revenue if common carrier authority is granted, but does not indicate revenues it derives from hauling the involved traffic.

Protestant NY–VT Motor Express holds authority to transport (1) granite, granite working tools, and machinery from Barre and points within 25 miles of Barre to New York and Long Island, NY, and points within 25 miles of New York

City; (2) granite in the reverse direction; and (3) granite from Barre to points in New York. Protestant also conducts interline operations with Williams. Protestant now derives approximately $230,000 in revenue from handling of traffic within the scope of the application. Protestant fears diversion of 100 percent of this traffic if common carrier authority is granted, or 8 percent of these revenues if contract carrier authority is granted. Protestant questions applicant's fitness to conduct the proposed operations, citing alleged illegal operations performed by applicant in the past.

Several of the protestants conduct interline operations within the scope of this application, and express a willingness to continue to do so. Williams can transport granite from Barre to Concord, and Bellavance interlines with Williams at Barre to provide service to Concord. Williams also interlines with NY–VT Motor Express to transport granite from points in New York and New Jersey through Barre to Concord. None of the protestants specifically identifies traffic transported under these arrangements.

Discussion and Conclusions

The proposed service qualifies as contract carriage within the meaning of 49 U.S.C. § 10102(12) because applicant will serve a limited number of persons, i.e., two, and because the proposed service meets the first alternative test of that section in that applicant will dedicate equipment to the exclusive use of the supporting shippers. The protestants have expressed fears that this application would be treated as an application for common carrier authority. However, applicant has not sought to amend its application in that manner, and, as discussed above, the proposed service qualifies as contract carriage within the meaning of the statute. We will therefore consider the evidence under the statutory criteria for deciding whether to approve an application for a permit to operate as a motor contract carrier.

Our consideration of the evidence under the criteria of 49 U.S.C. § 10923(b)(2) convinces us that the application should be granted. Applicant will serve two shippers, an acceptable showing within the meaning of the statutory requirement that it serve only "a limited number of persons". Applicant proposes a dedicated service with suitable equipment to meet shipper's transportation needs. It has served shipper satisfactorily between Barre and Concord under a grant of temporary authority, and thus it is familiar with shipper's transportation requirements. To meet these requirements, applicant will spot trailers at shipper's facilities, and provide power units on an on-call basis. We believe that applicant will provide shipper with appropriate contract carrier service. Protestants question the feasibility of applicant's proposed service. Applicant will be operating between shippers' facilities, and both to and from the destination territory. Therefore, there should be little if any deadhead mileage. In addition, applicant has a sufficient number of vehicles to meet shipper's transportation needs, and it appears financially capable of acquiring more vehicles should the need arise.

All four protestants indicate that varying percentages of their gross revenues would be diverted if applicant is granted contract carrier authority to serve Rock of Ages. However, we do not believe that a grant of authority will materially adversely affect the protestants or their ability to serve the public. First, no protestant has shown that a material portion of its traffic consists of shipments transported for Rock of Ages. They indicate that from 3 percent to 25 percent of gross revenues would be subject to diversion, but they fail to present evidence of actual shipments within the scope of this application for shipper. Second, protestants have been involved in transporting Rock of Ages' monumental granite. However, shipper requires applicant's services to transport its building stone, and applicant seeks authority for this new traffic. Therefore, a grant of authority here should not affect the traffic previously being handled by the protestants. Third, shipper states that it does not intend to divert to applicant the traffic now handled by the protestants. Therefore, we conclude that a grant of this application will have no materially adverse effects on protestants' operations as common carriers.

A denial of this application would have little effect upon applicant but would deprive the shippers of the services of a dedicated contract carrier proven capable of meeting its transportation needs. None of the protestants holds the wide scope of authority required by the shippers. Rock of Ages' acquisition of its Concord subsidiary and institution of a new line of business has created a new set of transportation requirements. Applicant helped meet those new transportation needs with service provided under a grant of temporary authority. It now seeks to make that authority permanent and expand the scope of authority to meet all of shippers' transportation needs. A grant of authority will allow shipper to develop this new line of business.

Protestants contend that applicant has conducted certain illegal operations, rendering it unfit to be granted authority. Applicant's alleged past wrongful operations have not been shown to be a flagrant and persistent disregard of the law and the Commission's rules and regulations. Therefore, we are unable to conclude that applicant is not fit to receive a grant of authority.

The evidence of record indicates that Rock of Ages' Vermont facilities are located at Barre, Bethel, and Graniteville, VT, and the authority we grant will be cast accordingly. We have rephrased the authority to be granted to conform to the need for service established by the evidence of record. The authority we grant will enable applicant to perform all services required by the supporting shippers.

Since the authority we grant may be in excess of that sought, we shall republish the authority granted in the **Federal Register.**

Common Control

Applicant states that T. A. Rossi, one of its directors, is also a vice-president of Roadway Express, a holder of motor common carrier authority in Certificate No. MC–2202 and subnumbers thereunder. This possible common control and management has not been submitted for Commission approval nor has any explanation been offered as to why such approval might be unnecessary. Accordingly, the authority we grant will be conditioned upon the person engaged in such common control filing an application under 49 U.S.C. §§ 11343–11344 for approval of that relationship, or submitting an affidavit indicating why such approval is unnecessary.

We find: Operation by applicant performing the service described in the appendix, will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. This decision does not significantly affect the quality of the human environment. An appropriate permit should be granted, subject to the condition regarding common control set forth in the appendix.

It is ordered: The application is granted to the extent set forth in the appendix.

The right of the Commission is expressly reserved to impose such terms, conditions, or limitations in the future as it may find necessary to insure that applicant's operations shall conform to provisions of 49 USC 10930(a) [formerly section 210 of the Interstate Commerce Act].

Operations may begin only following the service of a *permit* which will be issued if there is compliance with the common control condition set forth in the appendix and if applicant complies with the following requirements set forth in the Code of Federal Regulations: insurance [49 CFR 1043], designation of process agent [49 CFR 1044], contracts [49 CFR 1053], and freight rate schedules [49 CFR 1307].

Compliance with these requirements must be made within 90 days after the date of service of this decision of the grant of authority shall be void.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

Agatha L. Mergenovich,

Secretary.

Appendix

Authority to conduct the following operations will be issued in an appropriate document. This decision does not constitute authority to operate.

To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *stone, stone working materials, stone working equipment, and stone working supplies*, between the facilities of Rock of Ages Corporation at Barre, Bethel, and Graniteville, VT, and the facilities of Rock of Ages Building Granite Corporation at Concord, NH, (2) *building stone* (a) from the facilities of Rock of Ages Corporation at Barre, Bethel, and Graniteville, VT, to points in Maryland, Ohio, Pennsylvania, Virginia, and the District of Columbia, and (b) from the facilities of Rock of Ages Building Granite Corporation at Concord, NH, to points in Texas and those in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, and Louisiana, and (3) *rough granite and stone working manufacturing materials, equipment, and supplies* from points in Texas and those in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, and Louisiana, to the facilities of Rock of Ages Corporation at Barre, Bethel, and Graniteville, VT, and the facilities of Rock of Ages Building Granite Corporation at Concord, NH, restricted in (1), (2), and (3) to service under a continuing contract or contracts with Rock of Ages Corporation, of Barre, VT, or Rock of Ages Building Granite Corporation, of Concord, NH.

Special condition for issuance of a permit: The party engaged in common control or management of applicant and Roadway Express must apply for approval under 49 U.S.C. § 11344 or submit an affidavit explaining why such approval is unnecessary. Should the Commission determine that approval is necessary and withhold such approval, the grant of authority will be void and the application will stand denied.

Further condition: The authority actually granted will be published in the Federal Register and the permit withheld for 30 days after such publication during which time any party not presently party to this proceeding which feels that it is prejudiced by our grant of authority may petition for intervention showing exactly how it has been prejudiced and the extent thereof.

[FR Doc. 79-24982 Filed 8-13-79; 8:45 am]

BILLING CODE 7035-01-M

[Decision Volume No. 45]

Permanent Authority Applications; Decision-Note

Correction

In FR Doc. 79-14241 appearing at page 26827 in the issue for Monday, May 7, 1979, on page 26830, in the third column, in paragraph "MC 115826 (Sub-376F)", in the 12th line, between the states "HI" and "ME" insert "IN".

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 158
Tuesday, August 14, 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).

Contents

	Items
Commodity Credit Corporation	1
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Postal Rate Commission	5

1

COMMODITY CREDIT CORPORATION

TIME AND DATE: 2 p.m., August 21, 1979.

PLACE: Room 218–A, Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC board meeting on April 10, 1979.
2. Docket UCP 109a re: 1979 gum naval stores loan program.
3. Docket UCP 66a re: 1979-crop honey loan and purchase program.
4. Docket UCP 40a re: 1979 tobacco loan program.
5. Docket UCP 137a, Amendment 1 re: 1979-crop barley, corn, oats, rye, and sorghum loan, purchase, payments, set-aside and land diversion programs.
6. Docket CX 316 re: CCC intermediate credit export sales program for foreign market development facilities.

CONTACT PERSON FOR MORE INFORMATION: Bill Cherry, Secretary, Commodity Credit Corporation, Room 202–W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, Telephone (202) 447–7583.

[S–1161–79 Filed 8–10–79; 11:23 am]

BILLING CODE 3410–05–M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., August 24, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1612–79 Filed 8–10–79; 11:23 am]

BILLING CODE 6351–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., August 13, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act upon the following: 2. Valley Camp Coal Company, MORG 78–46–P.

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1613–79 Filed 8–10–79; 2:12 pm]

BILLING CODE 6820–12–M

4

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS.

TIME AND DATE: 11 a.m., Friday, August 17, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 462–3204.

Dated: August 9, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–1610–79 Filed 8–10–79; 10:12 am]

BILLING CODE 6210–01–M

5

POSTAL RATE COMMISSION.

TIME AND DATE: 8:30 a.m., Thursday, August 16, 1979.

PLACE: Conference Room, Suite 500, 2000 L Street NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Office reorganization and personnel matters.

[Meeting closed pursuant to 5 U.S.C. § 552b(c)(2)(6).]

CONTACT PERSON FOR MORE INFORMATION: Cyril J. Pittack, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–1614–79 Filed 8–10–79; 2:12 pm]

BILLING CODE 7715–01–M

federal register

Tuesday
August 14, 1979

Part II

Department of Health, Education, and Welfare

Food and Drug Administration, Office of the Secretary

Protection of Human Research Subjects

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 46]

Proposed Regulations Amending Basic HEW Policy for Protection of Human Research Subjects

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Department of Health, Education, and Welfare (HEW or Department) is proposing regulations amending HEW policy for the protection of human research subjects and responding to the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (Commission) concerning institutional review boards (IRBs or Boards). These proposed rules adopt, for the most part, the recommendations of the Commission and, if adopted in their present form, would have the following primary effects: (1) continue to provide protections for human subjects of research conducted or supported by the Department of Health, Education, and Welfare; (2) require IRB review and approval of research involving human subjects, even if it is not supported by Department funds, if it is conducted at or supported by an institution receiving HEW funds for research not exempt from these regulations—research not supported by Department funds are subject to the same exemption clauses as Department funded research; (3) require review of human subject research irrespective of risk—unless the research is specifically exempted from coverage; (4) exempt from coverage certain kinds of social, economic and educational research; (5) either exempt or require only expedited review of certain kinds of research involving solely the use of survey instruments, solely the observation of public behavior, solely the study of documents, records and specimens, or solely a combination of any of these activities [public comment is especially invited concerning whether to exempt or to require only expedited review for these categories of research]; (6) require only expedited review for certain categories of proposed research involving no more than minimal risk and for minor changes in research already approved by the IRB; (7) provide specific procedures for full IRB review and for expedited IRB review; (8) designate basic elements of informed consent which are a necessary prerequisite to research subject participation and additional elements which, when appropriate, are a necessary prerequisite to subject participation; (9) indicate circumstances under which the IRB may approve withholding or altering certain information otherwise required to be presented to research subjects; (10) require that IRB membership include at least one nonscientist; and (11) establish regulations which to the extent possible, are compatible and consistent with the soon to be published, FDA proposed standards for IRB's.

Note.—These are "proposed" regulations and public comment on them is encouraged.

DATES: Written comments on the proposed rules should be received on or before November 12, 1979, if they are to be given full consideration.

ADDRESS: Please send comments or requests for additional information to:

F. William Dommel, Jr., J.D., Assistant Director for Regulations, Office for Protection from Research Risks; National Institutes of Health, 5333 Westbard Avenue, Room 3A18, Bethesda, Maryland 20205, Telephone: (301) 496–7163,

where all comments received will be available for inspection weekdays (Federal holidays excepted) between the hours of 9 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: F. William Dommell, Jr. (301) 496–7163.

SUPPLEMENTARY INFORMATION: Basic regulations governing the protection of human subjects involved in research, supported by HEW through grants and contracts were published in the **Federal Register** on May 30, 1974 (30 FR 18914). Subsequently, regulations were published to accord additional protections for "special groups" which may have diminished capacity to consent or which may be at high risk (i.e., fetuses, pregnant women, and prisoners). These "special group" regulations which, have previously been published in final form, will be amended to conform (where necessary) with the basic regulations proposed below, when these basic regulations are published in final form. In addition, regulations have been proposed to provide additional safeguards for others who may have diminished capacity. These were published in the **Federal Register** as follows: Research Involving Children (43 FR 31786, July 21, 1978) and Research Involving Those Institutionalized as Mentally Disabled (43 FR 53950, November 17, 1978). Final regulations on those two categories are being withheld pending further comment on them as well as the proposed regulations below.

Therefore, the public comment period for each of these proposed regulations (including their relationship to the basic regulations published in proposed form below) has been extended to November 12, 1979. The decision to postpone final regulations on these special categories of participants was reached on the basis of procedural considerations. By finalizing first the regulations applicable to the review and monitoring of *all* research involving human subjects and covered by these regulations, the Department may then issue only those additional regulations necessary for the protection of specific categories of subjects who may have diminished capacity to consent. By following this order of regulation development, the Department hopes to avoid the possibility of duplicative and inconsistent requirements among the several sections of these regulations.

On August 8, 1978, the Food and Drug Administration published proposed standards for Institutional Review Boards for Clinical Investigations (43 FR 35186). Shortly thereafter, the Commission submitted its report and recommendations on IRBs and informed consent, and that document was published in the **Federal Register** on November 30, 1978 (43 FR 56174). In its report, the Commission recommended revisions of the current HEW regulations for IRBs. Because the FDA stated in the August 8, 1978 proposal that its regulations should be compatible with, if not identical to, those of the Department, FDA is withdrawing its IRB proposal of August 8, 1978 and is publishing a revised proposal which has been developed in conjunction with HEW. The Department and FDA both agree in principle with the recommendation of the Commission that IRBs should operate under one set of federal regulations. Within the constraints of their independent statutory obligations and missions, the Department and FDA have developed IRB proposals which have virtually the same structure and functions, so that IRBs will have essentially uniform requirements in areas such as scope of responsibility, quorum requirements, and records retention.

It should be emphasized that, although the regulations proposed below will be essentially compatible and consistent with the regulations to be proposed by FDA, the two sets of regulations cannot be identical. The statutory authorities under which FDA regulates clinical research are different from the authorities relied upon by the

Department to regulate research which it either funds or conducts. In addition, because the Department's regulations encompass behavioral research, the scope of coverage and types of review required are somewhat different.

The regulations proposed below attempt to achieve a common, flexible framework within which IRBs can operate whether they are reviewing HEW supported research or FDA regulated research. Because FDA is a regulatory agency, the compliance aspects of its regulations must be explicitly stated. In its proposal, FDA will provide for inspection and disqualification of IRBs. However, the Department, which employs the institutional assurance mechanism for dealing with institutions, and which may cut off funding of projects for noncompliance, has made no such provision.

The Department will continue to consult with FDA during the development of final regulations so that consistency of IRB structure and function can be maintained, as much as possible.

Background: The National Research Act (Pub. L. 93–348) was signed into law on July 12, 1974, creating the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. One of the topics of study identified in the mandate to the Commission was "Institutional Review Boards." The Commission was required to recommend to the Secretary of Health, Education, and Welfare ". . . mechanisms for evaluating and monitoring the performance of Institutional Review Boards in accordance with section 474 of the Public Health Service Act and appropriate enforcement mechanisms for carrying out their decisions." And was further required to make recommendations regarding the protection of subjects involved in research not subject to regulation by HEW.

In discharging its duties under this mandate, the Commission studied the performance of IRBs which are required to review all research involving human subjects that is conducted at institutions receiving funds for such reserach from HEW under the Public Health Service Act. The Commission found that the review of proposed research by IRBs is the primary mechanism for assuring that the rights of human subjects are protected. Thus, the Commission's previous recommendations regarding particular categories of research subjects are intended ulimately to be carried out by the IRBs through the estalishment of conditions and requirements that IRBs should determine to have been satisified before approving research.

The Commission, therefore, undertook a substantial effort to develop information about the performance of IRBs, the research they review, and the strengths and weaknesses of this mechanism. This effort included the support of an extensive survey of IRB members, investigators and research subjects at a sample of 61 institutions including medical schools, hospitals, universities, prisons, institutions for the mentally ill and retarded, and researh organizations. Also, the background, development, and administration of the present HEW regulations governing IRBs were examined. Three public hearings were held at which Federal officials, representatives of IRBs, investigators, and other concerned persons presented their views on IRBs. The National Minority Conference on Human Experimentation, convoked by the Commission to assure that viewpoints of minorities would be heard, made recommendations to the Commission that pertained to IRBs. The Commission also reviewed several papers prepared under contract on such topics as informed consent, evaluation of risks and benefits, issues that arise in particular kinds of research (such as social experimentation or deception research), and the legal aspects of IRB operation. A substantial amount of correspondence on IRBs was received and reviewed by the Commission.

In addition, a survey was made of the standards and procedures for the protection of human subjects in research conducted or sponsored by Federal departments and agencies. Finally, the Commission conducted public deliberations to develop its recommendations on IRBs.

Action on recommendations of the Commission: Pursuant to section 205 of the National Research Act (Pub. L. 93–348), the recommendations of the Commission regarding Institutional Review Boards were published in the **Federal Register** (43 FR 56174) on November 30, 1978. Comments were received from 104 individuals, institutions, organizations and groups. After reviewing the recommendations and the comments, the Secretary has prepared the notice of proposed rulemaking set forth below, which in essence accepts the recommendations. The proposed rules depart from the recommendations of the Commission to the Department in a few respects.

Recommendations of the Commission and HEW Responses

Recommendation (1)

(A) Federal law should be enacted or amended to authorize the Secretary of Health, Education, and Welfare to promulgate regulations governing ethical review of all research involving human subjects that is subject to Federal regulation.

(B) Federal law should be enacted or amended to provide that each institution which sponsors or conducts involving human subjects that is supported by any Federal department or agency or otherwise subject to Federal regulation, and each Federal department or agency which itself conducts research involving human subjects, shall give assurances satisfactory to the Secretary of Health, Education, and Welfare that all research involving human subjects sponsored or conducted by such institution, or conducted by such department or agency, will be reviewed by and conducted in accordance with the determinations of a review board established and operated in accordance with the regulations promulgated by the Secretary under the authority recommended in paragraph (A) of this recommendation.

(C) Federal law should be enacted or amended to provide that all research involving human subjects sponsored or conducted by an institution that receives funds from any Federal department or agency to provide health care or conduct health-related research shall be subject to Federal regulation regarding the review and conduct of such research, as provided under paragraphs (A) and (B) of this recommendation.

(D) Federal law should be enacted or amended to authorize and appropriate funds to support the operation of Institutional Review Boards by direct cost funding.

HEW Response

The legislative mandate to the Commission included a charge to make recommendations to the Congress regarding the protection of subjects involved in research not subject to HEW regulation. Recommendation (1) responds to that charge. The Department contemplates no HEW action on this recommendation which is directed to the Congress. However, most of the twenty-two Federal agencies conducting or supporting research with human subjects have adopted the HEW regulations in whole or in part. The Department encourages this voluntary

approach and will continue to serve these agencies in an advisory capacity.

Recommendation (2)

(A) Federal law should be enacted or amended to authorize the Secretary of Health, Education, and Welfare to establish a single office to carry out the following duties:

(i) Accreditation of Institutional Review Boards based upon the submission of assurances containing descriptions of their membership, authority, staff, meeting facilities, review and monitoring procedures and provisions for recordkeeping; (ii) Compliance activities, including site visits and audits of Institutional Review Board records, to examine the performance of the Boards and their fulfillment of institutional assurances and regulatory requirements; and (iii) Educational activities to assist members of Institutional Review Boards in recognizing and considering the ethical issues that are presented by research involving human subjects.

(B) Federal law should be enacted or amended to authorize and appropriate funds to support the duties described in paragraph (A) of this recommendation.

HEW Response

Recommendation (2), just as Recommendation (1), is directed to the Congress. However, current HEW policy and regulations, as well as the regulations proposed below, implement for the main part this recommendation.

Recommendations (2)(A)(i) and (2)(A)(ii) are implemented by §§ 46.105 and 46.106 which establish the minimum requirements for institutional assurances regarding IRBs. Currently, FDA compliance activities and the aforementioned assurances, required under current HEW regulations and negotiated by the Office for Protection from Research Risks (OPRR), National Institutes of Health (NIH) and the FDA compliance activities meet and will continue to meet the requirements of these recommendations.

Educational activities such as those proposed in Recommendation (2)(A)(iii), although not described in the regulations, are currently being conducted by FDA and are being planned by OPRR, NIH.

Recommendation (3)

The Secretary of Health, Education, and Welfare should require by regulation that an Institutional Review Board:

(A) Consist of at least five men and women of diverse backgrounds and sufficient maturity, experience and competence to assure that the Board will be able to discharge its responsibilities and that its determinations will be accorded respect by investigators and the community served by the institution or in which it is located;

(B) Include at least one member who is not otherwise affiliated with the institution;

(C) Have the authority to review and approve, require modifications in, or disapprove all research involving human subjects conducted at the institution;

(D) Have the authority to conduct continuing review of research involving human subjects and to suspend approval of research that is not being conducted in accordance with the determinations of the Board or in which there is unexpected serious harm to subjects;

(E) Maintain appropriate records, including copies of proposals reviewed, approved consent forms, minutes of Board meetings, progress reports submitted by investigators, reports of injuries to subjects, and records of continuing review activities;

(F) Be provided with meeting space and sufficient staff to support its review and recordkeeping duties;

(G) Be authorized and directed to report to institutional authorities and the Secretary any serious or continuing noncompliance by investigators with the requirements and determinations of the Board;

(H) Be provided with protection for members in connection with any liability arising out of their performance of duties on the Board.

HEW Response

Recommendation (3)(A) would be implemented by § 46.107(a), (b), and (c) of the proposed regulations set forth below. Several of the Commission's comments on the recommendation were included on the proposed regulations for purposes of clarification. One comment, however, suggested that ". . . at least one-third but no more than two-thirds of the IRB members should be scientists." The Department recognizes the need for diversity of professions among IRB members, and provision is made for this diversity at § 46.107(a) and (b) of the proposed regulations. It was decided, however, that to require in the regulation that "No board may consist entirely of members of one profession, and at least one member must be a nonscientist" provides a flexible means for institutions to establish diverse membership.

Recommendation (3)(B) would be implemented in its entirety by § 46.107(d) of the proposed regulations.

Recommendation (3)(C) would be implemented in part by §§ 46.101 and 46.108(a) of the proposed regulations. This recommendation would assign to IRBs the review, approval, disapproval, and modification authority (to secure approval) over all research ". . . conducted at the institution." The proposed regulations would afford this authority to the IRBs for research sponsored by, as well as conducted at the institution. The issue of what categories of research and which institutions must comply with the proposed regulations is described below in ADDITIONAL HEW COMMENTS or provided for at § 46.101 of the proposed regulations.

Recommendation (3)(D) would be implemented in its entirety by § 46.108(b) of the proposed regulations.

Recommendation (3)(E) would be implemented in its entirety by §§ 46.105(f) and 46.106(g) of the proposed regulations.

Recommendation (3)(F) would be implemented in its entirety by §§ 46.105(g) and 46.106(i) of the proposed regulations.

Recommendation (3)(G) would be implemented in its entirety by § 46.108(c) of the proposed regulations.

Recommendation (3)(H) would not be implemented by the regulations proposed below. The Commission recommended that protection be provided for IRB members in connection with any liability arising out of their performance of duties on the Board. The Department is hesitant to make this an absolute requirement because there is not certainty, at this time, that reasonable mechanisms are available to provide this protection. Furthermore the Department is not aware of any negligence action which has named an IRB member as a defendant and therefore believes that liability protections might prove to be an unnecessary, yet costly, requirement.

Recommendation (4)

The Secretary of Health, Education, and Welfare should require by regulation that all research involving human subjects that is subject to Federal regulation shall be reviewed by an Institutional Review Board and that the approval of such research shall be based upon affirmative determinations by the Board that:

(A) The research methods are appropriate to the objectives of the research and the field of study;

(B) Selection of subjects is equitable;

(C) Risks to subjects are minimized by using the safest procedures consistent with sound research design and, whenever appropriate, by using procedures being performed for diagnostic or treatment purposes;

(D) Risks to subjects are reasonable in relation to anticipated benefits to subjects and importance of the knowledge to be gained;

(E) Informed consent will be sought under circumstances that provide sufficient opportunity for subjects to consider whether or not to participate and that minimize the possibility of coercion or undue influence;

(F) Informed consent will be based upon communicating to subjects, in language they can understand, information that the subjects may reasonably be expected to desire in considering whether or not to participate, generally including:

(i) That an Institutional Review Board has approved the solicitation of subjects to participate in the research, that such participation is voluntary, that refusal to participate will involve no penalties or loss of benefits to which subjects are otherwise entitled, that participation can be terminated at any time, and that the conditions of such termination are stated;

(ii) The aims and specific purposes of the research, whether it includes procedures designed to provide direct benefit to subjects, and available alternative ways to pursue any such benefit;

(iii) What will happen to subjects in the research, and what they will be expected to do;

(iv) Any reasonably foreseeable risks to subjects, and whether treatment or compensation is available if harm occurs;

(v) Who is conducting the study, who is funding it, and who should be contacted if harm occurs or there are complaints; and

(vi) Any additional costs to subjects or third parties that may result from participation;

(G) Informed consent will be appropriately documented, unless the Board determines that written consent is not necessary or appropriate because (I) the existence of signed consent forms would place subjects at risk, or (II) the research presents no more than minimal risk and involves no procedures for which written consent is normally required;

(H) Notwithstanding the requirements of paragraphs (E), (F) and (G) above, informed consent is unnecessary (I) where the subjects' interests are determined to be adequately protected in studies of documents, records or pathological specimens and the importance of the research justifies such invasion of the subjects' privacy, or (II) in studies of public behavior where the research presents no more than minimal risk, is unlikely to cause embarrassment, and has scientific merit;

(I) There are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data; and

(J) Applicable regulatory provisions for the protection of fetuses, pregnant women, prisoners, children and those institutionalized as mentally infirm will be fulfilled.

HEW Response

Recommendations (4)(A–D) would be implemented in their entirety by § 46.110(1–4) of the proposed regulations.

Recommendations (4)(E) and (4)(F)(I–III) would be implemented in their entirety by § 46.112(a)(1).

Recommendation (4)(F)(IV) would be implemented in part by 46.112(a)(1)(c) concerning description of foreseeable risks. The second part of this recommendation suggests notification of whether treatment or compensation is available if harm occurs. At § 46.112(a)(1)(I), the proposed regulation would require this notification if the research involves more than minimal risk and would further require an explanation of the extent of available coverage (if any). The Department feels that where the risk is no greater than minimal, an explanation of injury benefits would be inappropriate.

Recommendations (4)(F)(V–VI) would be implemented in part by 46.112(a)(1)(J) concerning who should be contacted if harm occurs or there are complaints (referred to in the regulations as questions or problems instead of complaints). The other parts of the recommendations suggest that the subject be informed of who is conducting the study and of any additional costs to subjects or third parties that may result from participation. These later notifications, while at times appropriate, are not seen by the Department as being essential to every informed consent procedure. Therefore, these two notifications as well as notice of the possible involvement of currently unforeseeable risks, notice of foreseeable circumstances under which the subjects participation may be terminated by the investigator, and notice of the approximate number of subjects involved are included under an optional set of informed consent elements (§ 46.112(a)(2)). The IRB, when appropriate, shall require that some or all of these elements of information be provided to the subject.

Recommendation (4)(G) regarding the waiver of the required documentation of consent would be implemented by § 46.113(b) where the Department has added additional requirements for the waiver.

Recommendation (4)(H) would waive the informed consent requirement for certain kinds of research presenting no more than minimal risk. The proposed regulations do not provide for this total waiver of consent requirements because the categories of research to which it would apply are under consideration for exemption from these regulations (§ 46.101(c) [option A]). However, the Department would support waiving consent for these categories if they are not exempted (§ 46.101(c) [option B]).

Recommendation (4)(I) would be implemented in its entirety by § 46.119 of the proposed regulations.

Recommendation (4)(J) is implemented for fetuses and pregnant women by 45 CFR 46 Subpart B and for prisoners by 45 CFR 46 Subpart C. The recommendation would be implemented for children by 45 CFR 46 Subpart D (proposed) and for those institutionalized as mentally disabled by 45 CFR 46 Subpart E (proposed).

Recommendation (5)

The Secretary of Health, Education, and Welfare should require by regulation that an Institutional Review Board shall review proposed research at convened meetings at which a majority of the members of the Board are present and that approval of such research shall be reached by a majority of those members who are present at the meeting, provided, however, that the Secretary may specifically approve expedited review procedures adopted by an Institutional Review Board for carefully defined categories of research that present no more than minimal risk. The Secretary should require, further, that an Institutional Review Board inform investigators of the basis of decisions to disapprove or require the modification of proposed research and give investigators an opportunity to respond in person or in writing.

HEW Response

Recommendation (5) would be implemented in its entirety by §§ 46.105e, 46.106(b), and 46.111 of the proposed regulations.

Additional HEW Comments

Alternative Exemptions

The Department is considering and requesting comments on two alternative lists of exemptions or some combination thereof. The two lists reflect differing opinions concerning: (1) whether to exempt research involving solely observation, (2) what types of survey or related research should be exempted, (3) under what conditions research involving solely the study of documents, records or specimens should be exempted (assuming the investigator is not collecting identifiers).

The list of exemptions in alternative A (especially items 4, 5 and 6) reflect the belief held by some that almost all of this research is innocuous. Those who advocated this alternative felt that there is no need to include such research under the regulations because there is no evidence of adverse consequences and little evidence of risk apart from possible breaches of confidentiality. Furthermore they contended that institutions which currently have no IRB would have to create one to review minimal-risk research. It was argued that to require an institution to review a large volume of minimal-risk research in order to find the rare proposal that might be potentially harmful, could create an unwarranted burden on the institution.

Alternative B reflects the view of those who feel that not all survey research and records research should be exempted. Furthermore thay believe that observational research should be entirely subject to the regulations because at least some of this research can present serious risks for subjects. Examples of these research are: research involving collection of information about mental disorders or child abuse, observation of illegal conduct, or collection of data on alcohol abuse from medical records or specimens. Inadvertent or compulsory disclosure of information collected in such research can have serious consequences for subjects' future employability, family relationships or financial credit; also, some surveys can cause psychological distress for subjects.

The argument for IRB review of such research is based not only on the need to protect from harm, but on the need for an independent, social mechanism to ensure that research is ethically acceptable and that the rights and welfare of subjects will be protected.

Alternative B, along with inclusion of certain procedures in the expedited review list will permit sugnificant reduction in the workload by IRBs, though not as much of a reduction as alternative A.

Filing Justification for Exemption

The Department is also considering whether to require a principal investigator who proposes to carry out research involving human subjects which he judges to be exempt from the regulations should be required to document the reasons underlying the judgement that his research project is exempt. The investigator who claims exemption would be required to file a justification with an appropriate IRB or with the Secretary. It is felt that such a requirement would reduce the possibility of investigators claiming exemptions for non-exempt research. Comments on this procedure are requested.

Notice is given that it is proposed to make any amendments that are adopted effective upon publication in the **Federal Register.**

Dated: July 26, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 27, 1979.

Joseph A. Califano, Jr.,

Secretary.

It is therefore proposed to amend Part 46 of 45 CFR, by repealing current Subparts A and D, and replacing them with the following new Subpart A.

Subpart A—Basic HEW Policy for Protection of Human Research Subjects

Sec.

46.101 To what do these regulations apply?
46.102 Definitions.
46.103 Submission of assurances.
46.104 Types of assurances.
46.105 Minimum requirements for general assurances.
46.106 Minimum requirements for special assurances.
46.107 Institutional Review Board membership.
46.108 Institutional Review Board functions.
46.109 Evaluation and disposition of assurances.
46.110 Review of proposed research by the Institutional Review Board.
46.111 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.
46.112 Informed consent.
46.113 Documentation of informed consent.
46.114 Applications and proposals lacking definite plans for involvement of human subjects.
46.115 Research undertaken without the intention of involving human subjects.
46.116 Evaluation and disposition of applications and proposals.
46.117 Cooperative research projects.
46.118 Investigational new drug 30-day delay requirement.
46.119 Confidentiality of records.
46.120 Use of Federal funds.
46.121 Early termination of research support; evaluation of subsequent applications and proposals.
46.122 Research not conducted or supported by the Department.
46.123 Conditions.

Authority: 5 U.S.C. 301.

Subpart A—Basic HEW Policy for Protection of Human Research Subjects

§ 46.101 To what do these regulations apply?

(a) Except as provided in paragraph (c), this subpart applies to all research involving human subjects conducted or supported by the Department of Health, Education, and Welfare.

(b) Except as provided in paragraph (c) below, only §§ 46.104(c) and 46.122 of these regulations apply to research involving human subjects which is not funded by the Department, but is conducted at or supported by any institution receiving funds from the Department for the conduct of research involving human subjects.

(c) These regulations do not apply to:

[The Department will include a list of exempted categories of research in the final regulations. Two alternative lists are provided below for public comment. (The first three items and the last item in each list are identical.) If the list in Alternative B is adopted, additions will also be made to the list of procedures which can receive expedited review (see § 46.111).]

Alternative A

(1) Research designed to study on a large scale: (A) the effects of proposed social or economic change, or (B) methods or systems for the delivery of or payment for social or health services.

(2) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (A) research on regular and special education instructional strategies, or (B) research on the effectiveness of or the comparison among instructional techniques, curriculum, or classroom management.

(3) Research involving solely the use of standard educational diagnostic, aptitude, or achievement tests, if information taken from these sources is recorded in such a manner that subjects cannot be reasonably identified, directly or through identifiers linked to the subjects.

(4) Research involving solely the use of survey instruments if: (A) results are recorded in such a manner that subjects cannot be reasonably identified, directly or through identifiers linked to the subjects, or (B) the research (although not exempted under clause (A)) does not deal with sensitive topics, such as sexual behavior, drug or alcohol use, illegal conduct, or family planning.

(5) Research involving solely the observation (including observation by participants) of public behavior, if observations are recorded in such a manner that subjects cannot be reasonably identified, directly or through identifiers linked to the subjects.

(6) Research involving solely the study of documents, records, or pathological or diagnostic specimens, if information taken from these sources is recorded in such a manner that subjects cannot be reasonably identified, directly or through identifiers linked to the subjects.

(7) Research involving solely a combination of any of the activities described above.

Alternative B

(1) Research designed to study on a large scale: (A) the effects of proposed social or economic change, or (B) methods or systems for the delivery of or payment for social or health services.

(2) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (A) research on regular and special education instructional strategies, or (B) research on the effectiveness of or the comparison among instructional techniques, curriculum, or classroom management.

(3) Research involving solely the use of standard educational diagnostic, aptitude, or achievement tests, if information taken from these sources is recorded in such a manner that subjects cannot be reasonably identified, directly or through identifiers linked to the subjects.

(4) Survey activities involving solely product or marketing research, journalistic research, historical research, studies of organizations, public opinion polls, or management evaluations, in which the potential for invasion of privacy is absent or minimal.

(5) Research involving the study of documents, records, data sets or human materials, when the sources or materials do not contain identifiers or cannot reasonably be linked to individuals.

(6) Research involving solely a combination of any of the activities described above.

(d) The Secretary has final authority to determine whether an activity is exempt from these regulations under paragraph (b), and may override an institution's decision, for example, that the activity is exempt.

(e) The Secretary may require that specific research or nonresearch activities or classes of research or nonresearch activities conducted or supported by the Department, but not otherwise covered by these regulations, comply with these regulations.

(f) The Secretary may also exempt specific activities or classes of activities, otherwise covered by these regulations, from some or all of these regulations. Notices of these actions will be published in the **Federal Register** as they occur.

(g) Compliance with these regulations will in no way render inapplicable pertinent State or local laws or regulations or other Federal laws or regulations, including those of the Food and Drug Administration bearing upon activities covered by these regulations.

(h) Each subpart of these regulations contains a separate section describing to what the subpart applies. Research which is covered by more than one subpart must comply with all applicable subparts.

§ 46.102 Definitions.

(a) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom authority has been delegated.

(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Institution" means any public or private entity or agency (including Federal, State, and other agencies).

(d) "Legally authorized representative" means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in the particular research or procedure.

(e) "Research" means a formal investigation designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute "research" for purposes of this part, whether or not they are supported or conducted under a program which is considered research for other purposes. For example, some "demonstration" and "service" programs may include research activities.

(f) "Human subject" means an individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the person, or (2) identifiable information.

(g) "Minimal risk" is the probability and magnitude of harm that is normally encountered in the daily lives of healthy individuals, or in the routine medical, dental or psychological examination of healthy individuals.

§ 46.103 Submission of assurances.

(a) Each institution engaged in research covered by these regulations shall provide written assurance satisfactory to the Secretary that it will comply with the requirements set forth in the regulations, including the requirements that: (1) the research will be reviewed by an Institutional Review Board established and operated in accordance with these regulations, and (2) the research will be conducted in accordance with the Board's determinations.

(b) The assurance shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by these regualtions, and shall be filed in such form and manner as the Secretary may prescribe.

§ 46.104 Types of assurances.

(a) *General assurances.* A general assurance is a comprehensive plan for the review and implementation procedures applicable to all research covered by these regulations at a particular institution, regardless of the number, location, or types of its components or field activities. Institutions having a significant number of concurrent research projects involving human subjects will be required to file general assurances.

(b) *Special assurances.* A special assurance describes the review and implementation procedures applicable to, and reports the findings of the Institutional Review Board on, a single research project. Institutions not having on file with the Department an approved general assurance will be required to file special assurances.

(c) *Assurances applicable to research not funded by the Department.* Each institution which applies to the Department for a grant or contract for any research project or program involving human subjects, unless such project or program is an exempted category listed at § 46.101(c), must

provide assurance in a document submitted with its application or proposal that it will comply with § 46.122 of these regulations.

(d) *Department-conducted research.* Research by Department employees must be conducted in conformity with these regulations, except each Principal Operating Component head may adopt such nonsubstantive, procedural modifications as may be appropriate from an administrative standpoint.

(e) *Awards to individuals.* No individual may receive Department support for research covered by these regulations unless he or she is affiliated with or sponsored by an institution which assumes responsibility for the research under an assurance satisfying the requirements of this part.

§ 46.105 Minimum requirements for general assurances.

In order to satisfy the requirements of these regulations, a general assurance shall provide specifically for the following:

(a) A statement of principles governing the institution in the discharge of its responsibilities for protecting the rights and welfare of subjects. This may include appropriate existing codes, declarations, or statements of basic ethical principles, or statements formulated by the institution itself. However, these principles do not supersede Department policy or applicable law.

(b) One or more Institutional Review Boards, each satisfying the requirements of § 46.107 regarding membership and § 46.108 regarding functions.

(c) A list of the Board members identified by name; earned degrees (if any); position or occupation; specialty field (if any); representative capacity; and by other pertinent idications of experience such as board certifications, licenses, etc., sufficient to describe each member's chief anticipated contributions to Board deliberations. Any employment or other relationship between each member and the institution shall be identified (e.g., full-time employee, part-time employee, member of governing panel or board, stockholder, paid consultant, unpaid consultant). Changes in Board membership must be reported to the Department in such form and at such times as the Secretary may require.

(d) Written procedures which the Board will follow (1) for conducting its initial and continuing review of research and for reporting its findings and actions to the investigator and the institution, (2) for determining which projects require review more often than annually and which projects need verification from sources other than the researchers that no material changes have occurred since initial Board review, (3) to insure prompt reporting to the Board of proposed changes in an activity and of unanticipated problems involving risks to subjects or others, and (4) to insure that nay such problems, including adverse reactions to biologicals, drugs, radioisotope labelled drugs, or medical devices, are promptly reported to the Department. These procedures may be promulgated by the institution or by the Board, if this authority is delegated to it by the institution.

(e) Board review of proposed research at convened meetings at which a majority of the members of the Board are present, including at least one member whose primary concerns are in nonscientific areas, except when an approved expedited review procedure is utilized (see § 46.111). In order for the research to be approved, it must receive the approval of a majority of those members present at the meeting. The Board shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure Board approval of the activity. If the Board decided to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.

(f) Maintenance of appropriate records, including information on Board members required by paragraph (c), copies of proposals reviewed and approved sample consent forms, minutes of Board meetings, progress reports submitted by investigators, reports of injuries to subjects, and records of continuing review activities. These records must be accessible for inspection by Department representatives and retained for at least five years after completion of the research, or such longer period as may be specified by program requirements. Minutes must be in sufficient detail to show attandance at Board meetings, actions taken by the Board, the number of members voting for and against these actions, and the basis for the actions (including a written summary of the discussion of substantive issues and their resolution).

(g) Provision for meeting space and sufficient staff to support the Board's review and recordkeeping duties.

§ 46.106 Minimum requirements for special assurances.

In order to satisfy the requirements of these regulations, a special assurance shall:

(a) Identify the specific research project covered by the assurance.

(b) Include a statement, executed by an appropriate institutional official, indicating that the institution has established a Board satisfying the requirements of §§ 46.107 and 46.108 and that the Board will follow the procedures set forth in §§ 46.105(d) and 46.105(e).

(c) Describe the makeup of the Board, including the information required by § 46.105(c).

(d) Describe the risks to subjects that the Board recognizes as inherent in the activity, and justify its finding that these risks are reasonable in relation to the anticipated benefits to subjects and the importance of the knowledge to be gained.

(e) Describe the informed consent procedures to be used and attach samples of the documentation to be required under § 46.113.

(f) Describe procedures which the Board will follow to insure prompt reporting to the Board of proposed changes in the activity and of any unanticipated problems, involving risks to subjects or others, and to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope labelled drugs, or medical devices are promptly reported to the Department.

(g) Maintain appropriate records, including information on Board members required by paragraph (c), copies of proposals reviewed and approved sample consent forms, minutes of Board meetings, progress reports submitted by investigators, reports of injuries to subjects, and records of continuing review activities. These records must be accessible for inspection by Department representatives and retained for at least five years after completion of the research, or such longer period as may be specified by program requirements. Minutes must be insufficient detail to show attendance at Board meetings, actions taken by the Board, the number of members voting for and against these actions, and the basis for the actions (including a written summary of the discussion of substantive issues and their resolution).

(h) Provide for meeting space and necessary staff (if any) to support the Board's review and reporting duties.

§ 46.107 Institutional Review Board membership.

(a) Each Institutional Review Board must have at least five members, with varying backgrounds to promote complete and adequate review of activities commonly conducted by the institution. The Board must be sufficiently qualified through the maturity, experience, and expertise of its members, and the sufficient diversity of the members' racial and cultural backgrounds, to promote respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the Board must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The Board must therefore include persons knowledgeable in these areas. If a Board regularly reviews research that has an impact on a vulnerable category of subjects, the Board should have one or more individuals who are primarily concerned with the welfare of these subjects.

(b) No Board may consist entirely of members of one profession, and at least one member must be an individual whose primary concerns are in nonscientific areas (e.g., lawyers, ethicists, members of the clergy).

(c) The membership of the Board may not consist entirely of men or entirely of women.

(d) Each Board shall include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution. The records of the Board must identify the employment or other relationship between each member and the insitution (e.g., full-time employee, part-time employee, a member of governing panel or board, stockholder, paid consultant, or unpaid consultant).

(e) No member of a Board may participate in the Board's initial or continuing review of any project in which the member has a conflicting interest, or any project involving an investigator who participated in the member's selection for the Board, except to provide information requested by the Board. The Board has responsibility for determining whether a member has a conflicting interest. The Secretary may waive the requirements of this paragraph upon request. Any request should contain information describing the reasons why it is essential for the member to participate in the particular review in question.

(f) A Board may, in its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the Board. These individuals may not vote with the Board.

§ 46.108 Institutional Review Board functions.

In order to fulfill the requirements of these regulations each Institutional Review Board shall:

(a) Review and have authority to approve, require modifications in (to secure approval), or disapprove all research described in § 46.101(a) which is conducted at or sponsored by the institution.[1]

(b) Conduct continuing review (as provided in § 46.105(d)) of research covered by these regulations and have authority to suspend, and if appropriate, terminate approval of research that is not being conducted in accordance with the determination of the Board or in which there is unexpected serious harm to subjects. Any such suspension or termination of approval must be reported promptly to the investigator, appropriate institutional officials, and the Secretary, including a statement of the reasons for the Board's action. As part of its continuing review responsibility, the Board must have authority to observe the consent process or the research itself on a sample or routine basis, or have a third party (not otherwise associated with the research or the investigator) do so. Continuing review shall be undertaken at intervals appropriate to the degree of risk, but not less than once per year.

(c) Be responsible for reporting to the appropriate institutional officials and the Secretary any serious or continuing noncompliance by investigators with the requirements and determinations of the Boards.

(d) Carry out such other duties as may be assigned by the institution or the Secretary.

§ 46.109 Evaluation and disposition of assurances.

(a) The Secretary will evaluate all assurances submitted in accordance with § 46.105 and § 46.106 through such officers and employees of the Department and such experts or consultants engaged for this purpose as the Secretary determines to be appropriate. The Secretary's evaluation will take into consideration the adequacy of the proposed Institutional Review Board in the light of the anticipated scope of the institution's activities and the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in light of the probable risks, and the size and complexity of the institution.

(b) On the basis of this evaluation, the Secretary may approve or disapprove the assurance, or enter into negotiations to develop an approvable one. The Secretary may limit the period during which any particular approved assurance or class of approved assurances shall remain effective or otherwise condition or restrict approval. The Secretary may, pending completion of negotiations for a general assurance, require an institution otherwise eligible for such assurance, to submit special assurances.

§ 46.110 Review of proposed research by the Institutional Review Board.

(a) Except as provided in this section or § 46.111, the Department will conduct or support research covered by these regulations only if the institution has an assurance approved under § 46.109, and only if the institution has certified to the Secretary that the research has been reviewed and approved by the Institutional Review Board provided for in the assurance. In order to give its approval, the Board must determine that all of the following requirements are satisfied:

(1) The research methods are appropriate to the objectives the research and the field of study.

(2) Selection of subjects is equitable, taking into account the purposes of the research.

(3) Risks to subjects are minimized by using the safest procedures consistent with sound research design and, whenever appropriate, by using procedures already being performed for diagnostic or treatment purposes.

(4) Risks to subjects are reasonable in relation to anticipated benefits to subjects and importance of the knowledge to be gained. In making this determination, the Board should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits the subjects would be exposed to or receive even if not participating in the research). Also, the Board should not consider possible effects of applying knowledge gained in the research as among those research risks which fall within the purview of its responsibility.

(5) Informed consent will be sought from each prospective subject or his or

[1] Where applicable, the Board shall also review other research, described at § 46.101(b), which is conducted at or sponsored by the institution.

her legally authorized representative, in accordance with, and to the extent required by, § 46.112.

(6) Informed consent will be appropriately documented, in accordance with, and to the extent required by, § 46.113.

(7) Where appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.

(8) There are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(9) Applicable regulations for the protection of fetuses, pregnant women, children, prisoners, and those institutionalized as mentally disabled are satisfied.

(b) Within 60 days after the date of submission of an application or proposal, an institution with a general assurance must certify that the application or proposal has been reviewed and approved by the Board. Other institutions must certify that the application or proposal has been approved by the Board within 30 days after receipt of a request for such a certification from the Department. If the certification is not submitted within these time limits, the application or proposal may be returned to the institution.

(c) Department funds may not be used to support research covered by these regulations until certification of the Board's review and approval (under this section or § 46.111) is received by the Department from the institution; except that only Board review (but not approval) will be required for research projects which the Secretary is specifically directed by statute to carry out.

§ 46.111 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.

(a) The Secretary will publish in the Federal Register a list [1] of categories of research, involving no more than minimal risk, that may be reviewed by the Institutional Review Board through an expedited review procedure. The Secretary will amend this list, as appropriate, through republication in the Federal Register.

(b) A Board at an institution with an approved general assurance may review some or all of the research appearing on the list through an expedited review procedure. The Board may also use the expedited review procedure to review minor changes in previously approved research. However, the institution must describe the Board's expedited review procedure in its general assurance.

(c) Under an expedited review procedure, the review may be carried out by the Board chairperson or by one or more experienced reviewers designated by the chairperson from among members of the Board. The reviewer has authority to approve the research if it meets the requirements set forth in § 46.110, to request the investigator to modify the research, or to refer the proposal to the Board for full review. If the reviewer has any significant doubt about whether the research should be approved, it should be referred to the Board for full review.

(d) The Secretary may restrict, suspend, or terminate an institution's or Board's right to use an expedited review procedure when necessary to protect the rights of subjects.

§ 46.112 Informed consent.

(a) Except as provided elsewhere in this section, no subject may be involved in research covered by these regulations without the legally effective informed consent of the subject or the subject's legally authorized representative. This consent shall be sought under circumstances that provide the subject (or the subject's legally authorized representative) sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or the subject's legally authorized representative must be in a language understandable to the subject or the legally authorized representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the subject's legally authorized representative is made to waive, or to appear to waive, the subject's legal rights, including any release of the institution or its agents from liability for negligence.

(1) *Basic elements of informed consent.* In seeking informed consent, the following information shall be provided:

(A) A statement that the activity involves research, and that the Institutional Review Board has approved the solicitation of subjects to participate in the research;

(B) An explanation of the scope, aims, and purposes of the research, and the procedures to be followed (including identification of any treatments or procedures which are experimental), and the expected duration of the subject's participation;

(C) A description of any reasonably foreseeable risks or discomforts to the subject (including likely results if an experimental treatment should prove ineffective);

(D) A description of any benefits to the subject or to others which may reasonably be expected from the research;

(E) A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;

(F) A statement that new information developed during the course of the research which may relate to the subject's willingness to continue

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[1] The Department proposes to include the following procedures in the list to be promulgated under this section:

"Research in which the only involvement of human subjects will be in one or more of the following activities (carried out through standard methods):

(1) Collection (in a nondisfiguring manner) of hair, nail clippings, and deciduous teeth.

(2) Collection of excreta and external secretions including sweat, saliva, placenta expelled at delivery, umbilical cord blood after the cord is clamped at delivery, and amniotic fluid at the time of artificial rupture of the membrane prior to or during labor.

(3) Recording of data from adults through the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amounts of energy into the subject or an invasion of the subject's privacy. Such procedures include weighing, electrocardiogram, electroencephalogram, thermography, detection of naturally occurring radioactivity, diagnostic echography, and electroretinography.

(4) Collection of blood samples by venipuncture, in amounts not exceeding 450 milliliters in a six-week period and no more often than two times per week, from subjects 18 years of age or older who are not anemic, pregnant, or in a significantly weakened condition.

(5) Collection of both supra- and subgingival plaque, provided the procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.

(6) Voice recordings made for research purposes such as investigations of speech defects.

(7) Moderate exercise by healthy volunteers.

(8) Program evaluation activities that entail no deviation for subjects from the normal requirements of their involvement in the program being evaluated or benefits related to their participation in such program."

Note.—[The Department would add the following procedures to the above list if Alternative B under § 46.101(b) is adopted:

(9) Survey activities in which responses are recorded in such a manner that individuals cannot reasonably be identified or in which the records will not contain sensitive information about the individuals.

(10) Research activities involving the observation of human subjects carrying out their normal day-to-day activities, where observations are recorded in such a manner that individuals cannot reasonably be identified.

(11) Research involving the study of documents, records, data sets, or human materials where the sources contain identifiers, but the researcher will take information from them in such a way as to prevent future identification of any individual.]

participation will be provided to the subject;

(G) A statement describing the extent to which confidentiality of records identifying the subject will be maintained.

(H) An offer to answer any questions the subject (or the subject's representative) may have about the research the subject's rights, or related matters;

(I) For research involving more than minimal risk, an explanation as to whether conpensation and medical treatment are available if injury occurs and, if so, what they consist of or where further information may be obtained;

(J) Who should be contacted if harm occurs or there are questions or problems; and

(K) A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

(2) *Additional elements.* When appropriate, the Institutional Review Board shall require that some or all of the following elements of information also be provided:

(A) A statement that the particular treatment or procedure being tested may involve risks to the subject (or fetus, if the subject is pregnant or becomes pregnant) which are currently unforeseeable. This statement will often be appropriate in connection with tests of experimental drugs, or where the subjects are children, pregnant women, or women of childbearing age.

(B) Foreseeable circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent.

(C) Any additional costs to the subject or others that may result from their participation in the research.

(D) Who is conducting the study, the approximate number of subjects involved, the institution responsible for the study, and who is funding it.

(E) The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

(b) The Board may approved a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth in paragraph (a), provided the Board finds (and documents) the following:

(1) The withholding or altering will not materially affect the ability of the subject to assess the harm or discomfort of the research to the subject or others;

(2) Sufficient information will be disclosed to give the subject a fair opportunity to decide whether or not to participate;

(3) The research could not reasonably be carried out without the withholding or alteration;

(4) Information is not withheld or altered for the purpose of eliciting participation; and

(5) Whenever feasible the subject will be debriefed after his or her participation.

(c) Nothing in these regulations is intended to limit the authority of a physician to provide emergency medical care, to the extent the physician is permitted to do so under applicable (e.g., State or local) law.

§ 46.113 Documentation of informed consent.

(a) Except as provided in paragraph (b), informed consent shall be documented in writing (and a copy provided to the subject or the subject's legally authorized representative) through either of the following methods:

(1) A written consent document embodying the elements of informed consent. This may be read to the subject or to his or her legally authorized representative, but in any event the subject or his or her legally authorized representative must be given adequate opportunity to read it. This document is to be signed by the subject or his or her legally authorized representative, and a copy supplied to the subject or representative. The Board shall retain approved sample copies of the consent form.

(2) A "short form" written consent document indicating that the elements of informed consent have been presented orally to the subject or his or her legally authorized representative. Written summaries of what is to be said to the subject (or representative) are to be approved by the Board. The short form is to be signed by the subject or his or her legally authorized representative and by a witness to the oral presentation and to the subject's signature, or that of the representative. A copy of the approved summary is to be signed by the persons officially obtaining the consent and by the witness. Copies of the form and the summary shall be provided to the subject or representative. The Board shall retain approved sample copies of the consent form and the summaries.

(b) The Board may waive the requirement for the researcher to obtain documentation of consent for some or all subjects if it finds (and documents) either:

(1) That the only record linking the subject and the research would be the consent document, the only significant risk would be potential harm resulting from a breach of confidentiality, each subject will be asked whether he or she wants there to be documentation linking the subject with the research, and the subject's wishes will govern; or

(2) That the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.

In many cases covered by this paragraph it may be appropriate for the Board to require the investigator to provide subjects with a written statement regarding the research, but not to request their signature, or to require that oral consent be witnessed.

(c) In those cases when new information is provided to the subject during the course of the research, the information shall be reviewed and approved by the Board and a copy retained in its records.

§ 46.114 Applications and proposals lacking definite plans for involvement of human subjects.

Certain types of applications for grants or contracts are submitted to the Department with the knowledge that subjects may be involved within the support period, but definite plans would not normally be set forth in the application or proposal. These include such activities as institutional type grants (including bloc grants) where selection of specific projects is the institution's responsibility; training grants where the activities involving subjects remain to be selected; and projects in which human subjects' involvement will depend upon completion of instruments, prior animal studies, or purification of compounds. These applications need not be reviewed by an Institutional Review Board before an award may be made. However, except for research described in § 46.101(c), no human subjects may be involved in any project supported by these awards until the project has been reviewed and approved by the Institutional Review Board, as provided in these regulations, and certification submitted to the Department.

§ 46.115 Research undertaken without the intention of involving human subjects.

In the event research (conducted or supported by the Department) is undertaken without the intention of involving human subjects, but it is later

proposed to use human subjects in the research, the research must first be reviewed and approved by the Institutional Review Board, as provided in these regulations, a certification submitted to the Department, and final approval given to the proposed change by the Department.

§ 46.116 Evaluation and disposition of applications and proposals.

(a) The Secretary will evaluate all applications and proposals involving human subjects submitted to the Department through such officers and employees of the Department and such experts and consultants as the Secretary determines to be appropriate. This evaluation will take into consideration the apparent risks to the subjects, the adequacy of protection against these risks, the potential benefits of the proposed research to the subjects and to others, and the importance of the knowledge to be gained.

(b) On the basis of this evaluation, the Secretary may approve or disapprove the application or proposal, or enter into negotiations to develop an approvable one.

§ 46.117 Cooperative research projects.

(a) Cooperative research projects are those projects, normally supported through grants, contracts, or similar arrangements, which involve institutions in addition to the grantee or prime contractor (such as a contractor with the grantee or a subcontractor with the prime contractor). In such instances, the grantee or prime contractor remains responsible to the Department for safeguarding the rights and welfare of subjects. However, except as provided in paragraph (b), when cooperating institutions in fact conduct some or all of the research involving some or all of these subjects, each cooperating institution must comply with these regulations as though it received support for its participation in the project directly from the Department.

(b) With prior approval by the Secretary, institutions involved in cooperative research projects may comply with these regulations through joint review or other arrangements aimed at avoidance of duplication of effort.

§ 46.118 Investigational new drug 30-day delay requirement.

Where an institution is required to prepare or to submit a certification under these regulations and the application or proposal involves an investigational new drug within the meaning of the Food, Drug, and Cosmetic Act, the drug must be identified in the certification together with a statement that the 30-day delay required by 21 CFR 312.1(a)(2) has elapsed and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subjects; or that the Food and Drug Administration has waived the 30-day delay requirement: Provided, however, that in those cases in which the 30-day delay interval has neither expired nor been waived, a statement shall be forwarded to the Department upon such expiration or upon receipt of a waiver. No certification shall be considered acceptable until such statement has been received.

§ 46.119 Confidentiality of records.

Except as otherwise provided by Federal, State, or local law, information in the records or possession of an institution acquired in connection with an activity covered by these regulations (including all subparts of these regulations), which information refers to or can be identified with a particular subject, may not be disclosed except:

(a) With the consent of the subject or his legally authorized representative; or

(b) As may be necessary for the Secretary to carry out his responsibilities.

§ 46.120 Use of Federal funds.

Federal funds administered by the Department may not be expended for research involving human subjects unless the requirements of these regulations (including all subparts of these regulations) have been satisfied.

§ 46.121 Early termination of research support; evaluation of subsequent applications and proposals.

(a) If, in the judgment of the Secretary, an institution has failed materially to comply with the terms of these regulations (including any subpart of these regulations), with respect to any particular research project, the Secretary may require that Department support for the project be terminated or suspended in the manner prescribed in applicable program requirements.

(b) In making decisions about funding applications or proposals covered by these regulations (including any subpart of these regulations), the Secretary may take into account, in addition to all other eligibility requirements and program criteria, such factors as: (1) Whether the applicant has been subject to a termination or suspension under paragraph (a) of this section; (2) whether the applicant or the person who would direct the scientific and technical aspects of an activity has in the judgment of the Secretary failed materially to discharge his, her, or its responsibility for the protection of the rights and welfare of subjects in his, her, or its care (whether or not Department funds were involved); and (3) whether, where past deficiencies have existed in discharging this responsibility, adequate steps have in the judgment of the Secretary been taken to eliminate these deficiencies.

§ 46.122 Research not conducted or supported by the Department.

Except for the categories of research exempted under § 46.101(c), prior and continuing review and approval by an Institutional Review Board is required for the conduct of all research involving human subjects not funded by the Department, if the research is conducted at or supported by any institution receiving funds from the Department for the conduct of research involving human subjects.

§ 46.123 Conditions.

The Secretary may with respect to any research project or any class of research projects impose additional conditions prior to or at the time of funding when in the Secretary's judgment conditions are necessary for the protection of human subjects.

[FR Doc. 79-24788 Filed 8-13-79; 8:45 am]

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Food and Drug Administration

[21 CFR Parts 16, 56, 71, 171, 180, 310, 312, 314, 320, 330, 361, 430, 431, 601, 630, 1003, and 1010]

[Docket No. 77N-0350]

Standards for Institutional Review Boards for Clinical Investigations; Withdrawal of Proposal

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of Proposal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a proposal to establish standards for institutional review boards (IRB's) which review clinical investigations regulated by FDA. The National Commission for the Protection of Human Subjects in Biomedical and Behavioral Research (National Commission) published its IRB report after FDA published its IRB proposal. FDA is withdrawing its IRB proposal and issuing a new proposal that reflects a

consideration of the National Commission's IRB report.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: John C. Petricciani, Bureau of Biologics (HFB–4), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301–496–9320.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 8, 1978 (43 FR 35186), FDA issued a proposal to establish standards for IRBs that review clinical investigations regulated by the agency. The proposal would have clarified IRB standards and extended the IRB requirement to articles other than new human drug products regulated by FDA.

Because the National Commission published its IRB report in the **Federal Register** on November 30, 1978 (43 FR 56174), FDA has decided to withdraw its IRB proposal of August 8, 1978, and issue a new proposal to take into account the National Commission's recommendations and the Department of Health, Education and Welfare's draft IRB proposal based on the National Commission's report.

Therefore, the proposal published in the **Federal Register** of August 8, 1978, on this matter is hereby withdrawn. Elsewhere in this issue of the **Federal Register,** the agency is reproposing an IRB regulation as well as a proposed revision of regulations governing informed consent.

This withdrawal is issued under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 602, 701(a), 52 Stat. 1041–1042 as amended, 1050–1051 as amended by 76 Stat. 791, 1054 as amended, 1055 (21 U.S.C. 321, 352, 362, 371(a))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: August 6, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-24785 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Parts 16, 56, 71, 171, 180, 310, 312, 314, 320, 330, 361, 430, 431, 601, 630, 1003, and 1010]

[Docket No. 77N-0350]

Protection of Human Subjects; Standards for Institutional Review Boards for Clinical Investigations

AGENCY: Food and Drug Administration

ACTION: Withdrawal of Proposal; Reproposed Rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is reproposing regulations governing the activities of institutional review boards (IRB's) that review clinical investigations involving human subjects and new human drug products. This proposal would clarify and extend those regulations to include IRB's that review clinical investigations involving human subjects and articles other than new human drug products regulated by FDA. FDA has decided to repropose its IRB regulations to take into account the Report and Recommendations in Institutional Review Boards (DHEW Pub. No. (OS)78008) issued by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (National Commission) and to make the proposed regulation more compatible with the new revised regulations planned by the Department of Health, Education, and Welfare (HEW). The proposed regulations are intended to provide a common framework of operation for IRB's that review both HEW-funded research and research conducted under FDA regulatory requirements.

DATES: Comments by November 12, 1979. Public hearings on September 18, October 2, and October 16, 1979. The proposed effective date of the final rule is 60 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments, to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. Public hearings in Bethesda, MD; San Francisco, CA; and Houston, TX.

FOR FUTHER INFORMATION CONTACT: John C. Petricciani, Bureau of Biologics (HFB–4), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301–496–9320.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 8, 1978, FDA published proposed standards for institutional review boards for clinical investigations (43 FR 35186). Interested persons were given until December 6, 1978, to submit written comments on the proposal. By notice in the **Federal Register** of December 15, 1978 (43 FR 58574), the comment period was extended to June 6, 1979. During the comment period, the National Commission submitted its report and recommendations on IRB's and informed consent, and that document was published in the **Federal Register** of November 30, 1978 (43 FR 56174). In its report, the National Commission recommended revisions of the current HEW IRB regulations (45 CFR Part 46). Because the agency stated in the August 8, 1978 proposal that FDA's regulations should be compatible with, if not identical to, those of the Department, FDA is withdrawing its IRB proposal of August 8, 1978 and in this document is publishing a revised proposal developed in conjunction with HEW in response to the recommendations made by the National Commission. The agency is also publishing elsewhere in this issue of the **Federal Register** its proposed regulation concerning informed consent. HEW and FDA both agree in principle with the recommendation of the National Commission that IRB's should operate under one set of Federal regulations. Within the constraints of their independent statutory obligations and missions, HEW and FDA have developed IRB proposals that specify, for IRB's, virtually the same structural and functional requirements, so that IRB's will have essentially uniform requirements in areas such as scope of responsibility, quorum requirements, and record retention.

The agency emphasizes that, although this proposal will be essentially compatible and consistent with the regulations to be proposed by HEW, the two sets of regulations cannot be identical. The statutory authorities under which FDA regulates clinical research are different from the authorities relied upon by HEW to regulate research that it either funds or conducts. In addition, because HEW's regulations will encompass behavioral research (which FDA does not regulate), the scope of coverage and types of review required will be somewhat different.

This proposal is concerned with those IRB's that review clinical investigations regulated by FDA under sections 505(i), 507(d), and 520(g) of the Federal Food, Drug, and Cosmetic Act, as well as those clinical investigations that support applications for research or marketing permits for products regulated by FDA. This revised proposal represents the agency's attempt to achieve a common, flexible framework within which IRB's can operate, whether they are reviewing HEW-supported research or FDA-regulated research.

Because FDA is a regulatory agency, the compliance aspects of this proposal must be explicitly stated. In the initial proposal, the agency proposed sections that provide for inspection and disqualification of IRB's, and these sections have been retained without change. HEW, which employs the institutional assurance mechanism for dealing with institutions, and which may

cut off funding of projects for noncompliance, will not propose similar provisions. FDA will continue to consult with HEW during the development of final regulations so that, as much as possible, consistency of IRB structure and function can be maintained.

Opportunity for Public Hearing

The Food and Drug Administration stated in the August 8, 1978 proposal setting forth the standards for IRB's that three open hearings would be held to give the public an opportunity to make oral comments on both the IRB and the informed consent proposals. These hearings will be held under the administrative practices and procedures regulations, § 15.1(a) (21 CFR 15.1(a)), in (1) Bethesda, Maryland, September 18, 1979; (2) San Francisco, California, October 2, 1979; and (3) Houston, Texas, October 16, 1979.

The purpose of the hearings is (1) to provide an open forum to present views concerning the merit of the proposed regulations and their general applicability and practicability and (2) to foster greater consideration of the proposal among the scientific community, the regulated industry, and the public. Although the hearings will encompass all aspects of the proposed regulations, several specific areas of consideration on which the agency seeks advice are:

1. Administrative expense for IRB's;

2. IRB member compensation;

3. Paragraph (a) of § 56.26 *Relationship between members and investigator or investigation;*

4. § 56.81 *Quorum requirements;*

5. § 56.83 *Expedited review procedures for minor changes in the protocol of an approved clinical investigation;* and

6. Subpart K—Disqualification of an Institutional Review Board.

In preparing a final regulation, the agency will consider the administrative record of these hearings along with all other written comments received during the comment period specified in this proposal.

The hearings will take place at 9 a.m. as follows:

Bethesda Hearing (September 18, 1979)

Conference Room 4, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205

San Francisco Hearing (October 2, 1979)

Federal Building, Room 2007, 450 Golden Gate Avenue, San Francisco, CA 94102.

Houston Hearing (October 16, 1979)

University of Texas at Houston, Main Building Auditorium, 1100 East Holcombe Boulevard, Houston, TX 77030.

The presiding officer will be Dr. Mark Novitch, Associate Commissioner for Health Affairs.

A written notice of participation under the requirements of § 15.21 (21 CFR 15.21) must be filed with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, not later than September 4 for the Bethesda hearing, September 18 for the San Francisco hearing, and October 2 for the Houston hearing. The notice of participation should contain Hearing Clerk Docket No. 77N–0350, the name, address, and telephone number of the person desiring to make a statement, along with any business affiliation, a summary of the scope of the presentation with references to the appropriate subpart of the proposed regulations, and the approximate amount of time requested for the presentation. A schedule for the hearing will be filed with the Hearing Clerk and mailed to each person who files a notice of participation within the specified filing time. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and to request time for a joint presentation.

If the response to this notice of hearing is such that insufficient time is available to accommodate the full amount of time requested in the notices of participation received, the agency will allocate the available time among the persons making the oral presentation to be used as they wish. Formal written statements on the issues may be presented to the presiding officer on the day of the hearing for inclusion in the administrative record.

If the response to this notice of hearing is such that all persons cannot be accommodated even though the agency has allocated the available time as indicated above, the hearings will be extended for an additional day, as appropriate, for each hearing site.

The hearings will be open to the public. Any interested person may be heard on matters relevant to the issues under consideration.

Comments Received on the August 8, 1978 Proposal

In formulating the final regulation, the agency will consider comments received in response to the August 8, 1978 proposal along with the comments responding to this reproposal. Thus, the agency urges that comments be directed especially to the provisions of the proposed regulation that are changed by this reproposal. To the extent that this proposal is not changed from the earlier proposal, the agency incorporates the preamble discussion that was published on August 8, 1978. The changes that have been made and the reasons for those changes are discussed below.

Definitions

The definitions remain largely unchanged. Some of the definitions will differ from those proposed by the Department and reflect the fact that FDA's major concern is biomedical and not behavioral research. The definitions proposed also are consistent with the definitions proposed as part of the other regulations that make up FDA's bioresearch monitoring program. The definition of "institutional review board" has been slightly modified to emphasize that the major function of an IRB is to review and approve clinical investigations, and is not to oversee the actual conduct of such investigations. However, IRB's do have a duty to engage in periodic review of ongoing studies, as specified in §§ 56.5(a) and 56.87(a) (21 CFR 56.5(a) and 56.87(a)).

Also, a definition of "minimal risk," which conforms to that proposed by HEW, has been added as new § 56.3(h) (21 CFR 56.3(h)).

Circumstances in Which an Institutional Review Board Is Required

Proposed § 56.5 *Circumstances in which an institutional review board is required* has been renumbered from its designation as § 56.2 in the August 8, 1978 proposal, and the provision covering waiver of the requirement has been set out separately as § 56.6. A paragraph has been added to § 56.5 to clarify that compliance with the proposed FDA IRB regulations does not relieve IRB's from compliance with other applicable Federal, State, or local laws or regulations.

Cooperative Clinical Investigations

New § 56.9 (21 CFR 56.9) has been added to explicitly reduce duplicative review of multi-institutional studies.

Diversity of Membership of an IRB

Proposed § 56.21 (21 CFR 56.21) has been modified to be consistent with the requirements to be proposed by HEW. The requirement that an IRB possess the competence to comprehend the scientific nature of the investigation has been deleted. Although it is necessary that a board have sufficient expertise to weigh the risks inherent in a clinical investigation, actual evaluation of the

scientific merits of a proposal is not intended as a major function of an IRB.

Relationship Between Members and Institution

Proposed § 56.25 (21 CFR 56.25) has been slightly modified to be consistent with HEW requirements. Paragraph (a) now states explicitly that members of the immediate family of persons affiliated with the institution may not serve as the only unaffiliated member of a board.

Relationship Between Members and Investigator or Investigation

Paragraph (a) of § 56.26 (21 CFR 56.26) has been modified to allow sponsors to participate in the selection of members of a board when that board will review a sponsor's study. The agency foresees situations in which an institution might act as the sponsor of a study conducted within that institution and might be required to have those studies reviewed by an IRB, the members of which were selected by the institution. To prohibit these institutional sponsors from participating in the selection of their own IRB, except by requesting a waiver, would be unnecessarily burdensome. The agency invites comments on this section.

Written Procedures for Review of Clinical Investigations by an IRB

The requirement that an IRB monitor a clinical investigation has been deleted from proposed § 56.80 (21 CFR 56.80) because the monitoring function is inconsistent with the generally accepted scope of IRB responsibilities and the recommendations of the national Commission.

Quorum Requirements

This section (§ 56.82 in the August 8, 1978 proposal) has been renumbered § 56.81 (21 CFR 56.81) and has been rewritten for consistency with HEW requirements. Because research regulated by FDA always involves some degree of medical risk, however, the minimum FDA IRB quorum requirement includes at least one licensed physician to help assure the protection of the human subjects in clinical investigations.

Procedures for Initial Review of a Clinical Investigation

This section (§ 56.85 in the August 8, 1978 proposal) has been renumbered § 56.82 (21 CFR 56.82). Paragraph (e) has been modified to require that if an IRB disapproves a proposal, it must give the clinical investigator an opportunity to respond in person or in writing.

Expedited Review Procedures for Minor Changes in the Protocol of an Approved Clinical Investigation

The agency is proposing new § 56.83 (21 CFR 56.83) in response to recommendation (5) of the National Commission, which said that expedited review procedures may be adopted by IRB's for carefully defined categories of research and for minor changes in an already approved study. The agency invites comments on what constitutes a minor change in a study. No provision has been made for applying the expedited review procedure to other than minor changes in an already approved protocol because FDA has been unable to identify any studies subject to these proposed regulations that would be limited to any of the low-risk procedures identified by the National Commission. However, the agency welcomes comment on whether there are specific examples of regulated research that are limited to and that fall into any of the following classes of low-risk procedures specifically mentioned by the National Commission so that the agency can include them in the final order. The categories cited by the National Commission as appropriate for expedited review are:

Research in which the only involvement of human subjects will be in one or more of the following activities:

(1) Collection (in a nondisfiguring manner) of hair, nail clippings, and deciduous teeth.

(2) Collection of excreta and external secretions including sweat, saliva, placenta expelled at delivery, umbilical cord blood after the cord is clamped at delivery, and amniotic fluid at the time of artificial rupture of the membranes prior to or during labor.

(3) Recording of data from adults through the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amounts of energy into the subject or an invasion of the subject's privacy. Such procedures include weighing, electrocardiogram, electroencephalogram, thermography, detection of naturally occurring radioactivity, diagnostic echography, and electroretinography.

(4) Collection of blood samples by venipuncture, in amounts not exceeding 450 milliliters in a 6-week period and no more often than two times per week, from subjects 18 years of age or older who are not anemic, pregnant, or in a significantly weakened condition.

(5) Collection of both supra- and subgingival plaque, provided the procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.

(6) Voice recordings made for research purposes such as investigations of speech defects.

(7) Moderate exercise by healthy volunteers.

(8) Program evaluation activities that entail no deviation for subjects from the normal requirements of their involvement in the program being evaluated or benefits related to their participation in such program.

Criteria for Approval of a Clinical Investigation

New § 56.86 (21 CFR 56.86) describes for IRB's the basic elements required for an acceptable protocol for a clinical investigation. These elements coincide, where applicable within the limits of statutory authority, with the National Commission's recommendations and the HEW IRB proposal.

Procedures for Continuing Review and Suspension or Termination of the Approval of a Clinical Investigation

Proposed § 56.87 (21 CFR 56.87) has been changed to conform to language used by HEW and to provide IRB's with authority to suspend or terminate approval of a study rather than to suspend or terminate the study itself. Accordingly, § 56.87(b) makes it clear that if an IRB suspends or terminates the approval of a clinical investigation, the IRB must report the action immediately to FDA. The agency contemplates that when an IRB takes such serious action, the sponsor, FDA, or, in the case of funded studies, HEW, would promptly evaluate the situation and take necessary steps to suspend or terminate the clinical investigation if that were warranted on the basis of the IRB's report. Paragraph (c) responds to recommendation 3D of the National Commission as discussed in their comments on that recommendation, and conforms to proposed HEW requirements. It authorizes the IRB or its representative to observe the consent process or the clinical investigation. Paragraph (d) requires the IRB to report to institutional officials and to FDA any serious or continuing problems with clinical investigators. Paragraph (e) requires the IRB to review, at the time of periodic review of each clinical investigation, the adequacy of informed consent for subjects already entered into the study as well as for those who will be entered after the date of the periodic review. Adequacy of the

informed consent must be considered in terms of the new requirements of informed consent (see proposed Part 50, published elsewhere in this issue of the Federal Register).

Criteria for Disapproval, Suspension, or Termination of Approval of a Clinical Investigation

Proposed § 56.90 (21 CFR 56.90) has been slightly modified. The substance of proposed paragraph (b)(5) (i) through (iii) has been moved to § 56.86 (a) through (d). Paragraph (b)(5)(iv) has been deleted due to redundancy with § 56.87(a).

Suspension or Termination of Approval of a Clinical Investigation

The language of proposed § 56.92 (21 CFR 56.92) has been revised to conform to changes made in §§ 56.87 and 56.90, which specify that an IRB may suspend or terminate the approval of a clinical investigation, rather than the study itself.

Records of an IRB

Proposed § 56.185 (21 CFR 56.185) has been revised to be consistent with the recordkeeping requirements being proposed by HEW.

Retention of Records

Proposed § 56.195 (21 CFR 56.195) has been revised and simplified to conform to both the recommendations of the National Commission and proposed HEW requirements. IRB records are now required to be kept for a standard period of 5 years after completion of a study.

Disqualification of IRB's

Subpart K has been retained as originally proposed. The agency invites additional comments on this provision.

Conforming Amendments

The conforming amendments are reproposed without change.

The Food and Drug Administration has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)), and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 406, 408, 409, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 601, 701(a), 706, and 801, 52 Stat. 1049–1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 68 Stat. 511–517 as amended, 72 Stat. 1785–1788 as amended, 74 Stat. 399–407 as amended, 76 Stat. 794–795 as amended, 90 Stat. 540–560, 562–574 (21 U.S.C. 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 361, 371(a), 376, and 381)) and the Public Health Service Act (secs. 215, 351, 354–360F, 58 Stat. 690, 702 as amended, 82 Stat. 1173–1186 as amended (42 U.S.C. 216, 262, 263b–263n)) and under authority delegated to the Commissioner of Food and Drugs, (21 CFR 5.1), the proposal published in the Federal Register of August 8, 1978 is withdrawn and it is reproposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

SUBCHAPTER A—GENERAL

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

1. In § 16.1. by adding new paragraph (b)(27) to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(27) Section 56.204(b), relating to disqualifying an institutional review board.

2. By adding new Part 56 to read as follows:

PART 56—INSTITUTIONAL REVIEW BOARDS

Subpart A—General Provisions

Sec.
56.1 Scope.
56.3 Definitions.
56.5 Circumstances in which an institutional review board is required.
56.6 Waiver of requirement.
56.8 Review by institution.
56.15 Inspection of an institutional review board.

Subpart B—Organization and Personnel

56.21 Diversity of membership of an institutional review board.
56.9 Cooperative clinical investigations.
56.25 Relationship between members and institution.
56.26 Relationship between members and investigator or investigation.
56.34 Consultants.

Subparts C and D [Reserved]

Subpart E—Board Operations

56.80 Written procedures for review of clinical investigations by an institutional review board.
56.81 Quorum requirements.
56.82. Procedures for initial review of a clinical investigation.
56.83 Expedited review procedures for minor changes in the protocol of an approved clinical investigation.
56.86 Criteria for approval of a clinical investigation.
56.87 Procedures for continuing review and suspension or termination of the approval of a clinical investigation.
56.90 Criteria for disapproval, suspension, or termination of the approval of a clinical investigation.
56.92 Suspension or termination of the approval of a clinical investigation.

Subparts F through I [Reserved]

Subpart J—Records and Reports

56.185 Records of an institutional review board.
56.195 Retention of records.

Subpart K—Disqualification of an Institutional Review Board

56.200 Purpose.
56.202 Grounds for disqualification.
56.204 Notice of and opportunity for a hearing on proposed disqualification.
56.206 Final order on disqualification.
56.210 Actions on disqualification.
56.213 Public disclosure of information regarding disqualification.
56.215 Actions alternative or additional to disqualification.
56.219 Reinstatement of a disqualified institutional review board.

Authority: Secs. 406, 408, 409, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 601, 701(a), 706, and 801, Pub. L. 717, 52 Stat. 1049–1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 68 Stat. 511–517 as amended, 72 Stat. 1785–1788 as amended, 74 Stat. 399–407 as amended, 76 Stat. 794–795 as amended, 90 Stat. 540–560, 562–574 (21 U.S.C. 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 361, 371(a), 376, and 381), secs. 215, 351, 354–360F, Pub. L. 410, 58 Stat. 690, 702 as amended, 82 Stat. 1173–1186 as amended (42 U.S.C. 216, 262, 263b–263n).

Subpart A—General Provisions

§ 56.1 Scope.

This part contains the general standards for the composition, operation, and responsibility of an institutional review board that reviews clinical investigations regulated by the Food and Drug Administration under sections 505(i), 507(d), and 520(g) of the act, as well as clinical investigations that support applications for research or marketing permits for products regulated by the Food and Drug Administration, including food and color additives, cosmetics, drugs for human use, medical devices for human use, biological products for human use, and electronic products. Additional specific standards for the composition, operation, and responsibility of an institutional review board that reviews clinical investigations involving particular test articles and products may be found in other parts, e.g., Parts 312 and 812, of this chapter. Compliance with these parts is intended to protect the rights and safety of human subjects involved in such investigations and to help assure the quality and integrity of the data filed pursuant to sections 406, 408, 409, 502,

503, 505, 506, 507, 510, 513–516, 518–520, 601, 706, and 801 of the act and sections 351 and 354–360F of the Public Health Service Act.

§ 56.3 Definitions.

As used in this part:

(a) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201–902, 52 Stat. 1040 et seq., as amended (21 U.S.C. 321–392)).

(b) "Application for research or marketing permit" includes:

(1) A color additive petition, described in Part 71 of this chapter.

(2) Data and information regarding a substance submitted as part of the procedures for establishing that a substance is generally recognized as safe for a use which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, described in §§ 170.35 and 570.35 of this chapter.

(3) A food additive petition, described in Part 171 of this chapter.

(4) Data and information regarding a food additive submitted as part of the procedures regarding food additives permitted to be used on an interim basis pending additional study, described in § 180.1 of this chapter.

(5) Data and information regarding a substance submitted as part of the procedures for establishing a tolerance for unavoidable contaminants in food and food-packaging materials, described in section 406 of the act.

(6) A "Notice of Claimed Investigational Exemption for a New Drug," described in Part 312 of this chapter.

(7) A new drug application, described in Part 314 of this chapter.

(8) Data and information regarding the bioavailability or bioequivalence of drugs for human use submitted as part of the procedures for issuing, amending, or repealing a bioequivalence requirement, described in Part 320 of this chapter.

(9) Data and information regarding an over-the-counter drug for human use submitted as part of the procedures for classifying such drugs as generally recognized as safe and effective and not misbranded, described in Part 330 of this chapter.

(10) Data and information regarding a prescription drug for human use submitted as part of the procedures for classifying such drugs as generally recorgnized as safe and effective and not misbranded, to be described in this chapter.

(11) Data and information regarding an antibiotic drug submitted as part of the procedures for issuing, amending, or repealing regulations for such drugs, described in Part 430 of this chapter.

(12) An application for a biological product license, described in Part 601 of this chapter.

(13) Data and information regarding a biological product submitted as part of the procedures for determining that licensed biological products are safe and effective and not misbranded, described in Part 601 of this chapter.

(14) An "Application for an Investigational Device Exemption", described in Part 812 of this chapter.

(15) Data and information regarding a medical device for human use submitted as part of the procedures for classifying such devices, described in section 513 of the act.

(16) Data and information regarding a medical device for human use submitted as part of the procedures for establishing, amending, or repealling a standard for such device, described in section 514 of the act.

(17) An application for premarket approval of a medical device for human use, described in section 515 of the act.

(18) A product development protocol for a medical device for human use, described in section 515 of the act.

(19) Data and information regarding an electronic product submitted as part of the procedures for establishing, amending, or repealing a standard for such products, described in section 358 of the Public Health Service Act.

(20) Data and information regarding an electronic product submitted as part of the procedures for obtaining a variance from any electronic product performance standard, as described in § 1010.4 of this chapter.

(21) Data and information regarding an electronic product submitted as part of the procedures for granting, amending, or extending an exemption from a radiation safety performance standard, as described in § 1010.5 of this chapter.

(22) Data and information regarding an electronic product submitted as part of the procedures for obtaining an exemption from notification of a radiation safety defect or failure of compliance with a radiation safety performance standard, described in Subpart D of Part 1003 of this chapter.

(c) "Clincial investigation" means any experiment that involves a test article and one or more human subjects and that either is subject to requirements for prior submission to the Food and Drug Administration under section 505(i), 507(d), or 520(g) of the act, or is not subject to requirements for prior submission to the Food and Drug Administration under these sections of the act, but the results of which are intended to be later submitted to, or held for inspection by, the Food and Drug Administration as part of an application for a research on marketing permit. The term does not include experiments that are subject to the provisions of Part 58 of this chapter, regarding nonclinical laboratory studies.

(d) "Institution" means a person (other than an individual) who engages in the conduct of research on subjects or in the delivery of medical services to individuals as a primary activity or as an adjunct to providing residential or custodial care to humans. The term includes, for example, a hospital, retirement home, prison, academic establishment, and pharmaceutical or device manufacturer. The word "facility" as used in section 520(g) of the act is deemed to be synonomous with the term "institution" for purposes of this part.

(e) "Institutional review board" means any board, committee, or other group formally designated by an institution for the purposes of reviewing clinical investigations or other types of biomedical research involving humans as subjects, approving the initiation and conducting periodic review of such investigations or research. The term has the same meaning as the phrase "institutional review committee" as used in section 520(g) of the act.

(f) "Institutionalized subject" means:

(1) A subject who is voluntarily confined for a period of more than 24 continuous hours on the premises of, and in the care of, an institution (e.g., hospital inpatient or a retirement home resident), whether or not that institution is a sponsor of the clinical investigation; and

(2) A subject who is involuntarily confined for any period of time in a penal institution (e.g., jail, workhouse, house of detention, or prison), or another institution (e.g., a hospital) by virtue of a sentence, order, decree, or judgment under a crminal or civil statute, or awaiting arraignment, commitment, trial, or sentencing under such a statute, or by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incareration in a penal facility.

(g) "Investigator" means an individual who actually conducts a clinical investigation (i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject).

(h) "Minimal risk" means that risk of harm that is no greater in probability and no greater in magnitude than that

risk of harm that is normally encountered in the medicial examination of healthy individuals.

(i) "Person" includes any individual, partnership, corporation, assocation, scientific or academic establishment, Government agency of organizational unit of a Government agency, and any other legal entity.

(j) "Sponsor" means a person who initiates a clinical investigation, but who does not actually conduct the investigation, i.e., the test article is administered or dispensed to, or used involving, a subject under the immediate direction of another individual. A person other than an individual (e.g., corporation or agency) that uses one or more of its own employees to conduct an investigation that it has initiated is considered to be a sponsor (not a sponsor-investigator), and the employees are considered to be investigators.

(k) "Sponor-investigator" means an individual who both initiates and actually conducts, alone or with others, a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject. The term does not include any person other than an individual, e.g., it does not inlcude a corporation or agency. The obligations of a sponsor-investigator under this part include both those of a sponsor and those of an investigator.

(l) "Subject" means a human who is or becomes a participant in a clinical investigation either as a recipient of the test article or as a control. A subject may be either a person in normal health or a patient to whom the test article might offer a therapeutic benefit or provide diagnostic information or a better understanding of a disease or metabolic process.

(m) "Test article" means any drug for human use, biological product for human use, medical device for human use, human food additive, color additive, cosmetic, electronic product, or any other article subject to regulation under the act or under sections 351 or 354–360F of the Public Health Service Act.

§ 56.5 Circumstances in which an institutional review board is required.

(a) Except as provided in § 56.6, the Food and Drug Administration will not accept any application for a research permit for a clinical investigation (as required in Parts 312, 812, and 813 of this chapter) unless that investigation has been reviewed and approved by, and remains subject to continuing review by, an institutional review board meeting the requirements of this part.

(b) Except as provided in § 56.6, the Food and Drug Administration will not consider in support of an application for a research or marketing permit any data or information that has been derived from a clinical investigation unless that investigation had been approved by, and was subject to initial and continuing review by, an institutional review board meeting the requirements of this part. The determination that a clinical investigation may not be considered in support of an application for a research or marketing permit does not, however, relieve the applicant for such a permit of any obligation under any other applicable regulations to submit the results of the investigation to the Food and Drug Administration.

(c) Compliance with these regulations will in no way render inapplicable pertinent State or local laws or regulations, or other Federal laws or regulations, bearing upon activities covered by these regulations.

§ 56.6 Waiver of requirement.

(a) The Food and Drug Administration will waive the requirement for institutional review board review where an investigation commenced prior to and was completed within 1 year following (insert effective date of this section) and was not otherwise subject to requirements for insitutional reivew under Food and Drug Administration regulations prior to that date.

(b) Except as provided in this section, the Food and Drug Administration will waive the requirement on request of an applicant, if the Commissioner determines that the requirement is not necessary either for protecting the subjects involved or for assuring the validity or reliability of the scientific data, e.g., in a phase 3 investigational drug study (see § 312.1(a)(2), form FD–1571, item 10, of this chapter) on outpatient subjects. Any applicant for a research or marketing permit may include a request for waiver, with supporting information, in the application. In the case of an application for a research permit granted on an emergency basis, such request for waiver may be made over the telephone and be granted orally by the Food and Drug Administration at the same time the emergency application is approved on an oral basis; the approval may be conditioned upon subsequent review by an institutional review board. Written confirmation of any oral request for and grant of a waiver shall be included in the official application submitted subsequent to the emergency authorization of such application. Except in an emergency, the requirement will not be waived in any of the following situations:

(i) When the clinical investigation involves institutionalized human subjects.

(ii) When the clinical investigation is conducted on the premises of an institution that has an institutional review board meeting the requirements of this part:

(iii) When the Food and Drug Administration determines that the risks to the subjects justify such review.

§ 56.8 Review by institution.

Approval by an institutional review board of a clinical investigation may be subject to further appropriate review and approval or disapproval by officials of the institution. Disapproval of such an investigation by an institutional review board, however, may not be overruled by such officials.

§ 56.9 Cooperative clinical investigations.

Institutions involved in multi-institutional clinical investigations may comply with these regulations through joint interinstitutional review or through any other mechanism that complies with the requirements for institutional review but avoids duplication of effort.

§ 56.15 Inspection of an institutional review board.

(a) An institutional review board shall permit authorized employees of the Food and Drug Administration, at reasonable times and in a reasonable manner, for purposes of verification of case reports and other information prepared as part of the data and information to be submitted by the sponsor to the Food and Drug Administration and for purposes of assessment of compliance with the requirements set forth in this and other parts, e.g., Parts 312 and 812 of this chapter—

(1) To inspect records required to be made or kept by the institutional review board as part of, or relevant to, its activities relating to clinical investigations;

(2) To copy such records which do not identify the names of human subjects or from which the identifying information has been deleted; and

(3) To copy such records that identify the human subjects, without deletion of the identifying information, but only upon notice that the Food and Drug Administration has reason to believe that the consent of human subjects was not obtained, that the reports submitted by the investigator to the sponsor (or to the institutional review board) do not represent actual cases or actual results

obtained, or that such reports or other required records are otherwise false or misleading.

(b) The Food and Drug Administration may refuse to consider a clinical investigation in support of an application for a research or marketing permit if the institutional review board that reviewed the investigation refuses to allow an inspection under this section. The determination that a clinical investigation may not be considered in support of an application for a research or marketing permit does not, however, relieve the applicant for such a permit of any obligation under any other applicable statute or regulation to submit the results of the investigation to the Food and Drug Administration.

Subpart B—Organization and Personnel

§ 56.21 Diversity of membership of an institutional review board.

(a) Each institutional review board shall be composed of not fewer than five individuals with varying backgrounds to promote complete and adequate review of any clinical investigation. The board shall be sufficiently qualified through the maturity, experience, and expertise of its members and the sufficient diversity of the members' racial and cultural backgrounds to promote respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the board shall be able to ascertain the acceptability of clinical investigations in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The board shall therefore include persons familiar with these areas. If a board regularly reviews research that involves a vulnerable category of subjects (e.g., prisoners, children), the board should have one or more individuals who are primarily concerned with the welfare of those subjects.

(b) A board shall not consist entirely of members of one profession, nor entirely of men, nor entirely of women.

(c) Each board shall include at least one licensed physician, one scientist, and at least one individual whose primary concerns are in a nonscientific area (e.g., a lawyer, ethicist, or member of the clergy).

(d) The records of a board shall identify each member by name, earned degrees (if any), position or occupation, specialty field (if any), representative capacity, and by other pertinent indications of experience such as board certifications, licenses, etc., sufficient to describe each member's chief anticipated contributions to board deliberations.

§ 56.25 Relationship between members and institution.

(a) Each board shall include at least one member whose only affiliation with the institution is his or her board membership. A member of the immediate family of a person who is affiliated with the institution may not be appointed to serve as the board's unaffiliated member.

(b) The records of a board shall identify the employment or other relationship between each member and the institution, including the membership on the board (e.g., full-time employee, part-time employee, a member of governing panel or board, paid consultant, or unpaid consultant).

§ 56.26 Relationship between members and investigator or investigation.

(a) A member of a board shall not participate in the board's initial or continuing review of any clinical investigation in which the member has a conflicting interest, or of any investigation involving an investigator who participated in the member's selection for the board, except to provide information requested by the board. The board is responsible for determining whether a member has a conflicting interest. An investigator shall not participate in the selection of members for a board that will review his or her investigation. The Food and Drug Administration may waive the requirements of this section upon a request contained in the relevant application for a research or marketing permit; the request shall contain information describing the reasons why it is necessary for the investigator or sponsor to participate in the selection of board members.

(b) The records of a board shall identify the employment or other relationship between each member and the investigator or sponsor of any clinical investigation reviewed by the board (e.g., full-time employee, part-time employee, member of the governing board or panel, paid consultant, or unpaid consultant). If any such relationship exists, the records shall describe the extent to which the member participated in the initial or continuing review of the investigation.

§ 56.34 Consultants.

An institutional review board may, at its discretion, invite persons with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the board. Such persons may not vote with the board.

Subparts C and D [Reserved]

Subpart E—Board Operations

§ 56.80 Written procedures for review of clinical investigations by an institutional review board.

An institutional review board shall follow written procedures for conducting its initial and continuing review of clinical investigations and for reporting its findings and actions to the investigator, the institution and where appropriate, the sponsor. Such procedures may be promulgated by the institution or by the board.

§ 56.81 Quorum requirements.

Except when an expedited review procedure under § 56.83 is followed, an institutional review board shall conduct all significant business (e.g., approval or disapproval of a clinical investigation, or approval of a consent form) by a majority of its members present at a meeting. The majority shall include at least one licensed physician, one scientist, and one person who is neither a medical practitioner nor a scientist.

§ 56.82 Procedures for initial review of a clinical investigation.

(a) An institutional review board shall not approve a proposed clinical investigation until it has received in writing and reviewes the investigational plan or protocol, reports of pertinent prior animal and human studies conducted with the test article, and the materials to be used in obtaining consent of subjects.

(b) Upon receipt of a proposed investigation, the board shall inform in writing the investigator or sponsor, as appropriate, of the date of such receipt and that the investigation may not begin until the board notifies the investigator or sponsor, as appropriate, that it has approved the investigation and until the sponsor has complied with any other preinvestigation requirements of the Food and Drug Administration.

(c) If the board has any question regarding the proposed investigation or desires any further information, it may request the investigator or sponsor to provide the necessary information or materials as written amendments to the submission. The board may advise the investigator or sponsor, as appropriate,

on modifications, conditions, or other amendments to the investigational plan or protocol and/or the material to be used to obtain consent of subjects, which might improve the acceptability of the proposed investigation to the board. Any modifications, conditions, or other amendments to the investigational plan or protocol shall be made in writing as amendments to the submission.

(d) The board should review and approve or disapprove a proposed investigation as soon as possible after receipt of the submission and any amendments in response to requests or afvice from the board.

(e) The board shall notify in writing the investigator or the sponsor, as appropriate, and the institution, of its decision to approve or disapprove the proposed investigation. If the board decides to disapprove an investigation, it shall include in its written notification a statement of the reasons for its decision, and give the investigator an opportunity to respond in person or in writing.

§ 56.83 Expedited review procedures for minor changes in the protocol of an approved clinical investigation.

Review of any minor change in the protocol of an approved clinical investigation may be carried out by the board chairperson or by one or more experienced reviewers (who are members of the board) designated by the chairperson. The reviewer may approve the change if it meets the requirements set forth in § 56.86, may request the investigator to modify the change, or may refer the proposed change to the board for full review. If the reviewer has any significant doubt about whether the change in the protocol should be approved, the reviewer should refer the proposed change to the board for full review.

§ 56.86 Criteria for approval of a clinical investigation.

An institutional review board may approve a clinical investigation only where it determines that all of the following requirements are satisfied:

(a) The research methods are appropriate to the objectives of the clinical investigation.

(b) Selection of subjects is equitable, taking into account the purposes of the clinical investigation.

(c) Risks to subjects are minimized by using the safest procedures consistent with sound research design.

(d) Risks to subjects are reasonable in relation to anticipated benefits to subjects and importance of the knowledge to be gained. In making this determination, the board should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits the subjects would be exposed to or receive even if not participating in the research). The board should not consider possible long-range effects of applying knowledge gained in the research as among those research risks that fall within the purview of its responsibility.

(e) Informed consent will be sought from each prospective subject or his or her legally authorized representative, as required by Part 50 of this chapter.

(f) Informed consent will be appropriately documented, as required by § 50.27 of this chapter.

(g) Where appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.

(h) There are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(i) Applicable regulations for the protection of children, prisoners, and those institutionalized as mentally disabled are satisfied.

§ 56.87 Procedures for continuing review and suspension or termination of the approval of a clinical investigation.

(a) An institutional review board shall continue to review, periodically, a clinical investigation that it has approved until the investigation is concluded or is discontinued. Such continuing review shall be undertaken at intervals appropriate to the degree of risk, but not less often than once per year, to assure that the investigation is being conducted in compliance with the requirements and understandings of the board and with the requirements of the act and implementing regulations (e.g., Parts 312 and 812 of this chapter).

(b) A board may suspend and, if appropriate, terminate the approval of a clinical investigation that either is not being conducted in compliance with the requirements of § 56.86, or in which there is unexpected serious harm to the subjects. Any such suspension or termination of approval shall be reported immediately in writing to the investigator, appropriate institutional officials, and the Food and Drug Administration, and the report of such action shall include a statement of the reasons for the suspension or termination.

(c) Where appropriate, a board may observe, or may appoint a person not otherwise associated with the research or the investigator to observe, the consent process or the clinical investigation.

(d) A board shall report to the appropriate institutional officials and the Food and Drug Administration any serious or continuing noncompliance by an investigator with a requirement or determination of the board.

(e) At the time of the periodic review of studies in progress on the effective date of the informed consent order, the institutional review board shall determine whether or not: (1) revised informed consent should be obtained from human subjects already entered into the study; and (2) revised informed consent should be obtained from human subjects who will enter the study after the continuing review. In making those determinations, the institutional review board should consider the nature of the study, the degree of risk to human subjects in the study, and the adequacy of the informed consent initially approved. The decision of the institutional review board regarding the need for revised informed consent for studies in progress on the effective date of the informed consent order shall be recorded in the minutes of the meetings at which the studies undergo continuing review. Where such periodic review results in a finding that the consent obtained initially was inadequate (e.g., it contained exculpatory language, failed to reveal the experimental nature of the investigation, or did not reveal risks to the subjects), a second informed consent shall be obtained from all subjects continuing in the investigation.

§ 56.90 Criteria for disapproval, suspension, or termination of the approval of a clinical investigation.

(a) An institutional review board may disapprove, suspend, or terminate the approval of a clinical investigation for any of the reasons within the scope of the review authority conferred upon the board by the institution that created it. It shall state its reasons in writing. A board may reconsider its action, with or without submission of additional information, and the decision of a board of any one institution regarding a proposed clinical investigation shall not preclude a different decision by the board of another institution that might consider the same investigation.

(b) A board shall disapprove, and may suspend or terminate the approval of, a clinical investigation if it finds that:

(1) The information submitted to the board contains an untrue statement of fact material to the board or omits material information required by the board to review and evaluate the clinical investigation.

(2) The report of prior investigations with the test article is adequate to

support a conclusion that it is reasonably safe to initiate or continue the clinical investigation.

(3) The investigator does not possess the scientific training and experience appropriate to qualify the investigator as a suitable expert to investigate the safety and, where relevant, effectiveness of the test article.

(4) The available clinical laboratory facilities and medical support are inadequate to assure that the clinical investigation will be conducted properly and in conformity with the protocol.

(5) The clinical investigation exposes or will expose subjects to undue risks.

(6) The clinical investigation does not conform to, or is not being conducted in accordance with, the submission to the board and the requirements of the Act and implementing regulations (e.g., parts 312 and 812 of this chapter).

§ 56.92 Suspension or termination of the approval of a clinical investigation.

If an institutional review board decides to suspend or terminate the approval of a clinical investigation, it shall make recommendations to the institution, the Food and Drug Administration, and where appropriate, the Department of Health, Education, and Welfare regarding any subject who has previously been allowed to participate in the investigation and who either would (if the investigation were not suspended or terminated) continue to receive the test article or have it used involving him or her, or who would not continue to receive it or have it used involving him or her but who remains under the supervision of the investigator. In determining what recommendations to make, the board shall take into account, among other factors, the risks to the subject from the withdrawal of the test article or from its continued administration by another physician, the need for further medical supervision, the availability of qualified medical personnel, and the rights of the subject, including the right to participate in the decision as to future care.

Subparts F Through I [Reserved]

Subpart J—Records and Reports

§ 56.185 Records of an institutional review board.

An institutional review board shall prepare an maintain adequate documentation of its activities, including the following:

(a) A statement of the principles that will govern the institution in the discharge of its responsibilities for protecting the rights and welfare of subjects. This statement may include appropriate existing codes, declarations, or statements of basic ethical principles, or principles formulated by the institution itself. However, the statement of principles does not supersede Food and Drug Administration policy or applicable law.

(b) Copies of all protocols of clinical investigations reviewed, scientific evaluations, if any, that accompany the protocol, approved sample consent forms, progress reports submitted by investigators, and reports of injuries to subjects.

(c) Information on board members required under Subpart B of this part.

(d) Attendance at and minutes of board meetings, including a written summary of the discussion of any substantive issues and their resolution. Minutes shall be in sufficient detail to show the basis of actions taken by the board.

(e) Board recommendations and actions, with a record of the number of members voting in favor of and the number voting against the decision.

(f) Records of continuing review activities.

§ 56.195 Retention of records.

An institutional review board shall retain the records required by this part regarding a particular clinical investigation for at least 5 years after completion of the clinical investigation. The board shall make the records accessible for inspection by authorized employees of the Food and Drug Administration, as required by § 56.15.

Subpart K—Disqualification of an Institutional Review Board

§ 56.200 Purpose.

The purpose of disqualification of an institutional review board that fails to comply with the standards set forth in this part (or other regulations regarding such boards in this chapter) may be one or both of the following:

(a) To preclude it from reviewing clinical investigations subject to requirements for prior submission to the Food and Drug Administration under section 505(i), 507(d), or 520(g) of the Act until such time as it becomes likely that it will abide by such regulations or that such violations will not recur. Such preclusion will assure that all such clinical investigations are under the review of a board that complies with appropriate Federal standards. The determination to disqualify an institutional review board does not necessarily constitute a finding or recommendation that the board or any of its members should be subject to other sanctions by the institution that created it or by sponsors of clinical investigations under its review.

(b) To preclude the consideration of any clinical investigations in support of applications for a research or marketing permit from the Food and Drug Administration, which investigations have been conducted under the review of the board, until such time as the investigations are subject to review by an institutional review board that complies with the applicable standards, or it can be adequately demonstrated that such violations did not occur during, or affect the validity or acceptability of, a particular investigation or investigations. The determination that a clinical investigation may not be considered in support of an application for a research or marketing permit does not, however, relieve the applicant for such a permit of any obligation under any other applicable statute or regulation to submit the results of the investigation to the Food and Drug Administration.

§ 56.202 Grounds for disqualification.

The Commissioner may disqualify an institutional review board upon finding all of the following:

(a) The institutional review board failed to comply with any of the regulations set forth in this part or other regulations regarding such boards in this chapter;

(b) The noncompliance adversely affected the validity of the clinical investigation or the rights or the safety of the subjects; and

(c) Other lesser regulatory actions (e.g., warnings or rejection of data from individual investigations) have not been or will proably not be adequate to assure that the board will comply with such regulations in the future.

§ 56.204 Notice of and opportunity for a hearing on proposed disqualification.

(a) Whenever the Commissioner has information indicating that grounds exist under § 56.202 which in the Commissioner's opinion may justify disqualification of an institutional review board, the Commissioner may issue to the board a written notice proposing that the board be disqualified.

(b) A hearing on the disqualification of an institutional review board will be conducted in accordance with the requirements for a regulatory hearing set forth in Part 16 of this chapter.

§ 56.206 Final order on disqualification.

(a) If the Commissioner, after the regulatory hearing or after the time for

requesting a hearing expires without a request being made, upon an evaluation of the administrative record of the disqualification proceeding, makes the findings required in § 56.202, the Commissioner shall issue a final order disqualifying the institutional review board. Such order shall include a statement of the basis for that determination and shall prescribe any actions (set forth in § 56.210(b)) to be taken with regard to ongoing clinical investigations being conducted under the review of the board. Upon issuing a final order, the Commissioner shall notify (with a copy of the order) the board of the action, as well as the institution that established the board, the sponsor of each clinical investigation subject to requirements for prior submission to the Food and Drug Administation which was under the review of the board, and the investigators of such investigations who were under the review of the board.

(b) If the Commissioner, after a regulatory hearing or after the time for requesting a hearing expires without a request being made, upon an evaluation of the administrative record of the disqualification proceeding, determines not to make the findings required in § 56.202, the Commissioner shall issue a final order terminating the disqualification proceeding. Such order shall include a statement of the basis for that determination. Upon issuing a final order, the Commissioner shall notify the board and provide a copy of the order.

§ 56.210 Actions on disqualification.

(a) No clinical investigation subject to a requirement for prior submission to the Food and Drug Administration and to a requirement for institutional review board review under § 56.5 will be authorized by the Commissioner if such investigation is to be conducted under the review of a disqualified board.

(b) The Commissioner, after considering the nature of each ongoing clinical investigation subject to a requirement for prior submission to the Food and Drug Administration which is being conducted under the review of the board, the number of subjects involved, the risks to them from suspension of the investigation, and the need for involvement of an acceptable institutional review board, may direct, in the final order disqualifying a board under § 56.206(a), that, among other things, one or more of the following actions be taken with regard to each such investigation:

(1) The investigation may be terminated or suspended in its entirety until the board is reinstated under § 56.219 or another board accepts responsibility for review of the investigation.

(2) No new subject shall be allowed to participate, or be requested to participate, in the investigation until the board is reinstated under § 56.219 or another board accepts responsibility for review of the investigation.

(3) Any subject who has previously been allowed to participate in the investigation and who remains under the supervision of an investigator, but who is no longer receiving the test article or having it used involving him or her (i.e., one having followup monitoring by the investigation or one acting as a control) should continue to be monitored by the investigator but shall not again receive the test article, or have it used involving him or her, until the board is reinstated under § 56.219 or another board accepts responsibility for review of the investigation.

(4) Any subject who has been allowed to participate in the investigation and who, but for suspension of the investigation, would continue to receive the test article or have it used involving him or her, shall not receive it or have it used until either.

(i) Another board accepts responsibility for review of the investigation, or

(ii) The clinical investigator determines in writing that it is contrary to the health of the subject to defer further use of the test article until another board can assume responsibility for review of the investigation. In such a case, the Commissioner may impose any further conditions that the Commissioner deems appropriate to protect the rights and safety of the subject.

(c) Once an institutional review board has been disqualified, each application for a research or marketing permit, whether approved or not, containing or relying upon any clinical investigation conducted under the review of the board may be examined to determine whether the investigation was or would be essential to a regulatory decision regarding the application. If it is determined that the investigation was or would be essential, the Commissioner shall also determine whether the investigation is acceptable, notwithstanding the disqualification of the board. Any investigation reviewed by a board before or after its disqualification may be presumed to be unacceptable, and the person relying on the investigation may be required to establish that the investigation was not affected by the circumstances which led to disqualification of the board, e.g., by submitting validating information. If the investigation is determined to be unacceptable, such investigation shall be eliminated from consideration in support of the application, and such elimination may serve as new information justifying the termination or withdrawal of approval of the application.

(d) No clinical investigation begun under the review of an institutional review board after the date of its disqualification may be considered in support of any application for a research or marketing permit, unless the board has been reinstated under § 56.219. The determination that a clinical investigation may not be considered in support of an application for a research or marketing permit does not, however, relieve the applicant for such a permit of any obligation under any other applicable statute or regulation to submit the results of the investigation to the Food and Drug Administration.

§ 56.213 Public disclosure of information regarding disqualification.

(a) Upon issuance of a final order disqualifying an institutional review board, the Commissioner may notify all or any interested persons. Such notice may be given in the discretion of the Commissioner whenever the Commissioner believes that such disclosure would further the public interest or would promote compliance with the regulations set forth in this part. Such notice, if given, will include a copy of the final order issued under § 56.206(a) and will state that the disqualification constitutes a determination by the Commissioner that the board is not eligible to review clinical investigations subject to requirements for prior submission to the Food and Drug Administration and that the results of any clinical investigations conducted under the review of the board may not be considered by the Food and Drug Administration in support of any application for a research or marketing permit. The notice will further state that it is given because of the professional relations between the board and the person notified and that the Food and Drug Administration is not advising or recommending that any action be taken by the person notified.

(b) A determination that an institutional review board has been disqualified and the administrative record regarding such determination are disclosable to the public under Part 20 of this chapter.

(c) Whenever the Commissioner has reason to believe that an institutional review board may be subject to

disqualification, the Commissioner shall so notify other agencies in the Department of Health, Education, and Welfare that support research involving human subjects at the time of or after proposing disqualification of the board under § 56.204(a).

§ 56.215 Actions alternative or additional to disqualification.

Disqualification of an institutional review board under this subpart is independent of, and neither in lieu of nor a precondition to, other proceedings or actions authorized by the act. The Commissioner may, at any time, through the Department of Justice institute any appropriate judicial proceedings (civil or criminal) and any other appropriate regulatory action, in addition to or in lieu of, and before, at the time of, or after, disqualification. The Commissioner may also refer pertinent matters to another Federal, State, or local government agency for such action as that agency determines to be appropriate.

§ 56.219 Reinstatement of a disqualified institutional review board.

(a) An institutional review board that has been disqualified may be reinstated as eligible to review clinical investigations subject to requirements for prior submission to the Food and Drug Administration, or as acceptable to be the reviewer of clinical investigations to be submitted to the Food and Drug Administration, if the Commissioner determines, upon an evaluation of a written submission from the board, that the board has adequately assured that it will operate in compliance with the standards set forth in this part and other applicable regulations in this chapter, e.g., Parts 312 or 812.

(b) A disqualified board that wishes to be so reinstated shall present in writing to the Commissioner reasons why it believes it should be reinstated and a detailed description of the corrective actions it has taken or intends to take to assure that the acts or omissions that led to disqualification will not recur. The Commissioner may condition reinstatement upon the board's being found in compliance with the applicable regulations upon an inspection.

(c) If a board is reinstated, the Commissioner shall so notify the board and all persons who were notified under § 56.213 of the disqualification of the board. A determination that a board has been reinstated is disclosable to the public under Part 20 of this chapter.

PART 71—COLOR ADDITIVE PETITIONS

3. By amending Part 71:

a. In § 71.1 by adding new paragraph (i) to read as follows:

§ 71.1 Petitions.

* * * * *

(i) If clinical investigations involving human subjects are involved, petitions filed with the Commissioner under section 706(b) of the act shall include a statement regarding each such clinical investigation contained in the petition that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

b. In § 71.6 by adding a new sentence at the end of paragraph (b) to read as follows:

§ 71.6 Extension of time for studying petitions; substantive amendments; withdrawal of petitions without prejudice.

* * * * *

(b) * * * If clinical investigations involving human subjects are involved, additional information or data submitted in support of filed petitions shall include a statement regarding each such clinical investigation from which the information or data are derived, that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

* * * * *

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

PART 171—FOOD ADDITIVE PETITIONS

4. By amending Part 171:

a. In § 171.1 by adding new paragraph (m) to read as follows:

§ 171.1 Petitions.

* * * * *

(m) If clinical investigations involving human subjects are involved, petitions filed with the Commissioner under section 409(b) of the act shall include a statement regarding each such clinical investigation relied upon in the petition that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

b. In § 171.6 by adding a new sentence at the end of the paragraph to read as follows:

§ 171.6 Amendment of petition.

* * * If clinical investigations involving human subjects are involved, additional information and data submitted in support of filed petitions shall include a statement regarding each such clinical investigation from which the information or data are derived that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6) of this chapter.

PART 180—FOOD ADDITIVES PERMITTED IN FOOD ON AN INTERIM BASIS OR IN CONTACT WITH FOOD PENDING ADDITIONAL STUDY

Part 180 is amended in § 180.1 by adding a new paragraph (c)(6) to read as follows:

§ 180.1 General.

* * * * *

(c) * * *

(6) If clinical investigations involving human subjects are involved, such investigations filed with the Commissioner shall include, with respect to each investigation, either a statement that the investigation has been or will be conducted in compliance with the requirements for institutional review set forth in part 56 of this chapter; or a statement that the investigation is not subject to such requirements in accordance with § 56.6 of this chapter.

* * * * *

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 310—NEW DRUGS

§ 310.3 [Amended]

5. By amending Part 310 in § 310.3 *Definitions and interpretations,* by deleting and reserving paragraph (j).

PART 312—NEW DRUGS FOR INVESTIGATIONAL USE

6. By amending Part 312 in § 312.1 by redesignating paragraphs (d)(11) and (d)(12) as (d)(12) and (d)(13) and adding a new paragraph (d)(11) to read as follows:

§ 312.1 Conditions for exemption of new drugs for investigational use.

* * * * *

(d) * * *

(11) The clinical investigations are not being conducted in compliance with the requirements regarding institutional

review set forth in this part or Part 56 of this chapter, or

* * * * *

PART 314—NEW DRUG APPLICATIONS

7. Part 314 is amended:

a. In § 314.1 by adding a new item 17 to Form FD–356H in paragraph (c)(2) and by redesignating paragraphs (f)(7) and (f)(8) as (f)(8) and (f)(9) and adding a new paragraph (f)(7) to read as follows:

§ 314.1 Applications.

* * * * *

(c) * * *

(2) * * *

Form FD–356H—Rev. 1974:

* * * * *

17. *Conduct of clinical investigations.* A statement regarding each clinical investigation involving human subjects contained in the application that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

* * * * *

(f) * * *

(7) A statement regarding each clinical investigation involving human subjects contained in the application that it either was conducted in compliance with the requirements the institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

* * * * *

b. In § 314.8 by adding a new paragraph (n) to read as follows:

§ 314.8 Supplemental applications.

* * * * *

(n) A supplemental application that contains clinical investigations involving human subjects shall include a statement by the applicant regarding each such investigation that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

c. In § 314.9 by adding new paragraph (e) to read as follows:

§ 314.9 Insufficient information in application.

* * * * *

(e) The information contained in an application shall be considered insufficient to determine whether a drug is safe and effective for use unless the application includes a statement regarding each clincial investigation involving human subjects contained in the application that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

d. In § 314.12 by adding new paragraph (e) to read as follows:

§ 314.12 Untrue statements in application.

* * * * *

(e) Any clinical investigation involving human subjects contained in the application subject to the requirements for institutional review set forth in Part 56 of this chapter was not conducted in compliance with such requirements.

e. In § 314.110 by adding new paragraph (a)(11) to read as follows:

§ 314.110 Reasons for refusing to file applications.

(a) * * *

(11) The applicant fails to include in the application a statement regarding each clinical investigation involving human subjects contained in the application that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.26 of this chapter.

* * * * *

f. In § 314.111 by adding paragraph (a)(11) to read as follows:

§ 314.111 Refusal to approve the application.

(a) * * *

(11) Any clinical investigation involving human subjects contained in the application subject to the requirements for institutional review set forth in Part 56 of this chapter was not conducted in compliance with such requirements.

* * * * *

g. In § 314.115 by adding new paragraph (c)(7) to read as follows:

§ 314.115 Withdrawal of approval of an application.

* * * * *

(c) * * *

(7) That any clinical investigation involving human subjects contained in the application subject to the requirements for institutional review set forth in Part 56 of this chapter was not conducted in compliance with such requirements.

* * * * *

PART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

8. Part 320 is amended:

a. In § 320.31 by adding a new paragraph (f) to read as follows:

§ 320.31 Applicability of requirements regarding a "Notice of Claimed Investigational Exemption for a New Drug."

* * * * *

(f) An in vivo bioavailability study in humans shall be conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter, regardless of whether the study is conducted under a "Notice of Claimed Investigational Exemption for a New Drug."

b. In § 320.57 by adding a new paragraph (e) to read as follows:

§ 320.57 Requirements of the conduct of in vivo bioequivalence testing in humans.

* * * * *

(e) If a bioequivalence requirement provides for in vivo testing in humans, any person conducting such testing shall comply with the requirements of § 320.31.

PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

9. Part 330 is amended in § 330.10 by adding new paragraph (e) to read as follows:

§ 330.10 Procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing monographs.

* * * * *

(e) *Institutional review.* Information and data submitted under this section after (insert effective date of this paragraph) shall include a statement regarding each clinical investigation involving human subjects, from which the information and data are derived, that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

PART 361—PRESCRIPTION DRUGS FOR HUMAN USE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED: DRUGS USED IN RESEARCH

10. Part 361 is amended in § 361.1 by revising paragraph (d)(9) to read as follows:

§ 361.1 Radioactive drugs for certain research uses.

* * * * *

(d) * * *

(9) *Approval by an institutional review board.* The investigator shall obtain the review and approval of an institutional review board that conforms to the requirements for Part 56 of this chapter.

* * * * *

PART 430—ANTIBIOTIC DRUGS; GENERAL

11. Part 430 is amended in § 430.20 by adding new paragraph (g) to read as follows:

§ 430.20 Procedures for the issuance, amendment, or repeal of regulations.

* * * * *

(g) No regulation providing for the certification of an antibiotic drug for human use shall be issued or amended unless each clinical investigation in involving human subjects on which the issuance or amendment or the regulation is based was conducted in compliance with the requirements for institutional review set for the in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

12. Part 431 is amended in § 431.17 by adding a new paragraph (l) to read as follows:

§ 431.17 New antibiotic and antibiotic-containing products.

* * * * *

(l) A statement regarding each clinical investigation involving human subjects contained in the request that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

SUBCHAPTER F—BIOLOGICS

PART 601—LICENSING

13. Part 601 is amended:

a. In § 601.2 by revising paragraph (a) to read as follows:

§ 601.2 Applications for establishment and product licenses; procedures for filing.

(a) *General.* To obtain a license for any establishment or product, the manufacturer shall make application to the Director, Bureau of Biologics, on forms prescribed for such purposes, and in the case of an application for a product license, shall submit data derived from nonclinical laboratory and clinical studies which demonstrate that the manufactured product meets prescribed standards of safety, purity, and potency; with respect to each nonclinical laboratory study, either a statement that the study was conducted in compliance with the requirements set forth in Part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a statement that describes in detail all differences between the practices used in the study and those required in the regulations; a statement regarding each clinical investigation involving human subjects contained in the application, that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter; a full description of manufacturing methods; data establishing stability of the product through the dating period; sample(s) representative of the product to be sold, bartered, or exchanged or offered, sent, carried or brought for sale, barter, or exchange; summaries of results of tests performed on the lot(s) represented by the submitted sample(s); and specimens of the labels, enclosures and containers proposed to be used for the product. An application for license shall not be considered as filed until all pertinent information and data have been received from the manufacturer by the Bureau of Biologics. In lieu of the procedures described in this paragraph, applications for radioactive biological products shall be handled as set forth in paragraph (b) of this section.

* * * * *

b. In § 601.25 by revising paragraph (h)(1) and adding a new paragraph (1) to read as follows:

§ 601.25 Review procedures to determine that licensed biological products are safe, effective, and not misbranded under prescribed, recommended, or suggested conditions of use.

* * * * *

(h) *Additional studies.* (1) Within 30 days following publication of the final order, each licensee for a biological product designated as requiring further study to justify continued marketing on an interim basis, pursuant to paragraph (f)(3) of this section, shall satisfy the Commissioner of Food and Drugs in writing that studies adequate and appropriate to resolve the questions raised about the product have been undertaken, or the Federal Government may undertake these studies. Any study involving a clinical investigation that involves human subjects shall be conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter, unless it is not subject to such requirements in accordance with § 56.6 of this chapter. The Commissioner may extend this 30-day period if necessary, either to review and act on proposed protocols or upon indication from the licensee that the studies will commence at a specified reasonable time. If no such commitment is made, or adequate and appropriate studies are not undertaken, the product licenses shall be revoked.

(j) [Reserved]

(k) [Reserved]

(l) *Institutional review.* Information and data submitted under this section after (insert effective date of this paragraph) shall include statements regarding each clinical investigation involving human subjects that it either was conducted in compliance with the requirements for institutional review set forth in Part 56 of this chapter or was not subject to such requirements in accordance with § 56.6 of this chapter.

* * * * *

b. By revising § 601.30 to read as follows:

§ 601.30 Licenses required; products for controlled investigation only.

Any biological or trivalent organic arsenical manufactured in any foreign country and intended for sale, barter or exchange shall be refused entry by collectors of customs unless manufactured in an establishment holding an unsuspended and unrevoked establishment license and license for the product. Unlicensed products that are not imported for sale, barter or exchange and that are intended solely for purposes of controlled investigation are admissible only if the investigation is conducted in accordance with section 505 of the Federal Food, Drug, and Cosmetic Act and the requirements set forth in Parts 56, 58, and 312 of this chapter.

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

14. Part 630 is amended:

By revising the first sentence of § 630.11 to read as follows:

§ 630.11 Clinical trials to qualify for license.

To qualify for license, the antigenicity of the vaccine shall have been determined by clinical trials of adequate statistical design conducted in compliance with Part 56 of this chapter, unless exempted under § 56.6. * * *

b. By revising the first sentence of § 630.31 to read as follows:

§ 630.31 Clinical trials to qualify for license.

To qualify for license, the antigenicity of the vaccine shall be determined by clinical trials of adequate statistical design conducted in compliance with Part 56 of this chapter, unless exempted under § 56.6 of this chapter, by subcutaneous administration of the product. * * *

c. By revising § 630.51 to read as follows:

§ 630.51 Clinical trials to qualify for license.

To qualify for license, the antigenicity of Mumps Virus Vaccine, Live, shall be determined by clinical trials conducted in compliance with Part 56 of this chapter, unless exempted under § 56.6 of this chapter, that follow the procedures prescribed in § 630.31, except that the immunogenic effect shall be demonstrated by establishing that a protective antibody response has occurred in at least 90 percent of each of the five groups of mumps-susceptible individuals, each having received the parenteral administration of a virus vaccine dose which is not greater than that which was demonstrated to be safe in field studies (§ 630.50(b)) when used under comparable conditions.

d. By revising § 630.61 to read as follows:

§ 630.61 Clinical trials to qualify for license.

To qualify for license, the antigenicity of Rubella Virus Vaccine, Live, shall be determinated by clinical trials conducted in compliance with Part 56 of this chapter, unless exempted under § 56.6 of this chapter, that follow the procedures prescribed in § 630.31, except that the immunogenic effect shall be demonstrated by establishing that a protective antibody response has occurred in at least 90 percent of each of the five groups of rubella susceptible individuals, each having received the parenteral administration of a virus vaccine dose which is not greater than that which was demonstrated to be safe in field studies when used under comparable conditions.

e. By revising the first sentence of § 630.81 to read as follows:

§ 630.81 Clinical trials to qualify for license.

In addition to demonstrating that the measles component meets the requirements of § 630.31, the measles and smallpox antigenicity of the final product shall be determined by clinical trials of adequate statistical design conducted in compliance with Part 56 of this chapter, unless exempted under § 56.6 of this chapter, and with three consecutive lots of final vaccine manufactured by the same methods and administered as recommended by the manufacturer. * * *

PART 1003—NOTIFICATION OF DEFECTS OR FAILURE TO COMPLY

15. In § 1003.31 by revising paragraph (b) to read as follows:

§ 1003.31 Granting the exemption.

* * * * *

(b) Such views and evidence shall be confined to matters relevant to whether the defect in the product or its failure to comply with an applicable Federal standard is such as to create a significant risk of injury, including genetic injury, to any person and shall be presented in writing unless the Secretary determines that an oral presentation is desirable. Where such evidence includes clinical investigations involving human subjects, the data submitted shall include, with respect to each clinical investigation, either a statement that each investigation was conducted in compliance with the requirements set forth in Part 56 of this chapter, or a statement that the investigation is not subject to such requirements in accordance with § 56.6 of this chapter.

* * * * *

SUBCHAPTER I—RADIOLOGICAL HEALTH

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

16. Part 1010 is amended:

a. By amending § 1010.4 by adding paragraph (b)(1)(xi) to read as follows:

§ 1010.4 Variances.

* * * * *

(b) * * *

(1) * * *

(xi) If the electronic product is used in a clinical investigation involving human subjects and subject to the requirements for institutional review set forth in Part 56 of this chapter, the investigation shall be conducted in compliance with such requirements.

* * * * *

b. In § 1010.5 by revising paragraph (c)(12) to read as follows:

§ 1010.5 Exemptions for products intended for United States Government use.

* * * * *

(c) * * *

(12) Such other information required by regulation or by the Director, Bureau of Radiological Health, to evaluate and act on the application. Where such information includes nonclinical laboratory studies, the information shall include, with respect to each nonclinical study, either a statement that each study was conducted in compliance with the requirements set forth in Part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a statement that describes in detail all differences between the practices used in the study and those required in the regulations. Where such information includes clinical investigations involving human subjects, the information shall include, with respect to each clinical investigation, either a statement that each investigation was conducted in compliance with the requirements set forth in Part 56 of this chapter, or a statement that the investigation is not subject to such requirements in accordance with § 56.6 of this chapter.

* * * * *

Interested persons may, on or before November 12, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 6, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-24786 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-03-M

[21 CFR Parts 50, 71, 171, 180, 310, 312, 314, 320, 330, 361, 430, 431, 601, 630, 813, 1003, 1010]

[Docket No. 78N-0400]

Protection of Human Subjects; Informed Consent

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing a regulation to provide protection for human subjects of clinical investigations that are subject to requirements for prior submission to FDA or conducted in support of applications for permission to conduct further research or to market regulated products. This proposal is intended to clarify existing agency regulations governing informed consent and to provide greater protection of the rights of human subjects involved in research activities that fall within the jurisdiction of FDA. In addition, the agency is announcing three informal public hearings concerning both this proposal and the reproposal of standards for Institutional Review Boards (IRB's), which is also being published in this issue of the **Federal Register.**

DATES: Written comments on this proposal by November 12, 1979; public hearings on September 18, October 2, and October 16, 1979; the proposed effective date of the final rule is 90 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Public hearings in Bethesda, MD; San Francisco, CA; and Houston, TX.

FOR FURTHER INFORMATION CONTACT: John C. Petricciani, Bureau of Biologics (HFB-4), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301-496-9320.

SUPPLEMENTARY INFORMATION: The agency believes that a complete revision of FDA requirements relating to informed consent is needed because (1) current regulations have not been comprehensively reviewed in 12 years; (2) actions by the Department of Health, Education, and Welfare (HEW) and the Congress suggest the need for, and desirability of, strengthening and clarifying informed consent requirements as they apply to research that involves human subjects and is intended for submission to FDA; (3) when possible, informed consent requirements adopted by FDA should be identical to, or compatible with, HEW regulations; (4) the General Accounting Office (GAO) has recommended changes in current FDA regulations; (5) Congress, in enacting the Medical Device Amendments of 1976 (Pub. L. 94-295, 90 Stat. 539-583), required that informed consent be obtained before an investigational device is used on a human subject; (6) the new FDA Bioresearch Monitoring Program, designed to ensure compliance with FDA requirements to protect human research subjects and reinforce the validity and reliability of clinical data submitted to FDA, can be more efficiently and effectively conducted with uniform, agency-wide requirements for informed consent; and (7) the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (National Commission) has issued its report and recommendations regarding Institutional Review Boards and informed consent, published in the **Federal Register** of November 30, 1978 (43 FR 56174). Because the agency finds that informed consent is a concept that has grown more complex as it has evolved, and because the standards for informed consent reflected by the Medical Device Amendments of 1976 are more stringent than the standards reflected by the Drug Amendments of 1962 (Pub. L. 87-781, 76 Stat. 780-796), there is included in this preamble an extensive discussion of the background and history of informed consent as it applies to experimentation with human subjects.

Opportunity for Public Hearing

As announced in the proposal on Institutional Review Boards, published elsewhere in this issue of the **Federal Register,** FDA will hold three open hearings to give the public an opportunity to make oral comments on both the informed consent and the IRB proposals. Interested parties are referred to the IRB proposal on page 47698 of this issue for full information.

Background

The Federal Food, Drug, and Cosmetic Act of 1938

In 1938, Congress for the first time required that a manufacturer demonstrate the safety of a new drug before introducing the drug into interstate commerce. This requirement was not intended, however, to apply to shipments to clinical investigators who were testing drugs to determine toxicity or other safety problems. Therefore section 505(i) of the Federal Food, Drug, and Cosmetic Act of 1938 (Pub. L. 717, 52 Stat. 1052 (21 U.S.C. 355(i)) directed that:

> The Secretary shall promulgate regulations for exempting from the operation of this section drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs.

In implementing this section, FDA did not require notice to, or review by, the agency of the proposed research, nor did FDA impose extensive conditions on the person claiming the exemption. The agency required that the drug be labeled "for investigational use only," that the manufacturer keep records on how much drug was supplied and to which investigators it was sent, and that the investigators file with the manufacturer (but not with FDA) a statement that the drug was intended for investigational use by the investigator or under the investigator's supervision. Under section 505(i) of the act, the FDA's only review of the conduct of research occurred when the manufacturer submitted a New Drug Application (NDA). Between 1938 and 1962, FDA regulations were silent on the matter of informed consent.

Nuremberg Code of Ethics in Medical Practice

Following World War II, disclosure of brutal experiments conducted in Nazi concentration camps forced a re-evaluation of the moral, ethical, and legal principles applied to research involving human subjects. The war crimes trial of physicians at Nuremberg produced a set of ten basic principles, which has since been termed the "Nuremberg Code of Ethics in Medical Research." First on the list was informed consent, which was described in terms of the information to be provided and the ability of the subject to consent:

The voluntary consent of the human subject is absolutely essential.

This means that the person should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably

to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.

The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs, or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

The Code did not discuss either the situations in which consent might not be necessary or the requirements for documenting consent.

The Drug Amendments of 1962

In late July 1962, during the deliberations leading to the Drug Amendments of 1962 (Pub. L. 87–781, 76 Stat. 780–796), reports of the thalidomide drug disaster appeared in print. One of the many unfortunate aspects of that tragedy was that many of the pregnant women in the United States to whom thalidomide was given were not informed that the drug was experimental, that they were research subjects, or that the safety of the drug had not been established. As a result of the thalidomide reports, a revised and strengthened bill, substitute S. 1552, was reported out of the Senate Committee on the Judiciary.

During Senate floor debates on August 23, 1962, Senator Jacob Javits of New York offered an amendment (No. 8–22–62–A) that marked the first appearance of recommended legislation regarding information to be provided to human subjects of clinical investigations. Although the amendment did not require that consent be obtained, it did provide that no investigational drug could be administered unless the person to whom the drug was to be given had been advised as to the safety status of the drug. In his remarks, Senator Javits cited, as one reason for Federal legislation on patient consent, a survey of State laws conducted by the American Law Division of the Library of Congress. In this survey, no State statutes were found that covered the experimental use of a drug or required a physician to inform a patient of such use. The Javits amendment was supported by Senators Carroll, Eastland, and McClellan, all of whom endorsed the principle of consent. The amendment itself was not adopted, however, at least in part due to concern that an absoulute requirement that information be given in every case might be detrimental to certain patients. Instead, the Senate voted that regulations issued by the Secretary have "due regard for the professional ethics of the medical profession and the interests of patients." (See 108 Cong. Record 16329–30, 16333–39, 16341–43, 87th Cong., 2d Sess., Aug. 23, 1962.)

In the House of Representatives, the Interstate and Foreign Commerce Committee reported out H.R. 11581 on September 22, 1962. This bill directed the Secretary to condition investigational drug exemptions upon the requirement that investigators inform every subject of the experimental nature of a drug and obtain the consent of the subject or the subject's representative. The legislation also required investigators to certify to their research sponsors that consent would be obtained from their patients and subjects. These provisions were similar to the Javits amendment in that no specific proposals were made regarding the information to be given to a subject, the ability of the subject to consent, or circumstances in which consent might not be obtainable. During the debates on the House floor, the issue of whether consent should be mandatory in all cases was discussed in detail, but the House bill was adopted unchanged. (See 108 Cong. Record 19889–90, 19896, 19903–04, 87th Cong., 2d Sess., Sept. 27, 1962.)

On October 3, 1962, the House-Senate Committee reported out a revised version of S. 1552, in which section 103(b) proposed new language on consent of research subjects. (H. Rept. No. 2526, 87th Cong., 2d Sess., Oct. 3, 1962, pp. 4–5.)

This language was ultimately enacted on October 10, 1962, in section 505(i) of the act (21 U.S.C. 355(i)). In discussing this revised version, Senator Estes Kefauver of Tennessee and Senator Javits offered the following statements (108 Cong. Record 22038, 22042–43, 87th Cong., 2d Sess., Oct. 3, 1962):

Mr. Kefauver. * * * With regard to patient consent the Senate bill required that investigators shall have due regard to the "interest of patients," while the House bill specifically required that regulations on experimental-use drugs must condition the use of such drugs on the patient's consent to such use. The conferees adopted substituted language which requires the Secretary of HEW to include in his regulations an experimental drug provision for obtaining patient consent, "except where obtaining such consent would not abe feasible, or in the professional judgment of the investigator would be contrary to the best interest of the patient."

The Senator from Nebraska offered the compromise language, and after some rearrangement, it was adopted. It was satisfactory and solved one of the very difficult problems we had in the conference. * * *

Mr. Javits. * * * As I understand the conference report, it requires that the Secretary of Health, Education, and Welfare shall include in his regulations a provision to the effect that experimental drugs may be used only after the patient's consent is obtained. I point out, in that connection, the importance of the use of the word "shall" at that point in this measure. The use of the word "shall" definitely imposes this responsibility on the medical profession, with the result that the doctor will have, in addtion to his responsibility under his Hippocratic oath and under the canon of ethics, the clear responsibility of finding, if he decides not to obtain the consent of the patient, that to obtain his consent would not be "feasible" or in the professional judgment of the investigator would be "contrary to the best interests" of the patient. * * *

Mr. Kefauver. * * * The resultant language requires the patient's consent except in instances—as the Senator from New York has said—in which it is deemed not feasible or, in the doctor's best judgment, is contrary to the best interests of such human beings. The decision must be according to the best judgment of the doctors involved. There will be no interference with the doctor-patient relationship. But the responsibility for not obtaining the patient's consent will clearly rest with the physicians.

Mr. Javits. I was seeking to establish the point that it will be the professional responsibility of the doctor in both cases—both as to the determination of feasibility and as to the determination of the effect on the patient. The inclusion of that provision imposes a greater sanction than merely the use of the word "feasible."

As professional men, the Senator from Tennessee and the Senator from Colorado and I understand that one will not assume that responsibility except on the basis of the greatest exercise of conscience. That is what the conferees have provided for.

Senator Carroll also supported the revised language (id., 22041–42).

As enacted on October 10, 1962, the Drug Amendments of 1962 added the following, among other, language to section 505(i) of the act:

Such regulations [exempting drugs intended solely for investigational use by experts from the requirement for approval of a new drug application before interstate shipment] shall provide that such exemption shall be conditioned upon the manufacturer, or the sponsor of the investigation, requiring that experts using such drugs for investigational purposes certify to such manufacturer or sponsor that they will inform any human beings to whom such drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain the consent of such human beings or their representatives, except where they deem it not feasible or, in their professional

judgment, contrary to the best interests of such human beings. (76 Stat. 783.)

The legislative history provides little guidance as to what information must be given to subjects to obtain consent, or how the legal and actual ability of a subject to consent freely and knowingly should be determined.

Implementation of the Drug Amendments of 1962 (1962–1976).

On August 10, 1962, before enactment of the Drug Amendments, the FDA proposed in the **Federal Register** (27 FR 7990) an extensive revision and expansion of its regulations under section 505(i) of the act as enacted in 1938. These proposals did not refer to informed consent; nevertheless, when made final on January 8, 1963 (28 FR 179), the regulations included a requirement now codified in § 312.1(a)(12) and (13) (21 CFR 312.1(a)(12) and (13), formerly § 130.3(a)(12) and (13) before recodification published in the **Federal Register** of March 29, 1974 (39 FR 11680)) that each clinical investigator certify to the sponsor of the drug research that informed consent would be obtained in accordance with the newly revised section 505(i) of the act, except where not required by that statute. (See Form FD–1572, item 6g, and Form FD–1573, item 4g.)

The FDA did not attempt to define specifically the content or form of informed consent, or the circumstances under which the law did not require consent of the research subject, until 1966. In the **Federal Register** of August 30, 1966 (31 FR 11415), the Commissioner issued § 130.37 (21 CFR 130.37) that required consent in all nontherapeutic drug studies and in all but exceptional cases of therapeutic application of an experimental drug. The exceptions were allowed (a) when communication with the patient or the patient's legal representative was not possible and it was imperative to administer the drug without delay, and (b) when communication of the necessary information would seriously affect the disease state of the patient and the physician had made a professional judgment that the patient's best interests would suffer if consent were sought. The regulation also spelled out the types of information that were to be conveyed to the subject: (a) the nature, duration, and purpose of the administration of the investigational drug; (b) the method and means by which the drug was to be administered; (c) all inconveniences and hazards reasonably to be expected, including the fact (when applicable) that the person might be used as a control; (d) the existence of alternative forms of therapy, if any; and (e) the effects upon the subject's health or person that might possibly come from the administration of the investigational drug. Finally, the 1966 order established an absolute rule that consent was always to be obtained in writing.

In 1967, the FDA reconsidered the new regulation in light of the Declaration of Helsinke, adopted by the World Health Organization in 1964, and the "Ethical Guidelines for Clinical Investigation," adopted by the House of Delegates of the American Medical Association (AMA) in 1966. The 1964 Declaration of Helsinki, now set forth in full in § 312.20(b)(1)(iv) (21 CFR 312.20(b)(1)(iv)), established the following principles regarding informed consent:

II. Clinical Research Combined With Professional Care

1. In the treatment of the sick person, the docter must be free to use a new therapeutic measure, if in his judgment it offers hope of saving life, reestablishing health, or alleviating suffering. If at all possible, consistent with patient psychology, the doctor should obtain the patient's freely given consent after the patient has been given a full explanation. In case of legal incapacity, consent should also be procured from the legal guardian; in case of physical incapacity, the permission of the legal guardian replaces that of the patient.

* * * * *

III. Nontherapeutic Clinical Research

* * * * *

2. The nature, the purpose, and the risks of clinical research must be explained to the subject by the doctor.

3a. Clinical research on the human being cannot be undertaken without his free consent after he has been fully informed; if he is legally incompetent, the consent of the legal guardian should be procured.

3b. The subject of clinical research should be in such a mental, physical, and legal state as to be able to exercise fully his power of choice.

3c. Consent should, as a rule, be obtained in writing. However, the responsibility for clinical research always remains with the research worker; it never falls on the subject even after consent is obtained.

* * * * *

The 1966 AMA "Ethical Guidelines for Clinical Investigation" discuss informed consent in this way;

(3) In clinical investigation primarily for treatment—

* * * * *

B. Voluntary consent must be obtained from the patient, or from his legally authorized representative if the patient lacks the capacity to consent, following—

(a) Disclosure that the physician intends to use an investigational drug or experimental procedure.

(b) A reasonable explanation of the nature of the drug or procedure to be used, risks to be expected, and possible therapeutic benefits;

(c) An offer to answer any inquiries concerning the drug or procedure; and

(d) A disclosure of alternative drugs or procedures that may be available.

i. In exceptional circumstances and to the extent that disclosure of information concerning the nature of the drug or experimental procedure or risks would be expected to materially affect the health of the patient and would be detrimental to his best interests, such information may be withheld from the patient. In such circumstances such information shall be disclosed to a responsible relative or friend of the patient where possible.

ii. Ordinarily, consent should be in writing, except where the physician deems it necessary to rely upon consent in other than written form because of the physical or emotional state of the patient.

iii. Where emergency treatment is necessary and the patient is incapable of giving consent and no one is available who has authority to act on his behalf, consent is assumed.

(4) In clinical investigation primarily for the accumulation of scientific knowledge—

* * * * *

B. Consent, in writing, should be obtained from the subject or from his legally authorized representative if the subject lacks the capacity to consent, following—

(a) A disclosure of the fact that an investigational drug or procedure is to be used;

(b) A reasonable explanation of the nature of the procedure to be used and risks to be expected; and

(c) An offer to answer any inquiries concerning the drug or procedure.

* * * * *

D. No person may be used as a subject against his will.

* * * * *

As a consequence of this reconsideration, FDA published proposed changes to what is now § 310.102 (21 CFR 310.102, formerly § 130.37 before the March 29, 1974 recodification) on March 11, 1967 (32 FR 3994), which were adopted on June 20, 1967 (32 FR 8753). Two significant changes were made. First the amended regulations allowed oral rather than written consent in large-scale clinical studies in the later stages of the research and development of a drug (the so-called "phase 3" trials), if the investigator determined that oral consent was preferable or necessary given the physical and mental state of the patient and if the investigator documented the consent. Second, the amended regulations clarified the information that must be given to the

subject before requesting consent. They established (i) the proviso that, in presenting the information, the investigator should take into consideration the subject's well-being and ability to understand, and (ii) the requirement that "the hazards involved," instead of the former "all inconveniences and hazards reasonably to be expected," be disclosed. Except for the recodification, these regulations have not changed since 1967.

Regulations Governing Research Funded or Supported by the Department of Health, Education, and Welfare

In the **Federal Register** of October 9, 1973 (38 FR 27882), the Secretary of Health, Education, and Welfare proposed to modify existing policies governing protection of human subjects in research funded or supported by grants or contracts of HEW. These proposals were commented upon by over 200 parties. In the **Federal Register** of May 30, 1974 (39 FR 18914), the Secretary adopted final regulations on this matter (codified in 45 CFR Part 46) and, in the preamble to the order, discussed the comments in detail. Technical amendments were issued in the **Federal Register** of March 13, 1975 (40 FR 11854) to conform the regulations to certain portions of the National Research Act (Pub. L. 93–348, 88 Stat. 342).

The initial HEW regulations differ from the FDA regulations in several significant respects. First, in setting forth the elements of information that must be given to the subject, the HEW regulations include two items not explicitly described in the FDA regulations: an offer to answer any inquiries that the subject might have concerning the procedure; and an instruction that the person is free to withdraw his or her consent and to discontinue participation in the project or activity at any time without prejudice to the subject. (Compare 21 CFR 310.102(h) with 45 CFR 46.103(c).). Second, in every study an independent IRB is required to review the materials used to obtain informed consent (45 CFR 46.110). Although the FDA reproposal on IRB's contains a similar requirement (§ 56.82(a)), FDA's current requirements (§ 312.1(a)(2) (Form FD–1571, item 10c)) apply only when the study is performed on institutionaled subjects or when an institution takes responsibility for the study. Third, HEW requires consent to be in writing in every case, except in those cases in which the IRB establishes (1) that the risk to the subject is minimal, (2) that use of written consent would "invalidate objectives of considerable importance," and (3) that any reasonable alternative means for attaining these objectives would be less advantageous to the subjects (45 CFR 46.110(c)). As noted above, FDA's current regulations permit oral consent (with documentation by the investigator) in phase 3 trials and, in exceptional cases, provide for waiver of consent altogether. Fourth, the HEW regulations forbid use of exculpatory language through which the subject is made to waive, or appear to waive, any legal rights, including a release of the investigator from liability for negligence (45 CFR 46.109). FDA has no comparable regulation, although actual agency policy has been similar to the HEW rule.

National Research Act

On July 12, 1974, the National Research Act became law. This statute directed the establishment of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, which was to study the basic ethical principles underlying the conduct of biomedical and behavioral research involving human subjects, to develop guidelines that should be followed to ensure that the research is conducted in accordance with these principles, and to recommend administrative actions to the Secretary of HEW to apply the guidelines to the research conducted or supported under programs administered by the Secretary. The Commission was specifically charged with considering "the nature and definition of informed consent in various research settings" (section 202(a)(1)(b)(iv)) and with identifying "the requirements for informed consent to participation in biomedical and behavioral research by children, prisoners, and the institutionalized mentally infirm" (section 202(a)(2)).

Reports issued to date by the Commission and published in the **Federal Register** include—

1. Research on the Fetus (August 8, 1975 (40 FR 33530));

2. Research Involving Prisoners (January 14, 1977 (42 FR 3076));

3. Use of Psychosurgery (May 23, 1977 (42 FR 26318));

4. Research Involving Children (January 13, 1978 (43 FR 2084));

5. Research Involving Those Institutionalized as Mentally Infirm (March 17, 1978 (43 FR 11328));

6. Institutional Review Boards (November 30, 1978 (43 FR 56174));

7. Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research (April 18, 1979 (44 FR 23192)); and

8. Special Study, Implications of Advances in Biomedical and Behavioral Research (May 25, 1979 (44 FR 30644)).

The agency has reviewed the reports issued by the Commission and has incorporated many of the Commission's recommendations in the proposed regulations published in the **Federal Register** concerning the use of prisoners as subjects of biomedical research (May 5, 1978 (43 FR 19417)); protections pertaining to clinical investigations involving children (April 24, 1979 (44 FR 24106)); standards for institutional review boards for clinical investigations (August 8, 1978 (43 FR 36186)), reproposed in this issue of the **Federal Register**; obligations of clinical investigators of regulated articles (August 8, 1978 (43 FR 35210)); and obligations of sponsors and monitors of clinical investigations (September 27, 1977 (42 FR 49612)).

The Medical Device Amendments

The Medical Device Amendments of 1976 (Pub. L. 94–295, 90 Stat. 539–583) became law on May 28, 1976. Section 520(g) of the act (21 U.S.C. 360j(g)), which was added by those amendments, concerns investigational devices and contains provisions similar to those governing the investigational use of new drugs, biologics, and antibiotic drugs that are found in sections 505(i) and 507(d)(3) of the act (21 U.S.C. 355(i) and 357(d)(3)).

Although the informed consent provisions of section 520(g) of the act are similar to the informed consent provisions of sections 505(i) and 507(d)(3), they differ in several respects. Section 520(g)(3)(C) provides that the person applying for an exemption to permit the use of an investigational device must obtain and submit to the Secretary signed agreements from each investigator that any testing will be under his or her supervision and that the informed consent requirements of section 520(g)(3)(D) will be met. Section 520(g)(3)(D) provides an exception to the general informed consent requirement that differs from the exceptions provided in sections 505(i) and 507(d)(3) in that informed consent is required unless the clinical investigator makes a written determination that (1) "there exists a life threatening situation involving the human subject of such testing which necessitates the use of such device," *and* (2) "it is not feasible to obtain informed consent from the subject," *and* (3) "there is not sufficient time to obtain such consent from his representative." Thus, any exception from the informed consent requirement of the Medical Device Amendments

must rest on the concurrent existence of all three of these requirements. A mere lack of feasibility is not, by itself, enough; nor is there any provision that the requirement may be dispensed with if an investigator deems obtaining informed consent to be "contrary to the best interests" of the subject. In addition, the device amendments further provide that a licensed physician who is not involved in the testing must separately agree with the determination that informed consent need not be obtained unless there is not sufficient time. The exceptions set out in section 520(g)(3)(D) are "subject to such conditions as the Secretary may prescribe."

As discussed above, sections 505(i) and 507(d)(3) of the act allow two separate exceptions from the requirement that informed consent be obtained for the use of an investigational drug: (1) when a clinical investigator deems obtaining the consent not feasible; or (2) when, in the professional judgment of the clinical investigator, obtaining the consent would be contrary to the best interest of the subject. Because maintenance of separate systems of informed consent for research on drugs, antibiotics, and devices would serve no purpose and would create confusion, the agency is proposing to follow, in this regulation, the more recently enacted requirements of the Medical Device Amendments with respect to informed consent generally.

Proposed regulations for investigational devices were first issued in the **Federal Register** of August 20, 1976 (41 FR 35282). These proposed regulations contained additional provisions governing informed consent as applied to experimental devices, and the comments that were received in response to the proposal were considered in the preparation of this document. In the **Federal Register** of November 11, 1977, FDA promulgated a new Part 813 (21 CFR Part 813) as a final rule governing the investigational use of intraocular lenses (42 FR 58874). The intraocular lens regulation also contained provisions governing informed consent (Subpart F) that were similar to those proposed for investigational devices on August 20, 1976. The agency did not foresee, however, any case in which the implantation of an intraocular lens would be compelled by a life-threatening emergency and therefore did not include the language providing exceptions from informed consent contained in § 812.123 (21 CFR 812.123) of the investigational device proposal (41 FR 35312–13).

The informed consent provisions contained in this proposal would be uniform agency-wide requirements. Therefore, the agency is proposing, in the conforming amendments, to revoke Subpart F of Part 813. Again, however, the agency foresees no case in which implantation of an intraocular lens without consent might be compelled by a life-threatening emergency.

In the **Federal Register** of May 12, 1978 (43 FR 20726), FDA issued a tentative final regulation on investigational device exemptions that contained, as Subpart F of Part 812, provisions for obtaining informed consent. The agency advises that the informed consent provisions of proposed Subpart B of Part 50 (21 CFR Part 50), when final, will replace the informed consent provisions proposed with Part 812.

Evolution of the Concept of Informed Consent

Although the statutory history detailed above does demonstrate that, as the concept of informed consent has evolved, the requirements for subject protection have become more complex, it does not fully explain the changes in attitude that have resulted in this increased complexity. The statutory standards established for the use of investigational drugs by Congress in 1962 are inconsistent with the standards established by Congress for the use of investigational devices in 1976. FDA believes that the standards expressed through the regulations now being proposed should be consistent with current thinking. Therefore, FDA is including a brief discussion of how and why the concept has changed.

Before the National Research Act (discussed above) was passed in 1974, informed consent was discussed at length in testimony offered during the course of hearings on human experimentation before the Subcommittee on Health of the Senate Committee on Labor and Public Welfare. Various witnesses testified that human experimentation often occured in the absence of informed consent and that more stringent safeguards were necessary to protect human subjects of such research. Dr. Henry Simmons, testifying for HEW in 1973, stated:

> The Congress, the administration, the scientific community, and the general public are all manifesting an increased sensitivity to the moral and ethical issues associated with the advancement of science.
>
> When humans are the subject of experimentation, the dangers of unintended infringement of the rights of persons involved in the research are real and, therefore, it is incumbent upon society to develop appropriate guidelines and safeguards so that no investigator—no matter how tell intentioned—may transgress the rights of participants * * *. (Quality of Health Care—Human Experimentation: Hearings on S. 974, 93d Cong., 1st Sess., 1458–59 (1973).)

Included in the hearing record is a reprint of an article, "Experimenting with Humans," in which the author, Bernard Barber, discusses the action taken by the New York Board of Regents following the disclosure of an experiment in which live cancer cells were injected into 22 elderly patients who were not clearly informed that the injections were being performed for research and not for treatment purposes. Finding the two doctors involved guilty of "unprofessional conduct," the Regents put forth the following two important prinicples:

> First, "a patient has the right to know he is being asked to volunteer and to refuse to participate in an experiment for any reason, intelligent or otherwise, well-informed, or prejudiced. A physician has no right to withhold from a prospective volunteer any fact which he knows may influence the decision." In short, the patient's right to be "emotional" or "irrational" is his, and not subject to any overriding decision by an experimenting physician.
>
> Second, "the physician, when he is acting as experimenter, cannot claim those rights of doctor-patient relationships that do permit him, in a therapeutic situation, to withhold information when he judges it to be in the best interests of his patient." (Human Experimentation Hearings, *supra*, at 1137–38.)

The last statement reflects an important distinction that was not recognized by Congress in 1962, but that has since been explicitly stated. Both the 1966 AMA Ethical Guidelines and the 1964 Declaration of Helsinki distinguish between therapeutic and nontherapeutic research, and each makes informed consent an absolute requirement in the latter. In addition, there has been growing recognition of the fact that the physician acting as experimenter may respond to pressures different from those that might affect the physician acting as healer. Thus, the National Commission in its 1978 report on IRB's stated:

> The Commission's deliberations begin with the premise that investigators should not have sole responsibility for determining whether research involving human subjects fulfills ethical standards. Others, who are independent of the research, must share this responsibility, because investigators are always in positions of potential conflict by virtue of their concern with the pursuit of knowledge as well as the welfare of human subjects of their research. (See the **Federal Register** of November 30, 1978 (43 FR 56174).)

The Need for Revision of FDA Regulations

The concept of informed consent has changed as outlined above. For several years, FDA has been planning to revise substantially the regulations governing drug research under sections 505(i) and 507(d) of the act. Many of the current regulations were, as noted previously, first issued in 1963 under the Drug Amendments of 1962. Current FDA policy regarding consent for use of investigational new drugs on humans was adopted in 1967 and is set forth in § 310.102, although significant discrepancies exist between the regulation and the statements in Forms FD–1572 and FD–1573. Until now, however, there has been no comprehensive review or update of these regulations. The actions of the Congress, the National Commission, and the Department in the area of human experimentation all demonstrate the need for a uniform FDA regulation that covers the investigational use of drugs, devices, and other test articles subject to FDA jurisdiction.

The concept of "informed consent" is not a narrow or technical concept, limited in application to this or that particular kind of research on human subjects. Rather, the concept has a broad sweep; and, like the concepts of "due process of law" and "equal protection of the laws," it reflects fundamental social value judgments about how people should be treated. Like those other concepts, too, the concept of "informed consent" changes and grows in light of increasing experience in its application and more precise identification of problems to be addressed in its articulation.

In principle, there is no reason for requirements of informed consent to differ depending on whether the article administered to the human subjects of research is a drug, an antibiotic, or a medical device. The basic notions of autonomy and fairness that undergird the concept of "informed consent" apply in the same way to all categories of human biomedical research.

Indeed, on the basis of FDA's experience with the regulation of human biomedical research, the agency strongly believes that maintenance of separate and different systems for informed consent in different categories of research would promote confusion among investigators and institutional review boards, and would frustrate the congressional purpose, reflected in both the Drug Amendments of 1962 and the Medical Device Amendments of 1976, to require that biomedical research be conducted in accordance with the highest contemporary ethical standards. The same investigators may from time to time do research on drugs and devices. One investigation may include one treatment group receiving a drug and another receiving a device.

The concept of "informed consent" has developed only in the last quarter century. As the history of its development described above makes plain, the concept has changed over the years; most likely, it will continue to change.

The agency recognizes that the language, interpreted literally, of sections 505(i) and 507(d)(3) of the act allows an investigator using experimental drugs greater freedom to dispense with informed consent when, in the exercise of professional judgment, the investigator concludes that obtaining such consent is "not feasible" or is "contrary to the best interests of the patient." This language, as discussed above, does not appear in the informed consent provisions of the Medical Device Amendments. The informed consent regulations adopted by FDA in 1967, and now codified under § 310.102, provide that the exception to the requirement that informed consent be obtained be carefully limited to those situations in which either communications with the patient is not possible and it is imperative to employ the drug without delay, or in which communication of the necessary information would seriously affect the disease state of the patient. Both of these exceptions assume situations in which the patient subject is seriously ill; and, when read in light of the context in which they would actually apply, the exceptions do not differ greatly from the emergency exemptions contained in section 520(g)(3)(D) of the Medical Device Amendments. Thus, the actual policy, which has been followed by the agency since 1967 regarding the investigational use of drugs, is quite similar to the policy that the agency is now proposing.

To the extent that the informed consent provisions of the Drug Amendments differ from those of the Medical Device Amendments, however, FDA is proposing to make the latter applicable to both. In light of the nature of the concept of "informed consent" and its anchorage in ethical values basic to our society, FDA believes that the particular language of the Drug Amendments should not be interpreted literally or strictly or as preventing progress in the evolution of informed consent requirements. Amendments to the act have occurred historically on a product-by-product basis, and Congress, in enacting the informed consent requirements of the Medical Device Amendments, did not address the fact that the exemption requirements for investigational devices being proposed were different from those previously enacted for investigational drugs. The agency finds that the informed consent requirements contained in section 520(g)(3)(D) of the act represent the most recent congressional thinking regarding the standards required of clinical investigators of FDA-regulated products and, as such, should be the standards applied to all FDA-regulated research, regardless of the regulated product involved. It is fair to assume that each time Congress addressed the issue of informed consent, it intended to adopt the most highly developed and practical informed consent requirements then available. In 1962 there was ample reason to expect that the concept would evolve; and, as discussed above, it has done so. In proposing a uniform system of informed consent applicable to research on all articles regulated by FDA, the agency is seeking to administer the informed consent provisions of the law in the manner that will most effectively carry out the congressional purpose and facilitate the obtaining of informed consent.

The Proposed Regulations

The agency proposes to make a single set of informed consent requirements applicable to all investigators involved in investigational studies that either require prior FDA review or are later submitted to FDA in support of an application for a research or marketing permit. These regulations, if adopted, may not eliminate the need for additional requirements relevent to a particular article under study, but will reduce the potential for duplicative and inconsistent regulations or interpretations of policy. Proposed Part 50, when complete, will contain all FDA regulations governing the protection of human subjects. Sections covering the scope of Part 50, definitions (Subpart A), and protections pertaining to clinical investigations involving prisoners as subjects (Subpart C), were proposed in the **Federal Register** of May 5, 1978 (43 FR 19417), and a proposed regulation providing protection to children involved as subjects in clincial investigations (Subpart D of Part 50) was published in the **Federal Register** of April 24, 1979 (44 FR 24106).

Definitions

Many of the general definitions required to understand Part 50 were

proposed with Subpart C—Protections Pertaining to Clinical Investigations Involving Prisoners as Subjects in the May 5, 1978 document. The agency believes that, because Subpart B is the foundation of all of Part 50, because the comment period on Subpart C has closed, and because all parties affected by this proposal should also have an opportunity to comment on the proposed definitions, the definitions should be reproposed. Therefore, FDA is withdrawing the definitions proposed with the prisoner research regulations and reproposing them here. Definitions specific to other subparts will be added as needed.

A few editorial changes have been made in the definitions. The definition of "clinical investigation," § 50.3(c) (21 CFR 50.3(c)), has been modified to conform to the definition in the IRB proposal published elsewhere in this issue of the **Federal Register**. This definition more clearly confines "clinical investigation" to studies involving human subjects. The definition of "subject," § 50.3(h), has been modified by the addition, in the last sentence, of the phrase "or a better understanding of a disease or metabolic process." "Institutionalized subject," § 50.3(k), has been modified in paragraph (k)(2) by the addition of the phrase "order, decree, or judgment." These modifications also conform the definitions to those published with the IRB proposal.

Proposed § 50.3 defines a number of terms used in proposed Subpart B. The terms defined as part of this proposal are those needed to fuly understand Subpart B. Many of the proposed definitions pertain to terms that can be variably or imprecisely interpreted by persons affected by the proposed regulation. These definitions should provide a common basis of understanding for the agency, investigators, IRB's, the regulated industry, and the general public regarding the terms used in Part 50. In proposed § 50.3(a), the term "act" is limited to the Federal Food, Drug, and Cosmetic Act, as amended. This is consistent with definitions appearing elsewhere in the agency's regulations. Other statutes, when referred to, will be mentioned by name, e.g., the Public Health Service Act (42 U.S.C. 201 et seq.).

The decision to make this proposal agency wide in scope required a term that would include all the various requirements for submission of scientific data and information to the agency under its regulatory jurisdiction, even though in certain cases no permission is technically required from FDA for the conduct of a proposed activity with a particular product, i.e., carrying out research or continuing to market a product. The term chosen, "application for research or marketing permit," is intended solely as a shorthand way of referring to at least 22 separate categories of information that are now, or in the near future will become, subject to requirements for submission to the agency; the term is defined in proposed § 50.3(b).

To facilitate further the applicability of a single set of regulations to all studies involving products or articles within FDA's purview, the agency is proposing in § 50.3(c) to describe each such study as a "clinical investigation," which is defined as any experiment involving a test article (defined below) and human subjects and either (1) is subject to requirements under section 505(i), 507(d), or 520(g) of the act for prior submission to FDA for review, and in some cases approval, before it can be commenced, or (2) is not subject to requirements for prior submission but whose results are intended to be later submitted to, or held for inspection by, FDA as part of an application for a research or marketing permit. Within the category of clinical research the definition excludes studies that do not use any test articles, or do not use them in a manner that requires prior FDA approval or subsequent FDA review because the studies are not regulated by, or intended to be submitted to, FDA. The definition also excludes studies that do not involve human subjects.

Other proposed definitions include terms to describe the persons who initiate and carry out clinical investigations: "sponsor," "investigator," and "sponsor-investigator." The term "sponsor" is currently defined in §§ 310.3(j) and 510.3(k) (21 CFR 310.3(j) and 510.3(k)), but FDA believes this definition is unsatisfactory because it fails to distinguish the other commonly used term, "investigator," which is not defined. Although these terms are widely understood, their precise meanings are difficult to express. The key distinction seems to lie between the person who initiates the project (the sponsor) and the person who actually conducts the study (the investigator). This distinction has been incorporated in the definitions proposed in § 50.3(d) and (f), together with a further distinction: Investigators must be individuals, but sponsors can be individuals, corporations, institutions, or other legal entities. (The term "person" is defined in paragraph (e) to include an individual, partnership, corporation, association, scientific or academic establishment, government agency or organizational unit thereof, and any other legal entity.) The agency believes that these distinctions will clarify the participants' respective roles and duties.

Many studies (approximately 45 percent of the investigational new drug applications in the Bureau of Drugs, for example) are initiated and actually conducted by the same individual; this investigator may carry out the study alone or with other investigators responsible to the initiator. FDA considers it important to identify the hybrid role of the sponsor-investigator and, when appropriate, to make special provisions for that role. Thus, this term is defined in proposed § 50.3(g); unlike the term "sponsor," the term "sponsor-investigator" is limited to individuals.

Proposed § 50.3(h) defines "subject" as any individual who is or becomes a participant in a clinical investigation, either as the recipient of the test article or as a control. The term also includes both healthy or normal individuals and patients to whom the test article might offer a therapeutic benefit. This definition is in accord with past FDA policy. The term is limited to human beings.

The terms "institution" and "institutional review board" are defined in proposed § 50.3(i) and (j), respectively. Although since 1971 FDA has had a requirement that clinical drug investigations involving institutionalized subjects be reviewed and monitored by an institutional review committee or board, no guidelines defining the outer limits of these concepts have been issued. FDA proposes that the definition of "institution" include any corporation, scientific or academic establishment, or government agency that engages in the conduct of research on human subjects or in the delivery of medical services to individuals. The term "institution" includes a hospital, a university that performs research with students, a retirement home that primarily provides housing and personal care to the elderly but also cares for health needs of residents, a manufacturer that uses its employees as subjects in the course of product development, or a prison.

The term "institutional review board" is defined in this proposal to mean any board, committee, or other formally organized group created to review research involving human subjects, and to approve the initiation of such research. The use of the word "board" reflects terminology of the National Research Act of 1975, HEW regulations (45 CFR Part 46), and discussions of the National Commission for the Protection

of Human Subjects of Biomedical and Behavioral Research. However, the agency recognizes that, like section 520(g) of the act, existing FDA regulations, e.g., § 312.1, use the term "committee." FDA believes there is no practical difference between the two words and has elected to follow Departmental terminology.

An "institutionalized subject," as defined in proposed § 50.3(k), includes two categories:

1. Any individual who is voluntarily confined on the premises of, and in the care of, an institution for more than one day; outpatients are excluded from the definition in keeping with existing FDA policy.

2. Any individual involuntarily confined by civil commitment for any period of time in an institution such as a penal facility or a hospital.

"Prisoner," as defined in proposed § 50.3(l), follows the definition proposed by HEW and means any individual involuntarily confined or detained in a penal institution. In scope, the term encompasses individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities by virtue of statutes or commitment procedures that provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing. To some extent, the terms "institutionalized subject" and "prisoner" overlap. The term "prisoner," however, does not include either those persons voluntarily confined or those persons subject to a civil commitment procedure that is not an alternative to criminal prosecution.

"Test article," as defined in § 50.3(m), describes those items being studied that are subject to FDA's jurisdiction and to these regulations. The term includes those new drugs, biologics for human use, and medical devices for human use, studies of which require prior review by FDA under an investigational new drug study or an investigational device study. In addition, the term includes food additives, color additives, drug products, and biological products for human use, electronic products, and medical devices for human use. The broad definition of "test article" is intended to include substances for which clinical investigations are submitted to FDA in support of an application for permission to market a product, but which investigations need not be conducted under an exemption for an investigational new drug (IND) or an investigational device exemption (IDE), e.g., studies on food additives or cosmetics, certain drug bioavailability studies described in Part 320 (21 CFR Part 320), and studies on medical devices for human use not required to be submitted to FDA for prior review under proposed Part 812 (21 CFR Part 812). A test article is covered by these regulations only if it is used in a clinical investigation involving human subjects.

General Requirements of Informed Consent

Proposed § 50.20 (21 CFR 50.20) sets forth the general requirements for obtaining informed consent from human subjects.

The subject's consent may be obtained only while he or she is so situated as to be able to comprehend fully the information presented, and the subject's consent must be obtained under circumstances that minimize the possibility of undue influence or coercion. In addition, the information given must be in the primary language of either the subject or the subject's legal representative. No exculpatory language may be included in either written or oral consent. This policy is a restatement of those currently found in 45 CFR 46.109 and proposed 21 CFR 812.130(b).

The agency recognizes that, when confronted with the possibility that the use of a new therapy or test article may result in the improvement of his or her condition, an individual who is seriously ill may not have the ability to exercise unqualified discretion. Regulation of the pressures on a patient's decision that are inherent in his or her medical condition is not the subject of this proposal. Rather, its purpose is to prevent the imposition of external forms of pressure.

Exception from General Requirements

Proposed § 50.23 (21 CFR 50.23) sets forth two related exceptions from the general requirements of informed consent proposed in § 50.20 to provide for use of test articles in certain life-threatening situations when the investigator complies with specific procedures. The first exception, § 50.23(a), concerns a life-threatening situation in which the use of the test article is necessary, in which it is not possible to obtain informed consent, but which is not so immediate as to prevent the investigator from obtaining a second opinion. Under this exception, both the clinical investigator and a physician not otherwise participating in the clinical investigation must determine in writing, before using the test article, that all of the following factors are present: (1) The subject is confronted by a life-threatening situation necessitating the use of the test article; (2) informed consent cannot be obtained from the subject because of an inability to communicate with, or obtain legally effective informed consent from, the subject; (3) time is not sufficient to obtain consent from the subject's legal representative; and (4) there is available no alternative method of approved or generally recognized therapy that may save the life of the subject.

The second exception, contained in § 50.23(b), allows the determinations required by § 50.23(a) to be made after the use of the test article. This exception provides for those situations in which immediate use of the test article is required. The investigator must, under paragraph (b), make the written determinations required in paragraph (a), and a physician who is not participating in the clinical investigation must review and evaluate the determinations in writing within 5 working days after the use of the article.

All but one of the factors that must be present before the informed consent requirement is waived under § 50.23 are drawn from section 520(g)(3)(D) of the act. The requirement that a determination be made as to lack of an available alternative method of therapy that may save the life of the subject has been added to prevent routine reliance on the exception. This additional requirement should provide guidance to investigators regarding those exceptional situations in which informed consent need not be obtained. As noted above, obtaining informed consent has come to be a standard of practice for professional clinical investigators. Defining those circumstances when informed consent need not be obtained should provide a clearer understanding of how to determine when informed consent is "not feasible."

Elements of Informed Consent

Proposed § 50.25 (21 CFR 50.25) contains both basic and additional elements of informed consent. The information provided must include a complete explanation of pertinent information sufficient to enable the prospective subject or the prospective subject's legal representative to make an informed and intelligent decision concerning participation in the investigational study.

Proposed § 50.25 lists 11 basic items of information to be included in the presentation to the subject. Although this list is drawn, in part, from the National Commission's report on IRB's, current HEW regulations, existing FDA regulations covering the use of investigational new drugs and devices,

and the Conference Report on the Medical Device Amendments of 1976 (H. Rept. No. 1090, 94th Cong., 2d Sess. (1976)), the list of informational items set out in this section represents only the minimum required. The information should be tailored to the needs of the individual subject to ensure that it is sufficient to enable him or her to make an informed and intelligent decision regarding participation. When appropriate, an IRB should ensure that information in addition to that expressly required by proposed § 50.25(a) is provided; five such additional items of information are set out in § 50.25(b).

Proposed § 50.25(a) (1) through (6), (8), and (11) restates current FDA or HEW policy. See, e.g., § 310.102(h); § 312.1(a) (12) and (13) (Form FD–1572, item 6g, and Form FD–1573, item 4g); proposed § 812.130(a) (21 CFR 812.130(a)) published in the **Federal Register** of May 12, 1978 (43 FR 20757); and § 46.103(c) of the Departmental regulation (45 CFR 46.103(c)).

Proposed § 50.25(a)(7) requires that a subject be apprised in advance of those situations in which his or her records may be disclosed. The agency believes that FDA should clearly and publicly state when it will request access to the records, and, if access is requested, how FDA will safeguard the privacy of subjects. First, the agency does not need to inspect medical history records routinely. The scientific evaluation of case report forms, and of summary tables proposed from the data in these forms, is the basic mechanism by which FDA assesses data from studies. However, the agency's inspections have uncovered a significant number of errors of omission and commission in information submitted to the agency. For this reason, FDA has initiated an inspectional program that includes the onsite audit of certain data submitted to the agency. During this audit, access to the subject's identification is incidental to the review of the records. When the records are reviewed, as described in current regulations, "the names of the subjects need not to divulged unless the records of the particular subjects require a more detailed study of the cases, or unless there is a reason to believe that the records do not represent actual studies or do not represent actual results obtained" (see Form FD–1572, item 5e, in § 312.1(a)(12) (21 CFR 312.1(a)(12)). The agency invites comment on whether the subjects of a clinical investigation should be informed that FDA may not only inspect but also may copy records that identify the subjects.

To ensure the privacy of individually identifiable medical records, FDA has implemented clear and extraordinarily exacting guidelines for FDA personnel who conduct inspections of medical records containing the names of individual research subjects. Agency personnel may not copy medical records containing the names of research subjects, and the clinical investigator or the IRB representative is to be given the right to delete any information that could identify an individual subject, except when: (1) the agency has reason to believe that the consent of human subjects was not obtained, or (2) there is reason to believe that the records do not represent actual studies or do not represent actual results obtained. The exceptions to the prohibition against the copying of individually indentifiable medical records by FDA personnel rest primarily on the need to determine whether a given research subject in fact exists and whether the research subject in fact participated in the investigation. When an individually identifiable medical record is copied and reviewed by the agency, the record is properly safeguarded within FDA and is used or disseminated under conditions that protect the privacy of the individual to the fullest possible extent, consistent with laws relating to public disclosure of information (Freedom of Information and Privacy Act regulations) and the law enforcement responsibilities of the agency. Both the IRB and the clinical investigator proposals, discussed above, restate these policies.

The requirement of proposed § 50.25(a)(6) that new information that may relate to the willingness of the subject to continue participation be provided to the subject or the subject's legal representative on a continuing basis has not been previously codified. It is included to emhasize that, if new information that might affect the basis of the original decision to participate is discovered, the investigator is obligated to provide that information to the subject or to the subject's legal representative.

Proposed § 50.25(b) includes five additional elements of informed consent. Any of these items of information should be included as appropriate. The appropriateness of an item may be determined by an IRB at the time it reviews a consent form proposed for use in a clinical investigation.

Documentation of Informed Consent

Proposed § 50.27 (21 CFR 50.27) sets forth the requirements for the documentation of informed consent, which may be by either a long or a short form. The form used must be signed by either the subject or the subject's legal representative, and, if the short form is used, by an auditor witness as well.

Proposed § 50.27 provides for a written consent form containing the information required by § 50.25. The consent form may be read by or to the subject or the subject's legal representative, but in either case an adequate opportunity to read the form must be provided, and a copy must be offered to the person signing.

Proposed § 50.27(c)(2) provides for the use of a "short form" written consent document. Use of the short form allows the basic information required by § 50.25 to be presented orally to the subject or the subject's legal representative. Written summaries of what is to be said are to be reviewed and approved in advance by the IRB. When consent is obtained in this manner, an auditor witness must be present during the explanation and must also sign the form. The auditor witness should be some one not involved in the conduct of the study. Any additions to the explanation other than those appearing on the approved form must be noted in the summary.

Although no provision for oral informed consent is being proposed, comments are invited on whether, in some limited circumstances, oral informed consent might be adequate to protect human subjects of those clinical investigations regulated by FDA.

Legal Authority

The results of literally hundreds of clinical investigations are submitted to FDA each year by persons seeking regulatory action by the agency. To obtain a marketing license, clinical research data are offered to support the safety and effectiveness or functionality of a product, e.g., a food or color additive, a drug or biologic for human use, or a medical device for human use. Even when a license is not required or has already been issued, the data may be relied upon to demonstrate the bioavailability of a marketed drug, the general recognition of safety of a product, or the absence of any need for premarket approval or a product standard for a device.

In evaluating the enormous volume of clinical investigations filed with FDA, many types of scientific and regulatory review must be devoted to these studies, apart from determining their ethical acceptability, e.g., to interpret the results and to evaluate the status of the affected products in light of the results. Given its limited resources, FDA believes that it must have standards to screen out those clinical investigations that are likely to be unacceptable and

thus should not be authorized by FDA, or that warrant little further evaluation in support of a product application. The promulgation of this proposed regulation would provide one process for making this judgment. Moreover, the regulation reflects principles recognized by the scientific community as essential to sound research involving human subjects. Thus, this proposed regulation would assist FDA in identifying those investigations that cannot be permitted to be carried out or considered in support of an application for a research or marketing permit.

Under section 701(a) of the act (21 U.S.C. 371(a)), the Commissioner of Food and Drugs is empowered to promulgate regulations for the efficient enforcement of the act. Previously, the agency has issued regulations (21 CFR 314.111(a)(5)) for determining whether a clinical investigation of a drug intended for human use, among other things, was sicentifically reliable and valid (in the words of the act, "adequate and well-controlled") to support approval of a new drug. These regulations were issued under sections 505 and 701(a) of the act and have been upheld by the Supreme Court (see *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973); see also *Upjohn Co.* v. *Finch*, 422 F. 2d 944 (6th Cir. 1970) and *Pharmaceutical Manufacturers Association* v. *Richardson*, 318 F. Supp. 301 (D. Del. 1970)).

Furthermore, sections 505(i), 507(d), and 520(g) of the act, regarding clinical investigations that require prior FDA authorization, direct the Commissioner to promulgate regulations to protect the public health in the course of the investigations. The proposed regulation is intended to fulfill these mandates.

The agency concludes that legal authority to promulgate this regulation exists under sections 505(i), 507(d), 520(g), and 701(a) of the act as essential to protection of the public health and safety and to enforcement of the agency's responsibilities under sections 406, 409, 502, 503, 505, 506, 507, 510, 513, 514, 515, 516, 518, 519, 520, 601, 706, and 801 of the act (21 U.S.C. 346, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 361, 376, and 381), as well as the responsibilities of FDA under sections 351 and 354 to 360F of the Public Health Service Act (42 U.S.C. 262 and 263b–263n).

Conforming Amendments

The agency intends to revise the IND regulations in § 312.1(a), Forms FD–1571, FD–1572, and FD–1573, to correspond with the clarified requirements regarding informed consent in proposed Part 50. However, because repeating these provisions in the forms in this proposal might confuse readers and lead to duplicative comments, the agency gives notice that the forms will be revised in the final order to reiterate the requirements proposed here, as modified in light of the comments received.

Also, FDA proposes to add or revise regulations regarding food and color additives, new drug applications, bioavailability and bioequivalence testing requirements, OTC drug products, radioactive drugs, antibiotic drugs, biological product licenses, and electronic products to incorporate appropriate implementing provisions for, and cross-references to, Part 50.

The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b), and consideration by the agency of the need for preparing an environmental impact statement is not required.

Effective Date

The agency is proposing that the final rule take effect 90 days after its date of publication in the **Federal Register.** Because the informed consent obtained under current regulations from subjects already participating in ongoing studies may not meet the requirements proposed for Subpart B of Part 50, there will be cases in which a second informed consent that meets Subpart B requirements should be obtained. The agency recognizes, however, that retroactive application of the requirements is neither practical nor necessary in every case.

In addition, the agency realizes that the administrative burden of obtaining a second informed consent from each subject in a continuing study must be balanced against the additional protection that might be afforded to the human subjects involved in studies already ongoing at the time the final order takes effect. A review of the data derived from the agency's IRB pilot inspection program showed that of the 116 IRB's inspected by FDA, 42 percent reviewed from 6 to 30 new protocols per session, and 62 percent met monthly or less frequently. The average IRB inspected for the Bureau of Biologics performed continuing review of 10 FDA-regulated studies per year. Many of the IRB's that review FDA-regulated research also review HEW-funded research, particularly at those institutions holding a general assurance. Because FDA and HEW have agreed to take the same approach for an effective date for informed consent regulations in order to facilitate compliance, FDA must consider the more general administrative impact on IRB's of the various approaches to an effective date for these regulations.

For FDA to require IRB's to review informed consent forms for all ongoing studies to determine whether or not they meet the new requirements on the effective date of the final order would mean that the average IRB would have to review 10 informed consent forms plus 10 new protocols at its regular monthly meeting. The agency must consider, however, that 54 percent of IRB's with general assurance review between 6 and 30 proposals per session and that there may be from 50 to 400 ongoing studies at any given time at those institutions. Thus, if FDA and HEW were to require that IRB's review informed consent forms for all ongoing studies, many institutions would be faced with having to commit approximately 10 sessions to the review of informed consents, with an inevitable delay in the review of new proposals. Both FDA and HEW view this administrative burden and the delay in the review of new protocols as unreasonable when compared to the modest gains that might be made in protecting the rights of human subjects already involved in most clinical investigations. The agency is proposing instead that the informed consent of ongoing studies be reviewed when those studies would normally undergo continuing review. Thus, the administrative burden will be spread out over time, all informed consents will have been reviewed within 1 year of the effective date of these regulations, and those studies with high risk will have been reviewed sooner because continuing review is required at frequencies appropriate to the degree of risk but not less frequently than once a year.

The agency proposes that IRB's, at the time of continuing review, make a determination whether or not: (1) revised informed consent should be obtained from human subjects already entered into the study; and, (2) revised informed consent should be obtained from human subjects who will enter the study after the continuing review. In making those determinations, the IRB should consider the nature of the study, the degree of risk to human subjects in the study, and the adequacy of the informed consent initially approved. The agency recognizes that most informed consents of ongoing studies may not comply with the new requirements, and that the degree of noncompliance will vary from study to study. A second informed consent from all subjects

continuing in a clinical investigation is therefore required only when the IRB determines that the consent obtained initially was inadequate. The agency proposes to interpret an inadequate consent as one that is grossly deficient, such as a consent that contains exculpatory language, fails to reveal risks to subjects, or fails to reveal the experimental nature of the investigation. In such cases, a second informed consent would be required from those subjects continuing in the study. The agency invites comments on this approach to the revision of consent forms for ongoing studies and on the applicability of those revised forms to both new subjects and subjects already entered into the study.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 406, 408, 409, 502, 503, 505, 506, 507, 510, 513–516, 518–520, 601, 701(a), 706, and 801, 52 Stat. 1049–1054 as amended, 1055, 1058 as amended, 55 Stat. 851 as amended, 59 Stat. 463 as amended, 68 Stat. 511–517 as amended, 72 Stat. 1785–1788 as amended, 74 Stat. 399–407 as amended, 76 Stat. 794–795 as amended, 90 Stat. 540–560, 562–574 (21 U.S.C. 346, 346a, 348, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 361, 371(a), 376, and 381)) and the Public Health Service Act (secs. 215, 351, 354–360F, 58 Stat. 690, 702 as amended, 82 Stat. 1173–1186 as amended (42 U.S.C. 216, 262, 263b–263n)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

SUBCHAPTER A—GENERAL

PART 50—PROTECTION OF HUMAN SUBJECTS

1. Part 50 (as proposed in the Federal Register of May 5, 1978 (43 FR 19417)) is amended:

a. By revising and reproposing § 50.3 of Subpart A to read as follows:

§ 50.3 Definitions.

As used in this part:

(a) "Act" means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201–902, 52 Stat. 1040 et seq. as amended (21 U.S.C. 321–392)).

(b) "Application for research or marketing permit" includes:

(1) A color additive petition, described in Part 71 of this chapter.

(2) A food additive petition described in Part 171 of this chapter.

(3) Data and information regarding a substance, submitted as part of the procedures for establishing that a substance is generally recognized as safe for use, that results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, described in §§ 170.30 and 570.30 of this chapter.

(4) Data and information regarding a food additive, submitted as part of the procedures regarding food additives permitted to be used on an interim basis pending additional study, described in § 180.1 of this chapter.

(5) Data and information regarding a substance, submitted as part of the procedures for establishing a tolerance for unavoidable contaminants in food and food-packaging materials, described in section 406 of the act.

(6) A "Notice of Claimed Investigational Exemption for a New Drug," described in Part 312 of this chapter.

(7) A new drug application, described in Part 314 of this chapter.

(8) Data and information regarding the bioavailability or bioequivalence of drugs for human use, submitted as part of the procedures for issuing, amending, or repealing a bioequivalence requirement, described in Part 320 of this chapter.

(9) Data and information regarding an over-the-counter drug for human use, submitted as part of the procedures for classifying such drugs as generally recognized as safe and effective and not misbranded, described in Part 330 of this chapter.

(10) Data and information regarding a prescription drug for human use, submitted as part of the procedures for classifying such drugs as generally recognized as safe and effective and not misbranded, to be described of this chapter.

(11) Data and information regarding an antibiotic drug, submitted as part of the procedures for issuing, amending, or repealing regulations for such drugs described in Part 430 of this chapter.

(12) An application for a biological product license, described in Part 601 of this chapter.

(13) Data and information regarding a biological product, submitted as part of the procedures for determining that licensed biological products are safe and effective and not misbranded, described in Part 601 of this chapter.

(14) An "Application for an Investigational Device Exemption," described in Part 812 of this chapter.

(15) Data and information regarding a medical device for human use, submitted as part of the procedures for classifying such devices, described in section 513 of the act.

(16) Data and information regarding a medical device for human use, submitted as part of the procedures for establishing, amending, or repealing a standard for such devices, described in section 514 of the act.

(17) An application for premarket approval of a medical device for human use, described in section 515 of the act.

(18) A product development protocol for a medical device for human use, described in section 515 of the act.

(19) Data and information regarding an electronic product, submitted as part of the procedures for establishing, amending, or repealing a standard for such products, described in section 358 of the Public health Service Act (42 U.S.C. 263f).

(20) Data and information regarding an electronic product, submitted as part of the procedures for obtaining a variance from any electronic product performance standard, described in § 1010.4 of this chapter.

(21) Data and information regarding an electronic product, submitted as part of the procedures for granting, amending, or extending an exemption from a radiation safety performance standard, described in § 1010.5 of this chapter.

(22) Data and information regarding an electronic product, submitted as part of the procedures for obtaining an exemption from notification of a radiation safety defect or failure of compliance with a radiation safety performance standard, described in Subpart D of Part 1003 of this chapter.

(c) "Clinical investigation" means any experiment that involves a test article and one or more human subjects and that either is subject to requirements for prior submission to the Food and Drug Administration under section 505(i), 507(d), or 520(g) of the act, or is not subject to requirements for prior submission to the Food and Drug Administration under these sections of the act, but the results of which are intended to be submitted later to, or held for inspection by, the Food and Drug Administration as part of an application for a research or marketing permit. The term does not include experiments that are subject to the provisions of Part 58 of this chapter, regarding nonclinical laboratory studies.

(d) "Investigator" means an individual who actually conducts a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject.

(e) "Person" includes an individual, partnership corporation, association, scientific or academic establishment, government agency or organizational unit thereof, and any other legal entity.

(f) "Sponsor" means a person who initiates a clinical investigation, but who does not actually conduct the investigation, i.e., the test article is administered or dispensed to or used involving, a subject under the immediate direction of another individual. A person other than an individual (e.g., corporation or agency) that uses one or more of its own employees to conduct a clinical investigation it has initiated is considered to be a sponsor (not a sponsor-investigator), and the employees are considered to be investigators.

(g) "Sponsor-investigator" means an individual who both initiates and actually conducts, alone or with others, a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject. The term does not include any person other than an individual, e.g., corporation or agency.

(h) "Subject" means a human who is or becomes a participant in a clinical investigation, either as a recipient of the test article or as a control. A subject maybe either a person in normal health or a patient to whom the test article might offer a therapeutic benefit of provide diagnostic information or a better understanding of a disease or metabolic process.

(i) "Institution" means a person, other than an individual, that engages in research on human subjects or in the delivery of medical services to individuals, as a primary activity or as an adjunct to providing residential or custodial care of humans. The term includes, for example, a hospital, retirement home, prison, academic establishment, and pharmaceutical or device manufacturer. "Facility" as used in section 520(g) of the act is deemed to be synonymous with the term "institution" for purposes of this part.

(j) "Institutional review board" means any board, committee, or other group formally designated by an institution for the purposes of reviewing clinical investigations or other types of biomedical research involving humans as subjects and approving the initiation of the investigations or research. The term has the same meaning as the phrase "institutional review committee" as used in section 520(g) of the act.

(k) "Institutionalized subject" means:

(1) A subject who is voluntarily confined for a period of more than 24 continuous hours on the premises of, and in the care of, an institution (e.g., a hospital inpatient or a retirement home resident), whether or not that institution is a sponsor of the clinical investigation; and

(2) A subject who is involuntarily confined for any period of time in a penal institution (e.g., jail, workhouse, house of detention, or prison) or another institution (e.g., a hospital) by virtue of a sentence, order, decree, or judgment under a criminal or civil statute, or awaiting arraignment, commitment, trial, or sentencing under such a statute, or by virture of statutes or commitment procedures that provide alternatives to criminal prosecution or incarceration in a penal facility.

(l) "Prisoner" means any individual involuntarily confined or detained in a penal institution. The term is intended to encompass individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities by virture of statutes or commitment procedures that provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing.

(m) "Test article" means any drug (incuding a biological product for human use), medical device for human use, human food additive, color additive, cosmetic, electronic product, or any other article subject to regulation under the act or under sections 351 and 354–360F of the Public Health Service Act (42 U.S.C. 262 and 263b–263n).

(n) "Minimal risk" means that risk of harm that is no greater in probability and no greater in magnitude than that risk of harm that is normally encountered in the routine medical examination of healthy individuals.

(o) "Legally authorized representative" means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in the particular research or procedure.

b. By adding new Supart B to read as follows:

Subpart B—Informed Consent of Human Subjects

Sec.

50.20 General requirements of informed consent.
50.21 Effective date.
50.23 Exception from general requirements.
50.25 Elements of informed consent.
50.27 Documentation of informed consent.

§ 50.20 General requirements of informed consent.

Except as provided in § 50.23, no investigator may involve a human being as a subject in a clinical investigation regulated by or conducted for submission to the Food and Drug Administration in support of an application for a research or marketing permit unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide prospective subjects (or their legally authorized representatives) sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The investigator seeking informed consent from a prospective subject or his or her legal representative shall provide to such person the information that is to be the basis of the informed consent in the primary language of the subject or the subject's legally authorized representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject waives or appears to waive any of his or her legal rights, or releases or appears to release the investigator, the sponsor, the institution or its agents from liability for negligence.

§ 50.21 Effective date.

The requirements for informed consent set out in this part apply to all subjects entering a clinical investigation that commences on or after (insert effective date of final regulation). Informed consent obtained from subjects of clinical investigations that commenced before (insert effective date of final regulation) shall be reviewed for adequacy at the time of the continuing review of the study by the responsible institutional review board (as set forth in § 56.87 of this chapter). Where such continuing review results in a finding that the consent obtained initially was inadequate (e.g., the consent contained exculpatory language, failed to reveal the experimental nature of the investigation, or did not reveal the risks to the subject), the investigator shall obtain from each subject a new informed consent as a precondition for the subject's continuing participation in the investigation.

§ 50.23 Exception from general requirements.

(a) The obtaining of informed consent shall be deemed feasible unless, before use of the test article (except as provided in paragraph (b) of this section), both the investigator and a physician who is not otherwise

participating in the clinical investigation determine in writing all of the following:

(1) The subject is confronted by a life-threatening situation necessitating the use of the test article.

(2) Informed consent cannot be obtained from the subject because of an inability to communicate with, or obtain legally effective consent from, the subject.

(3) Time is not sufficient to obtain consent from the subject's legal representative.

(4) There is available no alternative method of approved or generally recognized therapy that may save the life of the subject.

(b) If immediate use of the test article is, in the investigator's opinion, required to preserve the life of the subject, and time is not sufficient to obtain the independent determination required in paragraph (a) of this section in advance of using the test article, the determinations of the investigator shall be made and, within 5 working days after the use of the article, be reviewed and evaluated in writing by a physician who is not participating in the clinical investigation.

(c) The documentation required in paragraph (a) or (b) of this section shall be filed with the institutional review board.

(d) Nothing in the regulations in this part is intended to limit the authority of a physician to provide emergency medical care to the extent the physician is permitted to do so under applicable Federal, State, or local law.

§ 50.25 Elements of informed consent.

(a) *Basic elements.* In seeking and obtaining informed consent, an investigator shall provide to each person whose consent is sought or obtained the following information:

(1) A statement that the clinical investigation involves research and that the institutional review board has approved the solicitation of subjects to participate in the research.

(2) An explanation of the scope, aims, and purposes of the research, the procedures to be followed (including identification of any treatments or procedures that are experimental), and the expected duration of the subject's participation.

(3) A description of all reasonably foreseeable risks or discomforts to the subject (including likely results if an experimental treatment should prove ineffective).

(4) A description of any benefits to the subject or to others that may reasonably be expected from the research.

(5) A disclosure of appropriate alternative procedures of courses of treatment, if any, that might be advantageous to the subject.

(6) A statement that new information developed during the course of the research that may relate to the subject's willingness to continue participation will be provided to the subject or to the subject's legal representative.

(7) A statement that describes the extent to which confidentiality of records identifying the subject will be maintained and that notes the possibility that the Food and Drug Administration will inspect the records.

(8) An offer to answer any questions the subject (or subject's representative) may have about the research, the subject's rights, or related matters.

(9) For research involving more than minimal risk, an explanation whether compensation and medical treatment are available if injury occurs and, if so, what they consist of, or where further information may be obtained.

(10) Whom the subject should contact if harm occurs or if there are questions or problems.

(11) A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty loss of benefits to which the subject is otherwise entitled.

(b) *Additional elements.* When appropriate, an investigator shall also provide to each person whose consent is sought or obtained one or more of the following elements of information:

(1) A statement that the particular treatment or procedure being tested may involve risks to the subject (or fetus, if the subject is or becomes pregnant), which are currently unforeseeable. This statement will often be appropriate in tests that involve experimental drugs, or where the subjects are children, pregnant women, or women of childbearing age.

(2) Foreseeable circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent.

(3) Any additional costs to the subject or to others that may result from participation in the research.

(4) Who is conducting the study, the approximate number of subjects involved, the institution responsible for the study, and who is funding it.

(5) The consequences of a decision by a subject to withdraw form the research, and procedures for orderly termination of participation by the subject.

§ 50.27 Documentation of informed consent.

(a) An investigator shall document informed consent by the use of a written consent form signed by the subject or the subject's legal representative, and shall give a copy of the consent form to the person signing.

(b) The investigator shall ensure that the consent form demonstrates that the information required by § 50.25 has been presented to the subject or to the subject's legal representative.

(c) The consent form may be either of the following:

(1) A written consent document that embodies the elements of informed consent required by § 50.25. This form may be read to the subject or the subject's legal representative, but, in any event, the investigator shall give either the subject or the subject's legal representative adequate opportunity to read it before it is signed.

(2) A "short form" written consent that states that the elements of informed consent required by § 50.25 have been presented orally to the subject or to the subject's legal representative. If the required information is presented orally, a written summary of the oral presentation shall have been previously approved by the IRB, and the consent form shall also be signed by an auditor who shall witness both the oral presentation and the signing of the form by the subject or the subject's legal representative. The person obtaining consent shall prepare a written summary of the information to be presented orally and a copy of the summary, annotated to show any changes, shall be signed by both the person obtaining consent and the auditor witness.

PART 71—COLOR ADDITIVE PETITIONS

2. Part 71 is amended:

a. In § 71.1 by adding new paragraph (j) to read as follows:

§ 71.1 Petitions

* * * * *

(j) If clinical investigations involving human subjects are involved, petitions filed with the Commissioner under section 706(b) of the act shall include statements regarding each such clinical investigation contained in the petition, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

b. In § 71.6 by adding a new sentence at the end of paragraph (b) to read as follows:

§ 71.6 Extension of time for studying petitions; substantive amendments; withdrawal of petitions without prejudice.

* * * * *

(b) * * * If clinical investigations involving human subjects are involved, additional information or data submitted in support of filed petitions shall include statements regarding each such clinical investigation from which the information or data are derived, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

* * * * *

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

PART 171—FOOD ADDITIVE PETITIONS

3. Part 171 is amended:

a. In § 171.1 by adding new paragraph (n) to read as follows:

§ 171.1 Petitions.

* * * * *

(n) If clinical investigations involving human subjects are involved, petitions filed with the Commissioner under section 409(b) of the act shall include statements regarding each such clinical investigation relied upon in the petition, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

b. In § 171.6 by adding a new sentence at the end of the paragraph to read as follows:

§ 171.6 Amendment of petition.

* * * If clinical investigations involving human subjects are involved, additional information and data submitted in support of filed petitions shall include statements regarding each clinical investigation from which the information or data are derived, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

PART 180—FOOD ADDITIVES PERMITTED IN FOOD ON AN INTERIM BASIS OR IN CONTACT WITH FOOD PENDING ADDITIONAL STUDY

4. Part 180 is amended in § 180.1 by adding new paragraph (c)(7) to read as follows:

§ 180.1 General.

* * * * *

(c) * * *

(7) If clinical investigations involving human subjects are involved, such investigations filed with the Commissioner shall include, with respect to each investigation, a statement that the investigation has been or will be conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

* * * * *

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 310—NEW DRUGS

§ 310.3 [Amended]

5. Part 310 is amended in § 310.3 *Definitions and interpretations,* by deleting and reserving paragraph (j).

§ 310.102 [Deleted]

6. Part 310 is amended by deleting § 310.102 *Consent for use of investigational new drugs (IND) on humans; statement of policy.*

PART 312—NEW DRUGS FOR INVESTIGATIONAL USE

7. Part 312 is amended in § 312.1 by redesignating paragraphs (d)(11), (d)(12), and (d)(13) as (d)(12), (d)(13), and (d)(14), respectively, and adding new paragraph (d)(11) to read as follows:

§ 312.1 Conditions for exemption of new drugs for investigational use.

* * * * *

(d) * * *

(11) The clinical investigations are not being conducted in compliance with the requirements regarding informed consent set forth in Part 50 of this chapter; or

* * * * *

PART 314—NEW DRUG APPLICATIONS

8. Part 314 is amended:

a. In § 314.1 by adding a new sentence at the end of item 17 of form FD-356H in paragraph (c)(2) and by redesignating paragraph (f)(7), (f)(8), and (f)(9)) as (f)(8), (f)(9), and (f)(10) and adding new paragraph (f)(7) to read as follows:

§ 314.1 Applications.

* * * * *

(c) * * *

(2) * * *

Form FD-356H—Rev. 1974:

* * * * *

17. * * * Statements regarding each clinical investigation involving human subjects contained in the application, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

* * * * *

(f) * * *

(7) Statements regarding each clinical investigation involving human subjects contained in the application, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

* * * * *

b. In § 314.8 by adding new paragraph (o) to read as follows:

§ 314.8 Supplemental applications.

* * * * *

(o) A supplemental application that contains clinical investigations involving human subjects shall include statements by the applicant regarding each such investigation, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

c. In § 314.9 by adding new paragraph (f) to read as follows:

§ 314.9 Insufficient information in application.

* * * * *

(f) The information contained in an application shall be considered insufficient to determine whether a drug is safe and effective for use unless the application includes statements regarding each clinical investigation involving human subjects contained in the application, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

d. In § 314.12 by adding new paragraph (f) to read as follows:

§ 314.12 Untrue statements in application.

* * * * *

(f) Any clinical investigation involving human subjects contained in the application subject to the requirements for informed consent set forth in Part 50 of this chapter was not conducted in compliance with such requirements.

e. In § 314.110 by adding new paragraph (a)(12) to read as follows:

§ 314.110 Reasons for refusing to file applications.

(a) * * *

(12) The applicant fails to include in the application statements regarding each clinical investigation involving human subjects contained in the application, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

* * * * *

f. In § 314.111 by adding new paragraph (a)(12) to read as follows:

§ 314.111 Refusal to approve the application.

(a) * * *

(12) Any clinical investigation involving human subjects contained in the application subject to the requirements for informed consent set forth in Part 50 of this chapter was not conducted in compliance with such requirements.

* * * * *

g. In § 314.115 by adding new paragraph (c)(8) to read as follows:

§ 314.115 Withdrawal of approval of an application.

* * * * *

(c) * * *

(8) That any clinical investigation involving human subjects contained in the application subject to the requirements for informed consent set forth in Part 50 of this chapter was not conducted in compliance with such requirements.

* * * * *

PART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

9. Part 320 is amended:

a. In § 320.31 by adding new paragraph (g) to read as follows:

§ 320.31 Applicability of requirements regarding a "Notice of Claimed Investigational Exemption for a New Drug."

* * * * *

(g) An in vivo bioavailability study in humans shall be conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter, regardless of whether the study is conducted under a "Notice of Claimed Investigational Exemption for a New Drug."

b. In § 320.57 by adding new paragraph (f) to read as follows:

§ 320.57 Requirements of the conduct of in vivo bioequivalence testing in humans.

* * * * *

(f) If a bioequivalence requirement provides for in vivo testing in humans, any person conducting such testing shall comply with the requirements of § 320.31.

PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERAL RECOGNIZED AS SAFE AND EFFFECTIVE AND NOT MISBRANDED

10. Part 330 is amended in § 330.10 by adding new paragraph (f) to read as follows:

§ 330.10 Procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing monographs.

* * * * *

(f) *Informed consent.* Information and data submitted under this section after (insert effective date of this paragraph) shall include statements regarding each clinical investigation involving human subjects, from which the information and data are derived, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

PART 361—PRESCRIPTION DRUGS FOR HUMAN USE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED: DRUGS USED IN RESEARCH

11. Part 361 is amended in § 361.1 by revising paragraph (d)(5) to read as follows:

§ 361.1 Radioactive drugs for certain research uses.

* * * * *

(d) * * *

(5) *Human research subjects.* Each investigator shall select appropriate human subjects and shall obtain the consent of the subjects or their legal representatives in accordance with Part 50 of this chapter. The research subjects shall be at least 18 years of age and legally competent. Exceptions are permitted only in those special situations when it can be demonstrated to the committee that the study presents a unique opportunity to gain information not currently available, requires the use of research subjects less than 18 years of age, and is without significant risk to the subject. Studies involving minors shall be supported with review by qualified pediatric consultants to the Radioactive Drug Research Committee. Each female research subject of childbearing potential shall state in writing that she is not pregnant, or, on the basis of a pregnancy test, be confirmed as not pregnant, before she may participate in any study.

* * * * *

PART 430—ANTIBIOTIC DRUGS; GENERAL

12. Part 430 is amended in § 430.20 by adding new paragraph (h) to read as follows:

§ 430.20 Procedure for the issuance, amendment, or repeal of regulations.

* * * * *

(h) No regulation providing for the certification of an antibiotic drug for human use shall be issued or amended unless each clinical investigation involving human subjects on which the issuance or amendment of the regulation is based was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

13. Part 431 is amended in § 431.17 by adding new paragraph (m) to read as follows:

§ 431.17 New antibiotic and antibiotic-containing products.

* * * * *

(m) Statements regarding each clinical investigation involving human subjects contained in the request, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

SUBCHAPTER F—BIOLOGICS

PART 601—LICENSING

14. Part 601 is amended:

a. In § 601.2 by revising paragraph (a) to read as follows:

§ 601.2 Applications for establishment and product licenses; procedures for filing.

(a) *General.* To obtain a license for any establishment or product, the manufacturer shall make application to the Director, Bureau of Biologics, on forms prescribed for such purposes, and in the case of an application for a product license, shall submit data derived from nonclinical laboratory and clinical studies which demonstrate that the manufactured product meets prescribed standards of safety, purity, and potency; with respect to each nonclinical laboratory study, either a statement that the study was conducted in compliance with the requirements set forth in Part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a statement that describes in detail all differences between the practices used in the study and those required in the regulations; statements regarding each clinical investigation involving human subjects contained in the application, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter; a full description of manufacturing methods; data establishing stability of the product through the dating period; sample(s) representative of the product to be sold, bartered, or exchanged or offered, sent, carried or brought for sale, barter, or exchange; summaries of results of tests performed on the lot(s) represented by the submitted sample(s); and specimens of the labels, enclosures and containers proposed to be used for the product. An application for license shall not be considered as filed until all pertinent

information and data have been received from the manufacturer by the Bureau of Biologics. In lieu of the procedures described in this paragraph, applications for radioactive biological products shall be handled as set forth in paragraph (b) of this section.

* * * * *

b. In § 601.25 by revising paragraph (h)(1) and adding new paragraph (m) to read as follows:

§ 601.25 Review procedures to determine that licensed biological products are safe, effective, and not misbranded under prescribed, recommended, or suggested conditions of use.

* * * * *

(h) *Additional studies.* (1) Within 30 days following publication of the final order, each licensee for a biological product designated as requiring further study to justify continued marketing on an interim basis, under paragraph (f)(3) of this section, shall satisfy the Commissioner of Food and Drugs in writing that studies adequate and appropriate to resolve the questions raised about the product have been undertaken, or the Federal government may undertake these studies. Any study involving a clinical investigation that involves human subjects shall be conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter. The Commissioner may extend this 30-day period if necessary, either to review and act on proposed protocols or upon indication from the licensee that the studies will commence at a specified reasonable time. If no such commitment is made, or adequate and appropriate studies are not undertaken, the product licenses shall be revoked.

* * * * *

(m) *Informed consent.* Information and data submitted under this section after (insert effective date of this paragraph) shall include statements regarding each clinical investigation involving human subjects, that it was conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

* * * * *

c. By revising § 601.30 to read as follows:

§ 601.30 Licenses required; products for controlled investigation only.

Any biological or trivalent organic arsenical manufactured in any foreign country and intended for sale, barter or exchange shall be refused entry by collectors of customs unless manufactured, in an establishment holding an unsuspended and unrevoked establishment license and license for the product. Unlicensed products that are not imported for sale, barter or exchange and that are intended solely for purposes of controlled investigation are admissible only if the investigation is conducted in accordance with section 505 of the Federal Food, Drug, and Cosmetic Act and the requirements set forth in Parts 50, 58, and 312 of this chapter.

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

15. Part 630 is amended:

a. In § 630.11 by revising the first sentence to read as follows:

§ 630.11 Clinical trials to qualify for license.

To qualify for license, the antigenicity of the vaccine shall have been determined by clinical trials of adequate statistical design conducted in compliance with Part 50 of this chapter. * * *

b. In § 630.31 by adding a new sentence at the end of the section to read as follows:

§ 630.31 Clinical trials to qualify for license.

* * * Such clinical trials shall be conducted in compliance with the requirements for informed consent set forth in Part 50 of this chapter.

c. By revising § 630.51 to read as follows:

§ 630.51 Clinical trials to qualify for license.

To qualify for license, the antigenicity of Mumps Virus Vaccine, Live, shall be determined by clinical trials, conducted in compliance with Part 50 of this chapter, that follow the procedures prescribed in § 630.31, except that the immunogenic effect shall be demonstrated by establishing that a protective antibody response has occurred in at least 90 percent of each of the five groups of mumps-susceptible individuals, each having received the parenteral administration of a virus vaccine dose not greater than that demonstrated to be safe in field studies (§ 630.50(b)) when used under comparable conditions.

d. By revising § 630.61 to read as follows:

§ 630.61 Clinical trials to qualify for license.

To qualify for license, the antigenicity of Rubella Virus Vaccine, Live, shall be determined by clinical trials, conducted in compliance with Part 50 of this chapter, that follow the procedures prescribed in § 630.31, except that the immunogenic effect shall be demonstrated by establishing that a protective antibody response has occurred in at least 90 percent of each of the five groups of rubella-susceptible individuals, each having received the parenteral administration of a virus vaccine dose not greater than that demonstrated to be safe in field studies when used under comparable conditions.

e. In § 630.81 by revising the first sentence to read as follows:

§ 630.81 Clinical trials to qualify for license.

In addition to demonstrating that the measles component meets the requirements of § 630.31, the measles and smallpox antigenicity of the final product shall be determined by clinical trials of adequate statistical design conducted in compliance with Part 50 of this chapter and with three consecutive lots of final vaccine manufactured by the same methods and administered as recommended by the manufacturer. * * *

SUBCHAPTER H—MEDICAL DEVICES

PART 813—INVESTIGATIONAL EXEMPTIONS FOR INTRAOCULAR LENSES

Subpart F [Deleted]

16. Part 813 is amended by deleting Subpart F—*Informed Consent of Human Subjects* and marking it "Reserved."

SUBCHAPTER J—RADIOLOGICAL HEALTH

PART 1003—NOTIFICATION OF DEFECTS OR FAILURE TO COMPLY

17. Part 1003 is amended in § 1003.31 by revising paragraph (b) to read as follows:

§ 1003.31 Granting the exemption.

* * * * *

(b) Such views and evidence shall be confined to matters relevant to whether the defect in the product or its failure to comply with an applicable Federal standard would create a significant risk to injury, including genetic injury, to any person and shall be presented in writing unless the Secretary determines that an oral presentation is desirable. When such evidence includes clinical investigations involving human subjects, the data submitted shall include, with respect to each clinical investigation, a statement that each investigation was conducted in compliance with the requirements set forth in Part 50 of this chapter.

* * * * *

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

18. Part 1010 is amended:

a. In § 1010.4 by adding new paragraph (b)(1)(xii) to read as follows:

§ 1010.4 Variances.

* * * * *

(b) * * *

(1) * * *

(xii) If the electronic product is used in a clinical investigation involving human subjects and is subject to the requirements for informed consent set forth in Part 50 of this chapter, the investigation shall be conducted in compliance with such requirements.

* * * * *

b. In § 1010.5 by revising paragraph (c)(12) to read as follows:

§ 1010.5 Exemptions for products intended for United States Government use.

* * * * *

(c) * * *

(12) Such other information required by regulation or by the Director, Bureau of Radiological Health, to evaluate and act on the application. Where such information includes nonclinical laboratory studies, the information shall include, with respect to each nonclinical study, either a statement that each study was conducted in compliance with the requirements set forth in part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a statement that describes in detail all differences between the practices used in the study and those required in the regulations. When such information includes clinical investigations involving human subjects, the information shall include, with respect to each clinical investigation, a statement that each investigation was conducted in compliance with the requirements set forth in Part 50 of this chapter.

* * * * *

Interested persons may, on or before November 12, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Note.—In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: August 6, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79–24787 Filed 8–13–79; 8:45 am]

BILLING CODE 4110–03–M

federal register

Tuesday
August 14, 1979

Part III

Department of Health, Education, and Welfare

Office of the Secretary

Protection of Human Subjects of Biomedical and Behavioral Research

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Protection of Human Subjects of Biomedical and Behavioral Research

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of Report and Recommendations for Public Comments.

SUMMARY: The following Report and Recommendations: HEW Support of Fetoscopy was prepared by the HEW Ethics Advisory Board in response to Secretary Califano's memorandum of August 24, 1978, requesting that the Board review a grant application for support of research designed to assess the safety of fetoscopy as a technique for prenatal diagnosis. The application was submitted by the Charles R. Drew Postgraduate Medical School (Dr. Ezra R. Davidson, Jr., principal investigator). Because the proposed research involves a possible risk to fetuses, the application may not be funded by the Department unless certain provisions of the human subject regulations are waived (Part 46 of 45 CFR, Subtitle A, Subpart B). The Secretary is authorized to grant such waivers provided that the EAB has reviewed and approved the research proposal. In the attached Report and Recommendations: HEW Support of Fetoscopy, the Board has taken two actions: (1) The Ethics Advisory Board approves the requested waivers for the research application under review, and (2) The Ethics Advisory Board recommends that similar waivers be granted for subsequent applications for Departmental support of research involving fetoscopy, without review by the Board, provided that certain conditions are met.

DATES: The Secretary invites comment on the Fetoscopy Report. The comment period will close October 15, 1979.

ADDRESS: Please send comments or requests for additional information to: F. William Dommel, Jr., J.D., Assistant Director for Regulations, Office for Protection from Research Risks, National Institutes of Health, 5333 Westbard Avenue, Room 3A–17, Bethesda, Maryland 20205, telephone: (301) 496–7163, where all comments received will be available for inspection weekdays (Federal holidays excepted) between the hours of 9 a.m. and 4:30 p.m.

Dated: August 2, 1979.

Julius B. Richmond,

Assistant Secretary for Health and Surgeon General.

Approved: August 2, 1979.

Joseph A. Califano, Jr.,

Secretary.

Ethics Advisory Board

Department of Health, Education, and Welfare
Report and Recommendations: HEW Support of Fetoscopy
February 23, 1979.
Ethics Advisory Board
Chairman: James C. Gaither, J.D.
Vice Chairman: David A. Hamburg, M.D.
Sisselaa Bok, Ph.D., Lecturer in Medical Ethics, Harvard University.
Jack T. Conway, Senior Vice President, United Way of America, Washington, D.C.
Henry W. Foster, M.D., Professor and Chairman, Department of Obstetrics and Gynecology, Meharry Medical College.
James C. Gaither, J.D., Cooley, Godward, Castro, Huddleson and Tatum, San Francisco, California.
David A. Hamburg, M.D., President, Institute of Medicine, National Academy of Sciences, Washington, D.C.
Donald A. Henderson, M.D., Dean, School of Hygiene and Public Health, Johns Hopkins University.
Maurice Lazarus, Chairman, Finance Committee, Federated Department Stores, Inc., Boston, Massachusetts.
Richard A. McCormick, S.T.D., Professor of Christian Ethics, Kennedy Institute for the Study of Reproduction and Bioethics, Georgetown University.
Robert F. Murray, M.D., Chief, Division of Medical Genetics, College of Medicine, Howard University.
Mitchell W. Spellman, M.D., Dean for Medical Services and Professor of Surgery, Harvard Medical School.
Daniel C. Tosterson, M.D., Dean, Medical School, Harvard University.
Agnes N. Williams, LL.B., Potomac, Maryland.
Eugene M. Zweiback, M.D., Surgeon in Private Practice, Omaha, Nebraska.

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Haig Kazazian, Jr., M.D., Professor of Pediatrics, Johns Hopkins Hospital.

Student Assistants
Jose Pertierra, M.S. Ray Moseley, M.A.

Report and Recommendations: HEW Support of Fetoscopy

Background

The Charles R. Drew Postgraduate Medical School has applied for HEW support of research designed to assess the safety of fetoscopy[1] as a technique for prenatal diagnosis. Because the investigators intend to perform fetoscopy and fetal blood sampling on fetuses whose mothers have elected to undergo abortion for reasons unrelated to the research, certain provisions of the applicable HEW regulations must be waived if the project is to receive HEW funds. Such waivers may be granted by the Secretary, on the advice of the Ethics Advisory Board, following appropriate review by the Board.

In a memorandum dated August 24, 1978, you forwarded the Drew application to the EAB for review. Two expert independent assessments of the risks and benefits of the proposed research were obtained for the Board (Tabs A and B) and a full discussion of the issues occurred at the Board's regularly scheduled meeting on November 10, 1978 in Seattle. Subsequently, the principal investigator, Dr. Ezra Davidson, was given an opportunity to respond to several questions raised during that discussion (Tab E); his letter dated January 12, 1979 (Tab F) is considered to be fully responsive. The Committee for the Protection of Human Rights at the Martin Luther King, Jr. General Hospital/Charles R. Drew Postgraduate Medical School reviewed the proposed revisions incorporated in Dr. Davidson's letter of January 12, and reaffirmed its support of the proposal on January 17, 1979. (Tab G)

For the reasons set forth below, the Ethics Advisory Board approves the necessary waivers. The Board also recommends that any subsequent applications involving fetoscopy may be approved by HEW without further review by the EAB, so long as they conform to all applicable provisions of HEW regulations (45 CFR 46) with the exception of those specifically waived for the Drew proposal.

Provisions to be Waived

Approval of the Drew application requires waiver of certain provisions of sections 46.206(a), 46.207(a) and

[1] Fetoscopy provides a means of obtaining a small sample of fetal blood from the placenta through a fetoscope (a hollow tube inserted through the abdomen into the uterus, through which the fetus and placenta can be visualized). The proposed procedure would require use of a 25 to 27 gauge needle on the scope to puncture a vessel and withdraw 10 microliters of fetal blood.

46.208(a) of HEW regulations governing research on the human fetus (Subpart B of 45 CFR 46). The provisions, taken together, restrict HEW support of research on pregnant women or the fetus *in utero* to: (1) activities designed to meet the health needs of the mother or to benefit the particular fetus involved in the research, or (2) activities presenting no more than minimal risk to the fetus and designed to obtain important knowledge which cannot be obtained by other means.[2] The Drew proposal is not designed to meet the health needs of either the mothers or the fetuses participating in the research; thus, it can be approved under the regulations only if the risk to the fetus is no more than minimal or alternatively, if the Secretary, on the advice of the EAB, determines that the benefits to be derived from the research justify the risk involved.

The regulations also prohibit research personnel from taking part in decisions regarding the timing of abortions and prohibit the introduction, for research purposes, of procedural changes in the abortion process that would increase the risk to the mother or the fetus. (Sections 46.206(a)(3)(i) and (4)).

Assessment of risk

The HEW regulations do not define "minimal risk." However, since the Department's regulations implement the recommendations of the National Commission for the Protection of Human Subjects, the intent of the Commission may serve as a guide for interpretation of the regulatory provision. The Commission recognized that "minimal risk" involves a value judgment, but it offered the suggestion that no procedure be performed on a fetus-to-be-aborted unless that procedure would be acceptable for a fetus-going-to-term. The Commission's rationale was that a mother's decision for abortion does not, *per se*, change the status of the fetus for purposes of protection, and that no risk should be imposed in anticipation of abortion that would affect the mother's freedom to change her mind.

To assure that no undue risk is presented to a fetus that might be viable following abortion, the Commission recommended that no modifications of timing be made for research purposes that would result in the performance of an abortion after 20 weeks gestational age or that would impose any additional risk.[3] In this regard, it was noted that the Drew application would involve fetuses between 16 and 20 weeks gestational age and could, in the later stages of the study, delay abortion for two week following fetoscopy.

Applying these considerations to the application under review, it appears that since the purpose of the proposed research is to determine the risk (to both mother and fetus) from fetoscopy, the risk should be considered "undetermined" although it is expected to be no more than minimal. Nevertheless, inasmuch as fetoscopy has been applied as a diagnostic tool to fetuses going to term (see review by Dr. Alexander), the risk involved meets the Commission's criterion of acceptability as measured by willingness to perform the procedure on fetuses not intended to be aborted.

Justification of Risk

The Drew proposal had undergone six reviews prior to submission to the EAB. These included scientific and technical review (by the NIH study section, NIH staff, and the site visit team) and community review (by the appropriate IRB, the Community Advisory Board for the King-Drew Sickle Cell Center, and an NIH National Advisory Council). The EAB requested two additional, independent reviews by physician investigators familiar with the problems and purposes of prenatal diagnosis; Drs. Duane Alexander and Haig Kazazian, like the preceding reviewers, both endorsed approval of the application for funding. (Tabs A and B)

The basis for the consensus in favor of the research proposal is that the benefits to be gained from the study clearly outweight the apparent risks to mother and fetus. The most serious risks appear to be those of infection in the mother, and of premature abortion, for the fetus. The anticipated benefits are the development of a diagnostic technique that will improve the ability to detect genetic abnormalities prenatally and may also lead to methods for prenatal treatment of certain disorders. The result will be a saving of fetuses that might otherwise be aborted (because parents may choose to terminate a pregnancy unless they can be assured that a particular fetus is not affected by a disorder for which it is at risk). Improvement of techniques for prenatal diagnosis will broaden the opportunity for informed choice by parents as to whether or not to continue a pregnancy to term.

After Drs. Alexander and Kazazian had submitted their evaluations of the fetoscopy proposal, an article appeared in the *Washington Post* indicating that Yuet Wai Kan and Andree M. Dozy at the University of California had reported, in *Lancet*, a new method for detecting sickle cell disease through amniocentesis. The *Lancet* article (Tab C) was unavailable at the time of the Board's November meeting; however, the information that was available raised new questions regarding the Drew application, since amniocentesis carries less risk than does fetoscopy. Specifically, the Board wondered:

1. Whether fetoscopy should still be developed as a method of diagnosing sickle cell disease prenatally, for patients to whom the amniocentesis method is not applicable; or

2. Whether fetoscopy should be developed primarily as a method of prenatal diagnosis for disorders other than sickle cell disease; and

3. If so, whether the Drew Center, with its predominantly black subject population, is still an appropriate place to conduct such research.

Following the November meetings, Drs. Alexander and Kazazian were asked to comment on the effect of the amniocentesis work on their risk/benefit assessments of the Drew proposal. Both concluded that the fetoscopy research continues to be important to develop a diagnostic technique for the 30–40% of black fetuses at risk for sickle cell disease for whom the amniocentesis method would not be useful. (Tab D) Further, they noted that the amniocentesis approach is still in the early stages of development; the effectiveness of this new diagnostic tool has not yet been established.

Dr. Davidson, the principal investigator at Drew Medical School, was invited to respond to a series of questions raised by the EAB in their discussion. (Tab E) In addition to the issues discussed above regarding the effect of Kan and Dozy's amniocentesis work, the questions included:

1. Uncertainty regarding the current capability of diagnosing sickle cell disease prior to 30 gestational weeks;

2. Concern about the possibility of delaying abortions past 20 gestational weeks for purposes of the research;

3. Lack of clarity in the consent forms regarding the risk of fetoscopy (which it is the purpose of the research to establish); and

4. Uncertainty regarding the length of time it is planned to leave a catheter in the mothers following fetoscopy.

[2] Other provisions within the designated sections require paternal consent, in addition to consent of the mother, unless: (a) the father's identity is unknown, (b) he is incompetent or not reasonably available, or (c) the pregnancy resulted from rape. The investigators have not requested a waiver of this requirement.

[3] See National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, *Report and Recommendations: Research on the Fetus*, May 21, 1975, Deliberations and Conclusions, sections C(4) and (H), and Recommendation 6.

Dr. Davidson provided satisfactory responses to all issues raised by the Board. (Tab F) He provided: (1) documentation for the assertion that sickle cell disease can be diagnosed in fetuses as early as 9 weeks; (2) assurance that no abortions will be performed on any fetus beyond 20 weeks gestational age; (3) assurance that no catheter will be left in place longer than 24 hours following fetoscopy; and (4) a revised consent form that reflects the Board's concern that the risks be characterized as "undetermined."

The Committee for the Protection of Human Rights at the Drew Postgraduate Medical School subsequently reviewed Dr. Davidson's reponses to the Board's concerns and reaffirmed its support of the research application. (Tab G)

Based on the foregoing considerations, the Ethics Advisory Board: 1. Approves the waiver of §§ 46.206(a)(2), (3)(i), 46.207(a) and 46.208(a) of HEW regulations governing research involving the human fetus (Subpart B of 45 CFR 46) for the fetoscopy research proposed by the Charles R. Drew Postgraduate Medical School (Application No. 1 P60 HL 23282–01; and

2. Recommends that fetoscopy, as an experimental diagnostic procedure, be deemed acceptable for HEW support and conduct so long as the research in which it is contained meets all regulatory requirements (*e.g.*, completion of animal work, risks justified by benefits, appropriate selection of subjects, fulfillment of consent provisions, and no changes in the abortion timing or procedures that would increase risk to mother or fetus beyond the risk associated with fetoscopy and fetal blood sampling). Special precautions should be taken to assure that prospective subjects understand that the provision of health services to which they are entitled will in no way be affected by their decision regarding participation in the research. Moreover, no women should be asked to participate as subjects if participation would require that their abortion be delayed more than a few days (*e.g.*, if they present themselves for abortion at 12–14 weeks gestation, and fetoscopy cannot be performed safely until the 16th-18th week). Such delays are likely to impose psychological or social stress, if not additional medical risk. In no event should abortions be performed in such research later than the 20th gestational week.

[FR Doc. 79-24977 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-08-M

Protection of Human Subjects of Biomedical and Behavioral Research

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of waiver granted for HEW support of fetoscopy.

SUMMARY: On August 24, 1978, Secretary Califano requested that the HEW Ethics Advisory Board (EAB) review a grant application for support of research designed to assess the safety of fetoscopy as a technique for prenatal diagnosis. The application was submitted by the Charles R. Drew Postgraduate Medical School. Because the proposed research involves a possible risk to fetuses, the application may not be funded by the Department unless certain provisions of the human subject regulations are waived (Part 46 of 45 CFR, Subtitle A, Subpart B). The Secretary is authorized to grant such waivers provided that the EAB has reviewed and approved the research proposal. In the EAB *Report and Recommendations: HEW Support of Fetoscopy*, which is published separately in this issue of the **Federal Register**, the Board approved the waiver for the research application under review. As authorized by the regulations, this waiver is hereby published as a notice in the **Federal Register.**

ACTION: On August 2, 1979, the Secretary took the following action:

I hereby waive §§ 46.206(a)(2), 46.206(a)(3)(i), 46.207(a) and 46.208(a) of the HEW regulations governing research involving the human fetus (Subpart B of 45 CFR 46) for the fetoscopy research proposed by the Charles R. Drew Postgraduate Medical School (Application No. 1P60 HL 23282–01).

Effective date: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: F. William Dommel, Jr., J.D., Assistant Director for Regulations, Office for Protection from Research Risks, National Institutes of Health, 5333 Westbard Avenue, Room 3A17, Bethesda, Maryland 20205, telephone: (301) 496–7005.

Dated: August 2, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

[FR Doc. 79-24978 Filed 8-13-79; 8:45 am]

BILLING CODE 4110-08-M

federal register

Tuesday
August 14, 1979

Part IV

Department of Energy

Improving Government Regulations

Status Report on Implementation of Executive Order 12044 and Notice of 11 New Regulatory Reform Initiatives

DEPARTMENT OF ENERGY

[10 CFR Chapters II, III, and X]

Improving Government Regulations; Status Report

AGENCY: Department of Energy.

ACTION: Status Report on DOE's Implementation of Executive Order 12044 "Improving Government Regulations" (Executive Order) and DOE's 31 regulatory reform initiatives, and notice of DOE's plan for 11 new regulatory reform initiatives during the remainder of FY 1979.

SUMMARY: The Department of Energy has made a firm commitment to the goal of reducing regulatory burdens on producers and consumers of energy. DOE established a Regulatory Reform Task Force on January 31, 1978, published its proposed response to Executive Order 12044 on May 1, 1978 (43 FR 18634), held four public meetings on the subject, and published its final response to the Executive Order on January 3, 1979 (44 FR 1032).

This notice discusses the Department of Energy's experience with the Executive Order over the last 12 months, and it reviews the status of the 31 regulatory reform initiatives announced in the May 1 and January 3 notices.

Additionally, DOE has prepared an agenda of 11 new reform initiatives for the second half of FY 1979, based on suggestions made by the DOE staff. In part, these suggestions resulted from a series of workshops which were held with representatives of public interest groups, small businesses, major energy concerns, and state and local governments to discuss regulatory reform issues. We expect that this agenda, along with DOE's continuing implementation of the Executive Order, will contribute substantially to the Department's ability to implement national energy policy concientiously, effectively, with full public participation, and without imposing unnecessary burdens.

DATES: The status reports are current as of June 15, 1979, and the new initiatives will be pursued throughout the remainder of the 1979 Fiscal Year (through September 30, 1979).

FOR FURTHER INFORMATION CONTACT: William A. Strauss, Director, Regulatory Programs Division, Office of Policy and Evaluation, Department of Energy, Room 7A–097, Forrestal Bldg., Washington, D.C. 20585, (202) 252–5340.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Report on DOE's Progress in Implementing Executive Order 12044 and DOE Order 2030.
III. Status Report on Regulatory Reform Initiatives Announced on May 1, 1978.
IV. Status Report on Regulatory Reform Initiatives Announced on January 3, 1979.
V. New Regulatory Reform Initiatives.
VI. Comments Requested.
VII. Next Status Report.

I. Background

In January of 1978, DOE formed a special Regulatory Reform Task Force, composed of DOE Assistant Secretaries, Administrators, and Office Directors. The Task Force, charged with the task of reviewing the full scope of regulatory strategy within the Department, was instructed by its Chairman, Deputy Secretary John O'Leary, to review carefully the need for existing regulations and to ensure that future regulations are properly developed and implemented. Then, on March 24, 1978, the President issued Executive Order 12044, "Improving Government Regulations." The Executive Order called upon all Federal agencies to reduce regulatory burdens imposed upon the American public, to write regulations more clearly, and to seek ways to involve the public more in the regulatory process.

One of the first actions of the Regulatory Reform Task Force was to identify a list of 15 reform initiatives which DOE published in the **Federal Register** on May 1, 1978. In the same notice, an Interim Management Directive (replaced by DOE Order 2030) was published incorporating the requirements of the Executive Order in all DOE rulemaking procedures. In addition to seeking public comment on these matters, DOE solicited suggestions for possible future reforms.

The Department conducted four regional public meetings beginning in June, 1978, to give officials of DOE and members of the public an opportunity to discuss the reform issues presented in the **Federal Register** notice, as well as any other concerns about DOE regulatory problems. Approximately 150 written comments were also received in response to the May 1, 1978, **Federal Register** notice. From the public meetings and the written comments, the Regulatory Reform Task Force revised DOE's procedures for developing new regulations, and identified 16 more regulatory reform initiatives. On January 3, 1979, DOE published its final regulatory procedures (DOE Order 2030) and the 16 new reform initiatives. Since that date, the DOE staff has held workshops with ten of the approximately 200 organizations which had earlier submitted either oral or written comments on regulatory reform issues. The purpose of these workshops was to obtain an in-depth view of how DOE regulations affect a cross-section of the Department's constituents, such as public interest groups, state and local government officials, and managers of large and small businesses. Aided by these conversations, and by a full year of experience in implementing the Executive Order, the DOE staff has identified 11 reform initiatives in addition to the 31 already published for the Department to pursue during the remainder of this fiscal year (through September 30, 1979).

II. Report on DOE's Progress in Implementing Executive Order 12044 and DOE Order 2030

The Department of Energy is making a substantial effort to carry out the principles of Executive Order 12044. The Department was the first Cabinet-level agency to publish new regulatory development procedures in response to the Executive Order, and has over one year of experience in carrying out those procedures. In this Notice, DOE summarizes what it is doing to implement each of the six major sections of the Executive Order.

Section 1: Policy. A staff unit, the Regulatory Programs Division, was established in the Office of Policy and Evaluation in early 1978 to ensure that new energy regulations are well-drafted, achieve legislative goals effectively, and impose no unnecessary burdens. In addition, DOE has begun to integrate its regulatory planning with its legislative and budgetary planning, in an effort to ensure that the legislative and budgetary implications of energy regulations are fully addressed.

Section 2: Reform of the Process for Developing Significant Regulations. In DOE Order 2030, published on January 3, 1979, the Department committed itself to new procedures for developing regulations more stringent than those mandated by the Executive Order. A test for "non-significance" was used in place of one for significance, reflecting the Department's sense that almost all of its regulatory actions have important effects on producers and consumers of energy. Except for emergency actions and other unusual circumstances (a very short Congressional deadline, for example), the Department now provides the public with a 60-day comment period for every regulation. In the past twelve months, DOE has held 94 public meetings on regulatory issues, many of them on matters pertaining to the

National Energy Act. DOE has published two semi-annual regulatory agendas, plus a supplemental agenda for National Energy Act regulations, and a more detailed account of eleven major regulations as part of the United States Regulatory Council's first semi-annual calendar.

Section 3: Regulatory Analysis. In DOE's recent semi-annual regulatory agenda, roughly one-third of the 126 listed items had regulatory analyses either completed (20) or in progress (21). Decisions have not yet been made as to whether another 18 should have analyses prepared. Because of the large number of energy regulations requiring these analyses, DOE plans to take several actions to ensure that suffcient resources are applied to this task, and that the analyses are of sufficient quality to be instrumental in regulatory decisions.

Section 4: Review of Existing Regulations. In DOE's January 3, 1979, **Federal Register** Notice, the Department committed itself to republishing all new regulations within five years of their initial publication, to learn what effects they are having and to consider whether any regulatory provisions should be discontinued or changed. In addition, the Department promised to republish, for the same purpose, all existing regulations by September 30, 1983. In this notice, the Department is announcing plans to set a schedule for republishing all regulations which are not due to expire by September 30, 1983.

Through its 31 previously announced and 11 new regulatory reform initiatives, the Department is trying to address a number of regulations or regulatory procedures which are causing immediate problems.

Section 5: Implementation. DOE's May 1, 1978, and January 3, 1979, **Federal Register** Notices on regulatory reform satisfied the implementation requirements of the Executive Order. As requested by the Office of Management and Budget, the Department will periodically report on its experience with the Executive Order.

Section 6: Coverage. By including procurement regulations in the coverage of DOE Order 2030, DOE has extended the requirements of its new regulatory development procedures beyond the Executive Order's minimum coverage requirements. Some of the Department's regulations have been issued in response to either an emergency or short-term, statutory or judicial deadlines, and have therefore required waivers from the requirements of the Executive Order. The Department is attempting to keep these cases to a minimum.

III. Status Report on Regulatory Reform Initiatives Announced on May 1, 1978

Economic Regulatory Administration (ERA)

1. Development of Options: Study of Possible Decontrol of Butane, Natural Gasoline, Jet Fuel, and Aviation Gasoline.

Proposed by: Department of Energy.

DOE Action At Last Report: The preliminary regulatory analysis necessary for consideration of deregulation of butane and natural gasoline is being prepared. Deregulation of Kerosene-base jet aviation fuel and aviation gasoline have been the subject of public hearings and panel meetings at DOE and the Federal Energy Regulatory Commission (FERC). The FERC has concurred in the deregulation recommendations but submission of the final deregulation actions to Congress for its review is still pending.

DOE Action to Date: The Eonomic Regulatory Administration issued a proposed rule on March 28, 1979 to exempt butane and natural gasoline from the Mandatory Petroleum Allocation and Price Regulations. The final rule is under consideration and will probably be issued this summer. Jet fuel and aviation gasoline became exempt from the Mandatory Petroleum Allocation and Price Regulations at midnight February 25, 1979.

For Further Information Contact: Roger Miller—(202) 632–4967 (Butane and Natural Gasoline); Bill Caldwell—(202) 254–8034 (Jet Fuel and Aviation Gasoline).

2. Simplification of Oil Pricing Regulations.

Proposed by: Department of Energy.

DOE Action At Last Report: The Economic Regulatory Administration will review and analyze the public comments from an earlier notice of inquiry on a simplified crude oil pricing system and perform a regulatory analysis of the economic and social impacts involved. The review will address possible alternatives to the present regulatory system, including an entitlements-drive price control program and the imposition of entitlements obligations on the first purchaser of crude oil. A notice of proposed rulemaking on the first phase of a simplified crude oil pricing system is expected to be published in the near future.

DOE Action to Date: The Economic Regulatory Administration reviewed crude oil pricing regulations to see if an expanded entitlements system could be used to control domestic crude oil prices in place of the current ceiling price mechanism. The draft rule was issued on January 19, 1979. Hearings were held on March 8 and 13, 1979. On April 5, 1979, President Carter announced that beginning June 1, 1979 price controls on crude oil will be phased out by October 1981.

For Further Information Contact: Dan Thomas—(202) 254–7477.

3. Review of Crude Oil Supplier/Purchaser Relationship To Assess Competitive Effects and Regulatory Impacts.

Proposed by: Department of Energy.

DOE Action At Last Report: The Department of Energy staff is currently examining the need for reconsideration of the supplier/purchaser rule. The staff will address the basic purpose of the rule, possible changes that might be made in connection with changes in the crude oil pricing system described above, and implementation issues associated with these changes.

DOE Action to Date: The Economic Regulatory Administration is reviewing crude oil supplier/purchaser relationships to assess the need for continuation of the crude oil supplier/purchaser rule. A draft regulatory analysis is being prepared.

For Further Information Contact: Gerald Emmer—(202) 254–7200.

4. Revision of the Mandatory Oil Import Program.

Proposed by: Department of Energy.

DOE Action At Last Report: ERA has under review the possible simplification of this program. Some changes in this respect have already been made in a proclamation issued by the President on December 8, 1978. Some additional simplification actions may depend upon the outcome of Congressional and administrative actions and studies regarding protection of the domestic refining industry and incentives to expand and improve its capacity.

DOE Action to Date: ERA is responsible for revision of the Mandatory Oil Import Program to remove crude oil import fees and eliminate fee-free import licenses. Further decisions on this initiative will be made in conjunction with refinery policy initiatives and crude oil pricing initiatives.

For Further Information Contact: Dan Thomas—(202) 254–7477.

5. Revision of Regulations on Energy Import and Export Procedures for Natural Gas and Liquified Natural Gas.

Proposed by: Department of Energy.

DOE Action At Last Report: The final rule on one aspect of this initiative—*ex*

parte communications during adjudicatory proceedings—was published in the Federal Register on September 1, 1978. That rulemaking revised procedures formerly used by the Federal Power Commission, making them more flexible and more appropriate in the context of an executive department. ERA is continuing revisions of the other aspects of import and export procedures to improve the decision making process. An advance notice of proposed rulemaking is expected to be published in 1979.

DOE Action to Date: ERA is preparing a draft rule to be issued in 1979. No regulatory analysis will be prepared because of the entirely procedural nature of the rule.

For Further Information Contact: Lynne Church—(202) 632–4721.

6. Revision of Enforcement Audit Policy for Small Firms.

Proposed by: Department of Energy.

DOE Action At Last Report: On June 27, 1978, ERA published a notice in the Federal Register outlining future enforcement audit procedures for resellers of propane. These procedures reduce the regulatory burden on small firms by reducing recordkeeping requirements and liability periods for nonwillful violations of the regulations.

DOE Action to Date: Work on this action has been completed as noted above.

For Further Information Contact: Phil White—(202) 254–3426.

7. Development of Transfer Pricing Policies.

Proposed by: Department of Energy.

DOE Action At Last Report: Revision of the transfer pricing regulations is being examined. Consideration is being given to simplifying the program and transferring it to the Energy Information Administration as an information program to assist policymaking.

DOE Action to Date: Work on this action has been completed. The Economic Regulatory Administration has reviewed the transfer pricing program, and has found a continuing need for the program. Therefore, ERA currently believes no action should be taken with respect to this program in the near future, and an Information Memorandum to this effect has been sent to the Deputy Secretary by the ERA Administrator.

For Further Information Contact: Dan Thomas—(202) 254–7477.

8. Publication of Proposed Reporting Forms With ERA's Proposed Regulations Whenever They Involve Collection of Information From 10 or More People.

Proposed by: Department of Energy.

DOE Action At Last Report: ERA will publish, to the extent possible, draft reporting forms with its proposed regulations in order to obtain comments on both at the same time. A public policy statement by the energy Information Administration supporting this initiative and extending it to all of DOE will be published in FY 1979.

DOE Action to Date: This action was combined with the policy statement on reducing reporting burdens which was published by the Energy Information Administration on May 10, 1979 as a separate regulatory reform initiative.

For Further Information Contact: Scott Bush—(202) 254–8675.

Office of Intergovernmental and Institutional Relations

9. Development of a Plan To Increase Public Participation in Regulatory Processes and Publication of a DOE Pamphlet Explaining Those Procedures.

Proposed by: Department of Energy.

DOE Action At Last Report: (1) The Office of Intergovernmental and Institutional Relations has drafted a plan for increasing public input in regulatory development. Many features in the plan were extracted from comments of Governors, Mayors, regulated industries, and consumer groups. The plan included policies for mailing, the publication of hearing agendas, and a variety of other means by which the public can get involved sooner in DOE rulemakings. (2) A pamphlet will be published in 1979, describing DOE's regulatory processes and opportunities for the public to participate in them.

DOE Action to Date: Guidelines for citizen involvement in the Regulatory Development process are currently being developed and are scheduled to be published in the near future. The pamphlet is now being developed and will be published later this year.

For Further Information Contact: John Sullivan—(202) 252–6446 (Pamphlet); Liz Overstreet—(202) 252–5877 (Public Participation Plan).

Procurement and Contracts Management Directorate

10. Preparation of a DOE Procurement Guide.

Proposed by: Department of Energy.

DOE Action At Last Report: The Procurement Office has completed and printed the new procurement guide. Fifty thousand copies will be distributed to Congressional offices, DOE program offices, the Regional Representatives throughout the country, and procurement field offices. The 30-page guide describes the entire procurement process, the DOE organization, and the names of appropriate contacts for prospective contractors.

DOE Action to Date: This action has been completed. The procurement guide, entitled "Introduction to DOE Procurement" (August, 1978), was designed to educate people on the procurement process and the DOE organization.

For Further Information Contact: Colonel C. Armstrong—(202) 376–9195.

Office of Resource Applications

11. Streamlining of the Geothermal Loan Guarantee Program Application Process.

Proposed by: Department of Energy.

DOE Action At Last Report: Proposed regulations to implement amendments enacted in Public Law 95–238 to improve the marketability and management of the Geothermal Loan Guarantee Program were published in the Federal Register on January 5, 1979.

DOE Action to Date: Final regulations to streamline the Geothermal Loan Guarantee Program will be published by September 1979. These will make further refinements, taking into account public comments made on the draft regulations published in January 1979.

For Further Information Contact: Larry Falick (202) 633–8106.

12. Development of Uniform Procedures for Public Participation in Power Marketing Administration Rulemakings.

Proposed by: Department of Energy.

DOE Action At Last Report: Draft regulations will be issued in mid-1979, detailing uniform procedures for ratemaking by the Power Marketing Administration, including ample opportunity for public participation.

DOE Action to Date: The Office of Resource Applications is developing uniform procedures for public participation in Power Marketing Administration rulemakings. These procedures will be applied in making power rate adjustments. A draft rule on this subject will be published in the Federal Register.

For Further Information Contact: Jim Braxdale (202) 633–8338.

Energy Information Administration

13. Consolidation of Energy Data Systems.

Proposed by: Department of Energy.

DOE Action At Last Report: This initiative will be implemented over a period lasting as long as two years. The Energy Information Administration has completed the first phase of this initiative resulting in 14 proposals for condolidation or elimination of energy

data forms or groups of forms. Of the 14 proposals, 5 have led to actions, resulting in the eliminations of 5 energy forms. Of the remaining proposals, 7 are scheduled for action before the end of FY 1979, and two are ongoing projections requiring more study. Special emphasis has been placed on the reduction of reporting burdens for the public and on the justification for data collection by the DOE program offices. The FY 1978 program has resulted in approximately a 24 percent reduction in reporting burden. For FY 1979, a 5 percent reduction goal has been established for existing reporting requirements.

DOE Action to Date: Work on this initiative has been completed. Upon disposition of the 14 initial consolidation proposals, procedures for system consolidation were incorporated into the procedures for developing and operating EIA energy data systems.

For Further Information Contact: Connie Dutcher (202) 633–9575.

14. Element-by-Element Data Justification.

Proposed by: Department of Energy.

DOE Action At Last Report: The Energy Information Administration is currently developing procedures for requiring program offices to justify their collection of information from the public. These justification procedures are being implemented as part of DOE's overall forms and reports clearance process.

DOE Action to Date: As part of DOE's overall forms and reports clearance process, the Energy Information Administration has developed procedures requiring all program offices to justify their collection of information from the public. As each new reporting requirement is proposed, or as each request is made to extend existing requirements, the EIA staff reviews the overall project design, including the justification for public use until all justification criteria are satisfied. Procedures establishing the element-by-element justification requirement were issued on September 15, 1978. Therefore, work on this initiative has been completed.

For Fuirther Information Contact: Carrol B. Kindel (202) 252–5199.

Office of General Counsel

15. Preparation of Clear and Concise Preambles in All Proposed and Final Regulations.

Proposed by: Department of Energy.

DOE Action At Last Report: DOE's Order on developing regulations requires that preambles be reviewed carefully by lead offices and the General Counsel before regulations are published to ensure that they are as clearly written as possible.

DOE Action to Date: This action has been completed. DOE's internal order on developing regulations requires that each preamble be reviewed carefully by the office developing the regulation and by the Office of General Counsel before it is published, to ensure that it is clearly written.

For Further Information Contact: Michele Corash (202) 252–6732.

IV—Status Report on Regulatory Reform Initiatives Announced on January 3, 1979

Office of Policy and Evaluation

1. Development of New Mechanisms for Increasing Public Participation.

Proposed by: Common Cause.

DOE Action Promised: The Department initiated public participation in the National Energy Plan with a public meeting on November 6, 1978, to discuss the scope of environmental issues in the Plan. The Department will hold a series of hearings and seminars to obtain public comments on the contents of the second National Energy Plan. Also, the Office of Policy and Evaluation will develop suggestions for new mechanisms for increasing public participation in the development of energy policy.

DOE Action to Date: The Department of Energy held six public hearings to receive the public's comments as to what should be included in the second National Energy Plan, which will include an appendix on public participation to be published later this year. The Office of Policy and Evaluation reviewed over 100 written comments concerning the Plan.

Also, DOE held hearings and involved the public in other ways during the course of the sixty-day coal study announced by the President in his recent energy address.

The Office of Policy and Evaluation is considering new mechanisms for increasing public participation in the Department's policy formulation process. A memorandum on this subject was recently submitted to the Assistant Secretary for Policy and Evaluation. Therefore, work on this initiative has been completed.

For Further Information Contact: William Strauss—(202) 252–5340.

Office of Hearings and Appeals

2. Publication of Final Exceptions Regulations.

Proposed by: Champlin Petroleum, Exxon, McCulloch Gas Processing Corporation, and Mobil Oil.

DOE Action Promised: The Office of Hearings and Appeals will publish final rules of procedure. In doing so, they will take into consideration public comments that were made in the course of the regulatory reform meetings, as well as those received on the proposed procedures.

DOE Action to Date: This action has been completed. Procedures were issued and became effective on an interim basis on September 14, 1977. On March 14, 1979, the Office of Hearings and Appeals issued final procedural rules for exception applications. The final rules were developed from public comments and from DOE's experience in administrating the interim procedures.

For Further Information Contact: Peter Bloch—(202) 254–8606.

Economic Regulatory Administration

3. Preparation of Further Amendments to Subpart K of the Mandatory Petroleum Price Regulations.

Proposed by: CONOCO, National LP Gas Producers, and Standard Oil (Indiana).

DOE Action Promised: DOE will consider whether there are other issues relating to the pricing of natural gas liquids that may need to be resolved. If appropriate, DOE will issue either a notice of inquiry or a notice of proposed rulemaking concerning further amendments to Subpart K over the next year. The time required to implement any new rules on these issues would depend upon comments received from the public, the status of product decontrol actions, and other regulatory priorities.

DOE Action to Date: The Economic Regulatory Administration intends to prepare further amendments to Subpart K. At that time, it will consider whether other issues pertaining to the pricing of natural gas liquids need to be resolved. Decisions on these matters will depend in part on decontrol actions taken with respect to propane, butane, and natural gasoline.

For Further Information Contact: Roger Miller—(202) 632–4967.

4. Preparation of Amendments to Propane Retailers' Non-Product Cost Regulations.

Proposed by: National LP Gas Producers.

DOE Action Promised: A proposed rule may be issued by September 30, 1979. A final rule may be issued thereafter, depending upon the comments received and the perceived impact of the rule.

DOE Action to Date: The Economic Regulatory Administration issued a proposed rule on June 29, 1979.

For Further Information Contact: Roger Miller—(202) 632–4967.

5. Removal of all Biases or Special Treatment From the Entitlements Program.

Proposed by: Standard Oil (Indiana) and numerous other parties.

DOE Action Promised: Proposals for modifying the small refiner bias were published in November 1978. Further actions will be based on ongoing analysis and on public comments received.

DOE Action to Date: A final rule was issued on May 2, 1979. Work on this initiative has been completed.

For Further Information Contact: Mary B. Jones—(202) 632–5233.

6. Determination Whether Propane Should be Decontrolled.

Proposed by: Ohio LP Gas Association, National LP Gas Association, Indiana LP Gas Association, and Phillips Petroleum Company.

DOE Action Promised: Decontrol of propane and other products will be studied, and the results of this study and public comments will determine whether decontrol or some other modification of the regulations is appropriate.

DOE Action to Date: The Economic Regulatory Administration issued a Notice of Inquiry on January 30, 1979, asking whether propane should be exempted from the Mandatory Petroleum Allocation and Pricing Regulations. ERA is now reviewing the comments and is scheduled to complete a draft regulatory analysis of propane decontrol within a few weeks.

For Further Information Contact: Roger Miller—(202) 632–4967.

7. Identification of Hard-to-Understand Regulations.

Proposed by: CONOCO.

DOE Action Promised: Through the first six months of FY 1979, the Economic Regulatory Administration will compile a list of regulatory provisions which are identified by any source as being difficult to understand. This list will then be reviewed, and regulatory language will be clarified to the extent it appears necessary and appropriate.

DOE Action to Date: The Economic Regulatory Administration issued a notice requesting comments by May 22, 1979 as to which ERA regulations are complex and difficult to understand. ERA will review these comments and clarify regulatory language as deemed necessary.

For Further Information Contact: Jim Solit—(202) 254–8505.

Office of Environment

8. Coordinate Federal Environmental Impact Requirements with Similar State and Local Regulations.

Proposed by: Mayor's Office of the City of Los Angeles, Santa Barbara Department of Environmental Resources, Metropolitan Council of Minnesota, and Northern States Power.

DOE Action Promised: DOE is revising its proposed National Environmental Policy Act regulations (10 CFR 1021) now that the Council on Environmental Quality has published final NEPA regulations (40 CFR 1500–1508) to which all other agencies' regulations must conform. DOE will prepare supplemental procedures for implementing the new regulations.

DOE Action to Date: The Office of the Environment is preparing NEPA procedures for implementing the Council on Environmental Quality NEPA regulations and the Executive Order for International NEPA requirements. DOE will publish the implementing procedures in the **Federal Register** for public comment.

For Further Information Contact: Robert Stern—(202) 376–5998.

Energy Information Administration

Preparation of Policy Statement on Reducing Reporting Burdens.

Proposed by: Exxon, Society of Independent Gasoline Marketers of America, California Energy Commission, and Tennessee Energy Authority.

DOE Action Promised: DOE will continue its policy of review and reassessment of reporting requirements in order to reduce reporting burdens. Specifically, the use of sampling techniques will be accelerated, and reporting form sizes will be standardized, as appropriate. Also, DOE will continue standardizing and making consistent reporting form instructions whenever appropriate and will work with other government agencies and industry groups to standardize definitions of energy terminology.

DOE will publish in the **Federal Register** a policy statement explaining more fully its efforts to reduce reporting burdens on industry, state and local governments, and the public. This policy statement will be published in early 1979.

DOE Action to Date: The Energy Information Administration will continue its policy of review and reassessment of reporting requirements. A final draft of a policy statement on reducing reporting burdens was completed on April 30, 1979 and a **Federal Register** notice was published on May 10, 1979. Therefore, this initiative is complete.

For Further Information Contact: John Gross—(202) 252–5214.

10. Combination of Petroleum Imports Program Forms P113 and P114.

Proposed by: Exxon.

DOE Action Promised: DOE has modified the P114 to eliminate unnecessary duplication. The new form, ERA–17, will require a respondent merely to verify information already provided to customers and to specify the dispositions of payments and credits.

DOE Action to Date: This action has been completed. Form P114 was modified to eliminate duplicative data elements prior to the submission of the replacement, Form ERA–17, to OMB for approval. The new form was approved by OMB on December 21, 1978, and has been implemented.

For Further Information Contact: Jimmie L. Peterson—(202) 254–5147.

11. Eliminate the duplicative reporting information required by DOE, USGS, FTC, and Census for: (1) reserve and production data; (2) financial data; and (3) drilling statistics data.

Proposed by: Atlantic Richfield.

DOE Action Promised: DOE will continue its efforts to eliminate duplicative reporting requirements, working more closely with other agencies as well as OMB and the Office of Federal Statistical Policy and Standards of the Department of Commerce.

DOE Action to Date: Duplicative oil and gas reserves and production data would have been collected had data from Form EIA–23 and Form FPC–40 been collected jointly. However, Form FPC–40 was eliminated prior to initiation of Form EIA–23, and overlapping data elements were combined. Thus, Form EIA–23 combined the requirements of the FERC with those of the EIA. EIA completed a careful examination of all possible redundancies and overlaps of Form SIA–28 with other Federal data collection forms on March 14, 1979. The study revealed that less than 11 percent of the petroleum related data elements are redundant or overlap with other Federal forms. Most of the duplications are necessary wither because the other data would be withheld by Census or IRS,or because the data elements were summaries common to many data collections. The investigations found no significant unnecessary redundancies or overlaps. Finally, as a condition to its December 22, 1978, approval of Form EIA–23 for report years 1977 and 1978,

OMB required EIA to provide a report by December 1, 1979, on progress on integrating oil and gas reserves reporting requirements of the various Federal agencies. This report was begun in March 1979 and will cover EIA coordination with FERC and ERA with DOE, and with SEC, USGS, FTC, and the Bureau of the Census.

For Further Information Contact: Wallace O. Keene—(202) 252–6401.

Office of Intergovernmental and Institutional Relations

12. Preparation of Mailing Lists.

Proposed by: Mr. Brandt Mannchen, National Consumers League, Federal Bar Association, Federal Energy Law Committee, League of Women Voters, Petro-Chemical Energy Group, Energy Action, Common Cause, Interstate Natural Gas Association, Texas Independent Producers and Royalty Owners Association, and National Society of Engineers.

DOE Action Promised: The Office of Intergovernmental and Institutional Relations will complete specialized mailing lists and begin distributing notices of rulemaking to the parties on those lists.

DOE Action to Date: The Office of Consumer Affairs is preparing updated categorized mailing lists in an effort to provide timely information to interested individuals and organizations. These lists will be completed soon.

For Further Information Contact: Sandra Bregman—(202) 252–5141.

Office of Conservation and Solar Applications

13. Review of the Implementation of Statutory Requirement that States Develops Lighting Efficiency Standards.

Proposed by: California State Energy Commission.

DOE Action Promised: DOE will examine the need for issuing minimum or other standards. DOE will also examine the relative merits and utility of various sets of standards, including those developed by the Illuminating Engineering Society and the State of Massachusetts, and the Composite Lighting Efficiency Standard (CLES).

DOE Action to Date: DOE has prepared a draft Notice of Inquiry soliciting additional information and comment on the need for and scope of possible standards. The Notice will be published in the **Federal Register** soon.

For Further Information Contact: Dorothy Cronheim—(202) 376–9494.

14. Review of Regulations Which May Affect the Development of Renewable Energy Resources.

Proposed by: Garrett Corporation, Dr. Starhle Edmunds, Mr. Michael Freeman, and Mr. Brandt Mannchen.

DOE Action Promised: The Office of Conservation and Solar Applications (CS) will review its own regulations to identify those which may add to the cost of or delay the development of renewable energy resources or which may reduce competition. Regulations will be corrected if that is consistent with DOE's statutory mandate and other policy objectives. Also, CS will work with other DOE offices to identify other regulations which may impede the development or use of these energy resources.

DOE Action to Date: The Office of Conservation and Solar Applications is reviewing its regulations for cost, delay, and competitive effect on the development of renewable energy resources. Revisions will be recommended, where necessary. CS is planning to issue a Notice of Inquiry this summer to obtain additional information and comment on other regulations' impacts on the development of renewable energy resources.

For Further Information Contact: John Schuler—(202) 376–9633.

Office of General Counsel

15. Communications With the Public During Informal Rulemakings.

Proposed by: Energy Action, Common Cause, League of Women Voters, Texas Public Interest Research Group, Congress Watch, New England Fuel Institute, and Columbia Gas System Service Corporation.

DOE Action Promised: The Secretary has limited the extent to which DOE employees may communicate with the public concerning regulatory actions, and the General Counsel will provide further guidance to all DOE employees concerning communications with the public during informal rulemakings.

DOE Action to Date: The Office of General Counsel is preparing a memorandum providing guidance concerning communication with the public during informal rulemakings. This guidance will be published in the **Federal Register** soon.

For Further Information Contact: Tom Newkirk—(202) 633–8613.

16. Review of Retroactive Application of Rules or Rule Interpretations.

Proposed by: New England Fuel Institute, Mobil Oil Company, Shell Oil Company, and Energy Consumers and Producers Association.

DOE Action Promised: In response to a request from the chairman of the House Subcommittee on Energy and Power, DOE will prepare a report on this issue. DOE will publish its draft report for public comment in early 1979.

Doe Action to Date: DOE published its draft report on this initiative in the **Federal Register** of April 12, 1979 (44 FR 21810).

For Further Information Contact: Robert Heiss—(202) 254–8700.

V. New Regulatory Reform Initiatives

Office of Conservation and Solar Applications

1. Identification of Hard-to-Understand Conservation Regulations.

Proposed by: Department of Energy.

Background: In response to DOE's May 1, 1978 **Federal Register** notice on regulatory reform, some regulated companies identified specific provisions which they said were hard to understand. The Economic Regulatory Administration then published a **Federal Register** notice requesting comments as to which ERA regulations are complex and difficult to understand.

DOE Action Promised: The Office of Conservation and Solar Applications will publish a **Federal Register** notice asking the public to identify any of its regulations which may be hard to understand.

For Further Information Contact: Cliff Hilderley—(202) 376–4748.

2. Development of Market-Oriented Strategies for Increasing the Energy Efficiency of Buildings.

Proposed by: Department of Energy.

Background: The Building Energy Performance Standards are being drafted to ensure that builders, lenders, and buyers take full account of life-cycle energy costs in their construction, financing, and purchasing decisions for new buildings. DOE's forthcoming regulations for new structures can be supplemented by strategies for overcoming the tendency of the real estate marketplace to give insufficient consideration to energy efficiency in existing structures on the resale market.

DOE Action Promised: The Office of Conservation and Solar Applications will continue its effort to develop strategies for using the marketplace as a supplement to the forthcoming Building Energy Performance Standards Regulations. By providing information and technical assistance to the buyers, sellers, and financiers of buildings, more economic decisions would be based on the life-cycle costs of energy. These actions will be addressed in the Regulatory Analysis which will be prepared for the regulations implementing the Building Energy Performance Standards.

For Further Information Contact: James Binkley—(202) 376–1888.

Economic Regulatory Administration

3. Allowance of Return on New Refinery Investment.

Proposed by: Department of Energy.

Background: Since May 15, 1973, there has been no direct method by which refiners could increase the price of controlled products to reflect a return on new investment. This has been a disincentive to invest for such purposes as increasing unleaded gasoline supplies or to retrofit refineries to utilize more low gravity or high sulphur crude oil.

DOE Action Promised: The Economic Regulatory Administration will analyze and prepare alternate refiner price control proposals which would provide an adequate rate of return on new plant investment.

For Further Information Contact: Chuck Boehl—(202) 254–7200.

Energy Information Administration

4. Review EIA Energy Data Publications to Improve Their Quality and Make Them More Useful to the Public.

Proposed by: Department of Energy.

Background: EIA data publications provide considerable useful energy information. The presentation of this information, however, can be improved to provide more background information to enable the general public to understand the data more readily, improve the timeliness of publication, and expand the dissemination for EIA reports.

DOE Action Promised: EIA will conduct a review of its energy data publications to identify needed improvements. The initial emphasis will be placed on petroleum and natural gas data publications. The review will include consistency checks across tables and across publications; studies of the frequency of use and application made by recipients of EIA publications; consolidation or elimination of publications when appropriate; the inclusion of Source and Reliability Statements to provide sufficient background information for comprehension by a wider audience; and researching methods to improve the display of trends in energy prices, supplies, demand, and other factors. This review will include a notice in the **Federal Register**, summarizing the publications review program and soliciting public comments on both the general approach and specific publications included in the study.

For Further Information Contact: Jimmie L. Petersen—(202) 254–5147.

Office of General Counsel

5. Republication of Regulations.

Proposed by: Department of Energy.

Background: In DOE Order 2030, published in the **Federal Register** of January 3, 1979 (44 FR 1040), the agency committed itself to republish each existing regulation by September 30, 1983. Public comment would then be solicited regarding the continued need for the regulation, any problems in interpretation, its actual impacts, suggested changes, and the impacts which might result from its termination. The office administering the regulation would then determine what (if any) action should be taken, and publish its response within 120 days of the close of the comment period. For this activity to be productive, DOE should republish regulations at staggered intervals, starting as soon as its NEA regulatory workload begins to ease.

DOE Action Promised: DOE will develop and publish a schedule for reconsidering regulations in effect prior to DOE Order 2030 which have not been rescinded or amended since that time and which are likely to remain in effect unchanged until 1983. This schedule will distribute these reconsiderations throughout FY 1980, FY 1981, FY 1982, and FY 1983.

For Further Information Contact: William Funk—(202) 252–6736.

6. Clarification of Contractor Roles in Developing Regulations.

Proposed by: Department of Energy.

Background: Some confusion now exists about the role of contractors in the development or amendment of regulations. There is concern that contractors may be making (or strongly influencing) policy decisions, and that DOE's exact use of contractors in the development of each regulation should be made public knowledge.

DOE Action Promised: Offices publishing regulations will clarify the role which contractors had in the development of each regulation. This will be done by identifying in preambles to proposed and final regulations, to the extent possible, any contract involved in the development of the regulation, including involvement in studies, analyses, etc., related to the regulation. The preamble will also specify, to the extent possible, the role the contractor played and will identify any documents prepared by the contractor.

For Further Information Contact: William Funk—(202) 252–6736.

7. Inclusion of Regulatory Language to Assist Persons Having Problems with a Regulation.

Proposed by: Department of Energy.

Background: The effects of regulations are often not clear until after people must start complying with them, at which point many may not feel that their comments would make any difference. These comments could be important to help DOE identify which regulatory provisions are not having their intended effect or are imposing unnecessary burdens. Also, small businessmen and others without legal advice may not understand what remedies are available to them under the Administrative Procedure Act and DOE's own procedures.

DOE Action Promised: In every final regulation, indicate that public comments about problems anyone may be having with the regulation should be directed to a designated contact person. Also, a standard paragraph should be drafted and published with each regulation, describing how to request an interpretation, petition for rulemaking, or apply for remedial relief.

For Further Information Contact: William Funk—(202) 252–6736.

Office of Intergovernmental and Institutional Relations

8. Annual Report of DOE's Public Participation.

Proposed by: Department of Energy.

Background: Although DOE has been taking several steps to increase public participation in its regulatory development procedures, the public does not have a good understanding of what those steps are and what new opportunities for participation they provide.

DOE Action Promised: DOE will include a section in its next annual report documenting and evaluating DOE's efforts to increase public participation in the development of regulations.

For Further Information Contact: Sandra Bregman—(202) 252–5141.

9. Public Workshops on Regulation Writing.

Proposed by: Department of Energy.

Background: Federal regulatory agencies are sometimes accused of failing to understand the relationship between their regulatory mandates and the needs and problems of the private sector, especially small businesses.

DOE Action Promised: DOE will conduct one or more public workshops, during which DOE regulation writers, businessmen, and other interested members of the public can discuss these issues.

For Further Information Contact: Dennis Bevans—(202) 252–6350.

Office of Policy and Evaluation

10. Circulation of DOE Energy Price Scenarios.

Proposed by: Department of Energy.

Background: As other executive agencies analyze the energy impacts of their own proposed regulations, as required by Executive Order 12044, they should not base their analyses on the continuation of current prices for fossil fuels. Unless DOE offers specific guidance to the contrary, that is probably what they will do.

DOE Action Promised: The Office of Policy and Evaluation, in conjunction with the Energy Information Administration, will circulate to other executive agencies energy price scenarios that can be used in the analysis of all Federal regulations. These scenarios will account for the inherent uncertainty of energy prices by including low, medium, and high-range projections. Other agencies can then account for future energy prices as they analyze the long-term effects of their regulations.

For Further Information Contact: Roger Naill—(202) 252–5388.

11. Establishment of DOE Regulatory Analysis Review Committee.

Background: As DOE implements Executive Order 12044, it needs to ensure that the regulatory analysis requirements of the Executive Order are satisfied. Before the Secretary, Deputy Secretary, or Under Secretary approves a regulation, he needs assurance that its regulatory analysis was of satisfactory quality, and that findings contributed to regulatory decisions. In addition, DOE needs to solve quickly any problems in assembling sufficient resources to draft good analyses.

DOE Action Promised: DOE has established a regulatory analysis review committee, chaired by the Deputy Assistant Secretary for Planning and Evaluation, with representatives from the Office of General Counsel, the Energy Information Administration, and the office responsible for a regulation in question. This committee will review the analyses for three upcoming regulations, advising the Deputy Secretary of its findings. After these three reviews are completed, a decision will be made whether to have this committee review future DOE regulatory analyses.

For Further Information Contact: William Strauss—(202) 252–5340.

VI. Comments Requested

The DOE welcomes comments or suggestions on DOE's implementation of Executive Order 12044, the existing and newly proposed Regulatory Reform initiatives discussed here, or any additional regulatory reform issue.

These should be submitted to William A. Strauss, Director, Regulatory Programs Division, Office of Policy and Evaluation, Department of Energy, Room 7A–097, Forrestal Building, Washington, D.C. 20585.

VII. Next Status Report

Late in 1979, at approximately the same time its third semi-annual regulations agenda is published, DOE will report on its further progress in carrying out Executive Order 12044 and the 44 reform initiatives described in this notice.

Issued in Washington, D.C., July 31, 1979.

John F. O'Leary,

Deputy Secretary, Department of Energy.

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Part V

Department of Labor

Mine Safety and Health Administration

Independent Contractors; Identification as Operators Under Federal Mine Safety and Health Act of 1977

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 45]

Independent Contractors

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth criteria by which the Mine Safety and Health Administration (MSHA) would identify certain independent contractors as operators under the Federal Mine Safety and Health Act of 1977 (Act). Independent contractors identified as operators would receive an identification from MSHA which would be used when such independent contractors are cited for violations of the Act, standards or regulations.

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

ADDRESSES: Send comments to the Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Frank A. White, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION:

Rulemaking Background

The Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95–164, amended the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91–173 (Coal Act) and repealed the Metal and Nonmetallic Mine Safety Act, Pub. L. 89–577. The resulting law, the Federal Mine Safety and Health Act of 1977 (Act), applies to all coal and other (metal and nonmetal) mines. The Act amended the definition of "operator" in the Coal Act to include "any independent contractor performing services or construction" at a mine. Section 508 of the act authorizes the Secretary of Labor to issue such regulations as he "deems appropriate to carry out any provision of this Act."

Pursuant to section 508, the Secretary commenced rulemaking in this matter by developing a draft proposed rule and circulating that draft for comment to persons known to be interested. A notice announcing the availability of the draft proposal was published in the **Federal Register** on October 31, 1978, and 45 days were given to comment on the draft rule (43 FR 50716). MSHA received comments from more than 75 organizations and individuals. Several important issues were raised, and changes in the draft have been made in this proposed rule as a result of the comments.

Purpose and Effect of the Proposed Rule

The proposed rule is intended to provide guidelines for issuing identification numbers to independent contractors. Congress has granted the Secretary broad authority to enforce the Act and MSHA standards and regulations against any person who operates, controls or supervises a mine and over any independent contractor performing services or construction at a mine. Persons subject to the Secretary's jurisdiction may, under the Act, be held jointly or severally liable for violations occurring at a mine. The legislative history of the Act demonstrates that the Secretary has discretion in determining against whom the Act will be enforced and that this discretion may be exercised through regulations in the manner that best serves the safety and health of miners. MSHA believes that regulations which set forth criteria for issuing identification numbers to independent contractors will assist MSHA in enforcement of the act, and best serve to improve safety and health conditions for miners.

Under the proposed rule, independent contractors would in many instances be identified as operators prior to the performance of work at a mine depending primarily on whether the contractor will have effective control over an area of a mine during the performance of its work. Thus, an independent contractor would receive an identification number on a job-by-job basis, so that an independent contractor performing work at several mines could be identified as an operator at one mine while not at another. Upon completion of the work to be performed, the independent contractor's status as an operator at that mine would terminate.

Contractors identified as operators under the proposed rule may be cited for violations of the act and all applicable standards and regulations occurring within the area of the mine under their control. It should be understood, however, that the proposed rule would not limit the Secretary's jurisdiction over persons at a mine. Circumstances may also arise under which citations to more than one person for a violation would be proper or when a contractor not identified as an operator would be cited for a violation.

Discussion of Proposed Rule and Major Comments on Draft Rule

A. Identification of Only Certain Independent Contractors as Operators

1. Introduction.—A large number of the comments received on the draft of the proposed rule stated that MSHA misconstrued congressional intent in proposing to identify only certain independent contractors as operators. Commenters argued that the amended definition of "operator" requires the Secretary to treat all independent contractors performing work at a mine as operators and that the Secretary does not have the authority to identify only certain independent contractors as operators.

MSHA remains convinced that the Act permits the Secretary to exercise flexibility in enforcing the Act against operators and independent contractors performing work at a mine. This flexibility is well supported in the legislative history and court decisions discussed below. In addition, MSHA is not at this time persuaded that enforcement of the Act directly against all independent contractors performing work at mines, would result in improved safety and health conditions for miners. However, for reasons discussed below, MSHA believes that changes in the draft proposed rule, which would result in the identification of a broader range of independent contractors as operators, are warranted at this time. MSHA requests further comment on this issue so that a thorough assessment may be made of the potential effects of broadening the proposed criteria upon miner safety and health and of the practical problems involved in effectively applying broadened criteria.

2. Statutory Background, Legislative History and Court Decision.—In August 1975, responding to the decision in *Association of Bituminous Contractors, Inc.* v. *Morton*, No. 1058–74 (D.C.D.C. May 22, 1975), the Secretary of the Interior directed the Mining Enforcement and Safety Administration (MESA) to issue notices and orders to the operators of coal mines for violations of the Coal Act committed by independent contractors performing work for such operators. However, in a subsequent action, *Bituminous Coal Operators' Association* v. *Secretary of the Interior*, 547 F.2d 240 (4th Cir. 1977), (*BCOA*), it was held that under the Coal Act definition of "operator" an independent construction contractor could be considered an operator or the statutory agency of a mining company. It was further held that the Coal Act did not prohibit the Secretary of the Interior

for holding a mining company and construction contractor jointly or severally liable for violations committed by the contractor. The Court stated that in view of the myriad factual situations that may arise, allocation of this liability was the responsibility of the Secretary of the Interior.

After the decision in *BCOA*, the Federal Mine Safety and Health Amendments Act of 1977 amended the definition of "operator" to include independent contractors performing services or construction at a mine. The Senate Committee Report and the Conference Report discuss the intended effect of this amendment.

The Senate Committee Report states that under the amended definition of "operator" the Secretary "should be able to" issue citations, notices and orders, and the Commission "should be able to" assess civil penalties against independent contractors "as well as" against the owner, operator, or lessee of the mine. The Senate Committee in its Report then specifically cites the *BCOA* decision as judicial approval of this concept. S. Rep. No. 95–181, 95th Cong., 1st Sess. 14 (1977). The Conference Report states that the amended definition of "operator" is intended to "permit" enforcement of the Act against independent contractors. S. Rep. No. 95–416, 95th Cong., 1st Sess. 37 (1977).

MSHA believes the language of the Senate Committee and Conference Reports was carefully chosen to reflect that the Secretary has flexibility in enforcement of the Act against independent contractors and that the Secretary is not required by the amended definition of "operator" to cite all independent contractors performing work at mines under all circumstances. This same conclusion was reached in a recent decision by the United States Court of Appeals for the Third Circuit in *National Industrial Sand Association* v. *Marshall*, No. 78–2446 (3d. Cir. May 16, 1979) (*NISA*). Reviewing the language of the Senate Committee Report, the court stated that "Congress was clearly concerned with the *permissive* scope of the Secretary's authority, not with the *mandatory* imposition of statutory duties on independent contractors." (Emphasis original.) The court further noted that "[s]ubstantial support is lent to this conclusion by the approving reference in the legislative history to the *Bituminous Coal Operators'* case" (*BCOA*).

B. Criteria for Identifying Independent Contractors as Operators

The proposed rule sets forth criteria by which MSHA would determine under what circumstances a contractor would be issued an identification number for the performance of its work at a mine. The proposed criteria for determining whether an independent contractor is identified as an operator are (1) whether the contractor is independent of the person who operates, controls or supervises the mine and (2) whether the contractor will have effective control over an area of the mine while performing its work. In evaluating whether the criterion of control over an area of the mine is met, it is proposed that a statement by provided to MSHA describing the manner in which the contractor will exercise control over an area of the mine. MSHA would also consider the type of work engaged in by the contractor and the nature and extent of the contractor's presence at the mine. In this respect, the proposed rule would require the Secretary to consider whether the contractor will be engaged in "major work" and will have a "continuing presence" while performing its work. "Major work" is defined by the proposed rule to include extraction and production work, mine construction or reconstruction work, demolition work, and clearing, excavation or reclamation work. "Continuing presence" is defined by the proposed rule as the regular performance of work at a mine for a period of three months or more.

The draft criteria for distinguishing when independent contractors would be identified as operators under the Act provided for identification when the contractor (1) was engaged in "major work," (2) had "authority to control safety and health conditions" in an area of the mine, (3) had a "continuing presence" at the mine and (4) was independent of the mine operator. In addition, under the draft rule only prime contractors that met these criteria would be identified as operators.

Commenters objected that "major work" and "continuing presence" were not relevant to whether an independent contractor performing work at a mine should be identified as an operator under the Act. Commenters argued that an independent contractor's control over its work and employees should be the overriding consideration and that "major work" and "continuing presence" should be deleted from the rule.

After reviewing the draft of the proposed rule and all of the comments received, MSHA believes that in identifying independent contractors as operators, the critical consideration is control over the area of the mine where the work is being performed. The relationship between control over the mine and responsibility for safety and health conditions is a common principle among statutes that have governed the mining industry. The 1969 Coal Act and the 1977 Act placed primary responsibility for the safety and health of miners upon the person who "* * * operates, controls, or supervises * * *" the mine. This principle was also recognized in the *BCOA* decision. The court's express rationale for holding that an independent construction contractor could be held liable under the Coal Act for its violations was, in part, that the contractor exercised supervision and control over an area of the mine where it was performing work.

MSHA's experience under the 1969 Coal Act and the 1977 Act has been that persons controlling a mine are generally in a position to act most responsibly and effectively with regard to safety and health conditions at the mine. MSHA believes that this principle should also be applied in the identification of independent contractors as operators. Accordingly, under the proposed rule the primary criterion for identification of independent contractors as operators would be whether the contractor will have effective control over an area of the mine during the performance of its work.

The proposed rule, however, still retains the concepts of "major work" and "continuing presence" as indicators of control over an area of a mine. MSHA is not persuaded by the comments that these concepts are irrelevant to whether an independent contractor performing work at a mine should be identified as operators under the Act. The draft definition of "major work", includes, among other activities, extraction and production, construction of cleaning plants and sinking of shafts and slopes. MSHA believes that independent contractors undertaking such activities would have effective control over an area of the mine during the performance of their work. In contrast, however, it is improbable that independent contractors performing most repair or general maintenance work would have effective control over an area of a mine. Therefore, the size and scope of the project undertaken by an independent contractor at a mine is relevant in determining whether the contractor has control over an area of the mine. The relevance of "major work" is also supported in the legislative history. The Senate Committee Report states that by including in the definition of "operator" independent contractors performing services or construction at a mine, the Committee intended to include individuals or firms "engaged in

construction" at a mine or "engaged in the extraction process." S. Rep. No. 95–181, 95th Cong., 1st Sess. 14 (1977).

Consideration of an independent contractor's "continuing presence" while performing work at a mine is also relevant in determining whether the contractor should be identified as an operator under the Act. An independent contractor's regular, essentially uninterrupted presence at a mine while performing work is related to the contractor's ability to effectively control an area of the mine. Moreover, Congress intention that the Act be enforced against independent contractors that have a continuing presence at a mine is explicitly stated in the legislative history. The Conference Report provides that inclusion of independent contractors in the definition of operator was intended to permit enforcement of the Act against independent contractors "who may have a continuing presence at the mine." S. Rep. No. 95–461, 95th Cong., 1st Sess. 37 (1977).

Although the concepts of "major work" and "continuing presence" are, MSHA believes, relevant to whether an independent contractor performing work at a mine should be identified as an operator, the comments received have demonstrated that revisions in the draft criteria are necessary to make control over an area of a mine a primary consideration in determining the status of independent contractors as operators. Therefore, the proposed rule provides for identification of a contractor as an operator when the contractor (1) is independent of the operator and (2) has control over an area of a mine. The proposed rule further provides that in determining whether a contractor has control over an area of a mine, the Secretary shall consider whether the contractor will be engaged in "major work" and whether the contractor will have a "continuing presence" during the performance of such work.

Comments addressing the draft criteria for identification of independent contractors as operators also included objections that the draft definitions of "major work" and "continuing presence" unnecessarily limited the number and types of independent contractors that would be identified as operators.

MSHA believes the safety and health protection currently provided miners would be greatly diminished if independent contractors not having effective control over an area of the mine were identified as operators. Therefore, it is essential to identify independent contractors as operators only when they have significant indications of such control. The draft definitions of "major work" and "continuing presence" incorporate the circumstances under which Congress contemplated that independent contractors would be treated as operators and also describe what MSHA believes are circumstances under which independent contractors performing work at a mine will have effective control over an area of a mine.

If a contractor does not have control over an area of a mine, safety and health responsibility might be placed upon perons not in a position to act effectively in this respect. This relationship between control over an area of a mine and imposition of operator obligations under the Act was recently discussed with reference to independent contractors in *NISA*. There, the Court of Appeals, analyzing the amended definition of "operator," stated that the designation of persons other than mine owners or lessees as operators requires "substantial participation in the running of the mine." The court then concluded the text of the definition of operator "may be taken to suggest a similar degree of involvement in mining activities is required of independent contractors before they are designated as operators."

MSHA believes that "substantial participation in the running of the mine" is analogous to the proposed criterion of independent contractor control over an area of a mine and that consideration of whether a contractor is engaged in "major work" and has a "continuing presence" at the mine is important in evaluating whether the contractor will have control over an area of the mine. However, MSHA believes that certain changes in the draft definitions of "major work" and "continuing presence" are necessary at this point in the rulemaking process. The draft definition of "major work" had three categories: (1) major mine construction or reconstruction work; (2) major demolition work and; (3) major clearing, excavation or reclamation work. Representative examples were also included in the definition. This definition was intended to include a myraid of projects that may be undertaken by independent contractors at a mine. At the same time, the definition would generally be satisfied only by contractors undertaking work of a magnitude, scope and nature such that the contractor would have control over the area of the mine where the work will be performed. Therefore, the draft definition has not been substantively changed in the proposed rule, except for clarifying revisions. The word "major" has been deleted in the three categories of the definition and independent contractors engaged in extraction or production activities have been included in the proposed rule. MSHA solicits other suggested revisions in the proposed definition of "major work" that commenters believe would further reflect the work in which independent contractors may engage and have control over an area of a mine.

The draft definition of "continuing presence" is substantively revised. Commenters addressing the draft definition of "continuing presence" stated that the provision of regular performance of work at a mine for six months or more was too great and that no specific time should be included in the definition.

Under the proposed rule, "continuing presence" would be a consideration in evaluating the primary criterion of whether an independent contractor will have control over an area of a mine. So that operators and independent contractors would be able to assess this criterion with reasonable certainty, MSHA believes it is important to specify a duration for "continuing presence." However, commenters did demonstrate that contractors present at a mine for less than six months may exercise control over an area of a mine. Therefore, under the proposed rule "continuing presence" would be established by the regular performance of work at a mine for a period of three months or more. Before MSHA can consider any further modification of the "continuing presence" criterion, additional evidence is needed concerning the relationship between the time spent by a contractor on a particular job and the extent of actual control exercised by the contractor.

Commenters also sought revision of the draft definition of "continuing presence" to include independent contractors performing work at a mine on a regular, even though periodic, basis.

At this time, MSHA has not received sufficient information to conclude that if an independent contractor's presence at a mine is periodic, the contractor would generally have effective control over an area of the mine essentially to the exclusion of the operator. There may be circumstances, however, in which certain types of contractors—for example, blasting or drilling contractors who have long-term contracts but whose presence at the mine is intermittent—may be able to demonstrate a sufficient degree of control over a work site to be made directly responsible for health and safety conditions at the site. MSHA

invites further comment on these and other circumstances which might justify altering the proposed rule.

Commenters also objected to the draft provision limiting identification of independent contractors as operators to only prime contractors.

The comments received have convinced MSHA that limiting identification of independent contractors to prime contractors would not improve the safety and health of miners. Commenters have indicated that subcontractors may, under some circumstances, have control over an area of a mine. Therefore, this limitation has been deleted, and under the proposed rule MSHA would identify any independent contractor as an operator that meets the proposed criteria, irrespective of whether the contractor is a prime contractor or subcontractor.

Several commenters anticipated that the draft proposed rule might work a hardship on subcontractors and small independent contractors. The comments suggested that operators may offer fewer small contracts for work at mines and that prime contractors may tend to subcontract less work on major projects. Under the proposed rule, prime contractors as well as subcontractors that meet the proposed criteria would be identified as operators. MSHA is interested in receiving additional information concerning the potential effects of the proposed rule on small independent contractors.

C. Procedures for Identifying Independent Contractors as Operators

Under the proposed rule, the procedures for issuing identification numbers to independent contractors would be initiated by both the independent contractor and the operator. Prior to an independent contractor undertaking work at a mine, the operator and independent contractor would assess whether the proposed criteria are met for issuing the contractor an identification number.

If the proposed criteria are met, both the independent contractor and the operator would be required to submit certain information to the District Manager. The proposed information requirements pertain to the identity of the independent contractor, the nature of the work to be performed and the mine where the work will be performed. Under the proposed rule, the independent contractor and the operator may jointly submit this information, or, in the event of disagreement, the parties may separately submit the information. Any independent contractor or operator who knew or should have known the proposed criteria would be met as to work to be performed at a mine, but who failed to submit the required information, could be cited for a violation of the rule.

Upon receipt by the District Manager of information submitted by an independent contractor and operator as to work to be performed at a mine, MSHA would promptly review the information and determine if the proposed criteria for identification of independent contractors as operators were met. If the proposed criteria are met, the independent contractor and the operator would be notified in writing that the independent contractor has been identified as an operator. Both the independent contractor and the operator would be required to maintain a record of such notification at the mine during the course of the work to be performed for reference by MSHA inspectors and other interested persons.

If an independent contractor is identified as an operator, the contractor would be assigned an identification number. The identification number would be composed of two parts: the seven-digit Federal mine identification number of the mine at which the work will be performed, followed by a three-figure alphanumeric designation (combining letters and numbers) permanently assigned to the independent contractor. The Federal mine identification number together with the independent contractor's permanent designation would constitute the independent contractor's identification number for the work to be performed at a particular mine. For example, if an independent contractor is identified as an operator for work to be performed at Mine A, then the independent contractor's identification number would be the Federal mine identification number of Mine A, followed by a three-figure designation, for instance, "1C3." This three-figure designation would be permanently assigned to the independent contractor. Since the designation is permanent, if the same independent contractor was later identified as an operator for work to be performed at Mine B, then the independent contractor's identification number for that work would be the Federal mine identification number of Mine B, followed by the contractor's permanently assigned three-figure designation, in this example the designation "1C3."

By using the Federal mine identification number as a prefix, MSHA would be able to determine at which mine(s) a particular independent contractor is designated as an operator. By also assigning a permanent designation, each independent contractor's cumulative history of violations while identified as an operator could be maintained.

In drafting procedures for identifying independent contractors as operators, MSHA considered two alternative approaches. The two approaches considered were set forth in the draft of the proposed rule. MSHA specifically solicited comments addressing which of the draft procedures would be most effective. Meaningful suggestions outlining other procedures for identification of independent contractors as operators were also solicited.

The primary difference between the two draft procedures was who would make the initial determination of whether an independent contractor should be identified as an operator for a particular job undertaken at a mine. Under one procedure, MSHA would make a determination of whether an independent contractor should be identified as an operator and assigned an identification number based on information submitted by both the independent contractor and the operator. Under the other procedure, the independent contractor would exercise its own judgment in determining whether it should be identified as an operator for a particular job and, if so, the independent contractor would request an identification number from MSHA.

Commenters also suggested other procedures for identification of independent contractors as operators. Several commenters suggested a procedure initiated solely by the operator. Another commenter sought to permanently identify as operators those independent contractors that have a significant continuous history of performing construction work at mines and are, therefore, heavily involved with the mining industry.

The proposed rule provides a procedure by which MSHA would determine whether an independent contractor should be issued an identification number based on information submitted by both the independent contractor and the operator. As pointed out in several of the comments, this procedure involves both of the interested parties and therefore would best serve the purpose of the proposed rule, which is to identify as operators those independent contractors that have control over an area of a mine. Commenters favoring initiation of the identification procedure solely by the independent contractor or

the operator did not provide support for these unilateral procedures. Moreover, MSHA believes it is important to retain reasonable administrative control over the issuance of independent contractor identification numbers since the identification numbers will be used in the assessment process involving independent contractors identified as operators.

MSHA has not proposed to permanently identify as operators those independent contractors that are heavily involved in the mining industry because the status of such independent contractors would not be related to control over an area of a mine or other safety and health considerations. In addition, some commenters suggested that such a rule could unnecessarily impede entry of mine construction contractors into the market for work performed at mines.

Commenters also addressed the draft provision for issuing identification numbers to independent contractors identified as operators. Under the draft rule, a three-digit number was proposed for the independent contractor's permanent designation. Commenters observed that a three-digit numbering system would provide too few permanent designations to accommodate all of the independent contractors that would be identified as operators. Accordingly, the proposed rule provides for a three-figure "alphanumeric" numbering system, which would accommodate identification of more than 45,000 independent contractors.

D. *Enforcement of the Act Against Independent Contractors*

As discussed, the Secretary has flexibility in determining against whom the Act will be enforced on a case-by-case basis. This flexibility is not limited by the proposed rule and includes joint liability for a violation, as recognized in *NISA* and *BCOA*.

The MSHA inspector has the initial responsibility to evaluate the facts surrounding an alleged violation and issue an order or citation to the appropriate party. Independent contractors identified as operators under the proposed rule, may be solely cited for violations of the Act and all applicable standards and regulations occurring within the area of the mine under their control. In addition, operators and independent contractors identified as operators may be jointly cited for a violation and contractors not identified as operators may also be cited. Commenters questioned under what circumstances joint citations for a violation would be issued and when a contractor not identified as an operator would be cited for its violation.

MSHA anticipates that joint citations for a violation and citation of a contractor not identified as an operator would occur infrequently. Circumstances may arise, however, in which an operator and an independent contractor identified as an operator each contributes to the occurrence of a violation. When this happens, joint citation for the violation may be appropriate.

Circumstances may also arise in which a contractor performing work at a mine, but not identified as an operator under the proposed rule, would be cited for a violation. The proposed rule would not limit the Secretary's jurisdiction over independent contractors performing services or construction at a mine. Therefore, an independent contractor may be cited for its violations, irrespective of whether the contractor is identified as an operator. However, contractors not identified as operators under the proposed rule, would be cited on a case-by-case basis for their violations and only when necessary to promote the safety and health of miners under exceptional circumstances. Such exceptional circumstances may include instances when the contractor's action exhibits a gross disregard for the safety and health of miners and when the operator has no or very slight opportunity for control over the contractor's action. An independent contractor not identified as an operator, but cited for a violation, would not be treated as an operator for other purposes under the Act, such as the training of miners.

E. Assessment of Civil Penalties

Independent contractors identified as operators under the proposed rule, and cited for violations would be assessed civil penalties under Section 110 of the Act and 30 CFR Part 100. the comments received raised several objections concerning assessment of civil penalties under the proposed rule.

Commenters stated that independent contractors identified as operators, as well as other operators, would experience difficulty in assuring abatement of violations committed by the contractors they engage which are *not* identified as operators. Commenters suggested this was because of a lack of control over contractors not identified as operators.

The Act places primary responsibility for safety and health conditions at a mine upon the operator. Independent contractors identified as operators under the proposed rule, would also be held responsible for safety and health conditions. MSHA is not persuaded that these operators and independent contractors identified as operators would be unable to assure timely abatement of violations committed by their contractors which are not identified as operators. As previously noted, Congress cited with approval the *BCOA* case, in which the Court found that it was reasonable to hold an operator primarily responsible for safety and health conditions at the mine despite the presence of an independent contractor. MSHA agrees that operators generally will have sufficient control over the activities of their contractors to ensure that violations are abated in a timely manner. Operators and independent contractors identified as operators have contractual relationships with such contractors and therefore have a right of at least indirect control over the contractors' activities. MSHA believes this right of control will continue to be sufficient to enable the operator, or independent contractor identified as an operator, to ensure timely abatement of violations committed by contractors not identified as operators.

Commenters also objected that when proposing civil penalties for violations committed by a contractor not identified as an operator, the criteria MSHA would use for determining the amount of penalty would be those applicable to the operator or independent contractor identified as an operator being cited rather than those applicable to the contractor committing the violation.

The criteria for determining the amount of proposed civil penalty for a violation are set forth at 30 CFR Part 100. Such penalties reflect, among other factors, the size of the operator's business, the operator's history of previous violations and the operator's ability to continue in business in view of the penalty proposed. Commenters stated that after a proposed penalty is paid by an operator, or independent contractor identified as an operator, indemnification rights provided by contract may be asserted against the contractor that committed the violation. The contractor would then be required to indemnify the operator, or independent contractor identified as an operator, for an amount which may not refect the contractor's size, history of previous violations and ability to continue in business. Therefore, commenters argued, the criteria for determining the amount of civil penalty should be applied to the contractor that committed the violation, and not the

operator, or independent contractor identified as an operator, being cited for the violation under the Act and proposed rule.

Part 100 provides that in determining the amount of civil penalty to be proposed for a violation, MSHA shall consider certain factors about the party being cited for the violation. MSHA realizes that contractual arrangements providing for indemnification rights may obligate a person not being cited for the violation to reimburse the party that is being cited for the violation under the Act and proposed rule. However, this does not alter MSHA's judgment at this point that the criteria for determining the amount of civil penalty proposed should be based upon the status of the party being cited for the violation.

Part 100 does not, however, provide a method for evaluating the size of an independent contractor identified as an operator. Under Part 100, the size of a coal mine operator is determined by reference to annual tonnage of coal produced. The size of a metal or nonmetal mine operator is determined by reference to annual hours worked by production workers in the mine or mill and maintenance workers in those areas. It would appear that the size of a contractor is most logically evaluated in terms of annual hours worked. MSHA solicits comments suggesting appropriate methods for evaluating the size of independent contractors which perform work at mines.

Commenters also expressed concern that contractors not cited for their violations would be precluded from participating in the civil penalty assessment process. Commenters argued that contractors not cited, but which by contract may be obligated to indemnify the other party to the contract, have an interest to represent in the civil penalty assessment conference and should be able to contest proposed penalties.

The civil penalty procedures in 30 CFR Part 100 do not preclude participation in an assessment conference by any person who seeks to provide clarifying information regarding an alleged violation. MSHA encourages this type of participation. However, persons that may have an interest in participating in an assessment conference cannot all be formally served with the results of the MSHA Office of Assessment's initial review of the subject citation or order, and a return mailing card for requesting a conference or the opportunity to submit additional information. Under Part 100 these documents are served upon the party cited for the violation and the miners or their representatives at the mine.

Nevertheless, MSHA believes that interested contractors are in a position to determine the time and place of an assessment conference or to exercise the opportunity to submit additional information regarding a violation. A contractor not identified as an operator will generally be on notice that it has committed a violation for which the other party to the contract will be cited. Section 109(a) of the Act requries posting of all orders, citations, notices and decisions. Therefore, an interested contractor could reasonably confer with the party being cited as to the Office of Assessments' initial review, the time and place of an assessment conference requested and the opportunity to submit relevant information regarding the subject violation. If no assessment conference is desired by the party being cited, Part 100 would not preclude an interested contractor from requesting a conference.

Under Part 100, however, only the person being cited for the subject violation has a right to request a hearing to contest a proposed penalty. At this point in the rulemaking process MSHA is not convinced that persons that are not being cited should be able to contest a proposed penalty. However, MSHA solicits further comments on this issue.

Commenters also addressed how a history of previous violations of the Act, standards or regulations would be maintained for independent contractors identified as operators. Several commenters suggested that a independent contractor's history of previous violations while identified as an operator should be regulated according to the geographic location where the violations occurred.

In determining the amount of civil penalty to be proposed under Part 100 for a violation, MSHA considers the history of previous violations for a 24-month period. The management attitude toward compliance of independent contractors identified as operators is appropriately judged by the contractor's cumulative history of violations without reference to where the violations occurred. The contractor's supervisory personnel will generally be permanent management employees who move from job to job. Therefore consideration of an overall compliance history would provide independent contractors identified as operators an incentive to employ supervisory personnel and work forces that comply with the Act, standards and regulations.

F. Notification of Legal Identity

In order for the Secretary to effectively administer and enforce the Act, each operator is required to file notification of its legal identity with MSHA. The specific requirements for notification of legal identity have recently been revised (43 FR 29510, July 7, 1978) and are set forth at 30 CFR Part 41. Generally, notification of legal identity includes the operator's type of business organization together with relevant names and addresses, the mine identification number and a telephone number where the operator can be reached. This basic information serves numerous administrative functions under the Act and is referred to when ascertaining the identity of persons chargeable with violations of mandatory safety and health standards, for service of documents upon operators and in the assessment of civil penalties.

Since, under the proposed rule, certain independent contractors would be identified as operators, it is proposed that each independent contractor identified as an operator file notification of legal identity with MSHA in accordance with 30 CFR Part 41. This would require independent contractors to file a legal identity report for the first job at which they are identified as an operator. Thereafter, to maintain the accuracy and usefulness of the legal identity report, independent contractors identified as operators would be required to notify MSHA of any changes in the legal identity information filed. Changes which would require updating the legal identity report include additional jobs for which the independent contractor is identified as an operator and termination of jobs at which the independent contractor was identified as an operator.

Drafting Information

The principal persons responsible for preparation of this proposed rule are Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration; Edward P. Clair and Edward C. Hugler, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Regulatory Analysis

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order No. 12044, or the Department of Labor's final guidelines for implementation of the Executive Order (44 FR 5570, January 28, 1979).

Dated: August 8, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

1. It is proposed to add a new Part 45 to Subchapter G. Chapter I, Title 30 Code of Federal Regulations as set forth below:

SUBCHAPTER G—FILING AND OTHER ADMINISTRATIVE REQUIREMENTS

PART 45—INDEPENDENT CONTRACTORS

Sec.

45.1 Purpose and effect.
45.2 Definitions.
45.3 Filing by independent contractor and operator.
45.4 Criteria for identifying an independent contractor as an operator.
45.5 Notification to independent contractor and operator.
45.6 Legal identity report.

Authority: Secs. 103(h) and 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1299, 83 Stat. 803 (30 U.S.C. 813(h) and 957).

§ 45.1 Purpose and effect.

This part sets forth the procedures and criteria by which MSHA will identify independent contractors as operators. In identifying independent contractors as operators, MSHA shall be guided by the provisions of § 45.4 of this part. Nothing in this part, however, limits the scope of the Secretary's jurisdicton over persons subject to the Act, nor limits the joint or several liability of persons subject to the Act.

§ 45.2 Definitions.

As used in this Part:

(a) "Act" means the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173, as amended by Pub. L. 95–164;

(b) "District Manager" means the District Manager of the Mine Safety and Health Administration District in which the mine is located;

(c) "Independent contractor" means any person, partnership, association, corporation, firm, subsidiary of a corporation, or other organization performing service, or engaged in extraction of production or construction at a mine under contract;

(d) "Major work" means the work to be performed is substantial in nature, including but not limited to:

(i) Extraction or production activities,

mine construction or reconstruction work such as building or rebuilding mills, cleaning plants, shafts, slopes, mining equipment or other mine facilities, and additions to present mine facilities,

(ii) Demolition work or similar activities,

(iii) Clearing, excavation or reclamation work, including the removal or replacement of overburden or similar activities;

(e) "Continuing presence" means the regular performance of work at a mine for a period of three months or more.

§ 45.3 Filing by independent contractor and operator.

(a) If an independent contractor meets the criteria set forth in § 45.4 of this part with respect to work to be performed at any mine, the independent contractor and the operator shall submit in writing to the District Manager prior to the performance of such work the following information:

(1) The name and address of the independent contractor to the identified as an operator and the independent contractor's identification number, if such member has been previously assigned and is known;

(2) The Federal mine identification number assigned to the mine at which the work is to be performed, if known;

(3) A general description of the work to be performed and of the area or areas of a mine at which it will be performed;

(4) A statement describing how the contractor will have control over the area or areas of the mine where the work will be performed;

(5) The starting and projected completion dates of the work to be performed;

(6) A statement that the contractor is independent of the operator and not subject to the operator's right of control, except as to the result of the work to be performed;

(7) A general description of any work being performed at the mine by independent contractors, as defined by this part, other than the independent contractor identified under item (1) and the names of such independent contractors, if known, and;

(8) A statement that the information submitted is true and complete, signed by the person or persons submitting the information.

(b) The independent contractor and the operator may jointly or separately submit the information required by paragraph (a) of this section. The requirement of paragraph (a) shall be satisfied by joint submission.

§ 45.4 Criteria for identifying an independent contractor as an operator.

(a) Unless otherwise determined by MSHA, an independent contractor shall be identified as an operator if the contractor meets the following criteria:

(1) The contractor is independent of the persons who operate, control or supervise the mine where the contractor's work is to be performed and;

(2) The independent contractor will have control over the area of the mine where its work is to be performed.

(b) In evaluating the criterion of paragraph (a)(2), MSHA shall consider:

(1) Whether the independent contractor will be engaged in major work and;

(2) Whether the independent contractor will have a continuing presence at the mine while performing its work.

§ 45.5 Notification to independent contractor and operator.

(a) The District Manager shall notify the independent contractor and the operator of whether or not the independent contractor has been identified as an operator. Such notification shall be given by certified

mail, return receipt requested, within 30 days of receipt by the District Manager of the information required by § 45.3 of this part.

(b) Each independent contractor and each operator shall maintain a record of any notification of a determination by MSHA to identify or not identify an independent contractor as an operator. This record shall be maintained at the mine during the performance of the independent contractor's work. Each independent contractor identified as an operator shall provide a copy of the notification to the representative of miners or, if there is no representative of miners, shall post a copy on the mine bulletin board.

§ 45.6 Legal identity report.

Each independent contractor identified as an operator shall comply with the filing requirements of Part 41 of this Chapter within 15 days of receipt of written notification of the identification as provided by § 45.5(a) of this part.

[FR Doc. 79-25118 Filed 8-13-79; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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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 July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 13, 1979

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